

3. Third plea in law, also raised in the alternative, alleging an incorrect valuation of hypothetical aid.

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**Action brought on 31 October 2016 — BNP Paribas v ECB**

**(Case T-768/16)**

(2017/C 006/61)

*Language of the case: French*

**Parties**

*Applicant:* BNP Paribas (Paris, France) (represented by: A. Champsaur and A. Delors, lawyers)

*Defendant:* European Central Bank

**Form of order sought**

The applicant claims that the Court should:

- annul, on the basis of Articles 256 and 263 TFEU, decision ECB/SSM/2016 — ROMUWSFPU8MPRO8K5P83/136 adopted by the European Central Bank on 24 August 2016;
- order the European Central Bank to pay the entirety of the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the European Central Bank (ECB) committed an error in law in the interpretation of the provisions of 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 575/2012').

Accordingly, the applicant in particular criticises ECB decision of 24 August 2016 for rejecting the request which it had made in order to obtain the authorisation to exclude the exposure of public sector entities to the calculation of the leverage ratio ('the contested decision'):

- as being contrary to the intention of the European legislature and to the objectives pursued by Regulation No 575/2013;
  - as rendering Article 429(14) of that regulation wholly ineffective;
  - as constituting an encroachment by the ECB on the powers of the European legislature.
2. Second plea in law, alleging that the contested decision is marred by a manifest error in the assessment of the prudential risk relating to the regulated savings, inasmuch as the ECB failed to take account of the legal framework and the empirical data relating to those savings as well as the relevant reports of the European Banking Authority, and made such an error of assessment both as regards the leverage risk and the other prudential risks relating thereto.
  3. Third plea in law, alleging infringement of the principle of proportionality which mars the contested decision, in so far as it, first, infringes the general principle of proportionality laid down in Article 5 of the Treaty on the European Union, and second, it does not comply with the specific requirements of the principle of proportionality with regard to prudential supervision, requiring that the prudential requirements be adapted to the bank's business model and to the risks associated with it for the financial sector and for the economy.