



Press and Information

General Court of the European Union

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Judgment in Joined Cases T-133/16 to T-136/16
Caisses régionales de crédit agricole mutuel Alpes Provence, Nord Midi-Pyrénées, Charente-Maritime et Brie Picardie v European Central Bank

The General Court declares that the same person may not occupy at the same time the post of chairman of the board of directors and that of ‘effective director’ in credit institutions subject to prudential supervision

The concept of ‘effective director’ refers to members of the senior management, a function which may not be combined with a non-executive supervisory function

Crédit Agricole is a non-centralised French banking group which is comprised, inter alia, of regional agricultural credit union branches. Four of those regional branches wished to appoint the same person to the post of chairman of the board of directors and that of ‘effective director’. The European Central Bank (ECB), which is responsible for the prudential supervision of Crédit Agricole, approved the appointment of the persons concerned as chairmen of the board of directors but objected to them carrying out at the same time the function of ‘effective director’.

The ECB considered that the functions enabling a person to obtain approval as ‘effective director’, in accordance with French and EU law,¹ were executive functions (such as those of the chief executive officer), distinct from the functions entrusted to the chairman of the board of directors. In principle, according to the ECB, there has to be a separation of the exercise of executive and non-executive functions within a management body.

The four regional branches brought proceedings before the General Court for the annulment of the ECB’s decisions. In essence, they argue that the ECB did not correctly interpret the concept of ‘effective director’ by limiting it to members of the senior management with executive functions.

In today’s judgment, the General Court rejects the actions of the four regional branches and confirms the approach taken by the ECB.

The General Court analyses the concept of ‘**effective director**’ of a credit institution in the light of Article 13 of Directive 2013/36/EU. On the basis of a textual, historical, teleological and contextual interpretation, it concludes that that concept refers to the members of the management body who are part of the **senior management of the credit institution**. In particular, the General Court refers to the objective pursued by the EU legislature concerning good governance. That objective **involves effective oversight of the senior management by the non-executive members of the management body, necessitating checks and balances within the management body**. The effectiveness of such supervision may be jeopardised if the chairman of the board of directors in its supervisory function, while not formally occupying the role of chief executive officer, was also responsible for the effective direction of the business of the credit institution.

The General Court considers that, as the ECB correctly interpreted the concept of ‘effective director’, it also correctly applied Article 88 of Directive 2013/36/EU, which provides that the chairman of the management body in its supervisory function of a credit institution (such as the chairman of the board of directors) may not exercise at the same time, unless by express

¹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ 2013 L 176, p.338)

authorisation of the competent authorities, the function of chief executive officer in the same institution.

Lastly, the General Court observes that the ECB also correctly applied the provisions of the code monétaire et financier français (French monetary and financial code), as interpreted by Conseil d'État (Council of State, France).

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 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.

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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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