

2020

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Recommended Citation

Kyle A. Markwardt, *Promoting Economic Cohesion Over the Continued Rise of National Interests: Landeskreditbank Baden-Württemberg - Förderbank v. European Central Bank*, 53 INT'L L. 291 (2020)

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Promoting Economic Cohesion Over the Continued Rise of National Interests: *Landeskreditbank Baden-Württemberg – Förderbank v. European Central Bank*

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The 2008 financial crisis, and consequently the European debt crisis, drastically encouraged law-making bodies in the United States and abroad to reexamine and, in many cases, to overhaul the regulatory schemes concerning the banking industry. Perhaps none more so than the European Union (EU), which faced the difficult task of balancing the competing interests of its Member States against the cohesion of the Eurozone and its single currency.² While the financial crisis seems a distant memory in the United States (at the time of writing this article, the unemployment rate is still relatively low at 3.5 percent and the average hourly wage increased 2.9 percent over the past twelve months³), the European Union still faces difficulty mounting a full recovery as the European Central Bank (ECB) struggles to keep inflation under control and continues its asset purchase plan.⁴ Consequently, with the rise of nationalistic overtones to various governmental leaders, particularly in the U.S. and U.K., the regulatory scheme of the European Union faces mounting criticism.⁵ This becomes more important as more U.S. officials see the possibility of a new recession on the rise.⁶

With this in mind, the decision, and subsequent appeal, of Case T-122/15, *Landeskreditbank Baden-Württemberg – Förderbank v. European Central Bank*, presents an interesting and novel discussion about how the ECB will attempt

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2. See Council Regulation 1024/2013, 2013 O.J. (L 287) 63 (EU) (recitals 1 – 6).

3. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, USDL-19-1735, THE EMPLOYMENT SITUATION – SEPTEMBER 2019 (2019), https://www.bls.gov/news.release/archives/empisit_10042019.pdf.

4. Press Release, Eur. Cent. Bank, Monetary Policy Decisions (Sept. 12, 2019), <https://www.ecb.europa.eu/press/pr/date/2019/html/ecb.mp190912~08de50b4d2.en.html>.

5. See generally Martin Arnold, *Draghi Faces Chorus of Criticism Over Fresh Stimulus*, FIN. TIMES (Sept. 13, 2019), <https://www.ft.com/content/9039dd0e-d61f-11e9-a0bd-ab8ec6435630>.

6. See generally Heather Long, *The Fed Has 'Put the Economy into a More Dangerous Position,' Central Bank's Kashkari Says*, WASH. POST (Sept. 24, 2019, 3:37 PM), <https://www.washingtonpost.com/business/2019/09/24/fed-has-put-economy-into-more-dangerous-position-feds-kashkari-says/>.

to maintain stability and uniformity within the Eurozone.⁷ The case itself involves a German state bank's, Landescreditbank Baden-Württemberg – Förderbank (Landeskredit), contention that it should not be classified as a “significant entity” under EU law, which would subject it to direct supervision by the more stringent ECB as opposed to the less stringent national regulatory scheme.⁸ The General Court of the Court of Justice of the European Union examined various statutory and regulatory guidelines before ultimately determining that the ECB exercised valid powers when it designated Landeskredit as a significant entity, and therefore struck down the bank's challenges.⁹ Consequently, the General Court's strict construction of the regulatory language (and the affirmation on appeal¹⁰) likely is a strong indicator that the EU will continue to promote economic cohesion over nationalistic control through supervision of any entity that falls within the ECB guidelines.¹¹ Therefore, it is likely that the administrative efforts of the EU will supersede those of its individual Member States in the near term to protect the economic stability of the entire bloc.

This case note discusses the implications of the General Court's ruling, and its ultimate appeal, for the banking institutions that might be subject to the supervision of the ECB. Part I provides relevant background material, both legally and factually, by discussing the relevant EU and ECB regulations which provide the basis for the categorization of a “significant entity.” Part II describes the Landeskredit decision and its appeal in detail. Finally, Part III discusses the implications of the decision and provides practical advice for its application.

