



Press and Information

General Court of the European Union
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Judgment in Case T-79/13
Alessandro Accorinti and Others v ECB

The loss suffered in 2012 by the private holders of Greek debt instruments in connection with the restructuring of the public debt of the Greek State is not attributable to the ECB, but to the economic risks ordinarily inherent in financial sector activities

By protecting the Greek securities held by national central banks and by itself, the ECB acted exclusively in order to maintain the stability of the money market

Article 127 TFEU sets out the objectives and basic tasks of the European System of Central Banks (ESCB). The Protocol on the Statute of the ESCB and of the European Central Bank (ECB)¹ defines those objectives and tasks, which include, in particular, the objective of safeguarding price stability and the objective relating to the sound management of monetary policy.

Faced with the financial crisis and the risk of Greek default, the ECB and national central banks (NCBs) of the Member States in the euro area (the Eurosystem), on the one hand, and Greece, on the other, concluded an agreement on 15 February 2012 for the exchange of the Greek debt instruments held by the ECB and NCBs for new securities whose nominal value, interest rate and interest payment and repayment dates were identical to the original securities, but which bore different serial numbers and dates.

At the same time, the Greek authorities and the private sector agreed on a voluntary exchange and a 'haircut' of 53.5% of the securities held by the private creditors (Private Sector Involvement (PSI)). The Eurogroup relied on a strong participation of private creditors in that voluntary exchange of securities.² By a law of 23 February 2012,³ Greece made the exchange of all such securities, including those held by creditors refusing the voluntary exchange offer, thanks to the application of a 'Collective Action Clause' (CAC). The private holders then saw the nominal value of the securities exchanged fall by 53.5% compared with the nominal value of the original securities.

In addition, by decision of 5 March 2012,⁴ the ECB decided to make the use, as collateral for Eurosystem credit operations, of Greek debt instruments which did not fulfil the Eurosystem's minimum requirements for credit quality thresholds conditional on the provision by Greece to national central banks of a collateral enhancement in the form of a buy-back scheme.

More than 200 private holders of Greek securities (mainly Italian nationals) asked the General Court to order the ECB to make good the damage caused to them amounting to € 12 million by, in particular, the exchange agreement of 15 February 2012 and the decision of 5 March 2012.⁵ They criticise the ECB for having infringed the legitimate expectations of the private holders, the principle of legal certainty and the principle of equal treatment of private creditors.

¹ Protocol No 4 on the Statute of the ESCB and of the European Central Bank (OJ 2010 C 83, p. 230).

² Eurogroup statement of 21 February 2012.

³ Greek Law No 4050/2012 of 23 February 2012.

⁴ Decision 2012/153/EU of 5 March 2012 on the eligibility of marketable debt instruments issued or fully guaranteed by the Hellenic Republic in the context of the Hellenic Republic's debt exchange offer (OJ 2012 L 77, p. 19).

⁵ The applicants had already brought an action for annulment before the General Court against the decision of the ECB of 5 March 2012, which was declared inadmissible (order of 25 June 2014 in Case [T-224/12](#)).

According to the applicants, the ECB committed several unlawful acts capable of giving rise to liability of the EU. By its press releases and the public statements of its successive Presidents (Mr Trichet and Mr Draghi), the ECB opposed, on several occasions, a restructuring of the Greek public debt and a Greek selective default. Furthermore, the exchange agreement of 15 February 2012 enabled the ECB and NCBs to avoid the PSI and, therefore, the 'haircut' imposed pursuant to the CACs. Similarly, the decision of 5 March 2012 granted a buy-back scheme for Greek securities only to NCBs, even though those securities did not satisfy the credit quality conditions. The applicants submit that, under the pretext of its monetary policy task, the ECB therefore reserved for itself 'preferential' creditor status to the detriment of the private sector. Consequently, without the preferential creditor status of the ECB and of NCBs and without the buy-back scheme granted only to NCBs, the private creditors would have never seen the value of their securities fall and depreciate to such an extent.

By today's judgment, the General Court holds that the private investors **cannot rely on the principle of the protection of legitimate expectations or on the principle of legal certainty in a field such as that of monetary policy**, the objective of which involves constant adjustment to reflect changes in economic circumstances. According to the Court, the private investors were deemed to have knowledge of the highly unstable economic circumstances which determined the fluctuation in the value of the Greek securities. They could therefore not exclude the risk of a restructuring of the Greek public debt, given the differences of view prevailing in that regard within the Eurosystem and in the other institutions involved (Commission, IMF and ECB).

The Court then states, that the press releases and the public statements of some ECB staff members were of a general nature and came from an institution which did not have the power to decide on a possible restructuring of the public debt of a Member State. In addition, those press releases and statements did not include specific and unconditional assurances from authorised and reliable sources, capable, for that reason, of giving rise to legitimate expectations.

The Court also considers that **the general principle of equal treatment cannot apply**, since the private savers or creditors and the ECB (as well as NCBs of the Eurosystem) were not in a comparable situation: confronted with the Greek financial crisis and the exceptional circumstances attached to it, **the ECB was exclusively guided by public interest objectives**, such as, in particular, the objective of safeguarding price stability and the objective relating to the sound management of monetary policy. By contrast, the private investors or savers acted in pursuit of a purely private interest, namely obtaining a maximum return on their investments.

The loss alleged by the individuals in this instance corresponds to the economic risks ordinarily inherent in the commercial activities carried out in the financial sector (transactions in marketable debt instruments issued by a State); this is particularly true where a State presents a downgraded rating, as Greece did from the end of 2009.

In conclusion, the Court dismisses the application of Mr Accorinti and the other investors and excludes all liability of the ECB.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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