



PRESS RELEASE No 196/23

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Judgment of the General Court in Case T-415/21 | Banca Popolare di Bari v Commission

The European Union does not have to pay compensation for the damage allegedly suffered by Banca Popolare di Bari as a result of a Commission decision on the Italian aid measure in favour of Banca Tercas

In 2013, the Italian bank Banca Popolare di Bari SpA (BPB) expressed its interest in subscribing to a capital increase in Banca Tercas ('Tercas'), another Italian private equity bank which had been placed under special administration following irregularities found by the Banca d'Italia. That expression of interest by BPB was, however, made subject to the condition that the negative equity of Tercas be covered in full by the Fondo Interbancario di Tutela dei Depositi (FITD). The FITD is a mutual consortium of banks governed by private law which is required to intervene under the statutory deposit guarantee and may also support, in a preventive and voluntary manner, a member that is placed under special administration. In 2014, the FITD decided to cover the negative equity of Tercas and to grant it certain guarantees. Since 1 October 2014, BPB has held all of Tercas' assets.

By decision of 23 December 2015, the Commission found that that intervention of the FITD for the benefit of Tercas constituted unlawful State aid granted by Italy to Tercas and ordered its recovery. By judgment of 19 March 2019, the General Court annulled the Commission's decision. The Court of Justice upheld that reasoning in its judgment of 2 March 2021 ¹.

BPB applied to the General Court to order the European Union to pay compensation for the damage allegedly suffered by it as a result of the adoption of the Commission's decision.

By its judgment, **the Court dismisses BPB's action.**

The Court recalls that the European Union must make good any damage caused by its institutions. For it to incur liability, three conditions must be satisfied. There must be: a sufficiently serious breach of a rule of EU law conferring rights on individuals, the occurrence of damage, and a causal link between that breach and the damage sustained.

As regards the first condition, the Court considers that Article 107 TFEU, which defines the concept of 'State aid incompatible with the internal market', must be classified as a rule intended to confer rights on individuals, such as BPB as a beneficiary of the aid measures at issue which were wrongly classified as State aid and the amount of which was recovered following the Commission Decision of 23 December 2015, which was annulled.

However, the Court finds that the condition for liability relating to the existence of **a sufficiently serious breach of that rule has not been satisfied**, since the irregularity committed by the Commission is not unconnected with the customary, prudent and diligent conduct of an institution responsible for monitoring the application of competition rules in a particularly complex context.

As regards the examination of the existence of the direct causal link, the Court adds that the Commission's conduct **is not the direct and determining cause of the damage** allegedly suffered, consisting of the loss of deposits and

customers.

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.

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

The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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

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¹ Judgment of 2 March 2021, *Commission v Italy and Others*, [C-425/19](#) (see [Press Release No 30/21](#)), by which the Court of Justice upheld the judgment of the General Court of 19 March 2019, *Italy v Commission*, [T-98/16](#), [T-196/16](#) and [T-198/16](#) (see [Press Release No 34/19](#)).