I. Background

A. LEGAL BACKGROUND

Considering the economic reality facing the EU, the EU itself confers great responsibility on the ECB “to safeguard financial stability in the Union, and to use its supervisory powers in the most effective and proportionate way.”¹² Indeed, the EU Council elaborates further on this

7. See generally Case C-450/17 P, *Landeskreditbank Baden-Württemberg – Förderbank v. European Cent. Bank*, 2019 E.C.R. 372; Tobias H. Tröger, *How Not to Do Banking Law in the 21st Century – The Judgement of the European General Court (EGC) in the Case T-122/15 – Landeskreditbank Baden-Württemberg – Förderbank v European Central Bank (ECB)*, OXFORD BUS. L. BLOG (June 16, 2017), <https://www.law.ox.ac.uk/business-law-blog/blog/2017/06/how-not-to-banking-law-21st-century-judgement-european-general-court>.

8. See generally Tröger, *supra* note 7.

9. See generally Case T-122/15, *Landeskreditbank Baden-Württemberg – Förderbank v. European Cent. Bank*, 2017 E.C.R. 337.

10. See generally *Landeskreditbank*, 2019 E.C.R. 372.

11. Tröger, *supra* note 7.

12. Council Regulation 1024/2013, 2013 O.J. (L 287) 69 (EU) (recital 55).

grave duty by stating that the ECB must consider “the safety and soundness of credit institutions and the stability of the financial system within the Union and each Member State, with full regard and duty of care for the unity and integrity of the internal market . . . with a view to preventing regulatory arbitrage.”¹³ Through the implications of this language, it is clear that the EU desires the uniformity and stability of the bloc’s economy over all else.

In order to accomplish this lofty goal, the EU established a Single Supervisory Mechanism (SSM) which is composed of the ECB and national competent authorities to regulate credit institutions within the bloc.¹⁴ The EU also gave the ECB the power to oversee the SSM, and importantly, it gave the ECB exclusive competency to review all credit institutions within the Member States.¹⁵ But perhaps in foresight of the gargantuan regulatory task ahead, the EU decided to split regulatory oversight between the ECB and the national authorities whereby the national authorities oversee those institutions which are “less significant.”¹⁶ Significance is determined by:

- 1) the institution’s size, where the total value of the institution’s assets exceeds EUR 30 billion;
- 2) the institution’s importance for the economy of the Union or any participating Member State, where the ratio of its assets over the GDP of the participating Member State of establishment exceeds twenty percent unless its total assets are below EUR 5 billion; and
- 3) the significance of cross-border activities, where the ECB may, of its own initiative, list an institution as significant if it has banking subsidiaries in more than one Member State.¹⁷

Interestingly, the ECB is obligated to regulate the three “most significant credit institutions in each of the participating Member States” even if they are not considered significant under the above guidelines.¹⁸ Significance is determined on these guidelines unless “justified by particular circumstances to be specified in the methodology.”¹⁹

The ECB, in an attempt to clear up the patent ambiguity of the phrase “particular circumstances” issued a regulation of its own wherein “[p]articular circumstances . . . exist where there are specific and factual circumstances that make the classification of a supervised entity as significant inappropriate, taking into account . . . the need to ensure the consistent application of high supervisory standards.”²⁰ Importantly, under the

13. *Id.* art. 1, at 72.

14. *See id.* art. 6(1) – (2), at 75.

15. *See generally id.* arts. 4, 6, at 74 – 77.

16. *See generally id.*

17. *Id.* art. 6(4), at 75 – 76.

18. *See id.*

19. *See id.*

20. Regulation 468/2014 of the European Central Bank of 16 April 2014 Establishing the Framework for Cooperation Within the Single Supervisory Mechanism Between the ECB and

regulation, the phrase “particular circumstances” is to be strictly interpreted.²¹ Furthermore, the ECB set out that each reclassification of a significant entity would be determined on a case-by-case basis solely for the supervised entity at issue and not for a group or category of supervised entities.²²

Within the context of these rules, the EU considered that national authorities would be able to regulate credit institutions which the ECB has not deemed significant.²³ But under this regulatory scheme, national authorities must still submit regular reports on their regulatory measures to the ECB.²⁴ Finally, the EU required an Administrative Review Board to be implemented by the ECB, through which the ECB’s decisions could be challenged and reviewed internally.²⁵

Viewed in its entirety, the regulatory scheme established by these various decisions creates what Americans would consider an example of cooperative federalism, in which the Member States are free to regulate their own institutions so long as they do not independently come under or conflict with the regulations of the international agency. And while it is true that the EU vested great regulatory power in the ECB through these regulations, it also left to the Member States certain avenues to assert and defend their sovereignty.

