

Appeal brought on 28 November 2017 by Trasta Komerbanka AS, Ivan Fursin, Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV, Rikam Holding SA against the order of the General Court (Second Chamber) delivered on 12 September 2017 in Case T-247/16: Trasta Komerbanka AS and Others v European Central Bank

(Case C-669/17 P)

(2018/C 042/11)

Language of the case: English

Parties

Appellants: Trasta Komerbanka AS, Ivan Fursin, Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV, Rikam Holding SA (represented by: O.H. Behrends, L. Feddern, M. Kirchner, Rechtsanwälte)

Other party to the proceedings: European Central Bank

Form of order sought

The appellants claim that the Court should:

- set aside no. 1 of the order, i.e. the decision by the General Court that there is no need to adjudicate on the action for annulment of Trasta Komerbanka AS (TKB);
- declare that the action for annulment of TKB is not devoid of purpose;
- declare that the action for annulment is admissible;
- refer the case back to the General Court for it to determine the action for annulment, and
- order the European Central Bank (ECB) to pay the appellants' costs and the costs of the appeal.

Pleas in law and main arguments

By the first ground of appeal, the appellants claim that the General Court erred in assuming that TKB's remedy is entrusted to the liquidator. The appellants claim that this assumption is irreconcilable with Art. 263 TFEU and the guarantee of an effective remedy as well as a number of related principles.

By the second ground of appeal, the appellants claim that the General Court erred in assuming that the shareholders' action is a substitute for the shareholders' ability to defend TKB's license through an action by TKB itself.

By the third ground of appeal, the appellants claim a number of further substantive errors including a failure to apply the *nemo auditor*-principle because of the ECB's interference with TKB's remedy.

By the fourth ground of appeal, the appellants claim that the General Court failed to take into account the requirements (including form requirements) for a valid revocation of the power of attorney originally issued by TKB.

By the fifth ground of appeal, the appellants claim that the General Court erroneously applied Art. 51(1) rather than Art. 131 of the Rules of Procedure as well as a number of further procedural errors.

Appeal brought on 20 November 2017 by the Hellenic Republic against the judgment of the General Court (First Chamber) delivered on 19 September 2017 in Case T-327/15 Hellenic Republic v European Commission

(Case C-670/17 P)

(2018/C 042/12)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: G. Kanellopoulos, I. Pachi and A. Vasilopoulou)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that its appeal should be admitted, that the judgment under appeal of the General Court of the European Union of 19 September 2017 in Case T-327/15 should be set aside, that the action brought on 2 June 2015 by the Hellenic Republic should be upheld and that the Commission Implementing Decision of 25 March 2015 on applying financial correction on the EAGGF Guidance Section of the Operational Programme CCI No 2000GR061PO021 (GREECE — Objective 1 — Rural Reconstruction), which was published as C(2015) 1936 final, should be annulled.

Pleas in law and main arguments

In support of the appeal the appellant relies on five grounds of appeal.

The first ground of appeal is based on the misinterpretation and misapplication of the transitional provisions of Regulations (EC) 1083/2006 ⁽¹⁾ and (EU) 1303/2013 ⁽²⁾ read together with the provisions of Regulation (EC) 1290/2005 ⁽³⁾, and also an error of law, with respect to the application of the provisions of Regulation 1260/1999 ⁽⁴⁾ to the EAGGF — Guidance Section after 01.01.2007 — Insufficient and defective statement of reasons in the judgment under appeal.

The second ground of appeal is based on a misinterpretation and misapplication of Article 39 of Regulation (EC) 1260/1999 — Contradictory and insufficient statement of reasons.

The third ground of appeal is based on the misinterpretation and erroneous and selective application of the procedural provisions of Articles 144 and 145 of Regulation (EU) 1303/2013 that were held in the judgment under appeal to be applicable, while the judgment under appeal fails to give effect to the procedural safeguard of Article 52(4)(c) of Regulation (EU) 1306/2013 ⁽⁵⁾ which defines in this case the competence *ratione temporis* of the Commission — Contradictory and insufficient statement in the judgment under appeal.

The fourth ground of appeal is based on the interpretation and application of the principles of legal certainty and the protection of the legitimate expectations of the Member State in the framework of its sincere cooperation with the Commission in the assessment of the consequences of the express acceptance of the final report on the programme which was issued nine months late and the delayed initiation of the procedure for the imposition of a financial correction, contrary to the Commission's self-imposed obligation to achieve clearance and final payment of operational programmes within a reasonable time.

Last, the fifth ground of appeal is based on the wholly insufficient statement of reasons, in the opinion of the appellant, for the dismissal of the submissions of the Hellenic Republic with respect to the imposition of the multiple and therefore disproportionate financial correction.

⁽¹⁾ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ 2006, L 210, p. 25).

⁽²⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ 2013, L 347, p. 320).

⁽³⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005, L 209, p. 1).

⁽⁴⁾ Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999, L 161, p. 1).

⁽⁵⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013, L 347, p. 549).