



Reports of Cases

ORDER OF THE GENERAL COURT (Seventh Chamber)

23 May 2025 *

(Action for annulment – European System of Financial Supervision – Investigation in respect of an infringement of EU law – Recommendation of EIOPA on actions to be taken to comply with EU law – Article 17(3) of Regulation (EU) No 1094/2010 – Act not open to challenge – Inadmissibility)

In Case T-204/24,

Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poistovňa a.s., established in Bratislava (Slovakia), represented by A. Börner, S. Henrich and S. Förster, lawyers,

applicant,

v

European Insurance and Occupational Pensions Authority (EIOPA), represented by A. Terstegen-Verhaag and S. Dispiter, acting as Agents, and by H.-G. Kamann, lawyer,

defendant,

THE GENERAL COURT (Seventh Chamber),

composed of K. Kowalik-Bańczyk (Rapporteur), President, E. Buttigieg and G. Hesse, Judges,

Registrar: V. Di Bucci,

having regard to the written part of the procedure, in particular:

- the plea of inadmissibility raised by EIOPA by separate document lodged at the Registry of the General Court on 16 July 2024;
- the applicant's observations on the plea of inadmissibility lodged at the Court Registry on 29 August 2024;
- the applications to intervene of the Slovak Republic and the European Commission lodged at the Court Registry on 23 July and 2 August 2024 respectively,

makes the following

* Language of the case: English.

Order

- 1 By its action under Article 263 TFEU, the applicant, Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poistovňa a.s., seeks the annulment of the recommendation of the European Insurance and Occupational Pensions Authority (EIOPA) of 16 May 2022, addressed to Národná banka Slovenska, on actions necessary to comply with Directive 2009/138/EC ('the contested act').

Background to the dispute

- 2 The applicant is a life insurance company established in Slovakia and subject to the supervision of the Národná banka Slovenska (Slovak National Bank) ('the NBS').
- 3 On 17 March 2022, EIOPA initiated an investigation pursuant to Article 17(2) of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ 2010 L 331, p. 48). That investigation sought to determine whether the NBS had exercised its supervisory powers over the applicant in accordance with Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ 2009 L 335, p. 1).
- 4 On 16 May 2022, EIOPA adopted the contested act on the basis of Article 17(3) of Regulation No 1094/2010.
- 5 In that act, EIOPA found, first, that the applicant had failed to comply with the rules relating to technical provisions, the solvency capital requirement, the minimum capital requirement and the investment rules deriving from Directive 2009/138 (paragraphs 58 to 80 and 101 of the contested act). Next, EIOPA examined the supervisory action undertaken by the NBS with regard to the applicant and concluded that, by failing to adopt the necessary corrective measures in a timely and proportionate manner, the NBS had infringed EU law and failed to fulfil its supervisory obligations under Article 29(1) and Article 34(1), (2) and (6) of Directive 2009/138 (paragraphs 81 to 100, 103 and 105 of the contested act). Lastly, EIOPA took the view that the NBS should now act without delay and adopt measures enabling it to comply with EU law (paragraphs 97, 100, 104 and 105 of the contested act).
- 6 Consequently, in paragraph 105 of the contested act, EIOPA addressed to the NBS the following two 'recommendations':
 - '1. [T]he NBS should adopt a position and verify and conclude on [the applicant's] compliance with [its] decision on [infringements of the rules on investment] of 19 April 2021 and [its] decision on [infringements of the rules on technical provisions] of 14 January 2022 ... within 45 calendar days ...

