



Press and Information

General Court of the European Union

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Orders of the President of the General Court in Cases T-419/18 R
Crédit agricole and Crédit agricole Corporate and Investment Bank v
Commission and T-420/18 R JPMorgan Chase and Others v Commission

The President of the General Court rejects the application of Crédit agricole and JPMorgan Chase to prevent publication of the Commission decision regarding the EURIBOR cartel

The banks claimed that the entirety of the description of the infringing conduct had to be concealed, or even that the Commission had to refrain from any publication of that decision

By decision of 7 December 2016¹, not yet published, the European Commission imposed fines amounting to €485 million on Crédit agricole, JP Morgan Chase and on another bank for their participation in a cartel relating to Euro Interest Rate Derivatives (EURIBOR). The banks colluded with respect to elements of the price of derivatives and exchanged sensitive information in breach of EU rules on anti-competitive practices.

Crédit agricole and JPMorgan Chase challenged that decision before the General Court; the procedure is ongoing (Cases T-113/17 and T-106/17).

At the same time, Crédit agricole and JPMorgan Chase entered into discussion with the Commission concerning the publication of that decision in order to identify confidential information which should not be included in the published decision.

Crédit agricole claimed, in particular, that the Commission had to conceal the entirety of the description of its infringing conduct pending a ruling from the Courts of the EU on its action in Case T-113/17. As for JP Morgan Chase, it claimed that the Commission had to refrain from any publication of the decision pending a ruling from the Courts of the EU on its action in Case T-106/17.

By decisions of 27 April 2018², the Commission rejected, in essence, the requests for confidentiality.

Crédit agricole and JPMorgan Chase brought actions for annulment before the General Court against those decisions (Cases T-419/18 and T-420/18) and, at the same time, submitted applications for interim measures seeking suspension of the operation of those decisions and, in essence, for the Commission decision finding the cartel not to be published until the end of the proceedings for annulment of that decision.

In its orders of today, the President of the General Court rejects the applications for interim measures.

He notes first that interim measures may be ordered only if the applicants' arguments do not appear to be unfounded. Concerning interim protection for confidential information, it does not

¹ Commission Decision C(2060) 8530 final of 7 December 2016 relating to a proceeding under Article 101 [TFEU] and Article 53 of the Agreement on the European Economic Area [Case AT.39914 – Euro Interest Rate Derivatives (EUIRD)].

² Commission Decision C(2018) 2743 final of 27 April 2018 concerning objections to the disclosure of information and Commission Decision C(2018) 2745 final of 27 April 2018 concerning objections to the disclosure of information.

suffice to maintain that that information is of a confidential nature. It is necessary to establish whether it can be claimed, *prima facie*, that the information is actually of a confidential nature.

The President of the General Court notes next that the interest that an undertaking, on which the Commission has imposed a fine for a breach of competition law, has in the details of the infringing conduct alleged against it not being divulged to the public does not justify any particular protection, in view of the public interest in knowing as fully as possible the reasons for any Commission action. Moreover, a balance must be struck between the need to publish a decision finding an infringement in order to furnish victims of the infringement with evidence to obtain compensation and the need to protect professional secrecy or trade secrets.

The President of the General Court points out that the applicants' arguments that the principle of presumption of innocence precludes any publication of the decision finding an infringement or requires the whole of the description of the infringing conduct to be concealed, cannot, *prima facie*, succeed. He notes that the acts of the EU institutions enjoy a presumption of legality and produce legal effects so long as they have not been withdrawn, annulled or declared invalid.

Therefore, the President of the General Court finds that there are no grounds, *prima facie*, for the applications brought by the banks relating to confidential treatment and thus rejects the applications for interim measures.

NOTE: The General Court will deliver final judgment on the substance of this case at a later date. An order as to interim measures is without prejudice to the outcome of the main proceedings. An appeal, limited to points of law only, may be brought before the President of the Court of Justice against the decision of the President of the General Court within two months of notification of the decision.

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The full text [T-419/18 R](#) & [T-420/18 R](#) of the orders are published on the CURIA website.

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