Reports of Cases

ORDER OF THE GENERAL COURT (Eighth Chamber)

19 November 2018*

(Action for annulment and damages — Economic and monetary union — Banking union — Single Resolution Mechanism for credit institutions and certain investment firms (SRM) — Single Resolution Fund (SRF) — Setting of the 2016 ex-ante contribution — Incorrect identification of the defendant — Period for bringing an action — Out of time — Hypothetical acts — Application for damages — Close connection with the application for annulment — Plea of illegality — Manifest inadmissibility)

In Case T-494/17,

Iccrea Banca SpA Istituto Centrale del Credito Cooperativo, established in Rome (Italy), represented by P. Messina, F. Isgrò and A. Dentoni Litta, lawyers,

applicant,

v

European Commission, represented by V. Di Bucci, A. Steiblytė and K.-Ph. Wojcik, acting as Agents,

and

Single Resolution Board (SRB), represented by G. Rumi, S. Raes, M. Merola and T. Van Dyck, lawyers,

defendants,

concerning, first, a principal application under Article 263 TFEU seeking annulment of the decision of the executive session of the SRB of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06), as well as all the other decisions of the SRB on the basis of which the Banca d'Italia may have adopted the following national measures: No 1249264/15 of 24 November 2015, No 1262091/15 of 26 November 2015, No 1547337/16 of 29 December 2016, No 333162/17 of 14 March 2017 and No 334520/17 of 14 March 2017, in so far as they concern the applicant, secondly, an application for damages under Article 268 TFEU and, in the alternative, an application under Article 277 TFEU,

THE GENERAL COURT (Eighth Chamber),

composed of A.M. Collins, President, R. Barents and J. Passer (Rapporteur), Judges,

Registrar: E. Coulon,

makes the following

* Language of the case: Italian.

Order

Background to the dispute

1 By its decision of 15 April 2016 on the 2016 ex-ante contributions to the Single Resolution Fund (SRB/ES/SRF/2016/06) ('the 15 April 2016 decision'), the executive session of the Single Resolution Board (SRB) approved the 2016 ex-ante contributions to the Single Resolution Fund (SRF), established by Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1).

2 The SRB communicated that decision to the national resolution authorities ('NRAs') responsible for raising individual contributions from the banks concerned in their territories.

3 By letter of 3 May 2016, received on that date, the Banca d'Italia ('the Italian NRA') informed the applicant, Iccrea Banca SpA Istituto Centrale del Credito Cooperativo, that the SRB had adopted its 2016 ex-ante contribution to the SRF and indicated the amount of the contribution.

Procedure and forms of order sought

4 The applicant brought the present action by application lodged at the Registry of the General Court on 28 July 2017.

5 The applicant claims, inter alia, that the Court should:

– first, under Article 263 TFEU, annul the decision of 15 April 2016 as well as all the other decisions of the SRB on the basis of which the Italian NRA may have adopted the following national measures: No 1249264/15 of 24 November 2015, No 1262091/15 of 26 November 2015, No 1547337/16 of 29 December 2016, No 333162/17 of 14 March 2017 and No 334520/17 of 14 March 2017, in so far as they concern the applicant, and secondly, under Article 268 TFEU, order the SRB to compensate it for the damage the SRB caused it in 2015 and 2016 when determining the contributions it owed, consisting of the higher rates owed by the applicant;

– in the alternative, under Article 277 TFEU, declare Article 5(1)(a) and (f) of Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex-ante contributions to resolution financing arrangements (OJ 2015 L 11, p. 44) or, as the case may be, that regulation in its entirety, invalid;

– order the SRB to pay the costs.

6 By separate document lodged at the Court Registry on 31 October 2017, the Commission raised a plea of inadmissibility under Article 130(1) of the Rules of Procedure of the General Court. The Commission contends that the Court should:

– make an order dismissing the action as devoid of purpose or manifestly inadmissible;

– in the alternative, dismiss the action as devoid of purpose or inadmissible;

– order the applicant to pay the costs.

7 By a document lodged at the Court Registry on 8 November 2017, the SRB lodged its defence. The SRB contends that the Court should:

– dismiss the action as inadmissible;

– in the alternative, dismiss the action as unfounded;

– order the applicant to pay the costs.