2. The NBS should take the necessary steps and measures pursuant to Articles 76, 138, 139 and 141 of [Directive 2009/138] to ensure [the applicant's] compliance [with its obligations] within the prescribed ... deadlines as part of a full/integrated intervention strategy by the NBS that results in either a structural and sustainable recovery of all infringements, or if appropriate or mandatory, a withdrawal of [the applicant's] authorisation under Article 144 of [Directive 2009/138].'
- 7 In addition, EIOPA requested the NBS to inform it, within 10 working days, of the steps it had taken or intended to take in order to comply with EU law (paragraph 106 of the contested act).
- 8 On 13 September 2022, the European Commission adopted, on the basis of Article 17(4) of Regulation No 1094/2010, Opinion C(2022) 6455 final addressed to the NBS on actions necessary to comply with Directive 2009/138. That opinion was the subject of an action for annulment brought by the applicant before the General Court and registered as Case T-179/24.
- 9 On 31 October 2022, the NBS withdrew the applicant's authorisation ('the decision to withdraw the authorisation'). On 1 June 2023, the NBS confirmed that withdrawal.

Forms of order sought

- 10 The applicant claims that the Court should:
- annul the contested act;
 - order EIOPA to pay the costs.
- 11 EIOPA contends that the Court should:
- dismiss the action as inadmissible;
 - order the applicant to pay the costs.
- 12 In addition, the applicant also requests the Court, by way of measures of organisation of procedure or measures of inquiry, to order EIOPA to produce, in essence, all the documents relating to the supervisory procedures concerning it.

Law

The plea of inadmissibility

- 13 Under Article 130(1) and (7) of the Rules of Procedure of the General Court, the Court may give a decision on inadmissibility without going to the substance of the case if a defendant makes an application asking it to do so. In the present case, the Court considers that it has been sufficiently informed by the documents in the file and decides to give judgment without taking further steps in the proceedings and without it being necessary to adopt the measures of organisation of procedure or the measures of inquiry requested by the applicant.

- 14 In its plea of inadmissibility, EIOPA submits, first, that, since it does not produce binding legal effects, the contested act cannot be the subject of an action for annulment, second, that that act, on the one hand, is at most a preparatory act and, on the other, does not directly concern the applicant and, third, that the action was not brought within the time limit for bringing legal proceedings.
- 15 The applicant disputes the three parts of the plea of inadmissibility. In particular, it argues that the contested act produces binding legal effects and may therefore be the subject of an action for annulment. It states, in essence, that that act requires the NBS to take predetermined action, namely to withdraw its authorisation.
- 16 It is first of all necessary to examine the first part of the plea of inadmissibility and, therefore, to determine whether the contested act is one of the acts against which an action for annulment may be brought under Article 263 TFEU.
- 17 Under the first paragraph of Article 263 TFEU, the Courts of the European Union are to review the legality of acts of the institutions, bodies, offices and agencies of the European Union ‘intended to produce legal effects vis-à-vis third parties’.
- 18 It follows that actions for annulment, provided for under Article 263 TFEU, are available in the case of all measures or provisions adopted by the institutions, bodies, offices and agencies of the European Union, whatever their nature or form, which are intended to have binding legal effects (judgment of 31 March 1971, *Commission v Council*, 22/70, EU:C:1971:32, paragraphs 39 and 42; see, also, judgment of 15 July 2021, *FBF*, C-911/19, EU:C:2021:599, paragraph 36 and the case-law cited).
- 19 Conversely, any EU act not producing binding legal effects falls outside the scope of the judicial review provided for in Article 263 TFEU (see judgment of 15 July 2021, *FBF*, C-911/19, EU:C:2021:599, paragraph 37 and the case-law cited).
- 20 That applies in particular to recommendations, which are not intended to produce binding legal effects. By establishing recommendations as a specific category of EU acts and by stating expressly that they ‘shall have no binding force’, the fifth paragraph of Article 288 TFEU intended to confer on the institutions, bodies, offices and agencies of the European Union empowered to adopt recommendations a power to exhort and to persuade, distinct from the power to adopt acts having binding force (see, to that effect, judgments of 20 February 2018, *Belgium v Commission*, C-16/16 P, EU:C:2018:79, paragraphs 26 and 27, and of 25 March 2021, *Balgarska Narodna Banka*, C-501/18, EU:C:2021:249, paragraphs 79, 80 and 82 and the case-law cited).
- 21 However, the impossibility of bringing an action for annulment against a recommendation does not apply if the contested act, by reason of its content, does not constitute a genuine recommendation (judgment of 20 February 2018, *Belgium v Commission*, C-16/16 P, EU:C:2018:79, paragraph 29).
- 22 In order to determine whether an act produces binding legal effects, it is necessary to examine the substance of that act and to assess its effects on the basis of objective criteria, such as the content of that act, taking into account, as appropriate, the context in which it was adopted and the powers of the EU institution, body, office or agency which adopted it (see judgment of 15 July 2021, *FBF*, C-911/19, EU:C:2021:599, paragraph 38 and the case-law cited). In addition, the subjective

