The Banking Union and Union Courts: overview of cases as at 11 February 2020

- T-451/18, Triantafyllopoulos and Others v ECB, order of 25 September 2019 ECLI:EU:T:2019:715
- T-557/17, Liaño Reig v SRB, order of 24 October 2019 ECLI:EU:T:2019:771
- C-663/17 P, C-665/17 P and C-669/17, Trasta Komercbanka AS, judgment of 5 November 2019 ECLI:EU:C:2019:923
- C-255/18, State Street Bank International GmbH v Banca d'Italia, judgment of 14 November 2019 ECLI:EU:C:2019:967
- T-730/19, PNB Banka and Others v ECB (new case)
- T-732/19, PNB Banka and Others v SRB (new case)
- T-797/19 R, Anglo Austrian AAB Bank and Belegging-Maatschappij "Far-East" v ECB, order of 20 November 2019 ECLI:EU:T:2019:801. Hearing scheduled on 24 January 2020
- T-323/16, Banco Cooperativo Español v SRB, judgment of 28 November 2019 ECLI:EU:C:2013:856
- T-365/16, Portigon v SRB, judgment of 28 November 2019 ECLI:EU:T:2019:824
- T-377/16, T-645/16, T-809/16, Hypo Vorarlberg Bank AG v SRB, judgment of 28 November 2019 ECLI:EU:T:2019:823
- C-414/18, Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia, judgment of 3 December 2019 ECLI:EU:C:2019:1036
- Conseil d'État, Section du contentieux, 9ème et 10ème chambres réunies, decision 4 december 2019, n° 415550
- C-576/18, Crédit agricole v ECB, C-577/18, Crédit agricole Corporate and Investment Bank v ECB, C-578/18, CA Consumer Finance v ECB, hearing scheduled on 21 January 2020
- Case C-686/18, Adusbef and others v Banca d'Italia and others**,** opinion of AG Hogan of 11 February 2020 ECLI:EU:C:2020:90

Introduction

This list seeks to enhance the transparency of the cases pending before, or decided by, the Union Courts in the area of the EU banking union and to offer a tool to academics and practitioners to search these cases. (Occasionally, proceedings before Member State constitutional courts may be included.) The information is taken from the Curia website and from the Official Journal of the European Union.

(Occasionally, references to other sources are included.) Where possible, hyperlinks to EU legal acts, notably to the Single Rulebook, are provided.

Banking union in the Euro Area (EA) is the term used for the attribution of supervision and resolution competences over banks (credit institutions) to the European Union (EU) level – powers which, previously, were exercised at national (i.e., Member State) level. Banking union consists of three elements: the Single Supervisory Mechanism (SSM), effective as of 4 November 2014; the Single Resolution Mechanism (SRM), effective as of 1 January 2016; and a single deposit insurance system, which has been proposed and is pending in the legislative process (European Deposit Insurance Scheme, or EDIS). The Single Rulebook, largely applying to the supervision of credit institutions in the entire EU, underpins the actions of the supervisory and resolution authorities, notably the European Central Bank (ECB) and the Single Resolution Board (SRB).

The list below focuses on judicial proceedings concerning banking union, as it seeks to enhance the transparency of the latter's functioning and of the review of decision-making by its authorities. Readers should note that administrative and judicial review of legal acts adopted by the European Supervisory Authorities – the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) – , which work EU-wide, are not included here. Neither are administrative review decisions by the SRB Appeals Panel or by the ECB's Administrative Board of Review (ABoR). For the Appeals Panel, reference is made to the SRB website; for the ABoR to the references in decisions of the European Court of Justice to the ABoR's opinions.

Disclosure and disclaimer

Every effort has been undertaken to provide accurate information at the moment of publication. Nevertheless, no responsibility can be accepted for any errors or omissions.

Comments and suggestions are welcome (rs@renesmits.eu or Federico.Della@EUI.eu).

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It is in our academic capacities that we have worked on this list. Neither the ECB nor the SSM is involved. Naturally, the Court of Justice is not responsible for this list either.

1. Actions for annulment against ECB supervisory decisions

Please note that actions against the ECB regarding the determination of failing or likely to fail of *Banco Popular Español S.A.*, *ABLV Bank, AS* and *ABLV Bank Luxembourg, SA* are entered under the section devoted to the proceedings against the SRB.

No.	Case
1.	Case T-122/15, **Landeskreditbank Baden-Württemberg – Förderbank v ECB**, *closed* [request for annulment of the ECB decision of 5 January 2015 classifying the applicant as a significant entity within the meaning of Article 6(4) of the SSM Regulation; post-ABoR proceedings] • Judgment of 16 May 2017 ECLI:EU:T:2017:337 (press release) **Appeal:** Case C-450/17 P, *closed* • Opinion AG Hogan of 5 December 2018 ECLI:EU:C:2018:982 • Judgment of 8 May 2019, ECLI:EU:C:2019:372 This judgment will have limited practical consequences for *L-Bank* and other *Landesbanken* as their position has been altered by a legislative decision to exempt

	them from ECB supervision, as explained in this note by René Smits.For the interpretation of the *L-Bank* judgment by the German Constitutional Court, see its judgment of 30 July 2019 2 BvR 1685/14, 2 BvR 2631/14, reported below as no.1 in section 5 (*Judicial proceedings concerning Banking Union legislation and/or acts of EU institutions before national courts*).
2.	Case T-712/15, **Crédit Mutuel Arkéa v ECB,** *closed* [request for annulment of the ECB decision of 5 October 2015 imposing prudential requirements on the applicant (SREP decision) – issue: ECB competence ("conditions permitting consolidated supervision at the level of *Crédit Mutuel* as a whole have not been met") and the governance structure of the group] • Judgment of 13 December 2017 ECLI:EU:T:2017:900 (press release) The judgments in cases T-712/15 and T-52/16 are summarised, and the seven most important points derived from them identified, in a short note by René Smits. **Appeal:** Joined cases C-152/18 P and C-153/18 P, **Crédit Mutuel Arkéa v ECB**, *pending* • Order of 20 September 2018 accepting the request of Confédération nationale du Crédit mutuel to intervene in support of the ECB and the European Commission ECLI:EU:C:2018:765 • Opinion AG Pitruzzella of 18 June 2019 ECLI:EU:C:2019:505 • Judgment of 2 October 2019 dismissing the appeal ECLI:EU:C:2019:810 and notably confirming several points of the General Court's judgment, among others on the objectives pursued by consolidated supervision, on the absence of a requirement that a central body of a banking group need to be a credit institution for Article 10 of the CRR to apply, and on the extent of the ECB's supervisory powers, which do not depend on the availability of sanctioning powers over an entity.
3.	Case T-52/16, **Crédit Mutuel Arkéa v ECB**, *closed* [request for annulment of the ECB decision of 4 December 2015 – issue: ECB competence and the governance structure of the group; pleas essentially identical or similar to those in Case T-712/15] • Judgment of 13 December 2017 ECLI:EU:T:2017:902 (press release) Summary by René Smits (judgments in cases T-712/15 and T-52/16) **Appeal:** Joined cases C-152/18 P and C-153/18 P, *closed* • Opinion AG Pitruzzella of 18 June 2019 ECLI:EU:C:2019:505 • Judgment of 2 October 2019 dismissing the appeal ECLI:EU:C:2019:810
4.	Case T-133/16, **Caisse régionale de crédit agricole mutuel Alpes Provence v ECB,** *closed* [alleged misconstruction of Article 13 CRD IV (*Effective direction of the business and place of the head office*) and of Articles L 511-13 (four eyes principle) and L 511-52 (sufficient time allocation requirement for directors of a credit institution) of the French *Code monétaire et financier*; infringement of Articles 13 and 88 (*Governance arrangements*) CRD IV, and of Article L 511-58 of the French *Code monétaire et financier* (on the cumulative functions of the Chair and the CEO) in an ECB decision of 29 January 2016] • Judgment of 24 April 2018 in Joined Cases T-133/16 to T-136/16 ECLI:EU:T:2018:219 Summary by René Smits
5.	Case T-134/16, **Caisse régionale de crédit agricole mutuel Nord Midi-Pyrénées v ECB,** *closed* [issues as in Case T-133/16; see under 4]
6.	Case T-135/16, **Caisse régionale de crédit agricole mutuel Charente-Maritime Deux-Sèvres v ECB,** *closed* [issues as in Case T-133/16; see under 4]

7.	Case T-136/16, **Caisse régionale de crédit agricole mutuel Brie Picardie v ECB**, *closed* [issues as in Case T-133/16; see under 4]
8.	Case T-247/16, **Trasta Komercbanka and others v ECB**, renamed into **Fursin and Others v ECB,** *pending* [request to annul the ECB's decision dated 3 March 2016 withdrawing the banking license of *Trasta Komercbanka AS* on the basis of six grounds, inter alia, that the ECB violated Article 24 SSM Regulation in connection with ABoR's review of an earlier decision, relied on inaccurate documents submitted by the Latvian supervisory authority and violated the principles of proportionality (alternative measures allegedly available), equal treatment, legitimate expectations and legal certainty, committed *détournement de pouvoir*, violated procedural rules relating to the withdrawal of an authorisation (Article 83 of the SSM Framework Regulation), and violated its independence (Recital 19 and Article 19 of the SSM Regulation). See, also the winding-up measure announced pursuant to Directive 2001/24/EC in the Official Journal of the EU] • Order of 12 September 2017 rejecting the claim of Trasta Komercbanka as inadmissible and upholding the shareholders' claim as admissible ECLI:EU:T:2017:623 • **Appeal:** case C-663/17 P (appeal by the ECB), case C-665/17 P (appeal by the Commission) and case C-669/17 P (appeal by *Trasta Komercbanka*). The appeal grounds are summarized here • Opinion of AG Kokott in joined cases C-663/17 P, C-665/17 P and C-669/17 P of 11 April 2019 ECLI:EU:C:2019:323 Summary by René Smits • Judgment in joined cases C-663/17 P, C-665/17 P and C-669/17 of 5 November 2019 ECLI:EU:C:2019:923 Summary by René Smits
9.	Case T-698/16, **Trasta Komercbanka and others v ECB**, *pending* [request to annul the ECB's decision dated 3 March 2016 withdrawing the banking license of *Trasta Komercbanka AS* on the basis of seven grounds. In addition to the grounds put forward in the case T-247/16, above, the applicant alleged that the ECB violated Article 24 of the SSM Regulation and related provisions in connection with the review of the ECB's earlier decision by the ABoR]. For the Order of 12 September 2017 and the subsequent appeals, see the previous case.
10.	Case T-733/16, **Banque Postale v ECB**, *closed* [issues as in case T-745/16] • Judgment of 13 July 2018 ECLI:EU:T:2018:477 Summary by René Smits
11.	Case T-745/16, **BPCE v ECB**, *closed* [request for annulment of ECB Decision of 24 August 2016 dismissing the application for authorisation to exclude public-sector exposures from the calculation of the leverage ratio; alleged incorrect assessment of prudential risk associated with regulated savings: *Livret A*, deposits with the Caisse des Dépôts et Consignations (CDC); incorrect application of CRR, rendering Article 429(14) CRR ineffective] • Judgment of 13 July 2018 ECLI:EU:T:2018:476 Summary by René Smits
12.	Case T-751/16, **Confédération Nationale du Crédit Mutuel v ECB**, *closed* [issues as in case T-745/16] Order of 16 May 2017 giving Finland leave to intervene in support of the ECB; initially, only non-confidential versions of the acts of the proceedings to be shared with Finland ECLI:EU:T:2017:361

	• Judgment of 13 July 2018 ECLI:EU:T:2018:475 Summary by René Smits
13.	Case T-757/16, **Société générale v ECB,** *closed* [issues as in case T-745/16] • Judgment of 13 July 2018 ECLI:EU:T:2018:473 Summary by René Smits
14.	Case T-758/16, **Crédit Agricole v ECB**, *closed* [issues as in case T-745/16] • Judgment of 13 July 2018 ECLI:EU:T:2018:472 Summary by René Smits
15.	Case T-768/16, **BNP Paribas v ECB**, *closed* [issues as in case T-745/16] • Judgment of 13 July 2018 ECLI:EU:T:2018:471 Summary by René Smits
16.	Case T-913/16, **Fininvest and Berlusconi v ECB**, *pending* [request for annulment of ECB Decision of 25 October 2016 rejecting the acquisition by *Finanziaria d'investimento Fininvest S.p.A.* of a qualifying holding in Banca Mediolanum on the ground that the proposed acquirers did not meet the reputation requirements laid down by applicable legislation] See also below, under 4. Preliminary ruling proceedings on EU Banking Law: Case C-219/17, Berlusconi and Fininvest, *closed*
17.	Case T-321/17, **Niemelä e a. v ECB**, *pending* [applicants Heikki Niemelä and Mika Lehto, *Nemea plc*, *Nevestor SA* and *Nemea Bank* plc request to (i) annul the ECB's decision of 23 March withdrawing the authorisation of *Nemea Bank plc* as a credit institution; (ii) suspend the application of the ECB's decision in view the irreparable damage that the immediate and continued application of the decision is alleged to have on *Nemea*'s stakeholders, principally its depositors, employees and shareholders, allowing or otherwise requiring the shareholders of *Nemea* to divest their holding in the bank; (iii) order the ECB to compensate the applicants: EUR 10 million with legal interest from 23 March 2017, for damage suffered as a result of the decision; Applicants allege, *inter alia*, incorrect and insufficient reasoning, a manifest error of assessment, misuse of powers and failure to respect the proportionality principle]
18.	Case T-768/17, **Comprojecto-Projectos e Construções and Others v ECB**, *closed* [request for annulment of the ECB's alleged refusal to act, the ECB alleged decision not to initiate infringement proceedings (against the *Banco de Portugal* or against the credit institution?) and to annul acts by the *Banco de Portugal* and its officials "who took a position on the complaints and claims presented between 26 June 2013 and 22 April 2015". The applicants request the General Court to issue a judgment which allows them to proceed against Portuguese public actors (the central bank, the State and the Public Prosecutor's Office) and request compensation of EUR 4.6 million against the ECB, to be paid by BCP. The applicants' claims in law relate to infringement of the obligation to state reasons laid down in Article 41(2)(c) of the Charter, violation of rights under the Directive 2005/29/EC on unfair commercial practices (Directive 2005/29/EC), breach of the duty of impartiality, misuse of powers and breach of essential procedural requirements by what applicants call the ECB' "agent", *Banco de Portugal*. The claim alleges money laundering, fraud or tax evasion on the part of BCP to the detriment of the EU budget and implies that OLAF, the anti-fraud arm of the Commission, should have been involved. The applicants refer to administrative action brought on 27 October 2015 and currently pending before the *Tribunal Administrativo e Fiscal de Sintra*]

	• Order of 14 February 2019 dismissing the actions ECLI:EU:T:2019:104 **Appeal:** Case C-251/19 P, *pending*
19.	Case T-15/18, **OCU v ECB**, *pending* [request for annulment of the ECB decision of 17 November 2017 dismissing the applicant's 'confirmatory application for access to ECB documents' and for an order for the disclosure of the documents requested, relating to the resolution of *Banco Popular Español*. The applicant relies on a single plea in law, based on the right to good administration (Article 41(2) of the Charter), namely, in the form of access to documents for the proper exercise of the right of defence]
20.	Case T-827/17, **Aeris Invest v ECB**, *pending* [request for annulment of the ECB decisions (ECB LS/MD/17/405, LS/PT/17/406 and LS/MD/17/419) of 7 November 2017 related to confirmatory requests for access to ECB documents. In support of the action, the applicant relies upon four pleas in law: (i) the contested decisions infringe Article 4(1)(c) of the ECB Public Access Decision as they deny access to information on the grounds that the documents are confidential documents covered by the principle of professional secrecy applicable to the institutions; (ii) Decision LS/PT/17/406 infringes the second and sixth indents of Article 4(1)(a) of the ECB Public Access Decision as it states that disclosure of *Banco Popular*'s use of ELA (emergency liquidity assistance) in the days preceding its resolution and of information regarding its liquidity situation and capital ratios could in fact specifically sap the efficiency of the monetary policy and financial stability of the Union or of a Member State; (iii) Decision LS/PT/17/406 and Decision LS/MD/17/419 infringe the first indent of Article 4(2) of the ECB Public Access Decision by stating that the documents and information requested are commercially sensitive material that could affect the commercial interests of the *Banco Popular* and *Banco Santander*; (iv) the ECB has infringed Article 47 of the Charter by denying the applicant access to the documents upon which the ECB based its decision to declare the resolution of *Banco Popular*] • Order of 27 July 2018 accepting the request of *Banco Popular Español* to intervene in the proceedings in support of the ECB ECLI:EU:T:2018:512
21.	Case T-442/18, **Aeris Invest v ECB,** *pending* [request to annul the ECB Decisions of 8 May and 9 February 2018. In support of the action, the applicant relies on five pleas in law: (i) failure to give adequate reasons for the ECB's decisions refusing access to the documentation concerned; (ii) the contested decisions infringe Article 4(1)(c) of the ECB Public Access Decision, in so far as those decisions refuse the applicant access to the information requested on the ground that the documents are, in whole or in part, covered by a general presumption of nonaccessibility as they are confidential documents covered by the professional secrecy applicable to the institutions; (iii) the contested decisions breach Article 4(1)(c) of the ECB Public Access Decision, in so far as those decisions refuse the applicant access to the information requested on the ground that the documents are, in whole or in part, covered by the professional secrecy applicable to the institutions, when they are required in judicial proceedings and such refusal prevents or impedes the exercise of the public judicial function; (iv) the contested decisions breach Article 4(1)(a), second and sixth indents, of the ECB Public Access Decision, in so far as they assert that the disclosure of the information requested may prejudice the banking system in general; (v) the contested decisions breach Article 4(2), first indent, of the ECB Public Access Decision, in asserting that the disclosure of the documents and information requested may affect the business interests of Banco Santander and have an impact on future inspections]
22.	Case T-143/18, **Société Générale v ECB**, *pending* [request for annulment of Article 4 of an ECB decision of 19 December 2017 and Article 3 of its Annex A, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The applicant relies on four pleas in law: (i) there is no legal basis for the contested decision as the ECB has no jurisdiction to impose a prudential requirement of general scope and has not conducted an individual and detailed assessment of the applicant's situation as required by the

	applicable legislation; (ii) the contested decision is vitiated by an error of law in that the ECB wrongly interpreted the EU legislation establishing the possibility for credit institutions to use irrevocable payment commitments and, consequently, rendered those provisions ineffective; (iii) the contested decision is vitiated by a manifest error in the assessment of the risks allegedly posed by the irrevocable payment commitments having regard to Article 16 of the SSM Regulation; (iv) failure to state reasons, in so far as the ECB is, it is claimed, subject to an enhanced obligation to state reasons and the contested decision was inadequately reasoned]
23.	Case T-144/18, **Crédit Agricole and others v ECB**, *pending* [request for annulment of Article 9 of decision of an ECB of 19 December 2017 and Article 3 of its Annex A, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The please in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Sociéte Générale v ECB*]
24.	Case T-145/18, **Confédération nationale du Crédit mutuel and others v ECB**, *pending* [request for annulment of Article 8 of an ECB decision of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The pleas in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Société Générale v ECB*]
25.	Case T-146/18, **BPCE and others v ECB**, *pending* [request for annulment of Article 4 of an ECB decision of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The pleas in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Société Générale v ECB*] • Hearing held on 2 April 2019
26.	Case T-149/18, **Arkéa Direct Bank and others v ECB**, *pending* [request for annulment of Article 8 of an ECB decision of of 19 December 2017, in so far as it prescribes measures to be taken regarding irrevocable payment commitments in respect of the deposit guarantee schemes or the resolution funds. The pleas in law and main arguments are essentially identical or similar to those relied on in Case T-143/18, *Société Générale v ECB*] • Hearing held on 11 September 2019
27.	Case T-150/18, **BNP Paribas v ECB**, *pending* [request for partial annulment of Article 9 of an ECB decision of 19 December 2017 in so far as it imposes a deduction from the irrevocable payment commitments subscribed with the Single Resolution Fund (SRF), national resolution funds and national Common Equity Tier I deposit guarantee schemes, on an individual, sub-consolidated and consolidated basis. The applicant relies on four pleas in law: (i) the contested decision lacks a legal basis in that the ECB made use of its supervisory powers to impose a measure of general scope that falls within the competence of the legislature and exceeded its powers under Article 4(1)(f) and Article 16 of the SSM Regulation; (ii) the contested decision is vitiated by an error of law in that the ECB made an interpretation contrary to the legislative intent of the EU legislation authorising credit institutions to use irrevocable payment commitments in order to fulfil part of their obligations vis-à-vis the national resolution funds, the SRF and the national deposit guarantee schemes, thus rendering the relevant provisions ineffective. The ECB, it is claimed, also based its decision on a misreading of the EU and national legal transposition framework applicable to irrevocable payment commitments; (iii) breach of the principle of proportionality; (iv) the contested decision is based on an error of assessment and infringes the principle of good administration] • Hearing scheduled for 11 September 2019
28.	Case T-203/18, **VQ v ECB**, *pending*