8 By documents lodged at the Court Registry on 11 January 2018, the applicant filed its observations on the Commission's plea of inadmissibility, and its reply.

9 The applicant claims, essentially, that the Court should:

– dismiss the Commission and the SRB's pleas of inadmissibility;

– find the action to be well founded in accordance with the terms of the forms of order sought in the application.

10 By order of 5 February 2018, by way of measures of inquiry, the General Court ordered the SRB to produce, inter alia, confidential and non-confidential versions of a full copy of the original of the 15 April 2016 decision, including the annex to it.

11 On 21 February 2018, the SRB complied with the Court's order of 5 February 2018.

12 By letter of 12 March 2018, by way of measures of organisation of procedure, the Court put questions to the SRB.

13 On 27 March 2018, the SRB partially answered those questions, arguing as to the remainder that the Court needed to issue a measure of inquiry due to the presence of confidential information.

14 By order of 2 May 2018, the Court issued a measure of inquiry.

15 By letter of 18 May 2018, rectified on 8 and 29 June 2018, the SRB complied with the Court's order of 2 May 2018.

16 By a decision of 16 July 2018, the Court removed the confidential versions of the documents produced by the SRB from the case file, with the exception of the TXT format files on the USB keys produced by the SRB on 18 May 2018 and not containing any confidential information, paper versions of those files having been included in the case file.

Law

The Commission's plea of inadmissibility

17 Under Article 130(1) and (7) of the Rules of Procedure, if the defendant applies to that effect, the Court may rule on admissibility or lack of competence without going into the substance of the case. In the present case, since the Commission lodged an application under Article 130(1) of those Rules, the General Court, considering that it has sufficient information available to it from the material in the file, has decided to adjudicate on that application without taking further steps in the proceedings.

18 The Commission contends that the action is manifestly inadmissible in relation to the Commission in so far as the 15 April 2016 decision is a decision of the SRB. The applicant's plea of illegality cannot call in question that assertion.

19 It is apparent from settled case-law that actions for annulment under Article 263 EC must be brought against the EU institution, body, office or agency that adopted the act in question (see, to that effect, judgments of 11 September 2003, *Austria* v *Council*, C-445/00, EU:C:2003:445, paragraph 32 and the case-law cited, and of 15 September 2016, *La Ferla* v *Commission and ECHA*, T-392/13, EU:T:2016:478, paragraph 60 and the case-law cited).

20 In the present case, the 15 April 2016 decision is a decision of the SRB, not of the Commission. It should be added that, following the wording of the application, this is also true of all the 'other decisions of [the SRB]' on the basis of which the Italian NRA may have adopted the five national measures to which the application refers.

21 Moreover, a plea, such as that in the present case, that an act of general application does not apply under Article 277 TFEU does not constitute an independent right of action and recourse may be had to it only as an incidental plea. The fact that the applicant has put forward a plea of illegality against Delegated Regulation 2015/63, adopted by the Commission, is not sufficient to bring that institution before the Court. Any other interpretation would be tantamount to disputing the fact that the possibility of pleading the inapplicability of a measure of general application under Article 277 TFEU is not an independent right of action (see judgment of 15 September 2016, *La Ferla* v *Commission and ECHA*, T-392/13, EU:T:2016:478, paragraph 40 and the case-law cited).

22 It follows from the foregoing that the present action for annulment is inadmissible in so far as it concerns the Commission.

The SRB's claim that the action is inadmissible

23 Under Article 126 of the Rules of Procedure, where it is clear that the General Court has no jurisdiction to hear and determine an action or where the action is manifestly inadmissible or manifestly lacking any foundation in law, the General Court may, on a proposal from the Judge-Rapporteur, at any time decide to give a decision by reasoned order without taking further steps in the proceedings. In the present case, the Court, considering that it has sufficient information available to it from the material in the file, has decided to rule without taking further steps in the proceedings.

Inadmissibility of the action on the basis of the time limits, to the extent that it relates to the 15 April 2016 decision

24 The applicant claims that it brought the action in due time. It states that, before 29 May 2017, it was not effectively aware of the 15 April 2016 decision. The present application for annulment was accordingly, in its submission, made within the time limits. The applicant also asserts that the action it brought before the Tribunale amministrativo regionale per il Lazio (Regional Administrative Court, Lazio, Italy) also concerned the other Italian decisions for 2015 and 2017, in respect of which the corresponding SRB decisions have nevertheless not been produced.

