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Judgments of the General Court in Cases T-383/21 | Banque postale v SRB, T-384/21 | Confédération nationale du Crédit mutuel and Others v SRB, T-385/21 | BPCE and Others v SRB, T-387/21 | Société générale and Others v SRB, T-388/21 | Crédit agricole and Others v SRB, T-389/21 | Landesbank Baden-Württemberg v SRB, T-397/21 | BNP Paribas v SRB

Calculation of the 2021 ex ante contributions to the Single Resolution Fund: the General Court annuls the decision of the Single Resolution Board relating to certain French and German banks due to a failure to state adequate reasons

For reasons of legal certainty, however, the General Court maintains the effects of that decision for a reasonable period which cannot exceed six months, pending a new decision of the SRB

The Single Resolution Fund (SRF) is an emergency fund that can be used in times of crisis, and aims to prevent credit institutions and certain investment firms from failing after other options have been exhausted. Financed by the banking sector itself, the fund consists of ex ante contributions paid by institutions across the 21 countries that are part of the Banking Union. The amount of those ex ante contributions is determined based on a size and risk component.

In 2021, the Single Resolution Board (SRB) determined the amount of ex ante contributions to be paid by several institutions for the 2021 contribution period. Credit institutions established in France and in Germany challenge the amount of those contributions and seek the annulment of the decision of the SRB before the General Court. They submit, inter alia, that the SRB failed to fulfil its obligation to state reasons as regards the setting of the annual target level for the 2021 contribution period.

The General Court **annuls the SRB decision** as regards those institutions. It considers that the SRB **failed to fulfil its obligation to state reasons** in setting the annual target level. That target level is of essential importance for the methodology for calculating ex ante contributions, which consists in apportioning the amount of the annual target level between all the institutions concerned. The statement of the reasons for the decision of an EU institution, body, office or agency is particularly important for the purpose of allowing persons concerned to decide in full knowledge of the circumstances whether it is worthwhile to bring an action against that decision, and for enabling the court with jurisdiction to review it. The General Court observes that the methodology for calculating the annual target level, which is presented in the contested decision as the basis for calculating the amount of the annual target level, is not consistent with the methodology actually applied by the SRB, as was explained at the hearing.

Furthermore, in relation to the actions brought by the credit institutions established in France, the General Court considers that the failure to fulfil the obligation to state reasons as regards the calculation of the annual target level also constitutes a breach of the principles of good administration and of effective judicial protection.

Having found that the contested decision was vitiated by an infringement of an essential procedural requirement

but did not contain any error vitiating its substantive legality, the General Court holds that, for reasons relating to legal certainty, the effects of that decision should be maintained until the entry into force, within a reasonable period which cannot exceed six months from the date of delivery of the judgment, of new decisions of the SRB determining the ex ante contribution to the SRF of the credit institutions concerned for the 2021 contribution period.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union 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.

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

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The full text and, as the case may be, the abstracts of the judgments ([T-383/21](#), [T-384/21](#), [T-385/21](#), [T-387/21](#), [T-388/21](#), [T-389/21](#) and [T-397/21](#)) are published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Pictures of the delivery of the judgment are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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