	[request for annulment of the decision of 14 March 2018 by which the ECB imposed a penalty of EUR 1.600.000 for having repurchased its own shares without prior permission and ordered the publication of this decision on its website[5]. The applicant[5] relies on the alleged absence of an infringement for the relevant period as the capital conservation buffer, which is governed by Article 129 of the CRD IV, was not in force nor determined until afterwards and therefore claims that the ECB breached Article 18(1) of the SSM Regulation and Article 49(1) of the Charter by imposing an administrative pecuniary penalty in the absence of a directly applicable rule of EU and national law. The applicant also alleges breach of Article 132(1)(b) of the SSM Framework Regulation, as the contested decision orders the publication of the administrative pecuniary penalty on a non-anonymised basis and claims that Article 18(6) of the SSM Regulation is unlawful as it prescribes publication of an administrative pecuniary penalty even if the applicant intends to bring a court action against it. On 26 March 2018, the applicant made an application for interim measures requesting the President of the Court to suspend the publication of the decision, or, alternatively, to suspend its publication without anonymization of the applicant's name and all other measures necessary to protect its rights until the Court adjudicates on the action for annulment. Following the question of the President of the General Court of 28 March 2018, the ECB replied on 11 April 2018 that it would not publish the contested decision during the interlocutory proceedings] • Order of 3 May 2018 dismissing the application for interim measures for lack of urgency ECLI:EU:T:2018:261 Summary by Ioannis Asimakopoulos
29.	Case T-345/18, **BNP Paribas v ECB**, *pending* [request for annulment of the ECB decision of 26 April 2018 which imposed a deduction of the irrevocable payment commitments ('IPCs') taken out with the Single Resolution Fund ('SRF'), national resolution funds and deposit guarantee schemes ('DGS') from CET1 capital. The applicant relies on four pleas in law: (i) lack of legal basis. In this regard, the applicant submits that the contested decision creates a new rule of general application which goes clearly beyond the legal framework governing the defendant's exercise of its prudential supervision tasks. Furthermore, by adopting a decision taken without prior analysis of the solvency and liquidity risk and without regard for the applicant's risk profile, the defendant exceeded the powers laid down in Articles 4(1)(f) and 16 of the SSM Regulation. Finally, the applicant submits that Article 16(1)(c) of the SSM Regulation does not authorise the ECB to act to ensure 'better information on risks' and that Articles 4(1)(f) and 16(2)(d) of the SSM Regulation do not authorise the adoption of prudential measures in respect of off-balance-sheet items; (ii) error of law in so far as the defendant misinterpreted the EU legislation establishing the possibility for credit institutions to make use of IPCs to fulfil part of their obligations vis-à-vis resolution funds and deposit guarantee schemes; (iii) infringement of the principle of proportionality, in so far as the imposition of a deduction of IPCs from its own funds is inappropriate and unnecessary in respect of a risk which is purely hypothetical and already covered. According to the applicant, that measure is disproportionate in the light of the objective set by the ECB itself, which is to 'provide adequate information on financial risks'; (iv) manifest error of assessment and failure to observe the principle of sound administration. The applicant claims that, by choosing to use an instrument (deduction from own funds) which is clearly unsuited to the objective that it purports to pursue (to provide adequate information on risks), the defendant has failed to observe the principle of sound administration, in so far as it has failed to draw the appropriate conclusions from its own assessments]
30.	Case T-351/18, **Ukrselhosprom PCF and Versobank v ECB,** *pending* [request for annulment of decision of 26 March 2018 withdrawing the banking licence of Versobank AS. The applicant relies on 11 pleas in law, including lack of competence, failure to make its own assessment of facts, violation of the right to be heard and of the principle of proportionality]. See, also, Case T-584/18 under no. 36 below.
31.	Case T-451/18, **Triantafyllopoulos and Others v ECB,** *pending* [request to obtain compensation for damages due to harm suffered as shareholders of the '*Achaiki Syneteristiki Trapeza Syn. PE*' (the Achaiki Cooperative Bank) by its special liquidation, and which consists of the current actual loss, that is the value of the shares held by each of the

	applicants.[6] The harm is claimed to have been caused by the inadequate auditing and supervision of the *Trapeza tis Ellados* (Bank of Greece, 'the BoG')[6] with respect to Achaiki Syneteristiki Trapeza in the period from 1999 until 2012, but also by the inadequate auditing and supervision of the ECB with respect to the BoG, and, through the latter but also directly, with respect to the *Achaiki Synetiristiki Trapeza*. In support of the action, the applicants rely on the following pleas in law: (i) "from the year 1999 and until the revocation of the licence of the *Achaiki Synetiristiki Trapeza* by the BoG, the various administrations pillaged the bank's assets, and diverted them to criminal purposes, wholly distinct from the lawful purposes. This took place without any ostensible adherence to the lawful procedures for the operation of a bank. The BoG is under national law the sole competent supervisory authority, with power to take all measures, for prevention, auditing and enforcement, to ensure that all that happened did not happen and did not lead to the dissipation of the bank's assets"; (ii) "Under Article 340(3) TFEU the ECB(...) is obliged to make good, in accordance with the general principles common to the laws of the Member States, any damage caused by it or by its servants in the performance of their duties." (iii) (...) the scale and degree of the harm that has been caused, together with the number of those harmed, can be used as a criterion in relation to whether the body involved has manifestly and seriously exceeded the limits of its discretion. It should also be pointed out that there is a sufficiently serious breach of EU law if the body has committed the fault when not exhibiting the normal degree of prudence and diligence. The ECB failed to fulfil its obligations under the Treaties and under its Statute to impose penalties on the BoG, because of its inadequate supervision of the *Achaiki Synetiristiki Trapeza*. The ECB for its part is responsible for checking whether the national banks of the Member States are operating in accordance with the provisions in the Treaties and in its Statute. In the event that it has not undertaken such a check we can speak of administrative inadequacies — infringement of the principle of sound management — which could be covered if the ECB had taken the appropriate measures to 'remind' the BoG of its duties under the Treaties and to make it known it that it is not permissible to leave credit institutions without supervision, because that jeopardises the monetary stability of the European Union, which is the basic raison d'etre of the ECB. The ECB had an obligation to review whether the BoG fulfilled its obligations as a member of the European System of Central Banks, and in the event that it found that those obligations were not fulfilled, the ECB should have adopted the appropriate measures, rather than do nothing."] • Order of 25 September 2019 ECLI:EU:T:2019:715
32.	Case T-564/18, **Bernis and Others v ECB**, *pending* [request for annulment of the ECB decision of 11 July 2018 withdrawing the banking licence of *ABLV Bank, AS*. The applicants relies on seven pleas in law: (i) the ECB incorrectly assumed that the conditions for a licence withdrawal were met; (ii) the ECB failed to take into account the discretionary nature of the decision; (iii) the ECB violated the principle of proportionality; (iv) the ECB committed a misuse of power; (v) the ECB's decision was not appropriately reasoned; (vi) the ECB violated essential procedural requirements; (vii) the ECB violated the *nemo auditur* principle] See, also, cases T-281/18 (*ABLV Bank v ECB*) and T-280/18 (*ABLV Bank v SRB*)
33.	Case T-576/18, **Crédit agricole v ECB,** *pending* [request for annulment of ECB decision of 16 July 2018 imposing on the applicant an administrative penalty for continued breach of Article 26 (3) of the Regulation (EU) No 575/2013 (CRR) on the classification of CET1 instruments ('the contested decision'). The applicant relies on two pleas in law: (i) the contested decision is *ultra vires* because, in essence, the ECB erred in law in its interpretation of Article 26(3) of the CRR, which does not require establishments to obtain prior authorisation from the ECB in order to classify ordinary shares as Tier 1 capital. In the alternative, should the Court consider that classification of ordinary shares as Tier 1 capital without prior authorisation from the ECB constitutes a breach of Article 26(3) of the CRR, the applicant claims not to have committed any intentional or negligent breach in applying that provision and that the contested decision infringes the principle of legal certainty. In the further alternative, should the Court consider that a breach can be established and the applicant penalised, the applicant claims that, in the light of the lack of seriousness of the alleged breach and the cooperation of the applicant, the contested decision infringes the principle of proportionality. (ii) the ECB infringed the applicant's fundamental procedural rights in so far as

	it based the contested decision on complaints against which the applicant was unable to present its objections] • Hearing scheduled on 21 January 2020
34.	Case T-577/18, **Crédit agricole Corporate and Investment Bank v ECB**, *pending* [request for annulment of ECB decision of 16 July 2018. In support of the action, the applicant relies on two pleas in law which are, in essence, identical to those relied on in Case T- 576/18] • Hearing scheduled on 21 January 2020
35.	Case T-578/18, **CA Consumer Finance v ECB**, *pending* [request for annulment of ECB decision of 16 July 2018. In support of the action, the applicant relies on two pleas in law which are, in essence, identical to those relied on in Case T- 576/18] • Hearing scheduled on 21 January 2020
36.	Case T-584/18, **Ukrselhosprom PCF and Versobank v ECB**, *pending* [request for annulment of the decision of 17 July 2018 withdrawing the banking licence of Versobank AS and the ECB cost order of 14 August 2018 regarding the internal administrative review. The applicant relies on 24 pleas in law, including, lack of competence, failure to make its own assessment of the facts, violation of the right to be heard and of the principle of proportionality]. See, also, Case T-351/18 under no. 32 above.
37.	Case T-687/18, **Pilatus Bank v ECB,** *closed* [request for annulment of the ECB's email to the applicant dated 10 September 2018 in so far as, by that email, the ECB requested the applicant to direct its communications via the Competent Person appointed under Maltese law or with the Competent Person's approval. In support of the action, the applicant relies on nine pleas in law, including lack of legal basis, violation of substantive and procedural rights of the applicant pursuant to the SSM Regulation, the Charter of Fundamental Rights and the rule of law, in particular the right to access to file, the right to make use of remedies, the right to be represented by external counsel and the right to the confidentiality of communications with the counsel, the right to an effective remedy, the principle of legitimate expectations, legal certainty, proportionality and that the ECB committed a détournement de pouvoir] • Order of 21 January 2019 dismissing the applicant's request for interim measures due to the lack of urgency ECLI:EU:T:2019:28. • Order of 10 July 2019 dismissing the applicant's action as inadmissible as "the contested email (…), by specifying the forms which communications addressed to the ECB should take, has solely the purpose and effect of expressing the ECB's view on a particular aspect of the course of the preparatory proceedings concerning the adoption of a potential licence withdrawal decision" and "does not produce legal effects that are distinct from the licence withdrawal decision, but only limited effects, characteristic of an intermediate measure forming part of a preliminary administrative procedure; [it] governs only certain aspects of the licence withdrawal proceedings and does not include any decision on the substance.." ECLI:EU:T:2019:542
38.	Case T-741/18, **ZZ v ECB,** *pending* [request for annulment of the ECB's decision of 10 October 2018 regarding the proposed acquisition by the applicant of a qualifying holding in Bank A (ECB-SSM-2018-LV-2). The applicant relies on two pleas in law: (i) failure to show that the applicant lacked transparency in his dealings with the competent authorities; (ii) error of law in finding that the applicant's innocent dealings with a third party cast doubt on the applicant's integrity in circumstances where the ECB accepts that the applicant had no knowledge of any wrongdoing on the part of that third party at the time and in circumstances where the applicant was an innocent victim of that wrongdoing]
39.	Case T-27/19, **Pilatus Bank and Pilatus Holding v ECB,** *pending*

	[request for annulment of the ECB's decisions dated 2 November 2018 and sent to Pilatus Bank plc. on 5 November 2018 regarding the withdrawal of its banking license. The applicants rely on eleven pleas in law, including lack of legal basis for the withdrawal, failure to assess correctly the facts, and violation of the principle of proportionality, the *nemo auditur* principle, the principle of equal treatment, the applicants' right of defence and their right to be heard]
40.	Case T-139/19, **Pilatus Bank v ECB**, *pending* [request to annul the decision by which the ECB refused to take over direct supervision of the applicant pursuant to Article 6(5)(b) of the SSM Regulation. In support of the action, the applicant relies on nine pleas in law, including that the ECB erred in the assumption it no longer has competence for supervision of the applicant following the withdrawal of its licence agreement, that the ECB is obliged to take over supervision as it has to maintain high supervisory standards, that the ECB violated the right to an effective remedy]
41.	Case T-275/19, **PNB Banka and Others v ECB**, *pending* [request for annulment of the ECB's decision of 14 February 2019 to conduct an on-site inspection on the premises of PNB Banka AS and its group companies. The applicants rely on ten pleas in law, including that the ECB was not the competent authority, that the contested decision was not 'necessary' within the meaning of Article 12 of the SSM Regulation, that the ECB failed to duly exercise its discretion pursuant to Article 12(1) of the SSM Regulation, that the ECB violated the principle of proportionality, that the ECB violated the applicants' rights to be heard] *Note:* On 15 August 2019, the ECB assessed that AS PNB Banka was failing or likely to fail. On the same day, the SRB decided that resolution action was not necessary in the public interest so that the bank will be wound up under national (Latvian) law. See, also, the press release of the Latvian competent authority, Financial and Capital Market Commission (FCMC). The ECB's press release contains information that provides the background to the three cases instituted by PNB Banka.
42.	Case T-301/19, **PNB Banka and Others v ECB**, *pending* [request for annulment of the ECB's decision of 1 March 2019 to classify PNB Banka as a significant supervised entity. The applicants rely on ten pleas in law, including that the ECB incorrectly interpreted and applied Article 6(5)(b) of the SSM Regulation, that the ECB failed to examine and appraise carefully and impartially all the relevant aspects of the individual case, that the ECB violated several essential procedural requirements] See the *Note* to Case T-275/19, reported under no. 41 above.
43.	Case T-330/19, **PNB Banka and Others v ECB**, *pending* [request for annulment of the ECB's decision of 21 March 2019 regarding the proposed acquisition of qualifying holdings by the applicants in the target bank. The applicants rely on eight pleas in law, including that the assessment period for the ECB pursuant to Article 22(2) of the CRD IV expired prior to the contested decision, that the ECB violated the procedure prescribed under Article 15 of the SSM Regulation, Articles 85 to 87 of the SSM Framework Regulation, that the ECB wrongly interpreted the criteria pursuant to Article 23 of the CRD IV and its Latvian implementation and that the ECB violated the principle of proportionality, legitimate expectations and the nemo auditor principle by failing to take into account its own responsibility for the loss of confidence in the regulatory process] See the Note to Case T-275/19, reported under no. 41 above.
44.	Case T-501/19, **Corneli v ECB,** *pending*

	[request for annulment of the ECB Executive Board's decision of 29 May 2019 (ref. L/LDG/19/182) refusing access to the ECB's decision to place *Banca Carige S.p.A*. under special administration and to the relevant case file, and order the defendant to produce and submit to the Court the abovementioned decision and all prior, preparatory, related and consequent acts. The applicant relies on four pleas in law: (i) infringement of Article 4 of the ECB Public Access Decision and misapplication of the exception relating to the confidentiality of information that is protected as such under EU law in so far as the contested decision lacks actual evidence indicating the confidential parts of the document at issue, their function and their purpose within the ECB and the risks attached to their disclosure; (ii) failure to state reasons for the confidential nature of the document requested; (iii) infringement of Article 7(1) and 8(1) of the ECB Public Access Decision and failure to state reasons in so far as the conditions for a general presumption of confidentiality are not satisfied and in any event the ECB failed to carry out a specific assessment of the documents to which access was requested; (iv) infringement of the fundamental right to effective judicial protection and of Articles 7(3) and 8(2) of ECB Public Access Decision]
45.	Case T-502/19**, Corneli v ECB,** *pending* [request for annullment of the ECB Decision ECB-SSM-2019-ITCAR-11 of 1 January 2019| to dissolve the administrative and supervisory bodies of *Banca Carige S.p.A.* and to replace them with three special administrators and with a supervisory committee formed of three members, respectively. In support of the action, the applicant relies on five pleas in law: (i) failure to observe the principle of proportionality and infringement of Articles 28 and 29 of the BRRD and Article 69octiesdecies et seq. of the legislative decree No 385/1993 (Italian consolidated law on banking); (ii) failure to give adequate reasoning as regards the requirements of proportionality and of taking a gradual approach imposed by the overall early intervention system; (iii) infringement of the last sentence of Article 29(1) of the BRRD and failure to observe the principle of sound public administration; (iv) infringement of Article 70 of the Italian consolidated law on banking, misuse of powers and a failure to provide sufficient reasoning; (v) infringement of the rules relating to the rights of shareholders contained in the Directive (EU) 2017/1132 on certain aspects of company law and the Italian Civil Code, as well as those which may be enforced through the fundamental principles enshrined in the Charter of Fundamental Rights of the European Union, in the European Convention on Human Rights and in the Italian Constitution on the protection of property, savings, private economic initiative and the right to self-determination of citizens in personal choices].
46.	Case T-552/19, **Malacalza Investimenti v ECB,** *pending* [request for the production of the ECB Decision of 2 January 2019 by which the ECB appointed the temporary administrators of Banca Carige S.p.A and for its annulment. The applicant requests production of this decision as a measure of inquiry, pursuant to Article 91(1)(c) of the Rules of procedure of the General Court pursuant to which the General Court may issue "a request for production of documents to which access has been denied by an institution in proceedings relating to the legality of that denial". At issue is the ECB's refusal to grant access (ECB Decision No LS/LdG/19/185 of 12 June 2019) pursuant to Article 8 of Decision ECB/2004/3. The applicant relies on two pleas in law: (i) incorrect application of Decision ECB/2004/3, infringement of the principles of proportionality and impartiality resulting from the failure to communicate a non-confidential version of the ECB decision of 2 January 2019; infringement of Article 296, second paragraph, TFEU on the ground of a failure to state reasons for the measure refusing access; and infringement of the applicant's rights of defence and right to judicial review; (ii) incorrect application of Decision ECB/2004/3 and the incorrect application of provisions on professional secrecy in the SSM Regulation (Article 27) and in CRD IV (Article 53) and on access to file in the SSM Framework Regulation (Article 32)].
47.	Case T-730/19, **PNB Banka and Others v ECB,** *pending* [request for annulment of the ECB's decision of 15 August 2019 that PNB Banka is failing or likely to fail. In support of the action, the applicant relies on 13 pleas in law, including lack of competence, breach of the principle of proportionality, duty to state reasons, principle of equal treatment, legal certainty and legitimate expectations]