25 The SRB argues that the action is manifestly out of time, in so far as the applicant, although it became aware of the existence of the 15 April 2016 decision in May 2016 at the latest, brought its action for annulment more than a year later.

26 According to the SRB, in any event, the 15 April 2016 decision is not of direct and individual concern to the applicant. In its view, only the measure adopted by the Italian NRA, on the basis of the SRB decision, has a legal effect on the applicant. It is for the applicant to bring proceedings before the national court, which could refer a question to the Court of Justice for a preliminary ruling.

27 First, it is apparent from the rules applicable in the present case, in particular Article 54(1)(b) and Article 70(2) of Regulation No 806/2014, that the body that both actually calculated the individual contributions and made the 15 April 2016 decision approving those contributions was the SRB. The fact that there may be cooperation between the SRB and the NRAs does not alter that finding.

28 Secondly, whatever terminological variations there may be between the linguistic versions of Article 5 of Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation No 806/2014 (OJ 2015 L 15, p. 1), the bodies to which the SRB, which makes the decision determining the ex-ante contributions, addresses that decision are the NRAs, not the banks. The NRAs are, in practice and in implementation of the applicable rules, the only entities to whom the issuer of the decision in question is required to send it and, therefore, ultimately, the persons to whom that decision is addressed within the meaning of the fourth paragraph of Article 263 TFEU.

29 The finding that the NRAs are addressees of the SRB decision within the meaning of the fourth paragraph of Article 263 TFEU is moreover corroborated by the fact that, in the system established by Regulation No 806/2014 and under Article 67(4) of that Regulation, they are responsible for raising the individual contributions from the banks.

30 Without it being necessary to examine whether the admissibility requirements under the fourth paragraph of Article 263 TFEU are met, it must be found that, on the following grounds, this action is manifestly inadmissible in the light of the time limits.

31 According to the sixth paragraph of Article 263 TFEU, applications for annulment must be instituted within 2 months of the publication of the measure, or of its notification to the applicant or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

32 In the present case, the 15 April 2016 decision was neither published nor notified to the applicant, which is not a person to whom it is addressed.

33 It is settled case-law that in the absence of publication or notification, it is for the party which learns of a decision concerning it to request the whole text thereof within a reasonable period and the period for bringing an action can begin to run only from the moment at which the third party concerned acquires precise knowledge of the content of the decision in question and of the reasons on which it is based. With that proviso, the period for bringing proceedings can only run from the time at which the third party acquires precise knowledge of the contents of the decision in question and the reasons on which it is based in such a way that it can effectively exercise its right of action (see, to that effect, order of 5 March 1993, *Ferriere Acciaierie Sarde* v *Commission*, C-102/92, EU:C:1993:86, paragraph 18; judgments of 19 February 1998, *Commission* v *Council*, C-309/95, EU:C:1998:66, paragraph 18, and of 14 May 1998, *Windpark Groothusen* v *Commission*, C-48/96 P, EU:C:1998:223, paragraph 25).

34 The two-month period under the sixth paragraph of Article 263 TFEU, which, unless the measure amenable to an action for annulment has been published or notified, runs from the date on which it came to the knowledge of the applicant, is therefore different from the reasonable period in which that party can request a copy of the full text of that measure in order to acquire precise knowledge of it (order of 10 November 2011, *Agapiou Joséphidès* v *Commission and EACEA*, C-626/10 P, not published, EU:C:2011:726, paragraph 128).

35 In the present case, it should be noted that the applicant, in common with all the institutions affected by the payment of a 2016 ex-ante contribution to the SRF, received the documents and questionnaires necessary in order to provide the data enabling the SRB to calculate the individual contributions. Those documents and questionnaires informed the applicant that the contribution to the SRF was calculated by the SRB. The applicant necessarily acquired knowledge of those documents in order to reply to them.

36 Subsequently, the applicant became aware of the existence of the 15 April 2016 decision by letter of 3 May 2016 from the Italian NRA, received on that date.

37 In that letter, the Italian NRA informed the applicant that the SRB had calculated its 2016 ex-ante contribution to the SRF and informed it of the amount payable.

