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Judgment of the General Court in Case T-411/22 | Dexia v SRB (2022 ex-ante contributions)

The calculation of the 2022 ex ante contributions to the Single Resolution Fund (SRF) is unlawful

The Single Resolution Board (SRB) exceeded an annual upper limit imposed by the applicable rules

The French credit institution Dexia has challenged before the General Court of the European Union the lawfulness of the SRB's decision ¹ setting the 2022 *ex-ante* contributions ² to the SRF, in so far as that decision concerns Dexia.

According to Dexia, when calculating individual ex ante contributions for a given year, the SRB must not exceed an upper limit imposed by the applicable legislation ³. In particular, the *ex-ante* contributions of all the institutions authorised in the territories of all the Member States participating in the Single Resolution Mechanism (SRM) are not to exceed 12.5% of the financial means that should be available in the SRF at the end of 2023 ("the final target level") ⁴. The SRB disregarded that limit.

By its judgment, **the General Court upholds Dexia's action and annuls the contested decision in so far as it concerns Dexia, while provisionally maintaining its effects.**

When the SRB calculates the *ex-ante* contributions for a given year, it must effectively ensure that the amount of the *ex-ante* contributions due by all the authorised institutions does not exceed 12.5% of the forecast final target level ⁵.

The SRB failed to observe that requirement. It had forecast the final target level at €79 987 450 580. Thus, when it calculated the 2022 ex ante contributions, it had to ensure that the amount of the *ex-ante* contributions due by all the authorised institutions did not exceed 12.5% of that amount, namely the amount of €9 998 431 322.50. However, it set the annual target level for 2022 at €14 253 573 821.46 (an amount which was then reduced to €13 675 366 302.18 after certain deductions).

In so doing, the SRB infringed the applicable rules, which justifies the annulment of the contested decision in so far as it concerns Dexia. However, **the Court considers it necessary to maintain the effects of that decision until the SRB has taken the necessary measures to implement the judgment delivered today, but for no longer than six months from the date on which that judgment becomes final.**

If the SRB were required to repay, with immediate effect, the amount of Dexia's ex ante contribution (as well as the amounts of the ex ante contributions of other institutions, such as those which have brought a similar action raising the same argument as Dexia, whereas they remain in principle subject to the obligation to pay ex ante contributions), that would risk depriving the SRF of the financial means that may prove necessary to ensure the stability of the euro area and the financial stability of the Union.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Decision SRB/ES/2022/18 of the Single Resolution Board (SRB) of 11 April 2022 on the calculation of the 2022 ex ante contributions to the Single Resolution Fund (SRF).

² One of the purposes of collecting ex ante contributions is to ensure, according to an insurance-based logic, that the financial sector provides adequate financial resources for the Single resolution mechanism for credit institutions and certain investment firms (SRM) to be able to fulfil its functions. One of the objectives of the SRM is, in turn, to increase the stability of institutions in participating Member States and to prevent the spill-over of any crises into non-participating Member States.

³ The first and fourth subparagraphs of Article 70(2) 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.

⁴ At the end of the initial period, the financial means available in the SRF must reach the final target level, which is at least 1% of the amount of covered deposits of all authorised institutions. Because of those financial means, the SRF will be able to be used, in the event of a crisis affecting the banking sector, to finance resolution tools and thus to ensure their effective application.

⁵ For each contribution period, the SRB must estimate, as precisely as possible, the final target level in the light of the data available at the time when the estimate is made.