



Press Release

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Auditors call for continued vigilance on the financial risks of the EU's bank resolution system

In 2021, risks to the EU's system for managing the orderly winding-up of failing banks within the Banking Union decreased. But this is no reason for the EU to let its vigilance slip, the European Court of Auditors warns in a report published today.

The European Court of Auditors has an obligation to report each year on any financial risk relating to the Single Resolution Mechanism (SRM), the EU system managing the orderly winding-up of failing banks within the Banking Union. For the 2021 financial year, the Commission and the Council did not report any contingent liabilities, while the Single Resolution Board (SRB) has reported some related to pending litigation concerning banks' contributions to the Single Resolution Fund (SRF), a fund which can be used to support bank resolutions. The auditors consider these disclosures appropriate, but recommend improvements to the monitoring of financial risk and to the method for calculating possible reimbursements of legal costs.

"The European Court of Justice has now issued judgments on five key legal cases contesting the SRB's first resolution decision – that of Banco Popular Español", said Rimantas Šadžius, who led the audit during his mandate as an ECA member. "In our report, we note that the resulting legal certainty has decreased the level of financial risk to the Banking Union. We provide a detailed overview of the remaining risks, and recommend further improvements to the monitoring and calculation of possible financial consequences."

Since the resolution of Banco Popular Español in 2017, litigation has been brought at EU and national level on numerous occasions. Earlier this year, the European Court of Justice dismissed five key cases against the resolution decision. Although the SRB had previously assessed the probability of losing these cases as being remote, the dismissal of the cases contesting the resolution decision has further reduced the financial risks to the SRB. For the 2021 financial year, the SRB reported no related contingent liabilities from any cases at EU level. The auditors found no evidence that would contradict this assessment. For cases at national level, the SRB relies on reporting from the Spanish national resolution authority. However, the relevant reporting was

The purpose of this press release is to convey the main messages of the European Court of Auditors' annual report on the SRM's contingent liabilities. The full report is available at www.eca.europa.eu

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received after the SRB's accounts had been closed. For the 2022 accounts, this type of information should be collected earlier and incorporated into the process, the auditors recommend.

As for litigation about the calculation of banks' contributions to the SRF, the auditors note that, following the recommendation from the previous year's audit report, the SRB reassessed the related contingent liabilities and reported a significantly lower amount than in 2020. For 2021, the SRB disclosed contingent liabilities of €5.5 million relating to 63 legal cases at EU level, and did not disclose any related to national proceedings, in line with a Court of Justice judgment which found that national courts do not have jurisdiction to annul these decisions. A sum of €2.55 million was disclosed in the accounts as possible compensation for legal costs. The method used to quantify these costs should be refined, the auditors say, particularly by taking into account the characteristics of individual cases. Furthermore, the SRB should enhance its disclosures on contingent liabilities for those cases where the risk of disbursement from the Single Resolution Fund is assessed as being "possible" but the financial exposure cannot be reliably estimated.

Background information

Over 900 administrative and court cases related to the resolution of Banco Popular Español are pending at national level. At EU level, two actions seeking the annulment of the SRB's non-resolution decisions for ABLV Bank have been dismissed by the General Court. For the litigation concerning the non-resolution of PNB Banka, the General Court has decided to wait until related cases against the European Central Bank's assessment "failing or likely to fail" reach the final decision stage.

There are also some new cases whose potential financial consequences will only be considered for next year's accounts. Geopolitical tensions led to a deterioration of the liquidity situation of Sberbank Europe AG (owned by Sberbank of Russia, which is majority owned by the Russian Federation) and its subsidiaries in Croatia and Slovenia, which have been deemed to be "failing or likely to fail" by the ECB. The SRB has consequently decided to adopt resolution schemes. Sberbank Europe and Sberbank of Russia have sought the annulment of these decisions by bringing proceedings against the SRB, the Commission and the Council.

This audit report deals exclusively with contingent liabilities arising as a result of the performance by the SRB, the European Commission and the Council of their tasks under the SRM Regulation for the 2021 financial year. It is available on the [ECA website](#).

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