B. FACTUAL BACKGROUND

Landeskredit is an investment development bank which was created under the Baden-Württemberg regional credit bank and is wholly owned by the state of Baden-Württemberg.²⁶ At the time the decision was rendered, Landeskredit purportedly had EUR 75 billion in total assets, which was more than twice the ECB’s supervisory threshold of EUR 30 billion.²⁷ On June 25, 2014, the ECB submitted to Landeskredit that it was subject solely to the ECB’s supervision rather than the shared supervision of the SSM due to its size.²⁸

On July 10, 2014, Landeskredit disputed this decision by arguing that because of its risk profile—it met the “particular circumstances” exception of

National Competent Authorities and with National Designated Authorities (SSM Framework Regulation), art. 70(1), 2014 O.J. (L 141) 27.

21. *See id.* art. 70(2), at 28.

22. *See id.* art. 71(1), at 27.

23. *See* Council Regulation 1024/2013, art. 6(4), 2013 O.J. (L 287) 75 – 76 (EU).

24. *See id.* art. 6(6), at 76.

25. *See id.* art. 24(6), at 84; *see generally* Decision 2014/360/EU of the European Central Bank of 14 April 2014 Concerning the Establishment of an Administrative Board of Review and its Operating Rules (ECB/2014/16), 2014 O.J. (L 175) 47.

26. *Landeskreditbank*, 2017 E.C.R. 337, ¶ 1.

27. Balazs Koranyi, *EU Court Rejects Rare Challenge to ECB Authority by German Bank*, REUTERS (May 16, 2017, 4:29 AM), <https://www.reuters.com/article/us-ecb-banks-challenge/eu-court-rejects-rare-challenge-to-ecb-authority-by-german-bank-idUSKCN18C0VW>.

28. *Landeskreditbank*, 2017 E.C.R. 337, ¶ 2.

Regulation 468/2014—it should fall within the national authority’s regulatory scheme.²⁹ The ECB, at least implicitly, rejected this contestation when it classified Landeskredit as significant in September of 2014.³⁰ Consequently, one month later, Landeskredit requested review of the ECB’s decision through the Administrative Board of Review, and in November 2014, the Administrative Board of Review determined the ECB’s classification of Landeskredit as significant to be lawful.³¹ Having exhausted its administrative options for relief, Landeskredit sought annulment of the ECB’s decision through the General Court, giving rise to the case at issue.³²

Interestingly, at the time the decision was rendered, the ECB purportedly supervised 125 of the Eurozone’s largest banks, making up eighty-two percent of the bloc’s balance sheet.³³ Given the size and relative importance of Landeskredit to the State of Baden-Württemberg, it is alleged that this challenge sought to avoid the added costs of ECB supervision as well as the administrative costs of translating all documents to English, the operating language of the ECB.³⁴ Given the overall volume of the EU’s balance sheet overseen by the ECB and the relative frustrations which come with its supervision, this is the first substantive challenge to this regulatory scheme.³⁵

II. The Decision

Landeskredit contests the ECB’s decision listing it as a significant entity on five separate grounds.³⁶ Firstly, Landeskredit complains that the ECB incorrectly interpreted the “significant” classification so as to misapply it in the case at hand; this is the issue on which the General Court focuses the most.³⁷ Secondly, Landeskredit alleges that the ECB made errors surrounding the facts of the case.³⁸ The third and fourth grounds for error assert that the ECB failed to give Landeskredit sufficient notice and failed to exercise its discretion respectfully.³⁹ Finally, Landeskredit alleges that the ECB failed to take into account all relevant circumstances of the case.⁴⁰ This case note will focus on the General Court’s primary analysis of the first issue, which presents the substantive and strict understanding of the “significant” classification.

Regarding the first assignment of error, Landeskredit specifically alleges that the “significant” classification as adopted by the ECB in article 70 of

29. *See id.* ¶ 3.

30. *Id.* ¶ 4.

31. *Id.* ¶¶ 5–6.

32. *See generally id.*

33. Koranyi, *supra* note 27.

34. *See id.*

35. *See generally* Tröger, *supra* note 7.

36. *Landeskreditbank*, 2017 E.C.R. 337, ¶ 17.

37. *See id.* ¶ 19.

38. *Id.* ¶ 17.

