



Press and Information

General Court of the European Union
PRESS RELEASE No 135/17
Luxembourg, 13 December 2017

Judgment in Cases T-712/15 and T-52/16
Crédit mutuel Arkéa v ECB

The ECB may exercise prudential supervision of the Groupe Crédit mutuel through the Confédération nationale du Crédit mutuel, including in respect of the Crédit mutuel Arkéa

The Crédit mutuel is a non-centralised French banking group, made up of a network of local credit unions having the status of cooperatives. Each local mutual credit union must be affiliated with a regional federation and each federation must be affiliated with the Confédération nationale du Crédit mutuel (CNCM), the central body of the network.

The Crédit mutuel Arkéa is a variable-capital cooperative finance company, certified as a credit institution. It was founded in 2002 through the merger of a number of regional mutual credit federations.

By decisions of 5 October 2015 and 4 December 2015, the Central European Bank (ECB) organised its prudential supervision of the entities in the Groupe Crédit mutuel – including the Crédit mutuel Arkéa – on a consolidated basis through the CNCM. It also considered that the Crédit mutuel Arkéa had to possess additional tier 1 equity capital (fonds propres CET 1), bringing its ratio of tier 1 equity capital to 11%, then to 10.75%.

The Crédit mutuel Arkéa brought an action before the General Court seeking annulment of those decisions. In essence, it challenges the exercise of consolidated prudential supervision of the Groupe Crédit mutuel through the CNCM on the ground that it is not a credit institution, that there is no ‘Groupe Crédit mutuel’ and that the ECB could not require it to have additional equity capital.

By judgments delivered today, the General Court dismisses the actions brought by the Crédit mutuel Arkéa and upholds the two decisions of the ECB.

The Court begins by holding that, under the EU rules on prudential supervision,¹ the legislature’s intention is to allow the ECB to have an overall picture of the risks likely to affect a credit institution and to avoid fragmentation of the prudential supervision between the ECB and the national authorities.

Regarding the Crédit mutuel Arkéa’s first complaint, to the effect that consolidated prudential supervision of institutions affiliated with a central body is possible only if that body has the status of credit institution (which the CNCM does not), the Court holds that there is nothing in the EU rules on prudential supervision indicating that the concept of ‘central body’ must include classification as a credit institution. Thus, a ‘group subject to prudential supervision’ comes within the scope of those rules if it meets the conditions laid down therein, irrespective of whether or not the group’s central body has the status of credit institution. The Court adds that, as the grouping made up of

¹ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (OJ 2014, L 141, p. 1) and 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, and corrigenda OJ 2013, L 208, p. 68, and OJ 2013, L 321, p. 6).

the central body and its affiliated institutions have consolidated accounts, the competent authority may satisfy itself that that grouping's liquidity and solvency comply with prudential requirements, irrespective of whether or not the central body has the status of credit institution.

As regards the Crédit mutuel Arkéa's second complaint, to the effect that the Crédit mutuel cannot be categorised as a 'group' for the purposes of the Union rules on prudential supervision, the Court finds that the Crédit mutuel, through the CNCM, meets all the conditions laid down in those rules to be categorised as such. Firstly, the fact that the CNCM is an association does not preclude there being solidarity with affiliated institutions, as there is an obligation to transfer equity capital and liquidities within the Groupe Crédit mutuel in order to ensure that obligations towards creditors are met. Secondly and moreover, the Groupe Crédit mutuel's accounts are in fact drawn up on a consolidated basis, which enables the competent authority to satisfy itself that the liquidity and solvency of all the entities making up the grouping meet prudential requirements. Lastly, the CNCM has the power to issue instructions to the management of the affiliated institutions, who must comply with those instructions; they may be sanctioned by the CNCM in the event of non-compliance.

As regards the Crédit mutuel Arkéa's third complaint, to the effect that the ECB should not have imposed a requirement of additional equity capital on it, the Court takes the view that the ECB did not err in basing itself on the eventuality of the Crédit mutuel Arkéa's leaving the Groupe Crédit mutuel. Such an eventuality is in fact not so improbable that taking it into account amounts to a manifest error of assessment by the ECB. Nor did the ECB make a manifest error of assessment in holding that the loss of solidarity mechanism following an exit from the Groupe Crédit mutuel could have a negative impact on the Crédit mutuel Arkéa's external ratings and, consequently, its refinancing costs. Lastly, imposing a requirement of additional equity capital enabling it to cope with such an exit does not amount to a manifest error of assessment and nor is it manifestly disproportionate.

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.

Unofficial document for media use, not binding on the General Court.

The full text of the judgments [T-712/15](#) and [T-52/16](#) are published on the CURIA website on the day of delivery

Press contact: Holly Gallagher ☎ (+352) 4303 3355