38 Since the applicant was therefore aware of the existence of the 15 April 2016 decision, and in so far as it did not bring an action as a precautionary measure whilst awaiting communication of the decision in question, it should have requested that the decision be communicated within the reasonable period given by the case-law referred to in paragraphs 33 and 34 above.

39 The 'reasonable period' in which to request communication of a decision after becoming aware of its existence is not a predetermined period that can automatically be inferred from the period for bringing an action for annulment, but one that depends on the circumstances of the particular case (see, to that effect, judgment of 28 February 2013, Review of *Arango Jaramillo and Others* v *EIB*, C-334/12 RX-II, EU:C:2013:134, paragraphs 32 to 34).

40 As regards the concept of a reasonable period, it should be noted, first, that the Court of Justice has held, in other cases, that a two-month period, calculated from the date on which a party became aware of the existence of a decision in order to request its communication, exceeded what was reasonable (order of 5 March 1993, *Ferriere Acciaierie Sarde* v *Commission*, C-102/92, EU:C:1993:86, paragraph 19; see also, to that effect, order of 10 November 2011, *Agapiou Joséphidès* v *Commission and EACEA*, C-626/10 P, not published, EU:C:2011:726, paragraphs 131 and 132).

41 It should be emphasised, secondly, that the General Court has held, in other cases, that a request to be sent the full text of a decision, made more than 4 months after the applicant became aware of the existence of the measure, had to be regarded as not having been made within any period that could be considered reasonable (see, to that effect, orders of 15 July 1998, *LPN and GEOTA* v *Commission*, T-155/95, EU:T:1998:167, paragraph 44, and of 18 May 2010, *Abertis Infraestructuras* v *Commission*, T-200/09, not published, EU:T:2010:200, paragraph 63).

42 In the light of the circumstances of the present case, there is no reason to make a finding different from that reached by the Court of Justice and the General Court.

43 The applicant, once it became aware of the existence of the contested decision, did not request to be sent that decision at all, much less within a reasonable period.

44 The applicant in fact claims that it was only in connection with an action that it brought against the Italian NRA in the national courts nearly a year later, in April 2017, and in the light of the Italian NRA's replies lodged in that action, that it was 'placed in a position to know of the existence of the SRB decisions' and of the need to bring an action for annulment before the EU courts.

45 However, in view of the circumstances set out in paragraphs 35 to 37 above, from 3 May 2016 the applicant could not have been unaware of the existence of the 15 April 2016 decision.

46 Nor has the applicant either pleaded or proved the existence of unforeseeable circumstances or force majeure such as to allow a derogation from the time limit in question on the basis of the second paragraph of Article 45 of the Statute of the Court of Justice of the European Union, which applies to proceedings before the General Court under Article 53 of that Statute.

47 It follows that the present action for annulment of the 15 April 2016 decision, brought on 28 July 2017, is manifestly out of time and must be dismissed as manifestly inadmissible.

Inadmissibility of the action in so far as it seeks annulment of all the other decisions of the SRB on the basis of which the Italian NRA may have adopted the following national measures: No 1249264/15 of 24 November 2015, No 1262091/15 of 26 November 2015, No 1547337/16 of 29 December 2016, No 333162/17 of 14 March 2017 and No 334520/17 of 14 March 2017

48 The applicant seeks annulment of all the other decisions of the SRB on the basis of which the Italian NRA may have adopted the following national measures: No 1249264/15 of 24 November 2015, No 1262091/15 of 26 November 2015, No 1547337/16 of 29 December 2016, No 333162/17 of 14 March 2017 and No 334520/17 of 14 March 2017.

49 The SRB observes that the decisions of the Italian NRA were not based on its decisions. According to the SRB, they are all decisions linked to contributions to the Italian national resolution fund, demanded and calculated by that NRA outside the SRB's sphere of competence. What is more, the SRB asserts, some of those decisions by that NRA even predate the SRB being granted power to calculate ex-ante contributions to the SRF.

50 The applicant replies that it is by those means seeking complete judicial protection against 'any unknown decisions by the SRB' on which the decisions of the Italian NRA referred to in paragraph 48 above may have been based.

