



The General Court dismisses the action brought by the Landeskreditbank Baden-Württemberg against its being under the direct supervision of the ECB

The ECB was correct in classifying the German State-owned bank as a ‘significant entity’

The Landeskreditbank Baden-Württemberg — Förderbank, is the investment and development bank of Baden-Württemberg (Germany). The value of its assets exceeds €30 billion.

The Landeskreditbank brought an action before the General Court against the decision of the European Central Bank (ECB) classifying it as a ‘significant entity’. The consequence of that classification is that, under the single supervisory mechanism (SSM),¹ it is subject to direct supervision by the ECB, whilst under the same mechanism entities classified as ‘less significant’ come under the direct supervision of the national authorities.

The Landeskreditbank takes the view that, given that its profile showed a low degree of risk,² the objective of protection of financial stability will be sufficiently achieved by the German authorities’ exercising their supervision,³ so that it should be classified as a ‘less significant’ entity.

By today’s judgment, the General Court, sitting in extended composition, dismisses the action brought by the Landeskreditbank.

The Court points out that the supervision of institutions classified as ‘less significant’ by the national authorities under the SSM is not the exercise of autonomous competence, but rather a decentralised implementation of an exclusive competence of the ECB.

The Court observes that, under the relevant rules,⁴ unless justified by particular circumstances, a bank is to be classified as a ‘significant entity’ and therefore subject to direct supervision by the ECB, *inter alia*⁵ where the value of its assets exceeds €30 billion.

The Court further holds that that classification may be avoided only if there are specific factual circumstances entailing that direct prudential supervision by the national authorities is *better able* to attain the objectives and safeguard the principles of the relevant rules including, in particular, the need to ensure the consistent application of high supervisory standards.

¹ The SSM is composed of the ECB and national competent authorities.

² The Landeskreditbank’s risk profile is low *inter alia* by virtue of the practical impossibility of its finding itself in a situation of insolvency.

³ The Landeskreditbank refers in that regard to the Bundesanstalt für Finanzdienstleistungsaufsicht (Bafin) (Federal Financial Supervisory Authority, German), the Bundesbank (German Federal Bank) and the Ministry of Finance, Baden-Württemberg.

⁴ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63), and Regulation (EU) No 468/2014 of the ECB of 16 April 2014 establishing the framework for SSM cooperation between the ECB, the national competent authorities and the national designated authorities (OJ 2014 L 141, p. 1).

⁵ Three alternative criteria are used in determining whether an entity is to be classified as significant: size of the institution, importance for the economy of the EU or any participating Member State and significance of the institution’s cross-border activities.

The Court notes in that regard that the Landeskreditbank has not argued that the German authorities would be better able to achieve those objectives and safeguard those principles, but merely attempted to establish that supervision by the German authorities was *sufficient*.

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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