48.	Case T-732/19, **PNB Banka and Others v SRB**, *pending* [request for annulment of the SRB's decision of 15 August 2019 not to adopt a resolution scheme in respect of AS PNB Banka. In support of the action, the applicant relies on 14 pleas in law including lack of competence, infringement of essential procedural requirements, breach of the principle of proportionality, duty to state reasons, principle of equal treatment, principles of legal certainty and legitimate expectations] [This case will be moved to a special section of the list in the next edition]
49.	Case T-797/19, **Anglo Austrian AAB Bank and Belegging-Maatschappij 'Far-East' v ECB**, *pending* [request for annulment of the ECB decision of 14 November 2019 by which Anglo Austrian AAB Bank AG's authorisation as a credit institution was withdrawn and to give the case priority pursuant to Article 67(2) of the Rules of procedure of the General Court. The applicants rely on six pleas of law: (i) infringement of Article 14(5) of the SSM Regulation, in so far as it incorrectly applied the national law applicable to the withdrawal of authorisation under Article 4(3) of that regulation; (ii) infringement the principle of proportionality, in so far as, by withdrawing authorisation, the defendant unlawfully used the lastresort out of the possible means of supervision; (iii) infringement of the right to an effective remedy, in so far as it did not suspend operation of the contested decision; (iv) infringement of Article 41 of the Charter, Articles 31 and 32 of the SSM Regulation, Paragraph 70(4) of the Bankwesengesetz (Austrian Law on banking) and Article 6 of the European Convention on Human Rights (ECHR), in so far as it failed to respect Anglo Austrian AAB Bank AG's procedural rights guaranteed therein; (v) infringement Belegging-Maatschappij 'Far-East' B.V.'s right to property, in so far as it withdrew Anglo Austrian AAB Bank AG's authorisation and thereby destroyed the economic value of the shares in Anglo Austrian AAB Bank AG held byBelegging-Maatschappij 'Far-East' B.V..] • Order of 20 November 2019 suspending the ECB Decision of 14 November 2019 that withdrew the banking license ECLI:EU:T:2019:801. Hearing scheduled on 24 January 2020 Summary by René Smits By Order of 7 February 2020, the President of the General Court revoked his earlier Order suspending the revocation of the banking license of Anglo Austrian AAB Bank AG; see the Court's press release No. 14/20 of the same date.

2. Actions for failure to act against the ECB

Please note that actions against the ECB and actions against the Commission on the resolution of *Banco Popular* are entered under the section devoted to the proceedings against the SRB.

No.	Case
1.	Case T-22/16, **Comprojecto-Projectos e Construções and Others v ECB**, *closed* [request to declare that the ECB failed to take action on the basis of a complaint submitted by the applicants on 27 November 2015, related to certain unlawful and unfounded acts carried out by the *Banco de Portugal*. Second, request to annul the act by which the ECB returned to the applicants the invitation to act which they had sent to it. Third, request seeking compensation for the damage allegedly sustained by the applicants as a result of that failure to act] • Order of 9 March 2017 rejecting the claim as inadmissible ECLI:EU:T:2017:172
2.	Case T-641/17, **Ferri v ECB**, *closed*

[The Applicant claims that the Court should declare that there has been a failure to carry out supervisory duties initiated by the note of 24 March 2017 for which, following an exchange of correspondence, the competent department of the ECB stated that it was not required to make provision, claiming that the issue relates to both self-protection and supervisory duties with regard to the adoption of standards for monitoring the conduct of Italian banks. In particular, the Applicant claims that the ECB failed (i) to promptly to enact the provisions implementing and subsequently to apply the Italian consolidated law on banking following on from the aforementioned failure by *Banca d'Italia* to enact those implementing provisions; to order *Banca d'Italia* to initiate an adaptation of the legislation governing litigation in relation to the application of penalties; (iii) to monitor the suitability of the criteria for assessing the efficiency of the banking system, which are currently clearly framed in relation to very complex and highly-structured banking institutions, and give no indication that they are flexible or in fact suitable; (iv) unreliability of the criteria for assessing the appropriateness of *Banca di Credito Cooperativo di Frascati*'s activities, given that those criteria have clearly been designed and structured to provide an assessment of the appropriateness of a complex and highly-structured banking mechanism]

- Order of 28 February 2018 removing the case from the register due to the plaintiff's withdrawal of its application. Consequently, the Court decided that there is no need to rule on Banca d'Italia's claim in support of the ECB ECLI:EU:T:2018:113

3. Actions against SRB Decisions

Judicial proceedings against the Single Resolution Board (SRB), which often come on top of the appeal proceedings before the SRB Appeal Panel, mainly concern SRB Decisions on the *ex-ante* contributions to the Single Resolution Fund (SRF), the SRB Decision on the resolution of *Banco Popular Español S.A.*, a Spanish credit institution and the SRB Decisions regarding *ABLV Bank, AS*, a Latvian credit institution and *ABLV Bank Luxembourg, SA*, a subsidiary of the Latvian credit institution. These judicial proceedings are described in the sections below.

3.1. Actions for annulment of SRB Decisions on contributions to the Single Resolution Fund (SRF)

No.	Case
1.	Case T-365/16, **Portigon v SRB,** *pending* [request for annulment of the SRB Decisions underpinning the notices by which, on 22 April 2016 and on 10 June 2016, the German Federal Agency for Financial Market Stabilisation (*Bundesanstalt für Finanzmarktstabilisierung*) requested payment by the applicant of annual contributions to the SRF for the year 2016 and to order the defendant to produce the decisions referred to in the first paragraph. Applicant relies on seven pleas in law: (i) infringement of the first, second and third subparagraphs of Article 70(2) of the SRM Regulation in conjunction with Article 8(1)(a) of the Council Implementing Regulation (EU) 2015/81 and Article 103(7) of the BRRD; (ii) infringement of Article 16 and Article 20 of the Charter of Fundamental Rights of the European Union ('Charter'); (iii) in the alternative, infringement of the first, second and third subparagraphs of Article 70(2) of the SRM Regulation in conjunction with Article 8(1)(a) of the Council Implementing Regulation (EU) 2015/81 and Article 103(7) of the BRRD; (iv) in the alternative, infringement of Article 70(6) SRM Regulation in conjunction with Article 5(3) and (4) of the Delegated Regulation 2015/63; (v) in the alternative, infringement of Article 70(6) of the SRM Regulation in conjunction with Article 6(8)(a) of the Delegated Regulation 2015/63; (vi) infringement of Article 41(1) and (2)(a) of the Charter, as the defendant should have given the applicant a hearing before adopting its decisions; (vii) infringement of Article 41(1) and (2)(c) of the Charter, as the defendant did not give adequate reasons for its decisions] • Judgment of 28 November 2019 annulling the SRB Decision of 15 April 2016 on the ex ante contributions to the SRF for 2016 (SRB/ES/SRF/2016/06) and the SRB Decision of 20 May 2016 on the adjustment of the contributions ex ante for

2016 complementing the SRB Decision of 15 April 2016 on the ex ante contributions to the SRB (SRB/ES/SRF/2016/13) ECLI:EU:T:2019:824

2. Case T-323/16, **Banco Cooperativo Español v SRB**, *pending*

[request for annulment of the SRB Decision of 26 April 2016 regarding the 2016 *ex ante* contributions to the SRF. The applicant relies on two pleas in law: (i) declaration that Article 5(1) of the Delegated Regulation 2015/63 is inapplicable because it infringes Article 103(7) of the BRRD, in that it establishes a system of calculation that imposes on an institution with a conservative risk profile an *ex ante* contribution of an institution with a very high risk profile; infringes Article 16 of the Charter, in that it unjustifiably restricts the fundamental right of freedom to conduct a business; infringes the principle of proportionality, in failing to take into consideration the double counting of certain of the applicant's liabilities, thereby generating a manifestly unjustifiable unnecessary and disproportionate restriction; (ii) infringement of the second subparagraph of Article 103(2) of the BRRD and Article 70 of the SRM Regulation, interpreted in the light of Article 16 of the Charter and of the principle of proportionality]

- Judgment of 28 November 2019 annulling the SRB Decision of 15 April 2016 on the ex ante contributions to the SRF for 2016 (SRB/ES/SRF/2016/06) ECLI:EU:C:2013:856

3. Case T-376/16, **Oberösterreichische Landesbank v SRB**, *closed*

[request for annulment of the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF supplementing the SRB Decision of 15 April 2016 on the 2016 *ex-ante* contributions of the SRF. The Applicant relied on four pleas in law: (i) flagrant breach of essential procedural requirements due to a failure to state reasons; (ii) flagrant breach of essential procedural requirements due to a lack of full disclosure; (iii) insufficient correction of the contribution concerning applicant for the SRF for 2016; (iv) illegality of the non-repayment of the overpaid contribution until 2017]

- Order of 2 March 2017 for the removal of the case from the register ECLI:EU:T:2017:141

4. Case T-377/16, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending*

[request for annulment of the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF; in the alternative, annul the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF in so far as it orders that the repayment of the overpaid contribution in connection with the setting of the contribution for the SRF should occur in 2017. The pleas in law are similar to the ones in case T-376/16]

- Judgment in joined cases T-377/16, T-645/16, T-809/16 rejecting the actions brough in cases T-645/16 et T-809/16 as inadmissible; in case T-377/16 annulling the SRB Decision of 15 April 2016 on the ex ante contributions for 2016 to the SRF (SRB/ES/SRF/2016/06) and the SRB Decision of 20 April 2016 on the adjustment of the ex ante contribution for 2016 complementing the SRB Decision of 15 April 2016 on the ex ante contributions for 2016 to the SRF (SRB/ES/SRF/2016/13) ECLI:EU:T:2019:823

5. Case T-466/16, **NRW. Bank v SRB**, *closed*

[request for annulment of the SRB Decision on the Applicant's annual contribution to the restructuring fund for the contribution year from 1 January to 31 December 2016. Applicant relies on three pleas in law: (i) infringement of Article 103(2) and (7) of the BRRD and of Article 70(2) of the SRM Regulation (ii) infringement of the regulations giving effect to the BRRD and of the SRM Regulation, which are to be interpreted giving preference to auxiliary development business; (iii) in the alternative, the unlawfulness of the regulations giving effect to the BRRD and the SRM Regulation: the Applicant argues that if an interpretation of the implementing regulations in accordance with the BRRD and the SRM Regulation is not possible, the implementing regulations are, in

that respect, unlawful. Consequently, the defendant's decision based on those implementing regulations is also unlawful]

- Judgment of 27 June 2019 ECLI:EU:T:2019:445
- Order of 4 September 2019 rectifying some inaccuracies in the German version of the judgment ECLI:EU:T:2019:561

Appeal: Case C-662/19 P, **NRW. Bank v CRU,** *pending*

6. Case T-645/16, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending*

[request for annulment of the SRB Decision of 15 April 2016. The Applicant relies on two pleas in law: (i) flagrant breach of essential procedural requirements by reason of a lack of (full) disclosure of the contested decision; (ii) flagrant breach of essential procedural requirements by reason of an inadequate statement of reasons for the contested decision]

- Order of 6 February dismissing the request for interim measures for lack of urgency ECLI:EU:T:2017:62

Hearing 13 February 2019 in Joined Cases T-377/16, T-645/16and T-809/16.

7. Case T-661/16, **Credito Fondiario v SRB**, *closed*

[request for annulment of the SRB Decision of 15 April 2016 (first decision) and of 20 May 2016 (second decision) on the *ex ante* contribution to resolution financing arrangements; declare Article 5(1)(f) and Annex I of the Delegated Regulation 2015/63 incompatible with the principles of equal treatment, proportionality and legal certainty recognised by the Charter; declare Delegated Regulation 2015/63 incompatible with the principle of freedom to conduct a business recognised by the Charter. The applicant relies on seven pleas in law; (i) failure to notify the first and second decision; (ii) infringement of the second paragraph of Article 296 of the TFEU for failure to state reasons and infringement of the rule *audi alteram partem* in respect of decisions relating to *ex ante* contributions; (iii) incorrect application of Article 5(1)(f) of the Delegated Regulation 2015/63; (iv) infringement of Article 4(1) and Article 6 of the Delegated Regulation 2015/63; (v) infringement of Articles 20 and 21 of the Charter; (vi) infringement of the principle of proportionality and legal certainty; (vii) infringement of Article 16 of the Charter]

- Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:806

Appeal: Case C-69/19 P, **Credito Fondiario v SRB**, *pending*

8. Case T-809/16, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending*

[request for annulment of the SRB Decision of 15 April 2016 on the 2016 *ex-ante* contributions to the SRF and the SRB Decision of 20 May 2016 on the adjustment of the 2016 ex-ante contributions to the SRF. The applicant relies on two pleas in law (i) flagrant breach of essential procedural requirements by reason of a lack of (full) disclosure of the contested decisions; (ii) flagrant breach of essential procedural requirements by reason of an inadequate statement of reasons for the contested decisions]

- Hearing 13 February 2019 in joined Cases T-377/16, T-645/16and T-809/16

9. Case T-14/17, **Landesbank Baden Württemberg v SRB**, *closed*

[request for annulment of the SRB Decision of 15 April on the 2016 *ex-ante* contributions to the Single Resolution Fund and the SRB Decision on the adjustment of the 2016 *ex-ante* contributions to the SRF, in so far as the contested decisions concern the applicant's contribution. Applicant relies on four pleas in law (i) infringement of Article 296(2) of the TFEU and Article 41(1) and (2)(c) of the Charter due to a lack of sufficient reasons given for the contested decisions; (ii) infringement of the right to be heard under Article 41(1) and (2)(a) of the Charter; (iii) infringement of Article 103(7)(h)

of the BRRD, Article 113(7) of the CRR 2, the first sentence of Article 6(5) of the Delegated Regulation 2015/63, Article 16 and 20 Charter and the principle of proportionality due to the application of the multiplier of 0.556 for the IPS (Institutional Protection Scheme) — Indicator; (iv) infringement of Article 16 of the Charter and the principle of proportionality due to the application of the risk adjustment multiplier]

- Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:812

10. Case T-42/17, **VR-Bank Rhein-Sieg v SRB**, *closed*

[request for annulment of the SRB Decision of 15 April 2016 on the 2016 *ex-ante* contributions to the SRF and the SRB Decision of 20 May 2016 on the adjustment of the 2016 *ex-ante* contributions to the SRF. The applicant relies on four pleas in law which are essentially identical or similar to those relied on in case T/14/17]

- Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:813

11. Case T-411/17, **Landesbank Baden-Württemberg v SRB**, *pending*

[request for annulment of the SRB Decision of 11 April 2017 on the 2017 *ex-ante* contributions to the SRF by alleging breaches of the Charter, notably the duty to state reasons, the right to be heard, the right to effective legal protection and the principle of proportionality and the illegality of Delegated Regulation 2015/63]

12. Case T-414/17, **Vorarlberger Landes- und Hypothekenbank v SRB**, *pending*

[request for annulment of the SRB Decision 11 April 2017 on the 2017 *ex-ante* contributions to the SRF on the basis of the alleged flagrant breach of essential procedural requirements by reason of incomplete notification of the decision inadequate statement of reasons]

- Hearing scheduled for 29 January 2020

13. Case T-420/17, **Portigon v SRB**, *pending*

[request for annulment of the SRB Decision of 11 April 2017 concerning the calculation of the 2017 *ex-ante* contributions to the SRF in particular because a mandatory contribution for institutions under resolution is not provided for under the SRM Regulation and Article 114 of the TFEU prohibits levying contributions on institutions, such as the applicant, which are resolving their remaining business operations; also the institution allegedly has no risk exposure and is not systemically relevant, and Article 41 of the Charter has allegedly been infringed (right to be heard; motivation)]

- Hearing scheduled on 30 January 2020

14. Case T-494/17, **Iccrea Banca v Commission and SRB,** *closed*

[request for annulment of the SRB Decision of 15 April 2016, as well as all subsequent decisions of the SRB on the basis of which the *Banca d'Italia* seeks contributions to the SRF and to pay compensation to *ICCREA Banca* for the damage caused by the SRB when determining contributions in the form of higher rates paid by *ICCREA Banca*; in the event that the above claims are rejected, declare Article 5(1)(a) and (f) (or, as the case may be, of the Delegated Regulation 2015/63 in its entirety) invalid, as contrary to the basic principles of equality, non-discrimination and proportionality.]