51 It should be noted that, according to Article 76 of the Rules of Procedure, an application must state the subject matter of the proceedings and be sufficiently clear and precise to enable the defendant to prepare its defence and the Court to rule on the action, if necessary without any other supporting information (judgments of 23 May 2014, *European Dynamics Luxembourg* v *ECB*, T-553/11, not published, EU:T:2014:275, paragraph 53, and of 5 October 2017, *Ben Ali* v *Council*, T-149/15, not published, EU:T:2017:693, paragraph 33). Accordingly, an applicant, whose responsibility it is to comply with that article, cannot entrust the General Court with identifying the subject matter of the action in its place, and the General Court cannot be required to do so (see, to that effect and by analogy, order of 24 March 1993, *Benzler* v *Commission*, T-72/92, EU:T:1993:27, paragraphs 18 and 19; judgments of 30 November 2009, *Ridolfi* v *Commission*, F-3/09, EU:F:2009:162, paragraph 81, and of 5 March 2015, *Gyarmathy* v *FRA*, F-97/13, EU:F:2015:7, paragraph 29).

52 It emerges from the foregoing that this action, to the extent that it seeks annulment of potential, unknown, and therefore hypothetical, decisions of the SRB that might be the basis of the five Italian decisions referred to in paragraph 48 above, is manifestly inadmissible under Article 76 of the Rules of Procedure. The applicant's request that the General Court should order the SRB to authorise the applicant to examine and take copies of the decisions made in relation to it for the 2015 to 2017 financial years should not be granted (see, to that effect, order of 19 October 2012, *Ellinika Nafpigeia and Hoern* v *Commission*, T-466/11, not published, EU:T:2012:558, paragraph 28).

Inadmissibility of the application for damages

53 The applicant seeks that the SRB be ordered to compensate the applicant under Article 268 TFEU for the damage it caused to it in 2015 and 2016 when determining the contributions owed by the applicant, consisting of the higher rates paid.

54 In the reply, the applicant argues that the application for damages is independent of its claims for annulment. It contends that if the claims for annulment were upheld, it would recover sums already paid and, for the purposes of determining contributions in the future, intragroup liabilities would be excluded from the basis of calculation of the contribution under Article 5(1)(a) and (f) of Delegated Regulation (EU) 2015/63, whereas if the application for damages were upheld, the applicant would obtain reparation for the damage incurred and to be incurred as a result of not having the sums paid at its disposal. According to the applicant, the fact that the sums paid in excess were not at its disposal meant that it could not make investments, without which it had to resort to the costly use of consultants.

55 The SRB argues that the application for damages is not independent of the claims for annulment and is tantamount to an attempt to circumvent the inadmissibility of those claims.

56 According to settled case-law, although a party may take action by means of a claim for compensation without being obliged by any provision of law to seek the annulment of the illegal measure which causes him damage, he may not by those means circumvent the inadmissibility of an application which concerns the same instance of illegality and which has the same financial end in view (see judgment of 12 May 2016, *Holistic Innovation Institute* v *Commission*, T-468/14, EU:T:2016:296, paragraph 46 and the case-law cited).

57 Thus, an action for damages must be declared inadmissible where it is actually aimed at securing withdrawal of an individual decision which has become definitive and would, if upheld, have the effect of nullifying the legal effects of that decision. That is the case if the applicant seeks, by way of a claim for damages, to obtain a result which is identical to that it would have obtained from the success of an action for annulment which it failed to bring in good time (judgment of 12 May 2016, *Holistic Innovation Institute* v *Commission*, T-468/14, EU:T:2016:296, paragraph 47).

58 Furthermore, an action for damages may also be able to nullify the legal effects of a decision which has become final where the applicant seeks a greater benefit, but including that which it could obtain from an annulling judgment. In such a case, it is however necessary to establish the existence of a close connection between the action for damages and the action for annulment in order to conclude that the former is inadmissible (order of 13 January 2014, *Investigación y Desarrollo en Soluciones y Servicios IT* v *Commission*, T-134/12, not published, EU:T:2014:31, paragraph 62, and judgment of 12 May 2016, *Holistic Innovation Institute* v *Commission*, T-468/14, EU:T:2016:296, paragraph 48).

59 In the present case it is necessary, as a preliminary issue, to recall the findings made in paragraph 52 above, that the action is inadmissible under Article 76 of the Rules of Procedure to the extent that it seeks annulment of potential, unknown decisions of the SRB that might be the basis of a number of Italian decisions. Given those findings, the applicant's application for damages, in any event, cannot be found to be admissible except in so far as concerns the 15 April 2016 decision.