criterion relating to the intention of the author of the act may also be taken into consideration (see, to that effect, judgment of 6 May 2021, *ABLV Bank and Others v ECB* (C-551/19 P and C-552/19 P, EU:C:2021:369, paragraph 42).

- 23 In the present case, in the first place, as regards the content of the contested act, summarised in paragraphs 5 and 6 above, it should be noted that that act merely finds an infringement of EU law by the applicant and by the NBS and makes two recommendations addressed to the NBS setting out the action to be taken by the NBS in order to bring that infringement to an end. That action consists, in essence, in reviewing, within 45 days, the applicant's situation and adopting, with regard to the applicant, a 'full/integrated' strategy resulting either in the recovery of all infringements or in the withdrawal of its authorisation.
- 24 In the second place, as regards the wording of the contested act, it should be noted that, in its two authentic versions, that act is described, both in its title and in the grounds for it (paragraphs 1, 2, 14, 18, 55, 105 and 106 of the contested act), as a 'recommendation' (in the English-language version, 'odporúčanie' in the Slovak-language version). It must be pointed out that the reference to the concept of 'recommendation' is a clear indication that the content of that act is not intended to produce binding legal effects (order of 26 January 2011, *FIBE v Parliament*, T-550/10, not published, EU:T:2011:19, paragraph 19; see also, by analogy, judgment of 1 December 2005, *Italy v Commission*, C-301/03, EU:C:2005:727, paragraphs 21 and 22).
- 25 In addition, the contested act is essentially drafted in non-mandatory terms, both in its English-language and Slovak-language versions. The conditional mode is thus used several times, and in particular in the two recommendations cited in paragraph 6 above, as evidenced by the use of the words 'should' in English and 'by mala' (should) in Slovak (paragraphs 100, 104 and 105 of the contested act).
- 26 In the third place, as regards the context in which the contested act was adopted and the powers of its author, it should be borne in mind that, as is apparent from recital 27 of Regulation No 1094/2010, Article 17 of that regulation establishes a 'three-step mechanism' where a national authority is alleged, in its supervisory practices, to have failed to apply or to have applied incorrectly or insufficiently EU law, in particular the acts referred to in Article 1(2) of that regulation, which include Directive 2009/138.
- 27 As a first step, pursuant to the first subparagraph of Article 17(2) of Regulation No 1094/2010, EIOPA investigates, where appropriate, the alleged infringement or non-application of EU law. At the end of that investigation and pursuant to the first subparagraph of Article 17(3) of that regulation, EIOPA may address to the national authority concerned a 'recommendation ... setting out the action necessary to comply with Union law'.
- 28 As a second step, if the national authority concerned has not complied with EU law within one month from receipt of EIOPA's recommendation, the Commission may, pursuant to the first subparagraph of Article 17(4) of Regulation No 1094/2010, issue a 'formal opinion requiring [that authority] to take the action necessary to comply with Union law'.
- 29 As a third step, if the national authority concerned does not comply with the formal opinion issued by the Commission within the period of time specified by that opinion and if certain conditions are met, EIOPA may, on the basis of the first subparagraph of Article 17(6) of

Regulation No 1094/2010, adopt an ‘individual decision addressed to [the financial institution concerned] requiring it to take all necessary action to comply with its obligations under Union law, including the cessation of any practice’.