The applicant relies on six pleas in law: (i) failure to communicate the measures, infringement of the principle of transparency, infringement and misapplication of Article 15 of the TFEU and infringement of the principle of the protection of legitimate expectations; (ii) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Delegated Regulation 2015/63, and infringement of the principles of non-discrimination and sound administration; (iii) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Delegated Regulation 2015/63,

and infringement of the principles of non-discrimination and sound administration in the application of Article 5[(1)](f) of the Delegated Regulation 2015/63, thereby resulting in double counting; (iv) unlawful conduct of an EU body and claiming non-contractual liability under Article 268 of the TFEU; (v) in the alternative and incidentally, alleging that the Delegated Regulation 2015/63 is in breach of the principles of effectiveness, equivalence and equal treatment and is consequently inapplicable; (vi) infringement of Article 15 of the TFEU]

- Order of 19 November 2018 dismissing the actions as manifestly inadmissible ECLI:EU:T:2018:804

15. Case T-298/18, **Banco Comercial Português and Others v Commission**, *pending*

[request for annulment of Commission Decision C(2017/N) of 11 October 2017 (State aid SA.49275) insofar as it considered the contingent capital agreement ("CCA") agreed and entered into between the Portuguese Resolution Fund ("Resolution Fund") and the Lone Star group ("Lone Star") in the context of the sale of *Novo Banco, S.A.* ("*Novo Banco*") by the former to the latter, as State aid compatible with the internal market. The applicants rely on six pleas in law: (i) error in law in considering that the 2014 resolution of *Banco Espírito Santo, S.A.* ("*BES*") was taken solely under Portuguese law and prior to the entry into force of BRRD; (ii) error in law in considering that BRRD applied only from 1 January 2015; (iii) error in law in considering that, in order to preserve the unity and implementation of the initial resolution process of BES, the sale of *Novo Banco* should be governed by national law in force prior to the implementation of the BRRD; (iv) error in law because the Commission wrongfully considered that there are no indissolubly linked provisions of the BRRD relevant for the assessment of the CCA; (v) infringement of Articles 101 and 44 BRRD; (vi) infringement of Article 108(2) of the TFEU and Article 4(4) of Council Regulation (EU) 2015/1589 by failing to open the formal procedure notwithstanding the serious doubts raised as to the compatibility of the CCA mechanism with EU law thereby depriving the applicants of their procedural rights]

16. Case T-386/18, **Iccrea Banca v Commission and SRB,** *pending*

[request for annulment of SRB Decision No SRB/ES/SRF/2018/03 of 12 April 2018 and, as appropriate, the annexes thereto, as well as any subsequent decisions of the Single Resolution Board, even those of which the applicant is not aware, on the basis of which the Banca d'Italia adopted measures No 0517765/18 of 27 April 2018 and No 0646641/18 of 28 May 2018 and for compensation, under Article 268 of the TFEU for the damage consisting of the higher rates paid, by the SRB when determining the contributions owed by the applicant; in the alternative, and in the event that the above claims are rejected, declare Article 5(1)(a) and (f) (or, as the case may be, the Delegated Regulation 2015/63in its entirety) invalid. In support of the action, the applicant relies on four pleas in law: (i) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Delegated Regulation 2015/63, and infringement of the principles of non- discrimination and sound administration; (ii) failure to carry out a proper enquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](f) of the Delegated Regulation 2015/63, and infringement of the principles of non- discrimination and sound administration; (iii) claim for damages under Article 268 of the TFEU; (iv) in the alternative and incidentally, alleging that the Delegated Regulation 2015/63 is in breach of the principles of effectiveness, equivalence and equal treatment and is consequently inapplicable]

17. Case T-400/18, **Landesbank Baden-Württemberg v SRB**, *pending*

[request for annulment of the SRB decision of 12 April 2018 on the 2018 *ex-ante* contributions to the SRF. The Applicant relies on six pleas in law which are, in essence, identical or similar to the pleas in law relied on in Case T-411/17, under no. 11 above]

18. Case T-406/18, **de Volksbank v SRB**, *pending*

	[request for annulment of the SRB decision of 12 April 2018 on the 2018 *ex ante* contributions to the SRF; in the alternative, annul the abovementioned contested decision and declare Delegated Regulation 2015/63 partly or fully inapplicable, in accordance with Article 277 of the TFEU. The Applicant relies on five pleas in law: (i) breach of Article 103(2) of the BRRD, Article 70(2) of the SRM Regulation and Article 4(1) of the delegated regulation, by using incomparable data to determine the applicant's net liabilities. — It follows from the text and objectives of Article 103(2) of the BRRD and Article 70(2) of the SRM Regulation that the SRB should use data from the same point or period in time to calculate net liabilities in accordance with those provisions. — It follows from the text and objectives of Article 4(1) of the delegated regulation, in the light of the BRRD and the SRM Regulation, that the SRB must use comparable data in order to ensure a fair calculation of the contribution based on a bank's risk profile; (ii) in the alternative to the first plea, breach of Article 103(2) and 103(7) of the BRRD and of Article 290 of the TFEU because the delegated regulation, as applied by the SRB in the contested decision, exceeds the mandate provided to the European Commission, resulting in the inapplicability of the Delegated Regulation 2015/63; (iii) breach of the principle of proportionality by not properly taking into account the applicant's covered deposits; (iv) breach of the principle of legal certainty by not properly taking into account the applicant's covered deposits; (v) breach of the principle of equal treatment by not properly taking into account the applicant's covered deposits]
19.	Case T-413/18, **Portigon v** SRB, *pending* [request for annulment of the SRB Decision of 12 April 2018 on the 2018 ex-ante contributions to the SRF. The Applicant relies on seven pleas in law which are, in essence, identical or similar to the pleas in law relied on in Case T-420/17, Portigon v SRB, under no. 13 above]
20.	Case T-414/18, **Hypo Vorarlberg Bank v SRB,** *pending* [request for annulment of the SRB Decision of 12 April 2018 on the 2018 *ex ante* contributions to the SRF. The applicant relies on four pleas in law: (i) infringement of essential procedural requirements due to incomplete notification of the contested decision; (ii) infringement of essential procedural requirements due to a failure to state sufficient reasons in the contested decision; (iii) infringement of essential procedural requirements due to the absence of a hearing and the failure to observe the right to a fair hearing; (iv) unlawfulness of Delegated Regulation 2015/63]
21.	Case T-496/18, **OCU v SRB**, *pending* [request for annulment of SRB Appeal Panel's Final Decision of 19 June 2018, denying full access to documents given in Case 54/2017 brought against the SRB. In support of the action, the applicant relies on three pleas in law: (i) breach of the fundamental right under Article 41(2) of the Charter of Fundamental Rights of the European Union ('the Charter') and the principle of the observance of the rights of the defence; (ii) infringement of Article 88 of the SRM Regulation and Article 53 of the CRD IV; (iii) breach of the fundamental right under Article 41(2) of the Charter]
22.	Case T-758/18, **ABLV Bank v SRB,** *pending* [request for annulment of the SRB decision of 17 October 2018 with respect to *ABLV Bank* as regards the SRB's refusal to recalculate and to repay that bank's *ex ante* contributions to the Single Resolution Fund. The applicant relies on ten pleas in law, including, alleged failure to give sufficient weight to the pro rata temporis nature of Fund contributions, alleged failure to take into account the SRB's own express recognition that Fund contributions are refundable on a pro rata temporis basis, alleged failure to take into account the express recognition in Article 12(1) of Commission Delegated Regulation 2015/63 that only partial payments are owed if the conditions are met only during part of the relevant year]
23.	Case T-400/19, **ICCREA Banca v SRB,** *pending*

	[request for annulment of the SRB decision of 16 April 2019 determining the ex ante contributions to the SRF, and, as appropriate, the annexes to that decision, as well as any other decisions of the SRB even those of which the applicant is unaware, on the basis of which the Banca d'Italia adopted decisions Nos 0543938/19 of 24 April 2019 and 0733800/19 of 7 June 2019 and to compensate the damage caused in terms of higher rates paid for the contributions owed by the applicant to the SRB. In the alternative the applicant claims that the Court should declare invalid Article 5(1)(a) and (f) of the Commission Delegated Regulation 2015/63. The applicant relies on four pleas in law: (i) failure to carry out a proper inquiry, error of assessment of the facts, infringement and misapplication of Article 5[(1)](a) of the Commission Delegated Regulation 2015/63, and (iv) infringement of the principles of non-discrimination and soundadministration; (ii) failure to carry out a proper inquiry, (ii) error of assessment of the facts, infringement and misapplication of Article 5[(1)](f) of Commission Delegated Regulation 2015/63, and infringement of the principles of non-discrimination andsound administration; (iii) unlawful conduct of an EU body giving rise to non-contractual liability; (iv) (in the alternative, alleging that) Commission Delegated Regulation 2015/63 infringes the principles of effectiveness, equivalence and equal treatment and is consequently inapplicable.].
24.	Case T-466/19, **Société générale and Others v SRB,** *pending* [request for annullment of the SRB Decision SRB/ES/SRF/2019/10 on the calculation of the 2019 ex-ante contributions to the SRF and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the SRM Regulation, Article 4(2), Article 6, Article 7 and Article 10 of the Commission Delegated Regulation 2015/63 and Annex I thereto and Article 4 and Article 8(5) of the Council Implementing Regulation (EU) 2015/81 are inapplicable. The applicant relies on four pleas in law: (i) manifest infringement of the principle of equal treatment stemming from the different treatment of large institutions, which include the applicants, as compared with small and medium institutions; (ii) manifest infringement of the principle of proportionality; (iii) infringement of the principle of legal certainty in so far as calculation methods for the contributions are unpredictable and contribution depend on the situation of an institution compared with that of other institutions rather than on its situation and its overall risk profile as such; (iv) infringement of the principle of good administration in so far as the contested decision does not rely on, for the calculation of the risk-adjusted variable, all the risk criteria set out in the Delegated Regulation]
25.	Case T-467/19, **BNP Paribas and Others v SRB,** *pending* [request for annullment of the SRB Decision SRB/ES/SRF/2019/10 on the calculation of the 2019 ex-ante contributions to the SRF and to declare thatArticle 69(2), Article 70(1) and Article 70(2)(a) and (b) of the SRM Regulation, Article 4(2), Article 6, Article 7 and Article 10 of the Delegated Regulation and Annex I thereto and Article 4 and Article 8(5) of the Implementing Regulation are inapplicable. The applicant relies on four pleas in law which are, in essence, identical or similar to those relied on in Case T-466/19, *Société générale and Others* v *SRB*]
26.	Case T-468/19, **Confédération nationale du Crédit mutuel and Others v SRB,** *pending* [request for annullment of the SRB Decision SRB/ES/SRF/2019/10 on the calculation of the 2019 ex-ante contributions to the SRF and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the SRM Regulation, Article 4(2), Article 6, Article 7 and Article 10 of the Delegated Regulation and Annex I thereto,Article 4 and Article 8(5) of the Implementing Regulation are inapplicable. The applicant relies on four pleas in law which are, in essence, identical or similar to those relied on in Case T-466/19, *Société générale and Others* v *SRB*]

27.	Case T-478/19, **NRW. Bank v SRB,** *pending* [request for annullment of the SRB Decision of 16 April 2019, including the annex thereto, on the calculation of the ex ante contributions to the SRF for 2019 and the calculation details. The applicant relies on five pleas in law: (i) lack of adequate statement of reasons; (ii) infringement of Commission Delegated Regulation 2015/63 in so far as the contribution to the SRF should be calculated in light of the risk profile and the objective of protecting public budgets, something which was not done properly by the defendant; (iii) (in the alternative, alleging that) Article 5(1)(f) of the Commission Delegated Regulation 2015/63 infringes the SRM Regulation, the BRRD and the general principle of equality; (iv) (in the alternative, alleging that) the calculation methodology in Commission Delegated Regulation 2015/63 does not meet the requirements of the general principle of equality or the mandatorily required orientation towards the risk profile under SRM Regulation and the BRRD; (v) infringement of Article 8(2) of the Council Implementing Regulation (EU) 2015/81 in so far as the defendant should have deducted the entire outstanding amount of the contribution paid by the applicant in 2015 and already transferred into the SRF in view of the fact that the applicant now falls outside the scope of application of SRM Regulation]
28.	Case T-479/19, **Hypo Vorarlberg Bank v SRB,** *pending* [request for annullment of decision of the SRB Decision of 16 April 2019 on the calculation of the 2019 ex ante contributions to the SRF, including the annex thereto.The applicant relies on four pleas in law: (i) infringement of essential procedural requirements owing to incomplete notification of the contested decision; (ii) infringement of essential procedural requirements owing to a failure to state sufficient reasons for the contested decision since neither the bases nor the details of the calculations were disclosed; (iii) infringement of essential procedural requirements owing to the absence of a hearing and the failure to respect the right to be heard; (iv) Articles 4 to 7 and 9 of, as well as Annex I to the Commission Delegated Regulation 2015/63 are unlawful in that they are contrary to Articles 16, 17, 20, 21 and 47 of the Charter and the principles of proportionality and legal certainty are not ensured. The present plea is also raised, in the alternative, in relation to those provisions of BRRD and of SRM Regulation which mandatorily require the system of contributions which, in the applicant's view, is incompatible with the cited fundamental rights and fundamental values of EU law]
29.	Case T-480/19, **Landesbank Baden-Württemberg v SRB,** *pending* [request for annulment annul the SRB Decision of 16 April 2019 on the calculation of the ex-ante contributions to the Single Resolution Fund for 2019, including the annex thereto. The applicant relies on six pleas in law: (i) infringement of the second paragraph of Article 296 TFEU and of Article 41(1) and (2)(c) of the Charter for the breach of the duty to state adequate reasons; (ii) infringement of the right to be heard under Article 41(1) and (2)(a) of the Charter due to the fact that the applicant was not heard before adoption the act that produced adverse effects to the applicant; (iii) infringement of the fundamental right to effective legal protection under the first paragraph of Article 47 of the Charter since it is practically impossible to subject the contested decision to judicial review; (iv) infringement of Article 103(7)(h) of BRRD, of Article 113(7) of the CRR, of the first sentence of Article 6(5) of the Commission Delegated Regulation 2015/63, of Articles 16 and 20 of the Charter and of the principle of proportionality due to the fact that the Institutional Protection Scheme (IPS) was not fully applied to the applicant; (v) infringement of Article 16 of the Charter and of the principle of proportionality in so far as it calculated risk adjustment multipliers that are incompatible with the applicant's risk profile, which, relative to the other contributor-institutions, is better than average; (vi) illegality of Articles 4 to 7 and Article 9 of Commission Delegated Regulation 2015/63 and of Annex I to that delegated regulation]
30.	Case T-481/19, **Portigon v SRB,** *pending*

	[request for annullment o the SRB Decision of 16 April 2019 on the calculation of the *ex ante* contributions to the Single Resolution Fund for 2019 and to stay the present proceedings until a final decision is issued in Cases T-365/16, T-420/17 and T-413/18 or until those cases are otherwise brought to a conclusion. The applicant relies on eight please in law, including In support of the action, the applicant relies on eight pleas in law: (i) the SRM Regulation and the Commission Delegated Regulation 2015/63 infringe Article 114 TFEU owing to the lack of relevance to the internal market; (ii) infringement of Article 41(2)(c) of the Charter due to lack of complete statement of reasons; (iii) infringement of Articles 16 and 20 of the Charter since, in view of the special situation of the applicant, the contested decision is at variance with the general principle of equality. Furthermore, the contested decision interferes disproportionately with the applicant's freedom to conduct a business; (iv)(in the alternative) infringement of Article 70(2) of the SRM Regulation since the defendant, in calculating the amount of the contribution, should have excluded risk-free liabilities from the relevant liabilities; (v) (in the alternative) infringement of Article 70(6) of the SRM Regulation since the defendant wrongly calculated the applicant's contribution on the basis of a gross approach with regard to derivative contracts; (vi) (in the alternative) infringement of Article 70(6) of the SRM Regulation, since the defendant wrongly regarded the applicant as an institution undergoing reorganisation; (vii) infringement of Article 41(1) and (2)(a) of the Charter, as the defendant should have heard the applicant prior to the adoption of the contested decision; (viii) infringement of Article 41(1) and (2)(c) of the Charter and of the second paragraph of Article 296 TFEU on the ground that the defendant failed to provide an adequate statement of reasons for the contested decision]
31.	Case T-488/19, **Crédit agricole and Others v SRB,** *pending* [request for annullment of SRB Decision SRB/ES/SRF/2019/10 on the calculation of the 2019 ex-ante contributions to the SRF and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the SRM Regulation, Article 4(2), Article 6, Article 7 and Article 10 of the Commission Delegated Regulation 2015/63 and Annex I thereto and Article 4 and Article 8(5) of the Council Implementing Regulation (EU) 2015/81 are inapplicable. The applicants rely on four pleas in law which are, in essence, identical or similar to those relied on in Case T-466/19, Société générale and Others v SRB]
32.	Case T-489/19, **BPCE and Others v SRB,** *pending* [request for annullment of the SRB Decision SRB/ES/SRF/2019/10 on the calculation of the 2019 ex-ante contributions to the SRF and to declare that Article 69(2), Article 70(1) and Article 70(2)(a) and (b) of the SRM Regulation, Article 4(2), Article 6, Article 7 and Article 10 of the Commission Delegated Regulation 2015/63 and Annex I thereto and Article 4 and Article 8(5) of the Council Implementing Regulation (EU) 2015/81 are inapplicable. The applicants rely on four pleas in law which are, in essence, identical or similar to those relied on in Case T-466/19, Société générale and Others v SRB]
33.	Case T-498/19, **Banco Cooperativo Español v SRB,** *pending* [request for annullment of the SRB Decision of 16 April 2019 on the calculation of *ex ante* contributions to the Single Resolution Fund for the 2019 contribution period and in the alternativento declare that Articles 12 and 14 of the Commission Delegated Regulation 2015/63 are inapplicable. The applicant relies on two pleas in law: (i) infringement of Article 12(2) of the Commission Delegated Regulation 2015/63; and (ii) (in the alternative) Articles 12 and 14 of the Commission Delegated Regulation 2015/63 are inapplicable]

3.2. Actions related to the resolution of Banco Popular Español S.A.

The pending cases on the resolution of *Banco Popular Español S.A.* (hereinafter, also '*Banco Popular*') can be distinguished in different classes. All cases concern the SRB Decision of 7 June 2017 (SRB/EES/2017/08) ('SRB Decision') adopting a resolution scheme for *Banco Popular*. Where relevant,

proceedings concern the Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for *Banco Popular Español S.A.* ('Commission Decision'). Where the ECB is concerned, the proceedings concern its Failing or Likely to Fail assessment adopted on 6 June, a *public non-confidential version* of which is available on the ECB Banking Supervision website.

Information on the judicial proceedings against the SRB slowly gets into the public realm, with each successive entry in the Official Journal (C-series) and/or on the Curia website. The great number of cases leads us to publish an updated list now, with information up-to-date as of 1 January 2019. This implies that, for some cases on the list of proceedings against the SRB, no information is provided beyond the case number and the parties. A future update of the list will provide more. The list below does not include the cases brought before the SRB Panel (available here).

Footnotes are explained at the bottom of the page.

In order to enhance the transparency of this long list of cases we apply colour coding.

There are cases against the SRB alone [colour: orange], while other have been instituted also against other defendants, i.e., European Commission and/or the European Central Bank [colour: red].

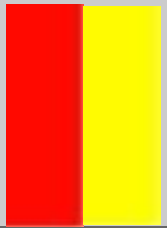
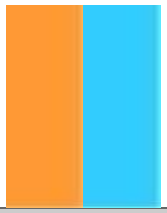
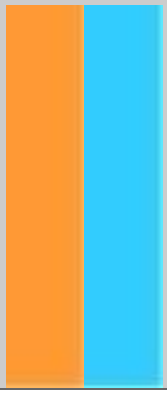
In most cases the applicant requests annulment of the SRB Decision (and/or the Commission Decision) but, in several, there is an additional request for compensation of damages [colour: light blue] (i.e., request for annulment, or for annulment and compensation). Where the request for annulment of the SRB Decision (and/or the Commission Decision) is accompanied by a request for a new calculation (i.e., request for doing the resolution procedure again and better, this time, in terms of outcome for the applicant), the case is classified as one requesting compensation.