39. *Id.*

40. *Id.*

Regulation 468/2014 is “an indeterminate legal concept that must be interpreted in the light of the principle of proportionality . . . which governs the manner in which the EU institutions are to exercise their competences.”⁴¹ Under this assumption, Landeskredit asserts that direct supervision by the ECB is inappropriate where supervision by the national authority is sufficient to meet the objectives of Council Regulation 1024/2013.⁴² More plainly, Landeskredit believes that when national authority regulation is just as good as ECB regulation, the ECB should cede oversight to the national authority.⁴³

A. LITERAL INTERPRETATION OF THE REGULATION

The General Court considers the question posed by Landeskredit as one of interpretation.⁴⁴ In order to answer this question, the General Court must take into account the wording of the statute, its context, and the objectives it seeks to achieve in light of the overall regulatory scheme.⁴⁵ Further, if the General Court cannot determine the scope of the regulation from its textual and historical interpretations, then the Court must consider the regulation’s purpose and general structure.⁴⁶

In the General Court’s view, the wording of article 70 “focuses solely on the examination of whether or not the [significant] classification . . . is appropriate.”⁴⁷ Based on the decision in *Gauweiler*, the General Court distinguishes between appropriateness (whether the regulation “is suitable for attaining the legitimate objectives” of the legislation) and necessity (whether or not the regulation goes beyond what is required in order to achieve the objectives of the legislation.)⁴⁸ Applying these principles to article 70, the General Court concludes that in order to surmount direct ECB supervision for a significant entity, the entity must show that the ECB regulations are less likely to achieve the goals of the legislation than the regulations of the national authority.⁴⁹

B. APPLYING THE PRINCIPLES OF PROPORTIONALITY AND SUBSIDIARITY

In arguing against the plain meaning as determined by the General Court, Landeskredit asserts that because national authorities retain the ability to supervise “less significant” entities, they likewise retain the ability to

41. *Id.* ¶ 35.

42. *See Landeskreditbank*, 2017 E.C.R. 337, ¶ 35.

43. *See id.*

44. *See id.* ¶ 39.

45. *E.g.*, Case C-17/03, *Vereniging voor Energie, Milieu en Water v. Directeur van de Dienst uitvoering en toezicht energie*, 2005 E.C.R. 362, ¶ 41.

46. *E.g.*, *Joined Cases C-68/94 & C-30/95, France v. Comm’n*, 1998 E.C.R. I-1375, ¶ 168.

47. *Landeskreditbank*, 2017 E.C.R. 337, ¶ 44.

48. *Id.* ¶ 45.

49. *See id.* ¶¶ 45–46.

supervise significant entities when the national regulations are as good as those of the ECB, with consideration to the purpose of the legislation and the principles of proportionality and subsidiarity.⁵⁰

The General Court approaches this challenge by first considering how the competences were divided between the ECB and the national authorities.⁵¹ The General Court determines that national authorities retain various competences to regulate “less significant” entities while still being subject to certain prerogatives of the ECB.⁵² Further, the Court points out that the ECB retains the sole competency to determine whether an entity qualifies as significant.⁵³ The combination of these retained prerogatives and the ECB’s explicit competency not only promotes the subordinate nature of the national authorities but also gives the ECB broad discretion in its determination of significant entities.⁵⁴

Next, the General Court considers how the principles of proportionality and subsidiarity apply under its interpretation.⁵⁵ The General Court easily dismisses the principle of subsidiarity, which requires a determination of whether a proposed action by the EU can be achieved just as effectively by Member States.⁵⁶ But this consideration applies only when the proposed action does not fall within the exclusive competency of the EU or its institutions.⁵⁷ As noted above, the General Court determined that the categorization of significant entities fell within the exclusive competency of the ECB; therefore, the principle of subsidiarity cannot apply.⁵⁸

Conversely, the principle of proportionality states that the “content and form” of the legislation cannot exceed what is necessary to attain its objectives.⁵⁹ This principle gives deference to the discretion that was conferred on EU institutions and calls for the application of the least burdensome alternative when presented with “several appropriate measures.”⁶⁰ Despite this, Landeskredit argues that, in the exercise of its competencies, the ECB must give the greatest possible deference to national competencies.⁶¹

The General Court approaches this question about the division of competencies by stating that “the national authorities are acting within the scope of decentralized implementation of an exclusive competence of the

50. *See id.* ¶¶ 47–49.

51. *Id.* ¶ 50.

52. *See id.* ¶¶ 53–63.

53. *See id.* ¶¶ 58–63.

54. *See id.*

55. *See id.* ¶¶ 65–66.

56. *E.g.*, Case C-508 /13, *Estonia v. Parliament & Council*, 2015 E.C.R. 403, ¶ 44.

57. *See id.*

58. *Landeskreditbank*, 2017 E.C.R. 337, ¶ 65.