- 30 It is thus apparent from the wording of Article 17 of Regulation No 1094/2010 that recommendations issued by EIOPA on the basis of Article 17(3) of that regulation merely ‘set out’ the action to be taken, whereas formal opinions issued by the Commission on the basis of Article 17(4) of that regulation and individual decisions adopted by EIOPA on the basis of Article 17(6) of that regulation ‘require’ their respective addressees to take action.
- 31 In addition, the second subparagraph of Article 17(7) of Regulation No 1094/2010 provides that, when taking action in relation to issues which are subject to a formal opinion issued by the Commission or to an individual decision of EIOPA, the national authorities concerned ‘shall comply with the formal opinion or the decision, as the case may be’. By contrast, neither that provision nor any other provision of Regulation No 1094/2010 provides that those authorities are required to comply with recommendations issued by EIOPA.
- 32 It thus follows both from the wording of Article 17 of Regulation No 1094/2010 and from the architecture of the three-step mechanism that that article establishes that recommendations issued by EIOPA on the basis of Article 17(3) of that regulation are mere recommendations and are not themselves intended to produce binding legal effects vis-à-vis the national authority concerned or the financial institution concerned. By contrast, formal opinions issued by the Commission on the basis of Article 17(4) of Regulation No 1094/2010 and individual decisions adopted by EIOPA on the basis of Article 17(6) of that regulation produce binding legal effects vis-à-vis those to whom they are addressed.
- 33 Moreover, the Court of Justice has already held that recommendations issued by the European Banking Authority (EBA) on the basis of a provision drafted in terms identical to those of Article 17(3) of Regulation No 1094/2010 fall within the category of acts of the European Union provided for in the fifth paragraph of Article 288 TFEU and, therefore, are not intended to produce binding legal effects (see, to that effect, judgment of 25 March 2021, *Balgarska Narodna Banka*, C-501/18, EU:C:2021:249, paragraphs 79 and 80). Such recommendations cannot therefore be the subject of an action for annulment under Article 263 TFEU (see, to that effect, Opinion of Advocate General Campos Sánchez-Bordona in *Balgarska Narodna Banka*, C-501/18, EU:C:2020:729, point 82).
- 34 In the fourth place and in addition, as regards the intention of the author of the contested act, there is nothing in the file to suggest that, by adopting that act on the basis of Article 17(3) of Regulation No 1094/2010, EIOPA in fact intended to adopt an act with binding force, as opposed to an act whose value is merely to exhort and persuade. In particular, the contested act contains no express indication that the NBS is required to comply with the recommendations contained therein.
- 35 In those circumstances, in the light of all of the considerations set out in paragraphs 23 to 34 above, it must be concluded that the contested act does not produce binding legal effects, with the result that it cannot be the subject of an action for annulment under Article 263 TFEU.
- 36 That finding is not called into question by the applicant’s arguments.