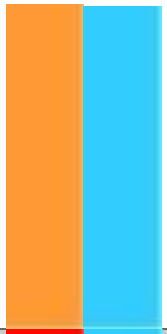
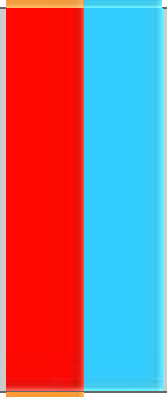
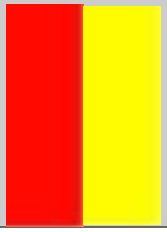
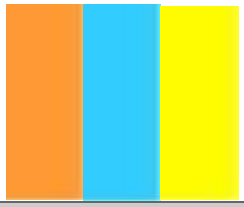
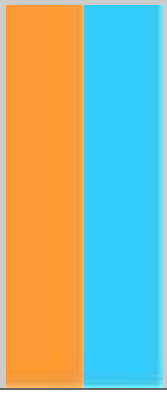
Finally, there are proceedings in which a request is submitted for the annulment or inapplicability of provisions of the SRM Regulation [colour: yellow]

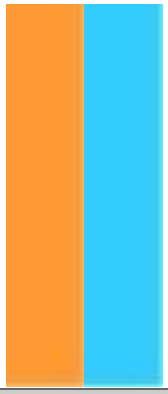
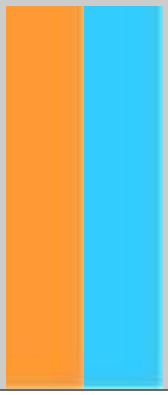
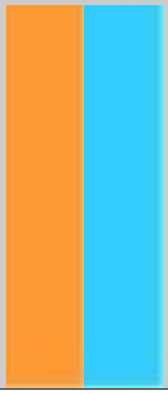
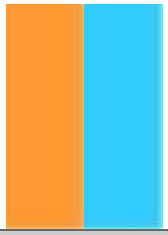
No.	Case	Colour Code
1.	Case T-473/17, **Jarabo Sancho et Jarsan Centro de Gestion v SRB**, *closed* [request for the annulment of the SRB Decision and the production of the reports mentioned in the request] • Order of 27 October 2017 dismissing the action for manifest inadmissibility ECLI:EU:T:2017:778 • Order of 1 December 2017 ECLI:EU:T:2017:864 rectifying the previous Order (names of judges corrected) ECLI:EU:T:2017:864	
2.	Case T-482/17, ***Comercial Vascongada Recalde v Commission and SRB***, *pending* [request for annulment of the SRB and Commission Decisions and for compensation, relying on two pleas in law: (i) infringement of Article 18(1)(a) and (4)(c) of the SRM Regulation insofar as *Banco Popular* was not 'failing' as described in those provisions; (ii) infringement of Articles 10(10), 10(11) and 21(2)(b) of the SRM Regulation insofar as there were alternatives to the resolution of *Banco Popular*]	
3.	Case T-483/17, ***García Suárez and Others v Commission and SRB***[3], *pending* [request for annulment of the SRB and Commission Decisions and for compensation]	
4.	Case T-484/17, ***Fidesban and Others v SRB***[2], *pending* [request for annulment of the SRB Decision]	

5.	Case T-497/17, ***Sáchez del Valle and Calatrava Real State 2015 v Commission and SRB*****,** *pending* [request for annulment of the SRB and Commission Decisions, relying on 11 pleas in law: (i) lacking or insufficient reasoning for the contested decision; (ii) infringement of Article 20(1) of the SRM Regulation by failing to carry out a reasonable, prudent and realistic valuation of the assets and liabilities of *Banco Popular* by an independent person before the resolution decision; (iii) infringement of Article 18(1)(a) in conjunction with Article 18(4)(c) of the SRM Regulation: the contested decisions uphold the resolution of *Banco Popular* while, as at 6 June 2017, the bank had no solvency problems and its liquidity problems were temporary; (iv) infringement of Article 18(1)(b) of the SRM Regulation: the contested decisions consent to the resolution of *Banco Popular*, while there were reasonable prospects that other means from the private sector could prevent it become unviable within a reasonable time; (v) infringement of Article 14(2) of the SRM Regulation: no attempt was made to minimise the cost of resolution and to avoid the destruction of wealth, which was unnecessary to achieve the objectives of resolution; (vi) infringement of Article 22 of the SRM Regulation: failing to weigh the contested decisions and adopt resolution tools other than the sale of the business, provided for in paragraph 2, in accordance with the factors set out in paragraph 3; (vii) infringement of Article 15(1)(g) of the SRM Regulation: the shareholders ought to have received more than they would receive in the event of insolvency; (viii) infringement of Article 29 of the SRM Regulation; (ix) infringement of the right to property; (x) infringement of the right to an effective remedy, given the inability of the shareholders to protect their position; (xi) infringement of the right of the shareholders and other holders of securities included in the scope of the write-down and conversion to be heard]	
6.	Case T-498/17, ***Pablo Álvarez de Linera Granda v Commission and SRB*****[3],** *pending* [request for annulment of the SRB and Commission Decisions and for compensation]	
7.	Case T-499/17, ***Esfera Capital Agencia de Valores v Commission and SRB*****[3],** *pending* [request for annulment of the SRB and Commission Decisions and for compensation]	
8.	Case T-501/17, **Mutualidad Complementaria de Previsión Social Renault España v Commission and SRB[3],** *pending* [request for annulment of the SRB and Commission Decisions; in the alternative, if the General Court does not uphold the invalidity application above, declare the partial invalidity and annul in part SRB's decision mentioned above in so far as it concerns Article 6(1)(b) and (c) of that decision, relating to the conversion and depreciation of 64 695 preference shares (allegedly classified erroneously as additional capital Tier 1 instruments of *Banco Popular*), although they were instruments issued by Banco Popular]	
9.	Case T-502/17, **SFP Asset Management and Others v SRB[3],** *pending* [request for annulment of the SRB Decision]	

10.	Case T-505/17, **Inverni and Others v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	[redacted]
11.	Case T-507/17, **Fundación Pedro Barrié de la Maza, Conde de Fenosa v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	[redacted]
12.	Case T-508/17, **Financiere Tesalia and Others v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	[redacted]
13.	Case T-509/17, **Cartera de Inversiones Melca and Others v Commission and SRB[3], *pending*** [request for annulment of the SRB and Commission Decisions]	[redacted]
14.	Case T-510/17, **Del Valle Ruiz and Others v Commission and SRB, *pending*** [request for annulment of the SRB Decision and to declare illegal Articles 18 and 22 of the SRM Regulation - applicants rely on nine pleas in law: (i) Article 18 of the SRM Regulation is unlawful, in that the process stipulated therein fails to provide stakeholders with an opportunity to be heard and allows for no judicial oversight, in violation of (a) Articles 41, 47 and 48 of the Charter and (b) the principle of proportionality; (ii) the contested SRB Decision and the contested Commission Decision infringed Articles 41, 47 and 48 of the Charter; (iii) the SRB and Commission infringed, without justification or proportion, the applicants' right to property; (iv) the SRB and Commission infringed Article 20 of the SRM Regulation by failing to undertake a proper and independent valuation prior to taking the contested Decisions; (v) the SRB and Commission infringed Article 18(1) of the SRM Regulationin determining that the conditions precedent set out under Articles 18(1)(a) and (b) were satisfied; (vi) the SRB and Commission infringed Article 21(1) of the SRM Regulation in determining that the conditions for the exercise of the power to write down or convert relevant capital instruments were satisfied; (vii) the SRB and Commission breached an essential procedural requirement in failing to provide an adequate statement of reasons for the contested Decisions; (viii) in selecting the sale of business tool, the SRB and Commission have failed to comply with (a) the principle of proportionality; and (b) the legitimate expectations of the applicants, by departing from the resolution plan without justification; (ix) Articles 18 and 22 of the SRM Regulation breached the principles relating to the delegation of powers]	[redacted]

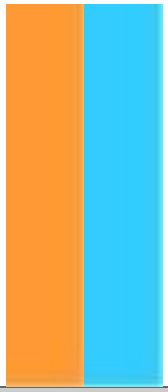
15.	Case T-512/17, **OCU and Others v SRB**[3], *pending* [request for annulment of the SRB Decision and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	
16.	Case T-515/17, **Sánchez Valverde e Hijos v SRB**[3], *pending* [request for annulment of the SRB Decision and for compensation]	
17.	Case T-516/17, **Imasa, Ingeniería y Proyectos v Commission and SRB**[3], *pending* [request for annulment of the SRB and Commission Decisions]	
18.	Case T-517/17, ***Grúas Roxu v Commission and SRB***[3], *pending* [request for annulment of the SRB and Commission Decisions]	
19.	Case T-518/17, **Olarreaga Marques and Saralegui Reyzabal v SRB**[3], *pending* [request for annulment of the SRB Decision]	
20.	Case T-520/17, **Gestvalor 2040 e.a. v SRB,** *pending* [request for annulment of the SRB Decision] • Order of 9 October 2017 for partial removal of the parties from the case ECLI:EU:T:2017:723	
21.	Case T-521/17, **Hernández Díaz v SRB**[3], *pending* [request for annulment of the SRB Decision based on the following grounds (i) it is based on a Deloitte report which was not independent, (ii) shareholders are subjected to much more significant losses than they would be had an arrangement with creditors been entered into and (iii) the bail-in tool was not applied. Action for the annulment of the sale is based on lack of transparency of the sale process, implying a serious violation of the principle of transparency and the principle of competition. Action for compensation based on the ground that the value of the shares could not be assessed given the lack of transparency of the resolution process]	

22.	Case T-522/17, **Nap Innova Hoteles v SRB,** *closed* [request for annulment of the SRB Decision and for compensation] • Order of 4 December 2017, dismissing the claim as manifestly inadmissible ECLI:EU:T:2017:881 **Appeal**: Case C-731/17 P, **Nap Innova Hoteles v SRB,** *closed* • Order of 5 July 2018 dismissing the appeal as manifestly inadmissible and manifestly unfounded ECLI:EU:C:2018:546	
23.	Case T-523/17, ***Eleveté Invest Group and Others v Commission and SRB3,*** *pending* [request for annulment of the SRB and Commission Decisions, for compensation and for the invalidity of the valuation carried out by SRB's independent expert and, following the calculation of the net value of the assets of *Banco Popular*, order SRB and the European Commission to pay compensation to the applicants]	
24.	Case T-524/17, **Folch Torrela and Others v SRB3,** *pending* [request for annulment of the SRB Decision]	
25.	Case T-525/17, ***Taberna Ángel Sierra and Others v SRB3,*** *pending* [request for annulment of the SRB Decision and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	
26.	Case T-526/17, **Ruiz Jayo *and Others* v SRB,** *pending* [request for annulment, for compensation and for inapplicability of Articles 21, 22(2)(a) and 24, as well as Articles 18 and 23 of the SRM Regulation]	
27.	Case T-527/17, ***Waisman and Others v SRB3,*** *pending* [request for annulment of the SRB Decision and for compensation; in the alternative, if the Court does not uphold the claim for compensation, order the SRB to pay to the applicants compensation, the value of which corresponds to the difference (to be determined an independent person as meant in Article 20(16) of the SRM Regulation, between the payment received by the applicants pursuant to the resolution decision and the amount they would have received under a normal insolvency procedure]	

28.	Case T-529/17, **Blasi Gómez and Others v SRB[3],** *pending* [request for annulment of the SRB Decision in whole; or, if this claim is not upheld, annul in part the decision, with respect to the valuation of the institution, the Court having to carry out, or order the carrying out of, a fair, actual and equitable valuation of *Banco Popular* which implies the compensation of all its shareholders and creditors in accordance with the new valuation; or, in the further alternative, if neither of the previous claims is upheld, annul in part the decision, with respect to the valuation of the institution, the Court having to carry out, or order the carrying out of, a fair, actual and equitable valuation of *Banco Popular* which implies the compensation of the applicants, as shareholders and creditors of that institution in accordance with the new valuation]	
29.	Case T-530/17, **López Campo and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation; in the alternative, annul Decision SRD/EES/2017/08 and declare that the SRB is responsible for compensating the applicants in the amounts resulting from the multiplication of the number of their shares by the final listing price prior to the resolution]	
30.	Case T-531/17, ***Promociones Santa Rosa v SRB[3],*** *pending* [request for annulment of the SRB Decision]	
31.	Case T-535/17 ***Asociación de Consumidores de Navarra 'Irache' v SRB[3],*** *pending* [request for annulment of the SRB Decision, declare the transactions carried out under it ineffective and order the return of the property of *Banco Popular* to the shareholders and bond-holders concerned, putting them back in the position they were in before the intervention; if that is not possible, declare the conversion of the bonds into shares to be ineffective, maintaining bond-holders in the same position as they were in on 6 June 2017 and order the payment of compensation to shareholders by payment corresponding to the actual value of the bank and, accordingly, of the shares on 30 June 2016]	
32.	Case T-538/17, **Jess Liberty v SRB[3],** *pending* [request for access to all the documents in the file and for the possibility of making further claims, and for annulment and revocation of the SRB Decision, reinstating in full the legal effect of the applicant's economic rights, in accordance with the requirements of full compensation]	
33.	Case T-544/17, ***Imabe Ibérica v SRB[3],*** *pending* [request to acknowledge the lodging of the action against the SRB Decision in compliance with the provisions of Article 29 of the SRM Regulation, after having allowed access to all the documents in the file and given the possibility of making further claims, annul or revoke the contested decision, reinstating in full the legal effect of the applicant's economic rights, in accordance with the requirements of full compensation]	

34. Case T-545/17, **Afectados Banco Popular v SRB**[3], *pending*

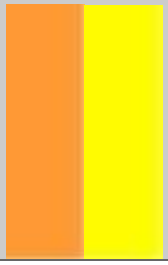
[request for annulment of the SRB Decision, declaring transactions carried out under it ineffective and order the return of the property of *Banco Popular* to the shareholders and bondholders, putting them back in the position they were in before the intervention; if that is not possible, declare in any event that the conversion of the bonds into shares is ineffective, maintaining bondholders in the same position as they were in on 6 June 2017 and order the payment of compensation to shareholders by payment corresponding to the actual value of the bank and, accordingly, of the shares on 30 June 2016]



35. Case T-552/17, **Maña *and Others* v SRB**[3], *pending*

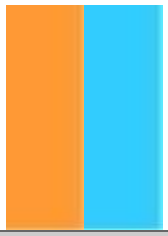
[request for annulment of the SRB Decision and for inapplicability of Articles 18 and 29 of the SRM Regulation inapplicable]

- Order of 25 October 2017 for the partial removal of the case from the register ECLI:EU:T:2017:780



36. Case T-554/17, **González Calvet v SRB**[3], *pending*

[request for annulment of the SRB Decision and for compensation]



37. Case T-555/17, **TW and Others v SRB**[3], *pending*

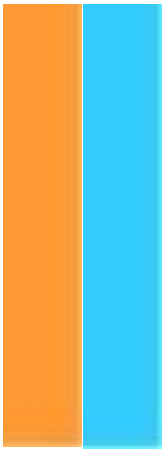
[request for annulment of the SRB Decision]

- Order of 17 May 2018 dismissing the action presented by one of the applicants (UB) as manifestly inadmissible ECLI:EU:T:2018:300

38. Case T-557/17, ***Liaño Reig v SRB***[3], *pending*

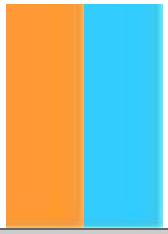
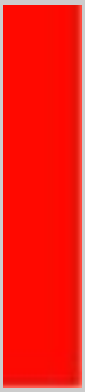
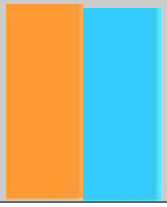
[request for annulment of the resolution measure consisting in the conversion of the Level 2 capital instrument relating to the subordinated bonds into newly issued *Banco Popular* shares on the ground that it is unfounded and contrary to the Regulation and the Charter. If this claim is upheld, applicant claims a specific amount of compensation. In the alternative, applicant claims compensation in the amount equivalent to that which she would have received as holder of the subordinated bond had that company been liquidated at the date of the Decision as a result of an ordinary insolvency procedure, with the amount of compensation requested in this case depending on the Spanish legal requirements for opening an ordinary insolvency procedure]

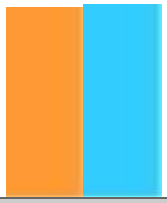
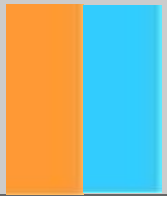
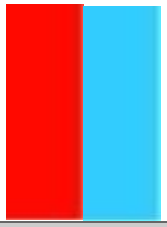
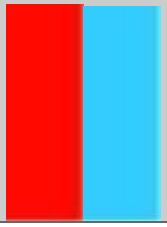
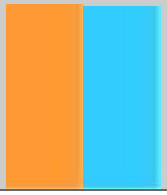
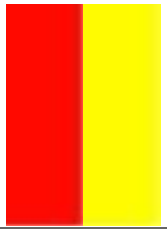
Order of 24 October 2019 dismissing the claims as inadmissible ECLI:EU:T:2019:771

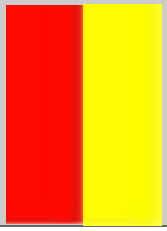
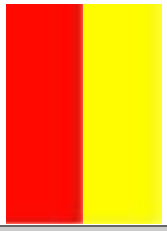
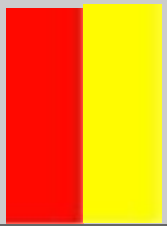
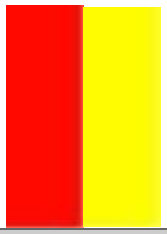
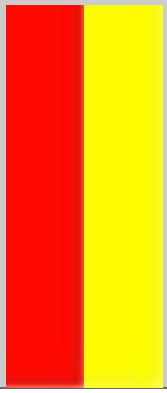
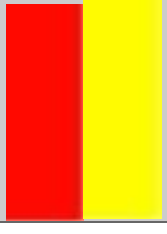


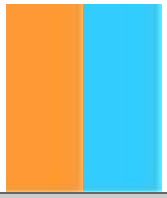
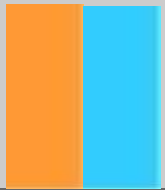
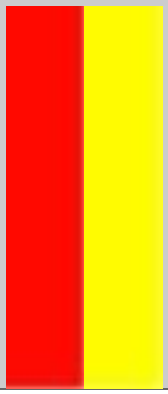
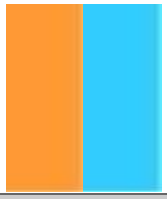
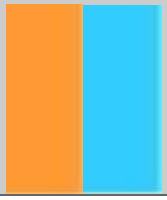
39. Case T-563/17, **Gayalex Proyectos v SRB**[3] *pending*

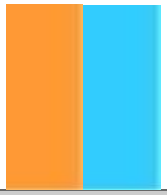
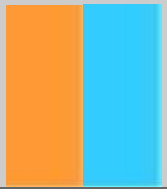
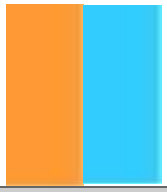
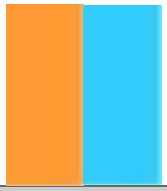
[request for annulment of the SRB Decision]

