

6. Sixth plea in law, alleging infringement of the rights of the defence on the ground that the applicant's right to be heard was breached.
7. Seventh plea in law, alleging failure to observe the principle of sound administration, the principle of performance of contracts in good faith and the principle of the prohibition of abuse of rights. The applicant claims in this regard that the Commission did not act with care or impartially.
8. Eighth plea in law, alleging that Article 103 of the 2002 Financial Regulation is unlawful, in so far as that article breaches the general principle of prohibition of unjust enrichment. Article 103 of the 2002 Financial Regulation enables the Commission to recover all amounts paid during the entirety of the execution of the contract even if it has been fully executed by the contractor. Under Article 103 of the 2002 Financial Regulation the Commission may thus benefit from all the services provided by the contractor without any payment being due to that contractor. Article 103 must be declared unlawful in so far as it allows the Commission to improve its assets, without justification, to the detriment to the assets of the contractor.
9. Ninth plea in law, alleging, in the alternative, infringement of Article 103 of the 2002 Financial Regulation and failure to observe the principle of proportionality. According to the applicant, the Commission's evaluation exercise must be carried out in accordance with Article 103 of the 2002 Financial Regulation. In addition, it must be carried out in observance of the principle of proportionality, the Commission having to ensure that the decision is proportional to the gravity of the irregularity in question. That proportionality requirement constitutes an expression of the principle of good faith which must be observed in the execution of contracts, yet was not in the present case.

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**Action brought on 19 November 2019 — Anglo Austrian AAB Bank and Belegging-Maatschappij 'Far-East' v ECB**

**(Case T-797/19)**

(2020/C 10/66)

*Language of the case: German*

**Parties**

*Applicants:* Anglo Austrian AAB Bank AG (Vienna, Austria) and Belegging-Maatschappij 'Far-East' BV (Velp, Netherlands) (represented by: M. Fischer, J. Willheim and M. Ketzer, lawyers)

*Defendant:* European Central Bank

**Form of order sought**

The applicants claim that the Court should:

- annul the defendant's decision of 14 November 2019, by which Anglo Austrian AAB Bank AG's authorisation as a credit institution was withdrawn;
- order the defendant to pay the costs of the proceedings;
- in the light of the circumstances of the present case, give the case priority pursuant to Article 67(2) of the Rules of Procedure of the General Court.

**Pleas in law and main arguments**

In support of the action, the applicants rely on the following pleas in law.

1. The defendant infringed Article 14(5) of Council Regulation (EU) No 1024/2013, <sup>(1)</sup> in so far as it incorrectly applied the national law applicable to the withdrawal of authorisation under Article 4(3) of that regulation.

2. The defendant infringed the principle of proportionality, in so far as, by withdrawing authorisation, it unlawfully used the last resort out of the possible means of supervision.
3. The defendant violated Anglo Austrian AAB Bank AG's right to an effective remedy, in so far as it did not suspend operation of the decision.
4. The defendant infringed Article 41 of the Charter of Fundamental Rights of the European Union, Articles 31 and 32 of Regulation (EU) No 1024/2013, Paragraph 70(4) of the Bankwesengesetz (Law on banking) and Article 6 of the European Convention on Human Rights, in so far as it failed to respect Anglo Austrian AAB Bank AG's procedural rights guaranteed therein.
5. The defendant violated Belegging-Maatschappij 'Far-East' B.V.'s right to property, in so far as it withdrew Anglo Austrian AAB Bank AG's authorisation and thereby destroyed the economic value of the shares in Anglo Austrian AAB Bank AG held by Belegging-Maatschappij 'Far-East' B.V.

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(<sup>1</sup>) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63).

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**Order of the General Court of 11 November 2019 — TestBioTech v Commission**

**(Case T-173/17) (<sup>1</sup>)**

(2020/C 10/67)

*Language of the case: English*

The President of the Second Chamber has ordered that the case be removed from the register.

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(<sup>1</sup>) OJ C 161, 22.5.2017.

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**Order of the General Court of 5 November 2019 — CF v Parliament**

**(Case T-361/19) (<sup>1</sup>)**

(2020/C 10/68)

*Language of the case: French*

The President of the Fifth Chamber has ordered that the case be removed from the register.

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(<sup>1</sup>) OJ C 263, 5.8.2019.

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