

# Single Rulebook Q&A

<b>Question ID</b>	2015_2173
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2014/59/EU (BRRD)
<b>Topic</b>	Resolution objectives and triggers
<b>Article</b>	32
<b>Paragraph</b>	1, 5
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	n.a.
<b>Date of submission</b>	28/07/2015
<b>Published as Final Q&amp;A</b>	21/01/2022
<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	Stating in law that banks' activities are always in the public interest
<b>Question</b>	Is it compliant with Directive 2014/59/EU (BRRD) if the national transposition measure provides that it is always in the public interest to take resolution action in relation to all credit institutions?
<b>Background on the question</b>	While de facto resolution will often be the norm, it may not always be necessary. A bank's assets can have very low value, its systemic footprint can be small, its depositors could comfortably be paid out, etc. Stating in law that banks' activities are always in the public interest could have moral hazard implications. E.g. there is no resolution fund in insolvency to alleviate some of the burden on creditors. Genuine failure should always remain an option.
<b>Final answer</b>	Article 32(5) BRRD establishes that a resolution action can only be taken if, in addition to the conditions mentioned in subparagraphs (a) and (b) of Article 32(1) BRRD, said action is necessary to achieve one or more of the resolution objectives referred to in Article 31 BRRD and the winding up of the institution would not meet those resolution objectives to the same extent. It follows that liquidation under normal insolvency proceedings should always remain an option and must always be comparatively considered

before any resolution action may be taken, as stated in Recital (46).

Any modification or interference with property rights, especially if entailing expropriations, and normal insolvency proceedings have to be justified on specific grounds, among which the existence of a public interest. Thus, presuming that a public interest always exists, thus justifying the compression of fundamental rights, would not be compatible with the letter and the spirit of the BRRD.

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