

**Action brought on 28 October 2016 — BPCE v ECB**

(Case T-745/16)

(2017/C 006/50)

*Language of the case: French***Parties**

*Applicant:* BPCE (Paris, France) (represented by: A. Gosset-Grainville, C. Renner and P. Kupka, lawyers)

*Defendant:* European Central Bank

**Form of order sought**

The applicant claims that the General Court should:

- annul the European Central Bank's Decision No ECB/SSM/2016-9695005MSXI0YEMGDF46/195 of 24 August 2016;
- order the European Central Bank to pay all the costs in any event.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that lack of competence vitiates the decision of the European Central Bank (ECB) of 24 August 2016 rejecting the request of the applicant for exposure on the French Caisse des Dépôts et Consignations, resulting from centralised funds in the context of regulated savings, to be excluded from the leverage ratio calculation ('the contested decision'), in so far as, having confirmed that the conditions laid down in the applicable EU legislation had been met, the ECB was not competent to refuse to grant the exclusion requested.
2. Second plea in law, alleging several errors of law on the part of the ECB. The applicant claims that, even if the ECB had been competent to adopt the contested decision, that decision would not be valid since it is vitiated by several errors of law in relation to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ 2013 L 176, p. 1; 'Regulation No 575/2013') and the intentions of the EU legislature by reason of the fact that the ECB misinterpreted the legislation in question and thus adopted a decision which:
  - is contrary to the objectives and purpose of the rules on leverage ratio since it disregards not only the objective of leverage ratio legislation itself but also the legislature's intention as expressed in Article 429(14) of Regulation No 575/2013;
  - alters the basic provision by taking into consideration two additional conditions that are not included in the provision at issue;
  - renders Article 429(14) of Regulation No 575/2013 ineffective.
3. Third plea in law, alleging that the contested decision is vitiated by several manifest errors of assessment, in particular with regard to the nature of centralised regulated saving funds, with regard to the implications associated with inclusion of the funds in the bank's balance sheet and with regard to the adjustment mechanism for centralised funds.
4. Fourth plea in law, alleging infringement of several general principles of EU law, namely the principle of proportionality, the principle of legal certainty and the principle of sound administration, in so far as the ECB breached its duty to exercise due diligence.
5. Fifth plea in law, alleging a failure to state reasons for the contested decision inasmuch as, although the ECB was subject to an enhanced obligation to state reasons, the contested decision is inadequately and ambiguously reasoned.