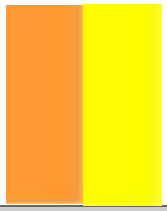
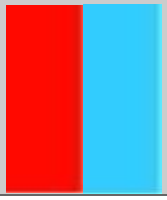
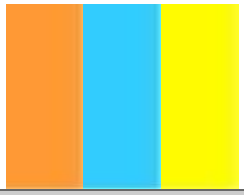
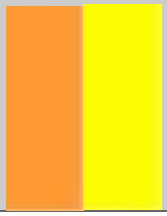
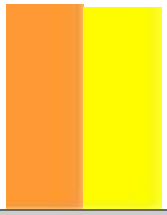
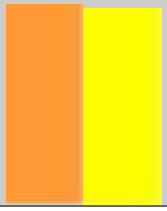
40.	Case T-566/17, **Molina García v SRB**[3], *pending* [request for annulment of the SRB Decision and for compensation]	
41.	Case T-570/17, ***Algebris (UK) and Others v Commission***, *pending* [request for annulment of the Commission Decision, relying on six pleas in law: (i) the Commission failed properly, or at all, to comply with its legal obligation to assess the discretionary aspects of the Resolution Scheme; (ii) the Commission failed to provide adequate reasons for its contested decision; (iii) the Commission committed serious breaches of the principles of confidentiality and professional secrecy, contrary to Article 339 of the TFEU and Article 88(1) of the SRM Regulation (2) and the case-law of the Court of Justice, thereby also failing to respect the applicants' right to good administration enshrined in Article 41 of the Charter; (iv) manifest errors of assessment in the Commission's application of Articles 14, 18, 20, 21, 22 and 24 of the SRM Regulation. The applicants argue that the valuation of *Banco Popular* was not fair, prudent or reliable, and was inconsistent with the 'no creditor worse off principle'; it did not therefore constitute accurate and reliable and consistent evidence on which to base the Resolution Scheme; and it was not capable of supporting the contested decision. The Resolution Scheme (and so the Decision) allegedly manifestly disproportionate by going beyond the measures necessary to secure the resolution objectives; (v) the Resolution Scheme endorsed by the contested decision violates the applicants' property rights as enshrined in general principles of EU law and in Article 17 of the Charter; (vi) the Resolution Scheme was adopted and endorsed by the Commission in violation Article 41 of the Charter]	
42.	Case T-575/17, ***Algebris (UK) and Others v SRB***, *pending* [request for annulment of the SRB Decision, relying on five pleas in law. The first four pleas in law are the same as the ones raised in Case T-570/17. With the fifth plea, applicant claims that the resolution scheme was not lawfully endorsed by the Commission and so the contested decision was not lawfully brought into force. In this connection it is argued that, before adopting its Decision endorsing the Resolution Scheme, the Commission failed to assess properly, or at all, the discretionary aspects of the Resolution Scheme. This constituted a breach of the Commission's obligations under the SRM Regulation and of the principles of the *Meroni* case-law of the Court of Justice. Accordingly, the SRB committed a manifest error of assessment and law by concluding that its decision adopting the Resolution Scheme could, or had, come into force; further, or alternatively, and in any event, the Resolution Scheme adopted by the contested decision did not lawfully come into force]	
43.	Case T-585/17, **Alonso Goñi *and Others v* SRB**, *pending* [request for annulment of the SRB Decision and for compensation]	

44.	Case T-592/17, ***Serra Noguera and Others v SRB[3]***, *pending* [request for annulment of the SRB Decision and for compensation]	
45.	Case T-597/17, **Poza Poza v SRB[3]**, *pending* [request for annulment of the SRB Decision and for compensation]	
46.	Case T-613/17, **La Guirigaña and Others v ECB and SRB[3]**, *pending* [request for a declaration that the European Union incurred financial liability due to the ECB and for annulment of the SRB Decision of 7 June 2017; in the alternative, compensation by the SRB]	
47.	Case T-618/17, **Activa Minoristas del Popular v ECB and SRB[3]**, *closed* [request for annulment of the SRB and ECB decisions and of the independent expert's valuation and for compensation] • Order of 24 September 2018 dismissing the action as manifestly inadmissible ECLI:EU:T:2018:608	
48.	Case T-619/17**, de la Fuente Martín and Others v SRB[3]**, pending [request for annulment of the SRB Decision, thereby depriving it of effect and repealing it, and order the return to shareholders and owners of capital instruments of their respective shares and capital instruments of *Banco Popular* and, consequently, reinstate their rights in full; in the alternative, declare that SRB's contested decision has caused harm to *Banco Popular* shareholders and bond- holders, which the SRB is under an obligation to pay compensation and to order the SRB and, consequently, the European Union to pay compensation to the applicants in an amount equivalent to the financial value of the shares and capital instruments which were held by the applicants the day before the adoption of the contested decision or, where appropriate, in the alternative, in an amount equivalent to the financial value those shares and instruments would have maintained had the financial institution been subject to an ordinary insolvency procedure at the time of the adoption of the contested decision]	
49.	Case T-623/17, ***Previsión Sanitaria Nacional, PSN, Mutua de Seguros y Reaseguros a Prima Fija v SRB[3]***, *pending* [request for annulment of the SRB Decision and for compensation]	
50.	Case T-628/17, ***Aeris Invest v Commission and SRB[3]***, *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	

51.	Case T-630/17, ***Top Cable v Commission and SRB3***, *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
52.	Case T-631/17, ***Hola v Commission and SRB3***, *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
53.	Case T-637/17, ***Policlínico Centro Médico de Seguros and Medicina Asturiana v Commission and SRB3***, *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
54.	Case T-638/17, ***Helibética v Commission and SRB3***, *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
55.	Case T-640/17, **Escriba Serra and Others v Commission and SRB3**, *pending* [request for the partial annulment of the SRB Decision in so far as it orders the conversion and write down of *Banco Popular* subordinated bonds and of the Commission Decision in so far as it orders the conversion of *Banco Popular* subordinated bonds; in the alternative annul both decisions in full; and to declare Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation inapplicable]	
56.	Case T-642/17, **González Buñuel *and Others* v SRB3**, *pending* [request for annulment of the SRB Decision and for compensation]	
57.	Case T-643/17, **Euroways v Commission and SRB3**, *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 SRM Regulation inapplicable]	

58.	Case T-648/17, **Dadimer *and Others* v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
59.	Case T-653/17, **Relea Álvarez and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
60.	Case T-659/17, **Vallina Fonseca v SRB,** *pending* [request for compensation based on four pleas in law: (i) the SRB Decision infringes the principle according to which no one shall be heard, who invokes his own guilt and Article 88 SRM Regulation, in that a crisis that SRB allegedly itself triggered has led to the adoption of an act adversely affecting *Banco Popular* and its shareholders; (ii) the SRB infringed the duty of diligence, the principle of good administration in Article 296 of the TFEU, the principle of prohibition of arbitrary conduct, and the principle of *nemo auditur turpitudinem suam allegans*; (iii) infringement of Articles 17 and 41 of the Charter; (iv) the SRB infringed Article 17 of the Charter and Article 54 of the TEU *(on ratification of the TEU, so this must be a misquote; Article 54 TFEU concerns the treatment as natural persons/nationals of the Member States of corporations registered, having their central administration or principle place of business in the EU; and Article 54 Charter concerns the prohibition of abuse of Charter rights to limit or destruct rights and freedoms*]	
61.	Case T-660/17, **Miralla Inversiones v Commission and SRB[3],** *pending* [request for annulment of the SRB and Commission Decisions and to Articles 15, 18, 20, 21, 22 and/or 24 of the SRM Regulation]	
62.	Case T-662/17, **Link Flexible and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	
63.	Case T-663/17, **Sahece and Others v SRB[3],** *pending* [request for annulment of the SRB Decision and for compensation]	

64.	Case T-669/17, **Hernando Avendaño** *and Others* **v SRB3,** *pending* [request for annulment of the SRB Decision and for compensation]	
65.	Case T-670/17, **LG Vaquero Aviación and Others v SRB3,** *pending* [request for annulment of the SRB Decision and for compensation]	
66.	Case T-675/17, **Aplicacions de Servei Monsan and Others v SRB3,** *pending* [request for annulment of the SRB Decision and for compensation]	
67.	Case T-678/17, **Minera Catalano Aragonesa and Luengo Martínez v Commission and SRB3,** *pending* [request for annulment of the SRB and the Commission Decisions]	
68.	Case T-679/17, **Grupo Villar Mir v SRB3,** *pending* [request for annulment of the SRB Decision and for compensation]	
69.	Case T-680/17, **Helibética v SRB4,** *pending* [request for compensation]	
70.	Case T-685/17, **Miralla Inversiones v SRB3,** *pending* [request for annulment of SRB Decision and for ordering the SRB to submit without delay the provisional valuation carried out by Deloitte in accordance with Article 20 of the SRM Regulation for the purpose of enabling the proper exercise of the right of the defence and, once that valuation has been submitted, allow the applicant a specific period to analyse and examine it in detail, so that it is in a position to oppose it during the reply stage; in the event that it does not accept the claims made in the previous paragraph and the proceedings continue, rule the SRB Decision is contrary to EU law]	
71.	Case T-686/17, **Policlínico Centro Médico de Seguros and Medicina Asturiana v SRB4,** *pending* [request for compensation]	

72.	Case T-687/17, **Vendrell Marti v SRB** [3], *pending* [request for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	
73.	Case T-688/17, **Hola v SRB**[4], *pending* [request for compensation]	
74.	Case T-689/17, **Top Cable v SRB**[4], *pending* [request for compensation]	
75.	Case T-690/17, **Uluru and Others v Commission and SRB**[3], *pending* [request for annulment of the SRB and Commission decisions and of the independent expert's valuation and for compensation]	
76.	Case T-693/17, **García Gómez *and Others* v SRB**[3], *pending* [request for annulment, for compensation and for inapplicability of Articles 21, 22(2)(a) and 24, as well as Articles 18 and 23 of the SRM Regulation]	
77.	Case T-700/17, **Traviacar and Others v SRB**[3], *pending* [request for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]Order of 16 November 2017 removing some of the applicants from the list of the plaintiffs upon their request ECLI:EU:T:2017:841	
78.	Case T-701/17, **OCU v SRB** [3], *pending* [request for annulment of the SRB Decision and the independent expert's valuation on which it is based and to declare Articles 18 and 29 SRM Regulation illegal and inapplicable]	
79.	Case T-705/17, **Temes Rial and Others v SRB**[3], *pending* [request for annulment of the SRB Decision and of the independent expert's valuation on which that decision is based in accordance with Article 20(15) of the SRM Regulation and to declare Articles 18 and 29 of the SRM Regulation illegal and inapplicable]	

80.	Case T-707/17, **Euroways v SRB[4],** *pending* [request for compensation]	
81.	Case T-731/17, **Escribà Serra and Others v SRB[4]**, *pending* [request for compensation]	
82.	Case T-735/17, **Asociación de Usuarios de Bancos, Cajas y Seguros de España v SRB[3],** *pending* [request for annulment of the SRB Decision]	
83.	Case T-16/18, **Activos e Inversiones Monterroso v SRB**, *pending* [claim for annulment of the SRB decision of 8 November 2017 denying applicants the right to access documents in relation to the resolution of *Banco Popular*. Pleas in law: the SRB confused the *general right of access to documents*, on which any EU citizen can rely with the "clearly separate" *right of access to the file*, which can be exercised only by parties which have an interest in the proceedings to which the file relates; the different scope of those rights is alleged to imply that the range of exceptions applicable to each right is also different, with a distinction between 'commercial interests' in the former and 'business secrets' in the latter right of access; "the existence of business secrets must be weighed against the remaining interests involved, such as the right of defence"; the invoked 'confidentiality' must be justified and reasoned; Article 41(2)(b) of the Charter requires that Article 90(4), and not 90(1) of the SRM Regulation must be applied] • Order admitting Banco Santander, SA to intervene in the case T-16/18 in support of the SRB ECLI:EU:T:2019:35	
84.	Case T-62/18, **Aeris Invest v SRB**, *pending* [request for annulment of the Appeal Panel of the Single Resolution Board in Case 43/2017 of 28 November 2017 ('Panel's Decision') and Decision SRB/CM01/ARES(2017)4898090 of 6 September 2017. The applicant relies on six pleas in law: (i) Decision SRB/ES/2017/01 on public access to the Single Resolution Board documents ('Access Decision') infringes Article 90 of the SRM Regulation and Article 4 of the Regulation No 1049/2001 in that, first, it makes provisions ultra vires concerning the right of access to documents and, second, it creates exceptions to the right of access to documents which are not included in Regulation No 1049/2001. (ii) the Panel's Decision infringes Article of the 296 of the TFEU in that it merely claims, in vague and general terms, that disclosure of the full text of the 2016 Plan, the Resolution Decision and the Valuation Report infringes Article 4(1)(a) and 4(2) of the Regulation No 1049/2001. (iii) the Panel's Decision infringes Article 15 of the TFEU, Article 42 of the Charter and Article 4(1)(a) of the Regulation No 1049/2001, in that the resolution policy for credit institutions is not a valid exception for restricting the fundamental right to access to documents, the requirements of Article	

	4(1)(a) of the Regulation No 1049/2001 are not met and the valuation of the interests at stake makes it necessary to grant access to the documents requested. (iv) the Panel's Decision infringes Article 15 of the TFEU, Article 42 of the Charter and Article 4(2) Regulation No 1049/2001, in that granting full access to the Resolution Decision, the Valuation Report and the 2016 Plan does not affect the commercial interests of natural and legal persons and in any event, the weighing up of the interests at stake comes down in favour of granting access to the documents. (v) the Panel's Decision infringes Article 15 TFEU and Article 88 SRM Regulation, by denying access to information which is not protected by professional secrecy provided that there exists no-presumption of confidentiality pursuant to Article 88 of the SRM Regulation and Article 339 of the TFEU and (even if a presumption of confidentiality did exist, it would not apply because the documents are being requested for use in the context of legal proceedings. (vi) the Panel's Decision amounts to misuse of power, in so far as it denies the applicant full access to the 2016 Plan claiming that that plan 'is fully covered by the exceptions set out in the third indent of Article 4 (1)(a), Article 4(1)(c) and Article 4(2) of the ECB Public Access Decision whereas, in fact, there are credible reasons for believing that the reason for that denial is none other than to hide the mistakes, gaps and shortcomings vitiating that plan]	
85.	Case T-314/18, **Hashem and Assi v SRB**, *pending* [request for compensation. The pleas in law and main arguments are similar to those relied on in Case T-659/17, Vallina Fonseca v SRB]	
86.	Case T-315/18, **Calvo Gutierrez and Others v SRB,** *pending* [request for compensation. The pleas in law and main arguments are similar to those relied upon in Case T-659/17, Vallina Fonseca v SRB]	
87.	Case T-405/18, **Holmer Dahl v SRB,** *pending* [request for compensation. The pleas in law and main arguments are similar to those relied upon in Case T-659/17, Vallina Fonseca v SRB]	
88.	Case T-480/18, **Ontier España, S.L. v SRB,** *pending* [request for annulment of the SRB decision of 10 June 2018 which rejected the request for access to documents related to the contested decision] • Order dimissing the action as manifestly inadmissible ECLI:EU:T:2018:871	
89.	Case T-514/18, **Del Valle Ruiz and Others v SRB,** *pending* [request for annulment of the final decision of the SRB Appeal Panel in Case 48/2017, dated 19 June 2018, insofar as the latter held that the SRB was entitled to rely upon (i) Article 4(1)(a), fourth indent; (ii) Article 4(2), first indent; (iii) Article 4(2), third indent; and/or (iv) Article 4(3) of the Regulation (EC) No 1049/2001 on public access to documents (and/or the equivalent provisions under SRB Decision SRB/ES/2017/01 of 9 February 2017 on public access to SRB documents), in order to justify non-disclosure of the documents requested by the applicants in their	

	confirmatory application dated 23 August 2017 concerning the adoption of a resolution scheme in respect of *Banco Popular Español*. The applicants rely on six pleas in law, by alleging that the SRB Appeal Panel infringed the fourth indent of Article 4(1)(a), the first indent of Article 4(2), Article 4(3), the third indent of Article 4(2), Article 4(6) and Article 11 of Regulation (EC) No 1049/2001 on public access to documents] Order of 12 October 2018 declaring that some of the applicants shall be removd, upon their request, from the list of applicants ECLI:EU:T:2018:688	
90.	Case T-599/18, **Aeris Invest v SRB,** *pending* [request for annullment of the SRB Decision of 14 September 2018 not to carry out an *ex-post* definitive valuation in the context of Decision SRB/EES/2017/08 of 7 June 2017 concerning a resolution scheme in respect of the institution *Banco Popular Español, S.A.* ('the contested decision'),on the basis of two pleas in law: (i) infringement of Article 20(11) of 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 and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1). That plea is divided into three parts. First part, based on the argument that the contested decision determines the possibility to write back creditors' claims or increase the value of the consideration paid without carrying out an *ex-post* definitive valuation. Second part, based on the argument that the SRB did not verify that the information on which the valuation is based are as recent and complete as possible and, accordingly, any losses incurred on the assets of an entity may be fully taken into account. Third part, based on infringement of the *Meroni* case-law in that the Commission should have given its consent to the SRB's decision not to ensure that an *ex-post* definitive valuation is carried out. (ii) misuse of power which vitiates the contested decision and which a body of objective, relevant and consistent evidence demonstrates. In that regard, the applicant maintains that the contested decision does not follow the procedure of Article 20 of the SRM Regulationreferred to above and that SRB's aim in adopting that decision is to hide the real situation of Banco Popular Español, S.A.]	
91.	Case T-2/19, **Algebris (UK) and Anchorage Capital Group v SRB,** *pending* [request for annulment of the SRB Decision to the effect that ex-post definitive valuations of Banco Popular Español S.A. were not required pursuant to Article 20(11) of SRM Regulation. The applicant relies on four pleas in law: (i) error of law for breach of Article 20(11) and/or Article 20(12) of the SRM Regulation; (ii) manifest error of assessment; (iii) error of law for breach of Article 20(11) and (12) of the SRM Regulation; (iv) lack of motivation]	
92.	Case T-11/19, **Mutualidad de la Abogacía and Others v ECB and SRB,** *pending* [request for compensation on the basis of two pleas in law: (i) illicit or negligent actions or omissions on the part of the European Central Bank. In that connection, the applicants claim:	

Infringement of the principle of legitimate expectations, on account of the ECB, as the institution responsible for conducting the Supervisory Review and Evaluation Process (SREP), having created legitimate expectations on the part of the shareholders of *Banco Popular Español*.

Breach of the obligation of diligence and good administration on the part of the ECB, having failed to adopt the appropriate early intervention and/or recovery measures in respect of *Banco Popular Español* with a failure to fulfil obligations under the Guidelines on early intervention triggers (Article 27(4) of the BRRD).

(ii) illicit or negligent actions on the part of the Single Resolution Board. In that connection, the applicants claim:

Infringement of Articles 7 and 13 of Regulation (EU) 806/2014 and Article 3(4) of the BRRD, on account of the SRB's uncoordinated actions with the ECB, as well as the failure to update the Resolution Plan for Banco Popular Español.

Breach of the duty of confidentiality on the part of the SRB, with the related infringement of Article 339 TFEU and Article 88(1) of Regulation (EU) 806/2014.

Infringement of Article 20 of Regulation (EU) 806/2014, on account of the SRB's refusal to undertake a final valuation of Banco Popular Español, and the related breach of the obligation of diligence and good administration]

93. Case T-16/19, **Activos e Inversiones Monterroso v SRB,** *pending*

[request for annullment of the decision adopted by the Single Resolution Board of 31 October 2018, in the framework of this procedure [Ares (2017) 61995390] and, the appropriate legal steps having been taken, give judgment annulling the decision of 31 October 2018 and upholding the form of order sought, granting access to all documents included in the relevant administrative file.In support of the action, the applicant relies on infringement of Article 41 of the Charter of Fundamental Rights of the European Union and of Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. 1

In that connection, the applicant argues that, in the present case, protection of the public interest as regards the economic or monetary policy of the European Union or a Member State, protection of the commercial interests of a natural or legal person, protection of privacy and the integrity of the individual, protection of the purpose of investigations, or the opposition of the originator of the information, are not applicable as exceptions to the disclosure of documents]

94. Case T-512/19, **Del Valle Ruiz and Others v SRB,** *pending*

[request for annulment of the SRB Decision (SRB/CM01/ARES (2018) 3664981) of of 20 May 2019 agreeing not to draw up the definitive valuation report provided for in Article 20.11 of Regulation (EU) No 806/2014 in the context of the resolution of Banco Popular and, consequently, order the Single Resolution Board to draw up that definitive valuation report in accordance with the applicable legislation and order the defendant and the parties intervening in full or partial support of the form of order sought by it to pay the costs.
In support of their action, the applicants invoke five pleas in law.
First plea, alleging failure to state or failure sufficiently to state the reasons on which the measure is based and, consequently, infringement of Articles 41 and 47 of the Charter of Fundamental Rights of the European Union ('the Charter').
Second plea, alleging infringement of Article 20.11 of the SRM Regulation, 1 in so far as the defendant states that the definitive valuation report on *Banco Popular* provided for in that provision will not be drawn up.