60 In respect of the 15 April 2016 decision, it should be noted that the application for damages comprises, essentially, first, a claim that the SRB should compensate the applicant for damage consisting of the higher rates borne as a result of that decision and, secondly, a claim that the SRB should compensate the applicant for the consequences of being deprived of the sums paid, that is to say, the fact that it was unable to make certain investments and that it resorted to external consultants.

61 As regards, first of all, the claim seeking to have the SRB compensate the applicant for damage consisting of the higher rates borne as a result of the 15 April 2016 decision, that claim is, ultimately, tantamount to seeking repayment of sums it is alleged were wrongly paid in implementation of that decision. That claim is therefore intended to circumvent the fact that the decision had become final. In financial terms, it has the same purpose as an annulment that is now impossible because the time limits have expired. Such a claim is therefore manifestly inadmissible because it is closely connected to the claim for annulment which is itself manifestly inadmissible.

62 As regards, secondly, the claim concerning the consequences suffered because the applicant no longer had at its disposal the amounts paid in implementation of the 15 April 2016 decision, consisting, according to the applicant, of the fact that it could not make certain investments and the need to resort to external consultants, it should be noted that, by that claim, the applicant is seeking, essentially, in financial terms, to be restored to the situation in which it would have been had that decision not been made. That claim therefore has a close connection, within the meaning of the case-law cited in paragraph 58 above, with the claim for annulment of that decision. Such a claim is therefore likewise manifestly inadmissible.

63 To conclude the foregoing, since both components of the application for damages have the effect of circumventing the consequences of the fact that the 15 April 2016 decision has become final because no action for annulment was brought within the time limit under Article 263 TFEU, that application must be dismissed as manifestly inadmissible.

Inadmissibility of the application for Article 5(1)(a) and (f) of Delegated Regulation 2015/63 or that regulation in its entirety to be declared invalid

64 In the alternative to its application for annulment, the applicant requests the General Court, if the principal claims are dismissed, nevertheless to declare Article 5(1)(a) and (f) of Delegated Regulation 2015/63 or, as the case may be, that regulation in its entirety, invalid.

65 As already indicated in paragraph 21 above, the possibility afforded by Article 277 TFEU of pleading the illegality of a measure of general application does not constitute an independent right of action, and recourse may not be had to it in the absence of an independent right of action (see judgment of 6 June 2013, *T & L Sugars and Sidul Açúcares* v *Commission*, T-279/11, EU:T:2013:299, paragraph 96 and the case-law cited).

66 It follows that the applicant's application is manifestly inadmissible, seeking as it does, if the 15 April 2016 decision is not annulled, to have Delegated Regulation 2015/63 partially or in its entirety declared unlawful, since there is no independent right of action to plead the illegality of a measure of general application.

67 Furthermore, since the applicant's application to have Delegated Regulation 2015/63 partially or in its entirety declared unlawful is by necessary implication seeking, *a fortiori*, a finding of illegality in relation to an application for annulment of the 15 April 2016 decision, it must be noted that because there is no independent right of action the inadmissibility of the principal action also entails the inadmissibility of the plea of illegality advanced to support it.

68 It has been found that the action for annulment, in so far as it challenges the 15 April 2016 decision, the only decision at issue in the present case, is manifestly inadmissible (see paragraph 47 above). It follows that the applicant's application to have Delegated Regulation 2015/63 partially or it in its entirety declared unlawful is, in any event, manifestly inadmissible.

Overall conclusion

69 It is apparent from the foregoing that all the various aspects and components of this action must be rejected as inadmissible in so far as it is directed against the Commission, under Article 130 of the Rules of Procedure, and as manifestly inadmissible in so far as it is directed against the SRB, under Article 126 of the Rules of Procedure.

Costs

70 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must be ordered to pay the costs, in accordance with the form of order sought by the SRB and the Commission.

On those grounds,

THE GENERAL COURT (Eighth Chamber)

hereby orders:

1. **The action is dismissed.**

2. **Iccrea Banca SpA Istituto Centrale del Credito Cooperativo shall bear its own costs and pay those of the Single Resolution Board (SRB) and of the European Commission.**

Luxembourg, 19 November 2018.

E. Coulon
Registrar

A.M. Collins
President