

Action brought on 24 June 2016 — Banco Cooperativo Español v SRB**(Case T-323/16)**

(2016/C 296/39)

*Language of the case: Spanish***Parties**

Applicant: Banco Cooperativo Español, SA (Madrid, Spain) (represented by: D. Sarmiento Ramirez-Escudero, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicant claims that the General Court should:

- declare inapplicable Article 5(1) of Delegated Regulation 2015/63, and
- annul the decision of the Single Resolution Board, addressed to Banco Cooperativo Español, regarding the settlement of the *ex ante* contribution corresponding to the financial year 2016.

Pleas in law and main arguments

By the present action, the applicant challenges the decision regarding the *ex ante* contribution to the Single Resolution Fund corresponding to the financial year 2016, adopted by the Single Resolution Board and notified through the Spanish Executive Resolution Authority (Autoridad de Resolución Ejecutiva española, 'FROB') on 26 April 2016 in accordance with Article 6 of Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to *ex ante* contributions to the Single Resolution Fund (OJ 2015 L 15, p. 1).

In support of its action, the applicant relies on two pleas in law.

1. The first plea in law is based, pursuant to Article 277 TFEU, on a plea of illegality, and is seeking that the General Court declare inapplicable Article 5(1) of Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements (OJ 2015 L 11, p. 44). It is claimed, in this regard, that Article 5(1) of the Delegated Regulation:
 - infringes Article 103(7) of Directive 2014/59, 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 of Fundamental Rights of the European Union, in that it unjustifiably restricts the applicant's 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.
2. The second plea in law alleges infringement of the second subparagraph of Article 103(2) of Directive 2014/59 and Article 70 of Regulation No 806/2014, interpreted in the light of Article 16 of the Charter and of the principle of proportionality.

It is claimed, in this regard, that the reasons justifying the inapplicability of Article 5(1) of Delegated Regulation 2015/63 clearly show that it is necessary to adjust the applicant's risk profile to the operative singularity of the cooperative network it leads, as the abovementioned provisions require. Consequently, and to that extent, the contested decision, the content of which corresponds to a strict and literal application of a rule that takes no account of the applicant's risk profile, must be regarded as contrary to the second subparagraph of Article 103(2) of Directive 2014/59 and, in particular, Regulation No 806/2014, Article 70 of which, relating to *ex ante* contributions, refers to the provisions of Directive 2014/59 and to its implementing legislation.

Action brought on 27 June 2016 — Hello Media v EUIPO — Hola (#hello digitalmente diferentes)

(Case T-330/16)

(2016/C 296/40)

Language in which the application was lodged: Spanish

Parties

Applicant: Hello Media, SL (Madrid, Spain) (represented by: A. Alejos Cutuli, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Hola, SL (Madrid, Spain)

Details of the proceedings before EUIPO

Applicant: Applicant

Trade mark at issue: European Union figurative mark containing the word elements ‘#hello digitalmente diferentes’ — Application for registration No 12 440 574

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 21/04/2016 in Case R 1979/2015-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject opposition B 2 336 348 to the application for a European Union trade mark No 12 440 574;
- order the grant of European Union trade mark No 12 440 574 ‘#hello digitalmente diferentes’ (with graphic);
- order the defendant to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.
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