	Third plea, alleging infringement of the principle of sound administration provided for under Article 41 of the Charter, in so far as the Single Resolution Board deviated from the opinion of an independent expert on the need to draw up the definitive valuation report without substantiating its decision with any scientific or economic arguments. Fourth plea, alleging infringement of the right to an effective legal remedy and rights of defence and, consequently, infringement of Article 2 TFEU, Article 47 of the Charter and Article 24 of the Spanish Constitution. Fifth plea, alleging infringement of recital 24 of the SRM Regulation and failure to comply with the *Meroni* case-law, in so far as, first, the defendant has not been delegated the power to decide at its discretion whether or not it is appropriate to issue the definitive valuation report, and, secondly, and in any event, a decision such as the decision contested in the present action should have been overseen by the European Commission]	
95.	Case T-528/19, **Arranz de Miguel and Others v ECB and SRB,** *pending* [request that the ECB and the SRB to pay compensation for the damage caused. The pleas in law and main arguments are similar to those raised in Case T-659/17, Vallina Fonseca v SRB]	

3.3. Actions related to ABLV Bank, AS and ABLV Bank Luxembourg, SA

On 23 February 2018 the ECB determined that *ABLV Bank, AS* and *ABLV Bank Luxembourg, SA*, a subsidiary of the Latvian bank, were failing or likely to fail in accordance with Article 18(1)(a) in conjunction with Article 18(4)(c) of the SRM Regulation (ECB Decisions). On the same day, the SRB decided not to adopt a resolution scheme in respect of *ABLV* and its subsidiary given that resolution action with respect to the Bank is not necessary in the public interest, in accordance with Article 18(1)(c) in conjunction with Article 18(5) of the SRMR (SRB Decisions). On 12 June 2018 the FCMC submitted a draft decision about withdrawal of the bank's authorisation of a credit institution to the ECB – that was the day when the FCMC approved the voluntary liquidation of the bank and the bank became a joint stock company in liquidation (see, winding-up notice). On 11 July 2018 the ECB withdrew the authorisation of the ABLV Bank AS as a credit institution. The proceedings listed below concern the actions put forward against the SRB and the ECB Decisions. The colour coding applied for the cases on the resolution of *Banco Popular*, applies also to these cases.

No.	Case	Colour Code
1.	Case T-280/18, **ABLV Bank v SRB**, *pending* [request for annulment of the SRB Decisions of 23 February 2018. The applicant relies on 13 pleas in law, including lack of competence of the SRB, error of assessment, violation of the principle of proportionality, the right to equal treatment, the right to property]	

2.	Case T-281/18, **ABLV Bank v ECB,** *pending* [request for annulment of ECB decisions of 23 February 2018. The applicant relies on ten pleas in law, including that the ECB's assessment of the 'failing or likely to fail' criterion' in respect of the applicant and its subsidiary *ABLV Bank Luxembourg* was erroneous and deficient, violation of the right to be heard, principle of proportionality, right to equal treatment and right to property] See, also, Cases T-564/18 (*Bernis and Others v ECB*), T-283/18 (*Bernis and Others v SRB*) and T-283/18 (*Bernis and Others v ECB*)] • Order of 6 May 2019 dismissing the action as inadmissible ECLI:EU:T:2019:296 **Appeal:** Case C-551/19 P, *pending* [*ABLV Bank AS* requests the Court of Justice to set aside the order of the General Court of 6 May 2019, declare that the application for annulment is admissible and refer the case back to the General Court for it to determine the action for annulment and order the ECB to pay the appellant's costs and the costs of the appeal. The appeal is based on two grounds: (i) the General Court erred in law and violated Article 263 TFEU by failing to base its order on the decision which the ECB actually adopted and (ii) the order under appeal is based on an incorrect interpretation of Article 18(1) of the SSM Regulation]
3.	Case T-282/18, **Bernis and Others v SRB,** *pending* [request for annulment SRB decisions of 23 February 2018. The applicants rely on thirteen pleas in law, including lack of SRB competence, error of assessment, violation of the right to be heard and other procedural rights]
4.	Case T-283/18, **Bernis and Others v ECB,** *pending* [request for annulment of ECB Decisions of 23 February 2018. The applicants rely on 10 pleas in law, including that the ECB's assessment of the 'failing or likely to fail' criterion' in respect of ABLV Bank and its subsidiary *ABLV Bank Luxembourg* was erroneous and deficient, violation of the principle of proportionality, the right to equal treatment and the right to property] • Order of 6 May 2019 dismissing the action as inadmissible ECLI:EU:T:2019:295 **Appeal:** Case C-552/19 P, *pending* [Ernests Bernis, Oļegs Fiļs, OF Holding SIA, Cassandra Holding Company SIA request the Court of Justice to set aside the order of the General Court of 6 May 2019, to declare that the application for annulment is admissible, to refer the case back to the General Court for it to determine the action for annulment and to order the ECB to pay the appellants' costs and the costs of the appeal. The appeal is based on the same grounds as in Case C-551/19 P]

4. Preliminary ruling proceedings on EU Banking Law (CRR, CRDIV, SSM Regulation, BRRD, FICOD, DGS Directive)

No.	Case
1.	Case C-15/16, **Bundesanstalt für Finanzdienstleistungsaufsicht v Ewald Baumeister,** *closed*

[the Bundesverwaltungsgericht (Federal Administrative Court) referred three questions for a preliminary ruling on the interpretation of Article 54(1) of the Directive 2004/39/EC on markets in financial instruments (MiFID I) aksing in essence whether this provision must be interpreted as meaning that (i) all information relating to the supervised entity and communicated by it to the competent authority, and all statements of that authority in its supervision file, including its correspondence with other bodies, constitutes, unconditionally, confidential information that is covered, consequently, by the obligation to maintain professional secrecy that is laid down in that provision. If it does not, the referring court seeks to ascertain, essentially, what criteria are relevant to determining which information, of that held by the authorities established by the Member States to perform the functions laid down by that directive ('the competent authorities'), must be regarded meeting the definition of confidential information; (ii) the determination whether information relating to the supervised entity and transmitted to the competent authorities is confidential depends on the date of that transmission and how that information is classified on that date; (iii) information held by the competent authorities which is at least five years old no longer constitutes business secrets or any other category of confidential information within the meaning of that provision]

- Opinion of AG Bot of 12 December 2017 ECLI:EU:C:2017:958
- Judgment of 19 June 2018 ECLI:EU:C:2018:464

  This judgment and the AG's Opinion are summarised and critically examined in an article by René Smits and Nikolai Badenhoop, T*owards a single standard of professional secrecy for supervisory authorities – A reform proposal*, (2019) 44 E.L. Rev. 295-318; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3346946.

2. Case C-571/16, **Nikolay Kantarev v Balgarska Narodna Banka,** *closed*

[reference for a preliminary ruling from the Administrativen sad – Varna (Varna Administrative Court, Bulgaria) on the interpretation of the 1994 Directive on Deposit Guarantee Schemes (DGS), relevant for the current DGS Directive (2014/49) and of interest for the immediacy of the pay-out once an even temporary unavailability of deposits has been established, which should not depend on an ulterior insolvency or withdrawal of the credit institution's license. Considerations on Francovich liability for incorrect implementation of EU law and on the validity of national law limitations on supervisory liability in case of such State liability for defective transposition or application of EU law.]

- Opinion of AG Kokott of 7 June 2018; ECLI:EU:C:2018:41
- Judgment of 4 October 2018; ECLI:EU:C:2018:807

  Summary by René Smits

3. Case C-594/16, **Enzo Buccioni v Banca d'Italia,** *closed*

[reference from the Consiglio di Stato (Council of State, Italy) on the professional secrecy obligation set out in Article 53(1) of the CRD IV, asking in essence whether this provision, read in conjunction with both Article 15 TFEU and Article 22(2) and Article 27(1) of the SSM Regulation, must be interpreted as precluding the competent authorities of the Member States from disclosing confidential information to a person who so requests in order to be able to institute civil or commercial proceedings with a view to protecting proprietary interests which were prejudiced as a result of the compulsory liquidation of a credit institution]

- Opinion of AG Bobek of 12 June 2018 ECLI:EU:C:2018:425
- Judgment of 13 September 2018 ECLI:EU:C:2018:717
  This judgment and the AG's Opinion are summarised and critically examined in an article by René Smits and Nikolai Badenhoop, Towards a single standard of professional secrecy for supervisory authorities – A reform proposal, (2019) 44 E.L. Rev. (2019) 295-318; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3346946.

4. Case C-52/17, **VTB Bank (Austria) AG v Österreichische Finanzmarktaufsicht**, *closed*

[reference from Bundesverwaltungsgericht (Federal Administrative Court, Austria) asking whether Articles 64 and 65(1) of the CRD IV and Article 395(1) and (5) of the CRR preclude a national legislation which provides that, where the exposure limits set out in Article 395(1) of that regulation are exceeded, 'absorption' interest is to be levied automatically on a credit institution, even if that institution fulfils the conditions laid down in Article 395(5) of the regulation under which a credit institution may exceed those limits and whether Article 48(3) of the SSM Framework Regulation is to be interpreted as meaning that a supervisory procedure may be regarded as having been formally initiated, within the meaning of that provision, where a credit institution reports to the national supervisory authority that the limits set in Article Article 395(1) of the CRR have been exceeded, or where that authority has already adopted a decision in a parallel procedure concerning similar breaches]

- Judgment of 7 August 2018 ECLI:EU:C:2018:648

5. Case C-215/17, **Nova Kreditna Banka Maribor d.d. v Republika Slovenija,** *closed*

[reference from the Vrhovno sodišče (Supreme Court, Slovenia) asking whether Article 1 (2), c) of the Directive 2003/98/EC on the re-use of public sector information and Article 432 (2) of the CRR should be interpreted as to preclude a national legislation requiring a bank which is under the dominant influence of a public entity to disclose data regarding contracts for consultancy, legal services, copyright and services of an intellectual nature (i.e. the corporate or business name, registered office and business address, the value of the contract, the amount of the individual payments for the abovementioned services) without providing for any exception to that requirement in order to protect the business secrets of the bank]

- Opinion of AG Bobek 5 September 2018 ECLI:EU:C:2018:664
- Judgment of 14 November 2018 ECLI:EU:C:2018:901

6. Case C-219/17, **Berlusconi and Fininvest**, *closed*

[reference from the Consiglio di Stato (Council of State, Italy) asking whether (i) challenges for judicial review of an NCA's draft proposal to the ECB in a qualifying holding procedure (Article 22 CRD IV; Article 15 SSM Regulation) are within the competence of national or EU courts; (ii) whether the CJEU is competent when the applicant claims the nullity of these acts for the infringement of *res iudicata*]

- Opinion of AG Campos Sánchez-Bordona of 27 June 2018 ECLI:EU:C:2018:502
- Judgment of 19 December 2018 ECLI:EU:C:2018:1023
  Summary by Federico Della Negra

7. Case C-282/16, **RMF Financial Holdings S.a.r.l. v Heta Asset Resolution AG,** *closed*

[subsequently withdrawn reference from the *Handelsgericht Wien* (Commercial Court, Austria) on the BRRD in relation to the Directive 2001/24/EC (on the reorganisation and winding up of credit institutions) asking whether the (i) a wind-down entity that no longer holds a banking licence to transact banking business or is now permitted to transact banking business on the basis of a statutory licence solely for the purposes of portfolio liquidation also falls within the scope of Article 1(1) BRRD; if the first question is answered in the negative: (ii) whether Article 3(2) Directive 2001/24/EC implies that a write-down measure ordered by a national administrative authority is fully effective as against persons resident in other Member States, also having regard to Article 17(1) of the Charter (right to property) (iii) if the free movement of capital (Article 63(1) TFEU) precludes a national provision extending the scope of the BRRD to a wind-down entity; (iv) if a write-down measure ordered by a national administrative authority is to be recognised in another Member State (v) whether the term "secured liability" in Articles 2(1)(67) and 44(2)(b) BRRD is to be interpreted, in particular having regard its Article 1(2), as also encompassing liabilities for which a regional public authority (*i.c.* the Austrian Province of Carinthia) has assumed a statutory deficiency guarantee? (vi) are Articles 43(2)(b) and 59(3)(b) and (4) of the BRRD to be interpreted as precluding a national provision by virtue of which a measure corresponding to the bail-in tool of Article 43 BRRD is implemented in a case where there is no longer a realistic prospect that the institution's viability may be restored and where no systemically important services are transferred to a bridge institution and no other parts of the institution's business may be sold any longer, but the sole purpose of that institution is management of assets, rights and liabilities with a view to the orderly, active and optimum

realisation of those individual assets, rights and liabilities (portfolio liquidation)? In such a case, in accordance with the BRRD, should the liquidation of that wind-down entity preferentially be carried out in the context of orderly insolvency proceedings?]

- Order of 25 November 2016 removing the case from the registry due to the withdrawal of the request for a preliminary ruling ECLI:EU:C:2016:945

8. Case C-414/18, **Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia**, *closed*

[reference from the Tribunale amministrativo regionale per il Lazio (TAR Lazio) (Regional Administrative Court, Italy) asking whether: (i) Article 5(1), in particular subparagraphs (a) and (f) of the Delegated Regulation 2015/63, interpreted in the light of the principles referred to in that regulation,in BRRD, SRM Regulation and Article 120 of the TFEU, the fundamental rules of equal treatment, non-discrimination and proportionality laid down in Article 21 of the Charter, and the prohibition on levying double contributions, preclude, for the purpose of calculating the contributions referred to in Article 103(2) of the BRRD, the application of the regime laid down for intragroup liabilities also in the case of a 'de facto' group or, in any event, in the case of interconnectedness between an institution and other banks forming part of the same system; (ii) Alternatively, in the light of the above-mentioned principles, the preferential treatment reserved for liabilities arising in respect of promotional loans in Article 5 of the Delegated Regulation 2015/63 should also be applied, by analogy, to the liabilities of a 'second-level' bank vis-à-vis other banks in the (cooperative credit) system, or should that characteristic of an institution, in fact operating as a central bank within an interconnected and integrated group of small banks, including in its relations with the ECB and the financial markets, give rise, under existing rules, to some form of adjustment to the financial data submitted by the national resolution authority to the relevant Community bodies and to the determination of the contributions payable by the institution to the resolution fund in respect of its actual liabilities and risk profile. See, in more details, on this reference for preliminary ruling, n. 3 of the section on the judicial proceedings concerning Banking Union legislation and/or acts of EU institutions before national courts, below]

- Opinion AG Campos Sánchez-Bordona of 9 July 2019 ECLI:EU:C:2019:574
- Judgment of 3 December 2019 ECLI:EU:C:2019:1036

  [Article 103(2) of the BRRD and Article 5(1)(a) and (f) the Delegated Regulation 2015/63 must be interpreted as meaning that liabilities that arise from transactions between a second-tier bank and the members of a grouping that comprises it and the cooperative banks to which it supplies various services, but where it does not control those banks, and that do not match loans granted on a non-competitive, not for profit basis, in order to promote the public policy objectives of central or regional governments in a Member State are not excluded from the calculation of the contributions to a national resolution fund that are the subject of Article 103(2) of the BRRD]

9. Case C-255/18, **State Street Bank International GmbH v Banca d'Italia**, *closed*

[reference from Tribunale amministrativo regionale per il Lazio (TAR Lazio) asking whether: (i) the "changes of status" that do not have an effect on the contribution requirement under Article 12 of the Delegated Regulation 2015/63 include the merger by acquisition of an institution previously subject to supervision by a national resolution authority with its parent company in another Member State during the contribution period, and does this rule also apply where the merger and the resulting dissolution of the institution took place in 2015, at a time when the Member State had not yet formally established either the national resolution authority or the national resolution fund and the contributions had not yet been calculated; (ii) Article 12 of the Delegated Regulation 2015/63, in conjunction with Article 14 of that regulation and Articles 103 and 104 of the BRRD, should be interpreted as meaning that also in the case of the merger of an institution by acquisition with a parent company in another Member State during the contribution period, the institution is required to pay the contribution for that period in full, not on a pro rata basis according to the months when the institution was subject to supervision by the resolution authority of the first Member State, by analogy with the rules laid down for "newly supervised" institutions under Article 12(1) of the Delegated Regulation 2015/63?; (iii) BRRD, Delegated Regulation 2015/63 and the principles governing the system of banking crisis resolution tools should be interpreted as meaning that the rules laid down for the ordinary

contribution, in particular Article 12(2) of the Delegated Regulation 2015/63, also apply, with regard to the timing of the identification of institutions required to contribute and the amount of the contribution, to the extraordinary contribution, bearing in mind the nature of that contribution and the conditions under which it may be imposed]

- Opinion AG Campos Sánchez-Bordona of 26 June 2019 ECLI:EU:C:2019:539
- Judgment of 14 November 2019 ECLI:EU:C:2019:967

[(i) The concept of 'change of status', within the meaning of Article 12(2) of the Delegated Regulation 2015/63, must be interpreted as including a transaction, such as that at issue in the main proceedings, by which an institution ceases, in the course of a year, to be under the supervision of the national resolution authority following a cross-border merger through acquisition by its parent company, and as a result that transaction has no impact on the institution's obligation to pay in full the ordinary contributions due for the contribution year in question;

(ii) Article 12(2) of Delegated Regulation 2015/63must be interpreted as applying to a situation in which a cross-border merger by acquisition of an institution located in one Member State, by its parent company established in another Member State, and the resulting dissolution of the acquired institution, took place in 2015, at a time when the first Member State had not yet formally established either the national resolution authority or the national fund and the contributions had not yet been calculated;

(iii) Article 104 of the BRRD must be interpreted as meaning that an institution located in one Member State, which merged through acquisition with a parent company established in another Member State on a date prior to the establishment of an extraordinary contribution by the first Member State's national resolution authority, is not required to pay that contribution]

11. **Conseil d'État, Section du contentieux, 9ème et 10ème chambres réunies, decision 4 december 2019**, n° 415550 [not published yet on www.curia.europa.eu]

[reference for a preliminary ruling in a dispute brought by the French Banking Federation (*Fédération bancaire française (FBF)*) against the National Competent Authority (*Autorité de contrôle prudentiel et de resolution (ACPR)*. The FBF initiated an action for the annulment for excess of power (*excès de pouvoir*) of the ACPR's notice of 8 September 2017 that it will comply with the EBA Guidelines on product oversight and governance arrangements for retail banking products of 22 March 2016 (EBA/GL/2015/18). The *Conseil d'Etat* (Council of State) decided to stay the proceedings and request preliminary questions to the ECJ: (i) whether the guidelines adopted by the European Supervisory Authorities may be subject to an action of annulment under Article 263 of the TFEU and, in the affirmative, whether a professional association is entitled to challenge the validity of these guidelines; (ii) if either of the previous questions is answered in the negative, whether the guidelines adopted by the European Supervisory Authorities may be subject to a reference for a preliminary ruling under Article 267 of the TFEU; in the affirmative, whether a professional association is entitled to challenge, by way of exception, the validity of guidelines addressed to its members and that are not of its individual and direct concern; (iii) if the Fédération bancaire française is entitled to contest, by way of exception, these guidelines, whether the EBA exceeded the competences conferred on it by the Regulation (EU) No 1093/2010].

