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By PwC Deutschland | 22 November 2023

Banco Popular: Shareholders and creditors not entitled to compensation from Single Resolution Fund

The General Court of the EU decided today that affected shareholders and creditors in the course of winding up Spain's ailing Banco Popular in 2017 were not entitled to compensation from the Single Resolution Fund, as they would not have received better treatment in the event of the liquidation of the bank than that resulting from its resolution.

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Background

After the global financial crisis of 2008, the EU legislature put in place a number of measures (Banking Union) aimed at protecting EU financial markets. One of those measures is the Single Resolution Mechanism (SRM). The Single Resolution Board (SRB) has decided that the sale of business tool for transferring shares to a purchaser meets the resolution objectives and ensures the financial stability in Spain and Portugal, where Banco Popular owns a subsidiary. As a result, the shares, including the entire business of Banco Popular and its subsidiaries, have been transferred to Santander Group as of 7 June 2017.

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

Decision

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

More details of the judgments (in the cases: T-302/20, T-303/20 and T-307/20, T-304/20, T-330/20 and T-340/20) to be found **here**.

Keywords

Liquidation, resolution