59. *Id.* ¶ 66.

60. *Id.* ¶¶ 67–68 (citing Case C-547/14, *Philip Morris Brands SARL v. Sec’y of State for Health*, 2016 E.C.R. 325 and Case C-380/03, *Germany v. Parliament & Council*, 2006 E.C.R. 772).

61. *Id.* ¶ 69.

[EU], not the exercise of a national competence.”⁶² Therefore, the General Court reasons, the only competency that the national authorities can claim to be exercising in the alternative is the general implementation of EU law, which only applies absent direct regulation by the ECB.⁶³ And while the national authorities retain this right, application of Landeskredit’s interpretation would lead to a case-by-case analysis of whether direct supervision by the national authorities would be just as good as the ECB’s supervision for any given significant authority.⁶⁴ This is directly counter to the built-in case-by-case analysis provided by the legislation, which allows the ECB to consider if national authority supervision might be better than that of the ECB, and therefore the principle of proportionality does not apply.⁶⁵

The General Court concludes that Landeskredit had to show that direct supervision by the national authority would better serve the purposes of Council Regulation 1024/2013 than supervision by the ECB.⁶⁶ Because Landeskredit was unable to do so, the complaint was rejected.⁶⁷ Interestingly, Landeskredit submits nearly the exact same assignments of error on appeal.⁶⁸ The appellate court directly affirms the judgment on this issue with a couple of clarifications.⁶⁹ Particularly, the appellate court notes that the ECB does not have to show that its supervision is superior to that of the national authority, and further, the appellate court sees no reason why it would be impossible for the entity to prove that “particular circumstances” exist which would allow a significant entity to be regulated by the national authority.⁷⁰

III. Implications of the Decision

The court takes what could be construed as a mandate for cooperation between the ECB and relevant national authorities and instead creates a regulatory scheme that subjects the national authorities almost entirely to the supervision of the ECB. While much of the analysis of the General Court’s decision hinges on its interpretation of article 6 of Council Regulation 1024/2013 as applied to the ECB’s determination of “particular circumstances” within Decision 2014/360/EU, the formalistic approach taken by the General Court would be enough to make the late Justice Scalia smile with admiration.⁷¹ That said, the decision seems to imply two ways in which a potentially significant entity can avoid direct supervision by the

62. *Id.* ¶ 72.

63. *See Landeskreditbank*, 2017 E.C.R. 337, ¶ 73.

64. *See id.* ¶ 74.

65. *See id.* ¶¶ 75–76.

66. *Id.* ¶ 81.

67. *Id.* ¶ 85.

68. *See generally Landeskreditbank*, 2019 E.C.R. 372.

69. *Id.*

70. *Id.* ¶¶ 59, 63.

71. *See generally Landeskreditbank*, 2017 E.C.R. 337.

ECB: 1) restrict business development so as to stay local and avoid the size threshold; or 2) encourage national authorities to boost regulatory efforts, “taking into account the objectives and principles of [Council Regulation 1024/2013].”⁷² And the bloc may have to deal with the regulatory incentives this creates across the continent.⁷³

The first option can be dismissed nearly entirely. It is apparent that the advent of globalism promoted a near-global economy in which growth heavily incentivizes the creation of new markets.⁷⁴ Consequently, the purely local credit institution would likely find it difficult to compete with the various multi-national institutions with such massive capital reserves as Landeskredit.⁷⁵ This drastic difference would likely diminish the local institution’s ability to service and provide solutions to their clients, ultimately driving them out of business.

The second option, although potentially more feasible, presents its own challenges, which are likely not easily overcome. A national authority could very well increase its regulatory efforts within its understanding of what Council Regulation 1024/2013 sets out to achieve, namely the stability of the EU market and equal treatment of the credit institutions.⁷⁶ But as the General Court (and the appellate court) point out, the ECB has exclusive competency to determine the significance of the entity, which intrinsically places exclusive competency in the ECB to determine whether the national authority has done enough to surmount its burden by showing its supervision is better than that of the ECB.⁷⁷ Given the General Court’s formalistic approach, and consequently its relative deference to the ECB, it is not hard to imagine that the General Court would continue to side with the ECB on any future challenges regardless of how a national authority might respond.⁷⁸

Finally, with regards to incentives, the implications of the ECB regulatory scheme become particularly important with the rise of nationalism, specifically when it comes to Brexit. Given that London functioned as one of the leading financial centers of Europe, the rise of Brexit led many to believe that the city would suffer heavily upon leaving the EU.⁷⁹ But in light of this decision, some commentators believe that Brexit presents an

72. See *id.* ¶ 29.

73. See generally Tröger, *supra* note 7.

74. See generally Chris Sheridan, *Is Expansion the Answer for NBA to Replace Lost China Money?*, FORBES (Oct. 17, 2019), <https://www.forbes.com/sites/chrissheridan/2019/10/17/is-expansion-the-answer-for-nba-to-replace-lost-china-money/#1178af8951db> (discussing, as a case study, the NBA’s revenue streams in China and the potential need to find new U.S. markets should the Chinese restrict NBA promotion within China).