12. Case C-686/18, **Adusbef and others v Banca d'Italia and others,** *pending*

[reference from the Consiglio di Stato (Council of State, Italy) asking whether: (i) Article 29 of the CRR, Article 10 of Commission Delegated Regulation (EU) No 241/2014 and Articles 16 and 17 of the Charter, with reference to Article 6(4) of the SSM Regulation preclude a national provision such as that introduced by Article 1 of the Decree-Law No 3/2015, converted, with amendments, by Law No 33/2015 (and currently also Article 1(15) of Legislative Decree No 72/2015, which has replaced Article 28(2-ter of the Italian consolidated law on banking, substantially reproducing the text of Article 1(1)(a) of Decree-Law No 3/2015, as converted, with amendments that are not relevant to the present case), which imposes an asset threshold above

	which a people's bank must be converted into a company limited by shares, setting that limit at EUR 8 billion of assets and whether the abovementioned unified European parameters preclude a national provision which, if a people's bank is converted into a company limited by shares, makes it possible for that company to defer or limit, including for an indefinite period, redemption of the shares held by the withdrawing shareholder; (ii) whether Articles 3 and 63 et seq. TFEU preclude a national provision such as that introduced by Article 1 of Decree-Law No 3/2015 (converted, with amendments, by Law No 33/2015), which limits the exercise of cooperative banking activities within a given asset limit, requiring the bank concerned to be converted into a company limited by shares if it should exceed that limit; (iii) whether Article 107 et seq. TFEU preclude a national provision such as that introduced by Article 1 of Decree-Law No 3/2015, converted, with amendments, by Law No 33/2015 (and currently also Article 1(15) of Legislative Decree No 72/2015, which has replaced Article 28(2-ter) of the Italian consolidated law on banking, substantially reproducing the text of Article 1(1)(a) of Decree-Law No 3/2015, as converted, with amendments that are not relevant to the present case), which requires a people's bank to be converted into a company limited by shares if it exceeds a certain asset threshold (set at EUR 8 billion), establishing restrictions on the redemption of the shares held by the shareholder in the event of withdrawal, to avoid the possible liquidation of the converted bank; (iv) whether the combined provisions of Article 29 of the CRR and Article 10 of Commission Delegated Regulation (EU) No 241/2014 preclude a national provision such as that introduced by Article 1 of Decree-Law No 3/2015 (converted, with amendments, by Law No 33/2015), as interpreted by the Italian Constitutional Court in judgment No 99/2018 (see case No 2, in section 5 of this list, below), which permits a people's bank to defer redemption for an unlimited period and to limit the associated amount in full or in part; (v) where, in its interpretation, the Court of Justice holds that the European legislation is compatible with the interpretation asserted by the opposing parties, can the Court of Justice assess the lawfulness, in European terms, of Article 10 of Commission Delegated Regulation (EU) No 241/2014, in the light of Articles 16 and 17 of the Charter and the case-law of the European Court of Human Rights on Article 1 of the First Additional Protocol to the ECHR]. • Order of 18 January 2019 rejecting the referring court's request for an accelerated procedure ECLI:EU:C:2019:68 • Opinion of AG Hogan of 11 February 2020 ECLI:EU:C:2020:90

5. Judicial proceedings concerning Banking Union legislation and/or acts of EU institutions before national courts

No.	Case
1.	Ufficio del giudice per le indagini preliminari del Tribunale di Vicenza (judge in charge of preliminary investigations at the Tribunal of Vicenza, Italy), order of 8 February 2018, *closed* [The Tribunal of Vicenza, in the context of the criminal proceedings for the alleged crimes of market manipulation, obstacles to supervisory activity and false prospectus against managers of *Banca Popolare di Vicenza SpA*, decided that the ECB, as well as the *Banca d'Italia*, the *CONSOB* and some private entities, cannot be called on these criminal proceeding as persons liable for the damages caused by these managers to the investors. The Tribunal motivated this conclusion by holding that there is no legal provision that requires the ECB to be responsible for the damages committed by others and because, in accordance with Article 268 and 340 of the TFEU, Italian courts do not have jurisdiction on the ECB]
2.	Corte Costituzionale (Constitutional Court, Italy), judgment of 21 March 2018, n. 99, *closed* [The Constitutional Court dismissed the questions for constitutionality raised by the Consiglio di Stato (Council of State, Italy) with regard to Article 1 of the Decree-Law No 3/2015, converted, with amendments, by Law No 33/2015. This provision allows cooperative banks (banche popolari and banche di credito cooperativo) to limit the right of shareholders to have their shares redeemed in case of withdrawal from the company, when this limitation is necessary

	to meet the own funds requirements (Article 28(2ter) of the Italian consolidated law on banking). The judgment is motivated by the following reasons. First, the Law Decree was adopted in compliance with the requirements of urgency and necessity laid down by Article 77(2) of the Italian Constitution. Second, the limitation to the shareholders' right to redeem their shares does not violate the right to property enshrined in Articles 41, 42, 117 of the Italian Constitution, Article 1 of the Protocol to the ECHR and Article 17 of the Charter. The Court held that the limitation to the right to property is legitimate, in that (i) it respects the EU own funds requirements, in particular, Article 10(2) of the Commission Delegated Regulation (EU) No 241/2014, (ii) it is necessary in order to reduce the risks that the withdrawal of a high number of shareholders and the redemptions of their shares would pose to the stability of the banks and the system and (iii) it is proportionate in order to ensure the stability of the banking and financial system as a whole and to avoid that the bank may be subject to resolution. Third, Banca d'Italia by exercising its power to implement, through 9° aggiornamento alla Circolare n. 285/2017, the Decree-Law No 3/2015, converted, with amendments, by Law No 33/2015, did not exceed the limits of its mandate]
3.	Tribunale amministrativo regionale per il Lazio (TAR Lazio) Regional Administrative Court, Italy), order of 7 June 2018, n. 6364/2018, *closed* [The Regional Administrative Court decided to stay the proceeding brought by Iccrea Banca S.p.A. Istituto Centrale del Credito Cooperativo s.p.a. for the annulment of several administrative acts by which Banca d'Italia required the applicant to pay its contribution for 2016 to the national resolution fund and referred to the CJEU several questions for a preliminary ruling which are the subject of the pending case C-414/18, Iccrea Banca SpA Istituto Centrale del Credito Cooperativo v Banca d'Italia]
4.	UK Supreme Court, judgment of 4 July 2018, [2018] UKSC 34 [Goldman Sachs International (Appellant) v Novo Banco SA (Respondent), *closed* Guardians of New Zealand Superannuation Fund and others (Appellants) v Novo Banco SA (Respondent)] Summary by Petja Ivanova
5.	Consiglio di Stato (Council of State, Italy), judgment of 3 May 2019, n. 2890/2019, *closed* [The Council of State, in line with the CJEU's judgment in the Case C-219/17, declared inadmissible the actions brought by Mr Silvio Berlusconi and by Finanziaria d'Investimento Fininvest SpA which sought to declare that the Banca d'Italia proposal to oppose the acquisition of a qualifying holding in Banca Mediolanum SpA was in contrast with the final judgment of the Council of State n. 882/2016 which upheld the applicant's claim that the reason for the lack of good reputational standing that justified the opposition to the acquisition of the qualifying holding at issue had arisen before the legislation imposing that requirement entered into force, and was not therefore covered by that legislation. The Council of State also held that the applicants' request to refer to the Italian Constitutional Court a question on the alleged contrast of Article 263 TFUE, as implemented by national law, with the the right to an effective judicial protection set out in Articles 2, 24, 11 and 117 of the Italian constitution is unfounded]
6.	*Bundesverfassungsgericht* (Constitutional Court, Germany), judgment of 30 July 2019 2 BvR 1685/14, 2 BvR 2631/14 (Press release), *closed* [Constitutional complaint by the *Europolis Gruppe* against the SSM and the relevant national legislation (Gesetz zum Vorschlag für eine Verordnung des Rates zur Übertragung besonderer Aufgaben im Zusammenhang mit der Aufsicht über Kreditinstitute auf die Europäische Zentralbank *vom 25. Juli 2013, BGBl. II 2013, S. 105*0); Act of 25 July 2013 on the proposal of the Council conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions) and secondary law acts on banking union – an analysis of the issue in the context of the German constitution by the academic service of the Bundestag (German Lower House of Parliament) can be found here]

7.	Tribunale amministrativo regionale per il Lazio (TAR Lazio) Regional Administrative Court, Italy), judgments of 24 September 2019, n. 11264/2019 and n. 11276/2019, *pending* [The Regional Administrative Court, in line with the CJEU's judgment in the case C-219/17 and the Council of State's judgment n. 2890/2019 declared inadmissible the actions brought by Mr Silvio Berlusconi and by Finanziaria d'Investimento Fininvest SpA which sought the annulment of several acts of Banca d'Italia, including the proposal to the ECB to oppose the acquisition of a qualifying holding in Banca Mediolanum SpA. Moreover, the Regional Administrative Court held that the applicants' request to refer to the Italian Constitutional Court a question on the alleged contrast of Article 263 TFUE, as implemented by national law, with the the right to an effective judicial protection set out in Articles 2, 24, 11 and 117 of the Italian constitution, on the alleged contrast of Article 25 of the Italian consolidated law on banking with Article 25 of the Italian constitution and on the alleged contrast of Article 19(5) of Italian consolidated law on banking with Article 3 of the Italian constitution are not relevant]

6. Other relevant judicial proceedings

Under this heading we highlight selected proceedings that are relevant in the context of proceedings on our list.

6.1. Judicial proceedings in the context of Emergency Liquidity Assistance

The following proceedings deal with requests for access to ECB documents in relation to the granting of Emergency Liquidity Assistance (ELA): the judgment of 13 March 2019 in Case T-730/16 (*Espírito Santo Group SA* v *ECB*), on appeal in Case C-396/19 P, and the judgment of 12 March 2019 in Case T-798/17, (*De Masi and Varoufakis v ECB*), on appeal in Case C-342/19 P.

No.	Case
1.	Case T-730/16, **Espírito Santo Financial Group SA v ECB**, *closed* [request for annulment of the ECB Decision of 31 August 2016 not to provide full access to the ECB decision of 1 August 2014 which suspended *Banco Espírito Santo S.A.*'s Eurosystem monetary policy counterparty status and obliged it fully to repay its debt to the Eurosystem and refusing full access to related documents or decisions of ECB bodies. The applicant relies on six pleas in law: (i) breach of the duty to state reasons in relation to the refusal to grant access to the ECB Governing Council's decisions; (ii) breach of the first, second and seventh indents of Article 4(1)(a) of the Decision ECB/2004/3 of 4 March 2004 on public access to ECB documents (ECB Public Access Decision) in relation to the refusal to grant access to the ECB Governing Council's decisions; (iii) breached of the duty to state reasons in relation to the refusal to grant access to the ECB Executive Board's proposals; (iv) breach of the second and seventh indents of Article 4(1)(a) of the ECB Public Access Decision in relation to the refusal to grant access to the ECB Executive Board's proposals; (v) breach of the first indent of Article 4(2) of the ECB Public Access Decision in relation to the refusal to grant access to the ECB Executive Board's proposals; (vi) breach of Article 4(3) of the ECB Public Access Decision in relation to the refusal to grant access to the ECB Executive Board's proposals. • Judgment of 13 March 2019 which partially annuls the ECB Decision of 31 August 2016 partially refusing to disclose certain documents relating to its decision of 1 August 2014 concerning *Banco Espírito Santo SA,* in so far as it refused to disclose the amount of credit indicated in the extracts of the minutes recording the decision of the Governing Council of the ECB of 28 July 2014 and the information redacted from the proposals of the Executive Board of the ECB of 28 July and 1 August 2014 ECLI:EU:T:2019:161 **Appeal:** Case C-396/19 P, *pending* [the ECB claims that the the Court should set aside point no. 1 of the operative part of the judgment of the General Court of 13 March 2019, dismiss the application also as concerns

	the ECB's refusal to disclose the amount of credit in the extracts of the minutes recording the decision of the Governing Council of the ECB of 28 July 2014; in the alternative, refer the case back to the General Court of the European Union for it to give judgment. The ECB submits that the General Court erroneously interpreted and applied Article 10.4 of the Statute of the European System of Central Banks and of the ECB ("Statute") and the first indent of Article 4(1)(a) of the ECB Public Access Decision, by holding that the Governing Council's discretion regarding the disclosure of its minutes must be exercised in light of the conditions laid down in the ECB Public Access Decision (paragraph 60), meaning, in the particular case, that the ECB is obliged to provide a statement of reasons explaining how disclosure of information contained in minutes of Governing Council proceedings recording Governing Council decisions specifically and actually undermine the public interest as regards the confidentiality of proceedings of the ECB's decision-making bodies (paragraph 61)]
2.	Case T-798/17**, De Masi and Varoufakis v ECB**, *closed* [Claim by Fabio De Masi (MEP for *Die Linke*, German leftist party) and Yanis Varoufakis (former Greek Minister of Finance) for annulment of the ECB's decision, notified by letter of 16 October 2017, by which the applicants' application for access to the ECB document *Responses to* questions concerning the interpretation of Article 14.4 of the Statute of the ESCB and of the ECB of 23 April 2015 was rejected. Please in law: incorrect application of the second indent of Article 4(2) of the ECB Public Access Decision as, according to applicants publication of the legal opinion in question would not undermine the ECB's legal advice and that there is an overriding public interest in its disclosure; alleged "lack of consideration" and inadequate reasoning; incorrect application of Article 4(3) of the ECB Public Access Decision — as, publication of the legal opinion "would not undermine its internal use as part of deliberations and preliminary consultations within the ECB, or for exchanges of views between the ECB and NCBs"] • Judgment of 12 March 2019 dismissing the applicants' claim ECLI:EU:T:2019:154 **Appeal:** C-342/19 P, *pending* [The appellants claim that the CJEU should set aside in its entirety the judgment on the basis of four grounds of appeal (i) failure to have regard for the primary law principle of transparency (Articles 15(1) TFEU, 10(3) TEU and 298(1) TFEU and Article 42 of the Charter; (ii) failure to have regard to the obligation to state reasons as the contested ECB decision allegedly fails to set out the specific prejudice to the ECB; (iii) failure to have regard for the connection between Articles 4(3) (Transparency exceptions: opinions for internal use) and 4(2) (Transparency exceptions: legal communications) of the ECB Public Access Decision as Article 4(2) is said to constitute a *lex specialis* in relation to legal opinions and the fact that Article 4(3) of that decision is not applicable to abstract legal advice; (iv) unlawfully denying an overriding public interest in the publication of the document in the sense of Article 4(3) of the ECB Public Access Decision]

6.2. Judicial proceedings in the context of state aid

No.	Case
1.	Case T-98/16, **Italy v Commission,** *pending* Case T-196/16, **Banca Tercas v Commission,** *pending* Case T-198/16, **Interbank Deposit Protection Fund v Commission,** *pending* [request for annulment of the European Commission Decision No C (2015) 9526 final of 23 December 2015 on the State aid SA.39451 (2015/C) (ex 2015/NN) ('contested Decision') implemented by Italy for BANCA TERCAS (Cassa di risparmio della provincia di Teramo S.p.A. The applicants alleged, in essence: (i) the infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the public nature of the resources to which the disputed measures relate; (ii) the infringement of Article 107(1) TFEU and erroneous

reconstruction of the facts concerning the imputability of the contested measures to the State; (iii) the infringement of Article 107(1) TFEU and erroneous reconstruction of the facts concerning the granting of a selective advantage. Incorrect application of the MEIP (market-economy-investor principle) criterion; (iv) the infringement of Article 107(3)(b) TFEU and erroneous reconstruction of the facts in respect of the assessment of compatibility of the alleged State aid with the internal market; (v) the Commission's failure to provide adequate reasons on the public nature of the resources and their imputability to the State; (vi) the Commission's manifest error of assessment in deeming the measures in question incompatible with the internal market]

- Judgment of 19 March 2019 in joined cases T-98/16, T-196/16 e T-198/16, Italy, *Banca Popolare di Bari SCpA (former Banca Tercas), Interbank Deposit Protection Fund, supported by Banca d'Italia v Commission* of 19 March 2019 annulling the contested Decision ECLI:EU:T:2019:167

Appeal: Case C-425/19 P, **Commission v Italy and Others**, *pending*

[the Commission claims that the CJEU should set aside the judgment of the General Court of 19 March 2019 on the basis of two grounds: (i) the Commission claims that the General Court infringed Article 107(1) TFUE for two reasons: the General Court erred as regards the burden of proof to be discharged by the Commission in order to establish that the conditions concerning imputability and State resources were met, by requiring the Commission to demonstrate positively the existence of a dominant influence on the part of the public authorities, at every stage of the procedure which led to the adoption of the measures in question, over the entity granting the aid, solely on account of the fact that the latter is a private entity; the General Court erred as regards the burden of proof to be discharged by the Commission in order to establish that the conditions concerning imputability and State resources were met, by examining and assessing the various evidence produced by the Commission in the decision at issue piecemeal, without considering it as a whole and without taking into account its broader context; (ii) the findings of the General Court are further vitiated by serious material inaccuracies concerning the facts and the interpretation of the relevant Italian law which are clearly apparent from the case-file]

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1 Article 429 (14) CRR:

"Competent authorities may permit an institution to exclude from the exposure measure exposures that meet all of the following conditions:

(a) they are exposures to a public sector entity;

(b) they are treated in accordance with Article 116(4);

(c) they arise from deposits that the institution is legally obliged to transfer to the public sector entity referred to in point (a) for the purposes of funding general interest investments." Article 116(4) CRR: "In exceptional circumstances, exposures to public-sector entities may be treated as exposures to the central government, regional government or local authority in whose jurisdiction they are established where in the opinion of the competent authorities of this jurisdiction there is no difference in risk between such exposures because of the existence of an appropriate guarantee by the central government, regional government or local authority."

2 The pleas in law and main arguments are similar to those alleged in Case T-478/17.

3 The pleas in law and main arguments are similar to those put forward in Cases T-478/17, T-481/17, T-482/17, T-483/17, T-484/17, T-497/17, and T-498/17.

4 The pleas in law and main arguments are similar to those relied on in Case T-659/17, Vallina Fonseca v SRB

5 Based on the ECB Banking Supervision website and ECB summary of the penalty, on 14 March 2018 the ECB imposed an administrative penalty of EUR 1 600 000 on *Banco de Sabadell, S.A.*. for having repurchased its own shares without prior permission and ordered the publication of this decision on its website.

[6] In these quotes from the information in the *Official Journal*, *ΤράπεζατηςΕλλάδος* (Bank of Greece) was wrongly translated into 'National Bank of Greece; 'the NBG'' which is not the Bank of Greece but a Greek commercial bank (*Εθνική ΤράπεζατηςΕλλάδος* (National Bank of Greece). In this description, ΤράπεζατηςΕλλάδος has been translated into Bank of Greece (BoG).