- 37 First, the applicant submits that the binding effect of the contested act follows from the wording of Article 17 of Regulation No 1094/2010, from the architecture of the mechanism that that article establishes and from the decision-making procedures of EIOPA provided for in Article 39 of that regulation.
- 38 In that regard, first of all, it should be noted that the wording of Article 17 of Regulation No 1094/2010 does not support the applicant's arguments.
- 39 Although the first subparagraph of Article 17(3) of Regulation No 1094/2010 provides that EIOPA's recommendations '[set] out the action necessary', that guidance merely prescribes the content of that recommendation and does not have the effect of rendering it binding and restrictive as regards the type of action that may be taken by the national authority concerned.
- 40 Moreover, it is true that the second subparagraph of Article 17(3) of Regulation No 1094/2010 requires the national authority concerned to inform EIOPA of the steps it has taken or intends to take to comply with EU law. Nevertheless, that obligation to provide information, referred to in paragraph 106 of the contested act (see paragraph 7 above), does not imply that the action taken or envisaged by the national authority concerned must be consistent with that set out in the recommendation issued by EIOPA.
- 41 Next, it does indeed follow from the provisions of the first and third sentences of Article 39(2) of Regulation No 1094/2010 that EIOPA is to inform 'any ... addressee' of a recommendation referred to in Article 17(3) of that regulation of its intention to adopt that recommendation in order to enable the addressee to express its views. However, contrary to what the applicant claims, it cannot be inferred from those provisions either that the financial institution concerned is an addressee of that recommendation or that that recommendation constitutes a binding decision. Article 17(3) of that regulation does not refer to an addressee other than the national authority concerned and does not provide that such a recommendation produces binding legal effects for that authority or for the financial institution concerned.
- 42 Lastly, whether or not recommendations issued on the basis of Article 17(3) of Regulation No 1094/2010 are binding cannot depend on the detailed rules of the procedure for the adoption, by the Commission, of a formal opinion on the basis of Article 17(4) of that regulation in the event that, following a recommendation by EIOPA, the national authority concerned does not comply with EU law. It is therefore irrelevant that, in the latter case, the Commission may issue a formal opinion without previously being required to adopt '[any] further investigation'.
- 43 Second, the applicant claims that the contested act was adopted in the context of a procedure concerning a financial institution in particular and aimed at measures specific to that institution, such as the withdrawal of its authorisation. It submits that, in such a situation, the recommendation issued by EIOPA produces binding legal effects.
- 44 In that regard, it should be noted that Article 17 of Regulation No 1094/2010 refers, in paragraph 1 thereof, to any situation of infringement of EU law by a national authority, including and 'in particular' where that authority '[fails] to ensure that a financial institution satisfies the requirements laid down in [EU law]'. It follows that the fact that a recommendation issued on the basis of that provision concerns the situation of a financial institution in particular and advocates measures specific to that institution is not such as to render that recommendation, by way of exception or derogation, mandatory.

- 45 It should be added that, contrary to what the applicant claims, the judgment of 25 March 2021, *Balgarska Narodna Banka* (C-501/18, EU:C:2021:249), referred to in paragraph 33 above, was delivered in relation to a recommendation of the EBA which concerned the situation of a financial institution in particular, namely Korporativna trgovska banka AD. It follows that the principle, set out in that judgment, that the EBA's recommendations are not intended to produce binding legal effects can be transposed, by analogy, to the present case.
- 46 Third, the applicant submits, in essence, that, by adopting a final position, EIOPA intended to limit and reduce to zero the NBS's discretion by requiring it to withdraw its authorisation immediately, to the exclusion of a more gradual approach and any other action.
- 47 In that regard, it must be stated, first of all, that the contested act is drafted in non-mandatory terms (see paragraph 25 above) and that it merely makes recommendations (see paragraph 23 above), without requiring or prohibiting the NBS from taking any specific action.
- 48 In particular, EIOPA left it to the NBS to determine whether it had in fact exhausted the list of possible and proportionate measures or whether, conversely, there were still alternative measures (paragraph 104 of the contested act). Consequently, it merely recommended that the NBS 'take the necessary steps and measures' and requested it to withdraw the authorisation only if that measure proved to be 'appropriate or mandatory' (second recommendation in paragraph 105 of the contested act and cited in paragraph 6 above). It follows that the applicant is not justified in claiming that EIOPA required the NBS to withdraw its authorisation, to the exclusion of a more gradual approach and any other action.
- 49 Next, apart from the fact that EIOPA has not adopted a definitive position on the type of measures to be taken, the applicant is not justified in claiming, on the basis of the judgment of 18 November 2010, *NDSHT v Commission* (C-322/09 P, EU:C:2010:701, paragraph 58), that, where an EU institution, body, office or agency has formed a definitive opinion and has thus expressed its wish to terminate any preliminary examination, the act adopted may still be the subject of an action for annulment under Article 263 TFEU. In paragraphs 51 to 56 of that judgment, the Court of Justice merely held, in essence, that where the Commission, following the examination of a complaint, refused by implication to initiate the State aid investigation procedure provided for in Article 108(2) TFEU, it was adopting not a mere interim measure, but a decision which was definitive, which produced binding legal effects and which, accordingly, could be the subject of an action for annulment. That judgment thus concerned a situation in which the institution in question had a decision-making power and not, as in the present case, a mere power to make recommendations vis-à-vis the national authority concerned.
- 50 Furthermore, even assuming that EIOPA had applied a form of 'political pressure' on the NBS to withdraw the applicant's authorisation, that is not sufficient to support the conclusion that EIOPA intended to go beyond its power to exhort and persuade and to adopt an act with binding force not provided for in Article 17(3) of Regulation No 1094/2010.
- 51 Lastly, even if it were established that the contested act may have been a catalyst for the adoption of Opinion C(2022) 6455 final (see paragraph 8 above), and subsequently of the decision to withdraw the authorisation, that results only from the existence of procedures in which EIOPA and the Commission, on the one hand, and national authorities, including the NBS, on the other, intervene and interact. Such a circumstance cannot therefore render the contested act binding.