75. See Koranyi, *supra* note 27.

76. Council Regulation 1024/2013, art. 1, 2013 O.J. (L 287) 72 (EU).

77. See generally *Landeskreditbank*, 2017 E.C.R. 337.

78. *Id.*

79. See generally *London’s Financial Sector Will Take a Knock in 2019*, FIN. TIMES (Jan. 8, 2019), <https://www.ft.com/content/bb73029a-104d-11e9-acdc-4d9976f1533b>.

opportunity.⁸⁰ With the U.K. no longer bound by the ECB regulations, it would be free to capitalize on the “regulatory arbitrage” that Council Regulation 1024/2013 seeks to avoid.⁸¹ While there is no indication of this happening yet, if the ECB maintains its strict adherence to its policies, it is possible that financial institutions might look outside the bloc to more regulatory-friendly markets in order to conduct business.⁸²

These implications become more important because the decisions of the General Court and appellate court effectively determine that, even absent ECB determination on a topic, national authorities are still subservient to the EU law within its territory.⁸³ Therefore, at least implicitly, the national authorities are responsible for ensuring that their regulations are consistent with the other Member States, which intrinsically defeats the motives of a nation-state.⁸⁴ And even if a nation was able to restrict all of its credit institutions below ECB supervisory thresholds, the ECB could still declare supervision over the three “most significant” entities within each Member State.⁸⁵ In this way, it becomes obvious that the EU intends to subject the Member States to its will in the hope of protecting the market’s stability and promoting general European unity.

IV. Conclusion

As discussed, the financial crisis and European debt crisis still impact the European continent in various ways. In the wake of that shock, the EU attempted to stabilize the bloc’s economy through regulatory measures which promoted cooperation and unity.⁸⁶ But the decision of *Landeskredit* promotes a regulatory scheme which completely subjects national authorities to the will of an already embattled ECB.⁸⁷ It remains to be seen whether such strict adherence to the statutory framework will succeed in promoting the goals of the legislation. In the face of rising nationalism and competing self-interest, the fate of the economic bloc could very well be impacted by the ECB’s regulation. In any sense, as discussed above, the options left to potentially significant entities are limited to such an extent that they may have to rely on the political process for any relief.⁸⁸ But given the ECB’s

80. See *id.*; Tröger, *supra* note 7.

81. Council Regulation 1024/2013, art. 1, 2013 O.J. (L 287) 72 (EU).

82. See *London’s Financial Sector Will Take a Knock in 2019*, *supra* note 78 (noting that companies have fled New York on multiple occasions after new regulations took effect).

83. See *Landeskreditbank*, 2017 E.C.R. 337, ¶ 73.

84. See *id.*; Council Regulation 1024/2013, 2013 O.J. (L 287) 69 (EU) (recital 55).

85. See Council Regulation 1024/2013, art. 6(4), 2013 O.J. (L 287) 75 – 76 (EU).

86. *Id.* art. 1, at 72.

87. See generally *Landeskreditbank*, 2017 E.C.R. 337; *Landeskreditbank*, 2019 E.C.R. 372.

88. Cf. Damian Paletta, *Federal Government Has Dramatically Expanded Exposure to Risky Mortgages*, WASH. POST (Oct. 2, 2019), https://www.washingtonpost.com/business/economy/federal-government-has-dramatically-expanded-exposure-to-risky-mortgages/2019/10/02/d862ab40-ce79-11e9-87fa-8501a456c003_story.html (discussing how U.S. lending industry was able to influence opinion and unwind regulation).

relentless effort to stabilize the economy, such efforts may be fruitless. With the rising tide of nationalism swelling on the European continent, *Landeskredit* represents perhaps an initial broadside which could endanger the European central authority and the ECB. If nothing else, the case offers an interesting case study of the complex balancing act the EU must perform when considering the promotion of economic stability and cohesion.

