— declare void pursuant to Article 264 TFEU the ECB's decision of 19 November 2019 refusing to instruct the appellant's insolvency administrator to grant the lawyer authorised by the appellant's board of directors access to its premises, to the information that it holds and to its staff and resources;

— to the extent that the Court of Justice is not in a position to take a decision on the merits to refer the case back to the General Court for it to determine the action for annulment; and

— order the ECB to pay the appellant's costs and the costs of the appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on twelve pleas in law.

First ground of appeal: the General Court incorrectly relied on case law concerning actions brought by non-addressees against EU acts with general effect which require transposition or entail national implementing acts and applies such case law to the present case which concerns a direct action against an individual EU act which can only be challenged by means of an action for annulment pursuant to Article 263 TFEU and which directly produces effects without any need for implementation.

Second ground of appeal: the order under appeal violates the principle that access to the Court of Justice in the context of Article 263 TFEU cannot depend on the Member States.

Third ground of appeal: the order under appeal is inconsistent with the exclusive jurisdiction of the Court of Justice of the European Union pursuant to Article 263 TFEU.

Fourth ground of appeal: the order under appeal is inconsistent with the principle that a remedy is not effective if for structural reasons it is theoretical and illusory.

Fifth ground of appeal: the order under appeal violates Article 51 of the Charter.

Sixth ground of appeal: the order under appeal is based on an erroneous teleological reduction of the ECB's prudential supervisory competences.

Seventh ground of appeal: the General Court fails to take into consideration that the analysis pursuant to Article 47 of the Charter needs to be based on the manner in which the relevant European institution actually acts and may act and not merely on its ability to give formal binding orders to third parties.

Eighth ground of appeal: the order under appeal is based on an erroneous distinction between prudential supervisory law and insolvency law.

Ninth ground of appeal: the General Court erroneously assumed that the ECB lacks the requisite competence.

Tenth ground of appeal: the order under appeal is based on an erroneous assumption as to the effect of the license withdrawal on the competence of the ECB.

Eleventh ground of appeal: the General Court erroneously assumed that the ECB complied with the judgment of 5 November 2019, ECB and others / Trasta Komercbanka and others (C-663/17 P, C-665/17 P and C-669/17 P, EU:C:2019:923).

Twelfth ground of appeal: the General Court did not appropriately address the appellant's pleas as to its rights to be heard, the requirement to provide a statement of reason and the *nemo auditur* principle.

Request for a preliminary ruling from the Juzgado de lo Mercantil n.º 17 de Madrid (Spain) lodged on 27 May 2021 — European Super League Company, S.L. v Union of European Football Associations (UEFA) and Fédération Internationale de Football Association (FIFA)

(Case C-333/21)

(2021/C 382/14)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil n.º 17 de Madrid

Parties to the main proceedings

Applicant: European Super League Company, S.L.

Defendants: Union of European Football Associations (UEFA) and Fédération Internationale de Football Association (FIFA)

Questions referred

1. Must Article 102 TFEU be interpreted as meaning that that article prohibits the abuse of a dominant position consisting of the stipulation by FIFA and UEFA in their statutes (in particular, Articles 22 and 71 to 73 of the FIFA Statutes, Articles 49 and 51 of the UEFA Statutes, and any similar article contained in the statutes of the member associations and national leagues) that the prior approval of those entities, which have conferred on themselves the exclusive power to organise or give permission for international club competitions in Europe, is required in order for a third-party entity to set up a new pan-European club competition like the Super League, in particular where no regulated procedure, based on objective, transparent and non-discriminatory criteria, exists, and taking into account the possible conflict of interests affecting FIFA and UEFA?

2. Must Article 101 TFEU be interpreted as meaning that that article prohibits FIFA and UEFA from requiring in their statutes (in particular, Articles 22 and 71 to 73 of the FIFA Statutes, Articles 49 and 51 of the UEFA Statutes, and any similar article contained in the statutes of the member associations and national leagues) the prior approval of those entities, which have conferred on themselves the exclusive power to organise or give permission for international competitions in Europe, in order for a third-party entity to create a new pan-European club competition like the Super League, in particular where no regulated procedure, based on objective, transparent and non-discriminatory criteria, exists, and taking into account the possible conflict of interests affecting FIFA and UEFA?

3. Must Articles 101 and/or 102 be interpreted as meaning that those articles prohibit conduct by FIFA, UEFA, their member associations and/or national leagues which consists of the threat to adopt sanctions against clubs participating in the Super League and/or their players, owing to the deterrent effect that those sanctions may create? If sanctions are adopted involving exclusion from competitions or a ban on [OR 30] participating in national team matches, would those sanctions, if they were not based on objective, transparent and objective criteria, constitute an infringement of Articles 101 and/ or 102 of the TFEU?

4. Must Articles 101 and/or 102 TFEU be interpreted as meaning that the provisions of Articles 67 and 68 of the FIFA Statutes are incompatible with those articles in so far as they identify UEFA and its national member associations as 'original owners of all of the rights emanating from competitions … coming under their respective jurisdiction', thereby depriving participating clubs and any organiser of an alternative competition of the original ownership of those rights and arrogating to themselves sole responsibility for the marketing of those rights?

5. If FIFA and UEFA, as entities which have conferred on themselves the exclusive power to organise and give permission for international club football competitions in Europe, were to prohibit or prevent the development of the Super League on the basis of the abovementioned provisions of their statutes, would Article 101 TFEU have to be interpreted as meaning that those restrictions on competition qualify for the exception laid down therein, regard being had to the fact that production is substantially limited, the appearance on the market of products other than those offered by FIFA/UEFA is impeded, and innovation is restricted, since other formats and types are precluded, thereby eliminating potential competition on the market and limiting consumer choice? Would that restriction be covered by an objective justification which would permit the view that there is no abuse of a dominant position for the purposes of Article 102 TFEU?

6. Must Articles 45, 49, 56 and/or 63 TFEU be interpreted as meaning that, by requiring the prior approval of FIFA and UEFA for the establishment, by an economic operator of a Member State, of a pan-European club competition like the Super League, a provision of the kind contained in the statutes of FIFA and UEFA (in particular, Articles 22 and 71 to 73 of the FIFA Statutes, Articles 49 and 51 of the UEFA Statutes, and any other similar article contained in the statutes of national member associations [and] national leagues) constitutes a restriction contrary to one or more of the fundamental freedoms recognised in those articles?