- 52 Fourth, the applicant submits, in essence, that the possibility of bringing a direct action against the contested act is necessary in order to ensure effective judicial protection, in accordance with Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'). It states that an action before the Slovak courts against the decision to withdraw the authorisation, together with an incidental challenge to the legality of the contested act, would be uncertain and insufficient.
- 53 In that regard, it should be recalled that the right to effective judicial protection, as guaranteed in the first paragraph of Article 47 of the Charter, is not intended to change the system of judicial review laid down by the Treaties, and particularly the rules relating to the admissibility of direct actions brought before the Courts of the European Union. Accordingly, the conditions of admissibility laid down in Article 263 TFEU must be interpreted in the light of the right to effective judicial protection, but such an interpretation cannot have the effect of setting aside those conditions, which are expressly laid down in the FEU Treaty (see, to that effect, judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares v Commission*, C-456/13 P, EU:C:2015:284, paragraphs 43 and 44 and the case-law cited). Thus, the interpretation of the concept of 'actionable measure' in the light of Article 47 of the Charter cannot lead to a situation where the requirement as to binding legal effects laid down in the first paragraph of Article 263 TFEU is disregarded on pain of exceeding the jurisdiction conferred by the FEU Treaty on the Courts of the European Union (see judgment of 9 July 2020, *Czech Republic v Commission*, C-575/18 P, EU:C:2020:530, paragraph 52 and the case-law cited).
- 54 That would be precisely the case if the applicant were allowed to bring an action for annulment against an EIOPA recommendation which does not constitute an actionable measure, for the purpose of the case-law cited in paragraphs 18 to 22 above.
- 55 Furthermore, it should be noted that the Courts of the European Union have jurisdiction to give preliminary rulings on the validity of acts of the EU institutions, without any exception, and, in particular, on the validity of recommendations issued by EIOPA on the basis of Article 17(3) of Regulation No 1094/2010 (see, to that effect and by analogy, judgment of 25 March 2021, *Balgarska Narodna Banka*, C-501/18, EU:C:2021:249, paragraphs 82 and 83 and the case-law cited). It follows that, in the context of an action against the measures taken by the NBS, and in particular against the decision to withdraw the authorisation, the Slovak courts may, if necessary, make a reference to the Court of Justice for a preliminary ruling on the validity of the contested act.
- 56 As regards the practical difficulties referred to by the applicant with regard to the effectiveness of an action before the Slovak courts and an incidental review of the contested act, they do not appear to be insurmountable.
- 57 First of all, as regards the fact that, in the decision to withdraw the authorisation, the NBS did not rely on the contested act and did not even refer to it, this tends to support EIOPA's argument that the NBS did not comply with that act and adopted a different approach. In such a case, a reference for a preliminary ruling on the validity of that act might prove unnecessary.
- 58 In addition, as regards the 'secret' nature of the documents exchanged between the NBS, EIOPA and the Commission, the Slovak courts may, where necessary, require the NBS to produce those documents or, failing that, request EIOPA and the Commission to communicate the documents to them. The principle of sincere cooperation laid down in Article 4(3) TEU requires, in principle, the institutions, bodies, offices and agencies of the European Union to provide the

