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

Margrethe Vestager
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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 Espírito Santo SA, Novo Banco SA.