

C/2024/5845

7.10.2024

Action brought on 23 August 2024 – Deutsche Kreditbank v SRB**(Case T-441/24)**

(C/2024/5845)

*Language of the case: German***Parties***Applicant:* Deutsche Kreditbank (Berlin, Germany) (represented by: H. Berger, M. Weber and D. Schoo, lawyers)*Defendant:* Single Resolution Board**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the Single Resolution Board of 11 June 2024 on the re-adoption of the decision on the calculation of the 2021 ex ante contributions to the Single Resolution Fund concerning the institutions mentioned in Annex I to that decision (SRB/ES/2024/20), including its annexes, in so far as the contested decision, including Annex I, Annex II and Annex III thereto, concerns the applicant's contribution;
- order the SRB to pay the costs of the proceedings.

In the alternative, in the event that the Court should consider that the contested decision is legally non-existent due to the use of the incorrect official language by the SRB and that the action for annulment is therefore inadmissible on the ground that it is devoid of purpose, the applicant claims that the Court should:

- declare that the contested decision is legally non-existent;
- order the SRB to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law.

1. First plea in law, alleging that Article 6 of, and Annex I, Step 2, to Delegated Regulation (EU) 2015/63 ⁽¹⁾ infringe higher-ranking law, on the ground that the Commission exceeded the powers conferred on it, that the rules fail to meet the requirement to take full account of the facts and infringe Article 20 of the Charter of Fundamental Rights of the European Union, ⁽²⁾ that they are based on manifest errors of assessment, and that they disregard the principles of the Meroni case-law. ⁽³⁾
2. Second plea in law, alleging that Article 70(7) of Regulation (EU) No 806/2014 ⁽⁴⁾ and Article 8(1) of Implementing Regulation (EU) 2015/81 ⁽⁵⁾ infringe the applicable primary law, on the ground that Article 70(7) of Regulation (EU) No 806/2014 does not state reasons in accordance with Article 291(2) TFEU and that Article 8 of Implementing Regulation (EU) 2015/81 exceeds the limits drawn by Article 70(7) of Regulation (EU) No 806/2014, read in conjunction with Article 291 TFEU.

⁽¹⁾ 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).

⁽²⁾ OJ 2012 C 326, p. 391.

⁽³⁾ Judgment of 13 June 1958, *Meroni v High Authority*, 10/56, EU:C:1958:8.

⁽⁴⁾ 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).

⁽⁵⁾ Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to ex ante contributions to the Single Resolution Fund (OJ 2015 L 15, p. 1).

3. Third plea in law, alleging that the decision infringes Article 81(1) of Regulation (EU) No 806/2014, read in conjunction with Article 3 of Regulation No 1, ⁽⁶⁾ because it was not drafted in German as chosen by the applicant.
 4. Fourth plea in law, alleging that the decision fails to comply with the obligation to state reasons under the second paragraph of Article 296 TFEU and Article 41(1) and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union, on the ground that it contains gaps in the reasoning.
 5. Fifth plea in law, alleging that the decision infringes Articles 69 and 70 of Regulation (EU) No 806/2014, on the ground that the defendant incorrectly determined the annual target level.
 6. Sixth plea in law, alleging that the decision infringes higher-ranking law due to obvious errors of assessment in determining the risk indicators of risk pillar IV.
 7. Seventh plea in law, alleging that the decision infringes Article 6(6)(a)(iv) and (b)(ii) and the first and second sentences of Article 20(1) of Delegated Regulation (EU) 2015/63, on the ground that the defendant did not implement the requirements of Article 6(6)(a)(iv) and (b)(ii) of Delegated Regulation (EU) 2015/63 when determining the risk indicators under Article 6(1)(d), Article 6(5)(a) and Article 6(6) of Delegated Regulation (EU) 2015/63.
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⁽⁶⁾ Regulation No 1 of the Council of 15 April 1958 determining the languages to be used by the European Economic Community (OJ English Special Edition: Series I Volume 1952-1958, p. 59).