information requested by a national court as soon as possible (see, to that effect, judgment of 26 November 2002, *First and Franex*, C-275/00, EU:C:2002:711, paragraph 49 and the case-law cited).

- 59 Next, as regards the length and the alleged non-suspensory nature of the proceedings before the Slovak courts, the applicant does not substantiate its claim. In any event, the lack of a suspensory action against a decision does not necessarily constitute a breach of the right to effective judicial protection (see, to that effect and by analogy, judgment of 17 December 2015, *Tall*, C-239/14, EU:C:2015:824, paragraph 59). Furthermore, it follows both from the first paragraph of Article 47 of the Charter and from the second subparagraph of Article 19(1) TEU that the Member States must establish a system of legal remedies and procedures which ensure respect for the right to effective judicial protection in the fields covered by EU law (see, to that effect, judgment of 28 April 2015, *T & L Sugars and Sidul Açúcares v Commission*, C456/13 P, EU:C:2015:284, paragraphs 49 and 50 and the case-law cited).
- 60 Lastly, the mere fact that the Commission decided, on 24 April 2024, to initiate infringement proceedings under Article 258 TFEU against the Slovak Republic, on the ground that the NBS had failed to fulfil its obligations in the exercise of its supervisory powers over the applicant, cannot, in any event, have the object or effect of depriving the applicant of effective judicial protection before the Slovak courts.
- 61 It follows from all of the foregoing that, since it does not produce binding legal effects, the contested act cannot be the subject of an action for annulment under Article 263 TFEU.
- 62 Accordingly, without it being necessary to examine the other parts of the plea of inadmissibility, the first part of that plea must be upheld and the action must be dismissed as inadmissible.

The applications to intervene

- 63 Under Article 142(2) of the Rules of Procedure, the intervention becomes devoid of purpose if the application is declared inadmissible. In the present case, since the action has been dismissed as inadmissible, there is no longer any need to adjudicate on the applications to intervene submitted by the Slovak Republic and the Commission.

Costs

- 64 In the first place, under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must be ordered to bear its own costs and to pay those of EIOPA, in accordance with the form of order sought by EIOPA, with the exception of those relating to the applications to intervene.
- 65 In the second place, under Article 144(10) of the Rules of Procedure, if the proceedings in the main case are concluded before the application to intervene has been decided, the applicant for leave to intervene and the main parties are each to bear their own costs relating to the application to intervene. In the present case, the applicant, EIOPA, the Slovak Republic and the Commission are each to bear their own costs relating to the applications to intervene.

On those grounds,

THE GENERAL COURT (Seventh Chamber)

hereby orders:

- 1. The action is dismissed.**
- 2. There is no longer any need to adjudicate on the applications to intervene of the Slovak Republic and of the European Commission.**
- 3. Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poistovňa a.s. shall bear its own costs and pay those incurred by the European Insurance and Occupational Pensions Authority (EIOPA), with the exception of those relating to the applications to intervene.**
- 4. Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poistovňa, EIOPA, the Slovak Republic and the Commission shall each bear their own costs relating to the applications to intervene.**

Luxembourg, 23 May 2025.

V. Di Bucci
Registrar

K. Kowalik-Bańczyk
President