Parliamentary question - E-002289/2022(ASW)

European Parliament

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Answer given by Executive Vice-President Vestager on behalf of the European Commission

4.8.2022

Written question

1. In 2017 the Commission approved aid notified by Portugal for the sale of Novo Banco on the basis of a restructuring plan and commitments undertaken by Portugal to ensure that the aid was compatible with the internal market in line with the EU State aid rules. Since then, the Commission has been closely monitoring compliance with the commitments submitted by the Portuguese Government.

2. The Commission and the Single Resolution Board had no role concerning the resolution of Banco Espírito Santo/Novo Banco and the determination of the capital requirements for Novo Banco.

As the European Court of Justice recognised in its judgment in Case C-83/20[1], the resolution process of Banco Espírito Santo was conducted by the Portuguese authorities based on national Portuguese law before the expiry of the deadline for transposition of Directive 2014/59/EU (BRRD — Bank Recovery and Resolution Directive)[2]. This directive therefore does not apply to Novo Banco. As far as capital requirements are concerned, the responsibility to determine such requirements lies with the European Central Bank and the national competent authorities in accordance with the relevant Union legislation[3].

[1] Judgment of the Court of 5 May 2022 (request for a preliminary ruling from the Supremo Tribunal Administrativo — Portugal) — BPC Lux 2 Sàrl and Others v Banco de Portugal, Banco Espíritu Santo SA, Novo Banco SA.

[2] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.

[3] (A) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EU (CRD — Capital Requirements Directive); (B) Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (CRR — Capital requirements Regulation, and (C) 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 (SSMR- Single Supervisory Mechanism Regulation).