

**Action brought on 14 May 2019 — PNB Banka and Others v ECB****(Case T-301/19)**

(2019/C 246/33)

*Language of the case: English***Parties**

*Applicants:* PNB Banka AS (Riga, Latvia), CR (\*), CT (\*) (represented by: O. Behrends and M. Kirchner, lawyers)

*Defendant:* European Central Bank

**Form of order sought**

The applicants claim that the Court should:

- annul the ECB's decision of 1 March 2019 to classify PNB Banka as a significant entity;
- order the defendant to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely on ten pleas in law.

1. First plea in law, alleging that the ECB incorrectly assumed that Article 6(5)(b) of the SSM Regulation <sup>(1)</sup> envisages a classification decision.
  - The applicants submit that Article 6(5)(b) of the SSM Regulation merely authorises the ECB to exercise itself all the relevant powers of a national competent authority. Article 39(5), second sentence, of the SSM Framework Regulation <sup>(2)</sup> cannot change the nature of the decision pursuant to Article 6(5)(b) of the SSM Regulation. Were the Court to conclude that Article 39(5), second sentence, of the SSM Framework Regulation changes the nature of that decision, the applicants plead the illegality of the said Article 39(5), second sentence.
2. Second plea in law, alleging that that the ECB based its decision on incorrect assumptions as to the conditions and purpose of Article 6(5)(b) of the SSM Regulation and, inter alia, failed to take into account the exceptional nature of a decision pursuant to that provision.
3. Third plea in law, alleging that the ECB failed to examine and appraise carefully and impartially all the relevant aspects of the individual case in order to determine the necessity of a decision pursuant to Article 6(5)(b) of the SSM Regulation.
4. Fourth plea in law, alleging that the ECB violated several essential procedural requirements.

(\*) Information erased or replaced within the framework of protection of personal data and/or confidentiality.

5. Fifth plea in law, alleging that the ECB failed to exercise its discretion pursuant to Article 6(5)(b) of the SSM Regulation.
6. Sixth plea in law, alleging that the ECB violated the principle of proportionality.
7. Seventh plea in law, alleging that the ECB violated the *nemo auditor* principle.
8. Eighth plea in law, alleging that the ECB violated the principle of equal treatment.
9. Ninth plea in law, alleging that the ECB violated the principles of legitimate expectations and legal certainty.

— The applicants submit that the decision is unclear and therefore creates legal uncertainty and is contrary to the legitimate expectations of PNB Banka based on its prior interactions with the ECB and the Financial and Capital Markets Commission.

10. Tenth plea in law, alleging that that the ECB violated Article 19 of the SSM Regulation and recital 75 of its preamble and committed a *détournement de pouvoir*.

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(<sup>1</sup>) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63).

(<sup>2</sup>) Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (ECB/2014/17) (OJ 2014 L 141, p. 1).

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**Action brought on 20 May 2019 — BRF Singapore Foods v EUIPO — Tipiak (Sadia)**

**(Case T-309/19)**

(2019/C 246/34)

*Language of the case: English*

**Parties**

*Applicant:* BRF Singapore Foods Pte Ltd (Singapore, Singapore) (represented by: C. Mateu, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Tipiak (Saint-Aignan de Grand Lieu, France)

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant before the General Court

*Trade mark at issue:* Application for European Union figurative mark Sadia in colours black and white — Application for registration No 12 084 356

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 19 March 2019 in Case R 1834/2018-4