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Judgments of the General Court in Joined Cases T-302/20, T-303/20 and T-307/20 Del Valle Ruíz and Others v SRB, and in Cases T-304/20 Molina Fernández v SRB, T-330/20 ACMO and Others v SRB and T-340/20 Galván Fernández-Guillén v SRB

Resolution of Banco Popular: affected shareholders and creditors were not entitled to compensation from the Single Resolution Fund

They would not have received better treatment in the event of the liquidation of the bank than that resulting from its resolution

After the global financial crisis of 2008, the EU legislature put in place a number of measures (Banking Union) aimed at protecting EU financial markets. One of those measures is the **Single Resolution Mechanism (SRM)**, the main objective of which is to allow an orderly resolution of banks without recourse to taxpayers' money while promoting financial stability. If a bank is failing or likely to fail, the **Single Resolution Board (SRB)**, a Union agency, may, under certain conditions, adopt a resolution scheme which must be endorsed by **the Commission**.

The Single Resolution Fund (SRF) is also part of the Banking Union. It is an emergency fund, which can be used in times of crisis and is financed by the banking sector itself.

In June 2017, the SRB adopted a resolution scheme in respect of the Spanish bank Banco Popular, which was endorsed by the Commission and led to the purchase of Banco Popular's shares at a price of € 1 by the Spanish bank Banco Santander ¹.

According to the EU Regulation on the resolution of credit institutions ², if it is established that shareholders or creditors of an entity under resolution have suffered greater losses than they would have incurred in the event of the winding up of that entity under normal insolvency proceedings, the SRB may use the SRF to compensate them.

In the case of Banco Popular, in order to estimate that potential difference in treatment, **a valuation** of the bank in a hypothetical liquidation scenario was carried out by an **independent valuer** and the **affected shareholders and creditors** were given the **opportunity to comment** on it.

The SRB subsequently decided that the affected shareholders and creditors would not have received better treatment in the event of the liquidation of Banco Popular than that resulting from the resolution and that they were not entitled to compensation from the SRF.

Several affected shareholders and creditors challenge that decision before the General Court of the European Union. The present cases provide the Court, for the first time, with an opportunity to rule on the legality of such a decision.

The Court dismisses the actions, in particular as regards the questioning of **the valuer's independence** and the failure to respect the **right to be heard** of the affected shareholders and creditors. It also considers that, in its **valuation, the valuer relied on a correct methodology and did not commit manifest errors in the valuation of Banco Popular's assets**. The result at the end of normal insolvency proceedings would therefore have been the

same as that which resulted from the resolution, with the result that **the property rights of the affected shareholders and creditors were not breached.**

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.

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 and ten days of notification of the decision.

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The full text and, as the case may be, the summary of the judgments ([T-302/20](#), [T-303/20](#) and [T-307/20](#), [T-304/20](#), [T-330/20](#) and [T-340/20](#)) are published on the CURIA website on the day of delivery.

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

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¹ See [Commission press release](#).

² [Regulation \(EU\) No 806/2014](#) of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund.