Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

5 November 2019*

(Appeal — Admissibility — Representation of a party before the Court — Power of attorney given to the lawyer — Power of attorney withdrawn by the liquidator of the appellant company — Further steps in the proceedings by the decision-making body of the appellant company — Charter of Fundamental Rights of the European Union — Article 47 — Right to an effective remedy — Regulation (EU) No 1024/2013 — Prudential supervision of credit institutions — Decision to withdraw a credit institution's authorisation — Action for annulment before the General Court of the European Union — Admissibility — Whether the shareholders of the company whose authorisation has been withdrawn are directly concerned)

In Joined Cases C-663/17 P, C-665/17 P and C-669/17 P,

THREE APPEALS under Article 56 of the Statute of the Court of Justice of the European Union, lodged on 24 November 2017 (C-663/17 P), 27 November 2017 (C-665/17 P) and 28 November 2017 (C-669/17 P),

European Central Bank (ECB), represented by E. Koupepidou and C. Hernández Saseta, acting as Agents, by B. Schneider, Rechtsanwalt, and by M. Petite, avocat,

appellant,

supported by:

European Commission, represented by A. Steiblytė, V. Di Bucci and K.-Ph. Wojcik, acting as Agents,

intervener in the appeal,

the other parties to the proceedings being:

Trasta Komercbanka AS, established in Riga (Latvia),

Ivan Fursin, residing in Kiev (Ukraine),

Igors Buimisters, residing in Jurmala (Latvia),

C & R Invest SIA, established in Riga,

Figon Co. Ltd, established in Nicosia (Cyprus),

GCK Holding Netherlands BV, established in Amsterdam (Netherlands),

Rikam Holding SA, established in Luxembourg (Luxembourg),

* Language of the case: English.

represented by M. Kirchner, L. Feddern and O.H. Behrends, Rechtsanwälte,

applicants at first instance (C-663/17 P),

and

European Commission, represented by A. Steiblytė, V. Di Bucci and K.-Ph. Wojcik, acting as Agents,

appellant,

the other parties to the proceedings being:

Trasta Komercbanka AS, established in Riga,

Ivan Fursin, residing in Kiev,

Igors Buimisters, residing in Jurmala,

C & R Invest SIA, established in Riga,

Figon Co. Ltd, established in Nicosia,

GCK Holding Netherlands BV, established in Amsterdam,

Rikam Holding SA, established in Luxembourg,

represented by M. Kirchner, L. Feddern and O.H. Behrends, Rechtsanwälte,

applicants at first instance,

European Central Bank (ECB), represented by E. Koupepidou and C. Hernández Saseta, acting as Agents, by B. Schneider, Rechtsanwalt, and by M. Petite, avocat,

defendant at first instance (C-665/17 P),

and

Trasta Komercbanka AS, established in Riga,

Ivan Fursin, residing in Kiev,

Igors Buimisters, residing in Jurmala,

C & R Invest SIA, established in Riga,

Figon Co. Ltd, established in Nicosia,

GCK Holding Netherlands BV, established in Amsterdam,

Rikam Holding SA, established in Luxembourg,

represented by M. Kirchner, L. Feddern and O.H. Behrends, Rechtsanwälte,

appellants,

the other parties to the proceedings being:

European Central Bank (ECB), represented by E. Koupepidou and C. Hernández Saseta, acting as Agents, by B. Schneider, Rechtsanwalt, and by M. Petite, avocat,

defendant at first instance,

supported by:

European Commission, represented by A. Steiblytė, V. Di Bucci and K.-Ph. Wojcik, acting as Agents,

intervener in the appeal (C-669/17 P),

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, R. Silva de Lapuerta, Vice-President, A. Prechal, M. Vilaras (Rapporteur), M. Safjan and S. Rodin, Presidents of Chambers, L. Bay Larsen, T. von Danwitz, C. Toader, C. Vajda, F. Biltgen, K. Jürimäe and C. Lycourgos, Judges,

Advocate General: J. Kokott,

Registrar: R. Șereș, Administrator,

having regard to the written procedure and further to the hearing on 11 February 2019,

after hearing the Opinion of the Advocate General at the sitting on 11 April 2019,

gives the following

Judgment

1 By their appeals, the European Central Bank (ECB), the European Commission and Trasta Komercbanka AS, Mr Ivan Fursin, Mr Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV and Rikam Holding SA seek the setting aside of the order of the General Court of the European Union of 12 September 2017, *Fursin and Others* v *ECB* (T-247/16, not published, EU:T:2017:623; 'the order under appeal'), by which that court held that there was no need to adjudicate on Trasta Komercbanka's action for annulment of Decision ECB/SSM/2016 — 529900WIP0INFDAWTJ81/1 WOANCA-2016-0005 of the European Central Bank (ECB) of 3 March 2016 withdrawing the authorisation granted to Trasta Komercbanka ('the decision at issue') and rejected the ECB's plea of inadmissibility in so far as it concerned the action brought by several shareholders of Trasta Komercbanka, namely Mr Fursin, Mr Buimisters, C & R Invest, Figon Co., GCK Holding Netherlands and Rikam Holding, seeking the annulment of that decision.

Legal context

European Union law

2 Under Article 2(1) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63), a 'participating Member State' is, for the purposes of that regulation, 'a Member State whose currency is the euro or a Member State whose currency is not the euro which has established a close cooperation in accordance with Article 7' of that regulation. Under

Article 2(9) of that regulation, the 'Single supervisory mechanism' (SSM) is to be understood as being 'the system of financial supervision composed by the ECB and national competent authorities of participating Member States as described in Article 6' thereof.

3 Article 4 of Regulation No 1024/2013, entitled 'Tasks conferred on the ECB', provides, in paragraph 1 thereof:

'Within the framework of Article 6, the ECB shall, in accordance with paragraph 3 of this Article, be exclusively competent to carry out, for prudential supervisory purposes, the following tasks in relation to all credit institutions established in the participating Member States:

(a) to authorise credit institutions and to withdraw authorisations of credit institutions subject to Article 14;

…'

4 Article 6 of that regulation, entitled 'Cooperation within the SSM', provides, in paragraph 1 thereof:

'The ECB shall carry out its tasks within a single supervisory mechanism composed of the ECB and national competent authorities. The ECB shall be responsible for the effective and consistent functioning of the SSM.'

5 Under Article 14(5) of that regulation:

'Subject to paragraph 6, the ECB may withdraw the authorisation in the cases set out in relevant Union law on its own initiative, following consultations with the national competent authority of the participating Member State where the credit institution is established, or on a proposal from such national competent authority. These consultations shall in particular ensure that before taking decisions regarding withdrawal, the ECB allows sufficient time for the national authorities to decide on the necessary remedial actions, including possible resolution measures, and takes these into account.

Where the national competent authority which has proposed the authorisation … considers that the authorisation must be withdrawn in accordance with the relevant national law, it shall submit a proposal to the ECB to that end. In that case, the ECB shall take a decision on the proposed withdrawal taking full account of the justification for withdrawal put forward by the national competent authority.'

6 Article 24 of Regulation No 1024/2013, entitled 'Administrative Board of Review', provides:

'1. The ECB shall establish an Administrative Board of Review for the purposes of carrying out an internal administrative review of the decisions taken by the ECB in the exercise of the powers conferred on it by this Regulation after a request for review submitted in accordance with paragraph 5. The scope of the internal administrative review shall pertain to the procedural and substantive conformity with this Regulation of such decisions.

…

5. Any natural or legal person may in the cases referred to in paragraph 1 request a review of a decision of the ECB under this Regulation which is addressed to that person, or is of a direct and individual concern to that person. A request for a review against a decision of the Governing Council as referred to in paragraph 7 shall not be admissible.

…

7. After ruling on the admissibility of the review, the Administrative Board of Review shall express an opinion within a period appropriate to the urgency of the matter and no later than two months from the receipt of the request and remit the case for preparation of a new draft decision to the Supervisory Board. The Supervisory Board shall take into account the opinion of the Administrative Board of Review and shall promptly submit a new draft decision to the Governing Council. The new draft decision shall abrogate the initial decision, replace it with a decision of identical content, or replace it with an amended decision. The new draft decision shall be deemed adopted unless the Governing Council objects within a maximum period of ten working days.

…'

Latvian law

Law on Credit Institutions

7 Article 129 of the Kredītiestāžu likums (Law on Credit Institutions) (*Latvijas Vēstnesis*, 1995, No 163) provides:

'(1) If the [Finanšu un kapitāla tirgus komisija (Financial and Capital Market Commission, Latvia)] cancels … the licence (permit) issued for the activities of a credit institution, the Financial and Capital Market Commission shall appoint an authorised representative and submit to a court an application for the liquidation of that credit institution and for the appointment of a liquidator, simultaneously nominating a candidate for the liquidator.

(2) After the cancellation of a licence, the meeting of the shareholders of the credit institution shall no longer be entitled to decide on commencement of voluntary liquidation and the appointment of a liquidator.

…'

8 Article 133(4) of that law states:

'The provisions of Chapter XI of this Law, except Articles 160 and 166, and the rights, duties and powers conferred on the administrator by Articles 172 and 172[1] of this Law shall apply to a liquidator of a credit institution appointed by a court.'

9 Under Chapter XI of that law, Article 161(1) thereof provides:

'After a credit institution has been declared insolvent, the administrator shall assume all the duties, rights and powers of the administrative bodies and the heads of those bodies provided for by law and in the articles of association of the credit institution.'

Law on Civil Procedure

10 Article 377(2) of the Civilprocesa likums (Law on Civil Procedure) states:

'In giving judgment on the liquidation of a credit institution, the court shall appoint a liquidator for the credit institution. The court shall appoint as the liquidator for the credit institution a person proposed by the Financial and Capital Market Commission.'

11 Under Article 387(2) of that law:

'The court may discharge an administrator or liquidator at the request of the Financial and Capital Market Commission. Attached to the request shall be the decision of the Financial and Capital Market Commission, which expresses a lack of confidence in the administrator or liquidator in connection with the following circumstances …'

Commercial Law

12 Under Article 322 of the Komerclikums (Commercial Law):

'(1) Liquidators shall have all the rights and duties of the board of directors and the supervisory board which are not in contradiction with the purposes of the liquidation.

(2) Liquidators shall collect debts including amounts which are due to the company in respect of unpaid capital shares, sell the assets of the company and satisfy the claims of creditors.

(3) Liquidators may only conclude such transactions as are necessary for the liquidation of the company.

…'

Background to the dispute

13 The background to the dispute is set out in paragraphs 1 to 7 of the order under appeal and may be summarised as follows.

14 Trasta Komercbanka is a Latvian credit institution providing financial services by virtue of an authorisation granted to it by the Financial and Capital Market Commission ('the FCMC') in September 1991.

15 Mr Buimisters and the companies C & R Invest, Figon Co., GCK Holding Netherlands and Rikam Holding are direct shareholders of Trasta Komercbanka. Mr Fursin, who holds the capital in those companies, is an indirect shareholder of Trasta Komercbanka.

16 After receiving, on 5 February 2016, a proposal from the FCMC to withdraw Trasta Komercbanka's authorisation and after obtaining observations from Trasta Komercbanka, the ECB, on the basis of Article 4(1)(a) and Article 14(5) of Regulation No 1024/2013, adopted the decision at issue, by which it withdrew that authorisation.

17 On 14 March 2016, at the request of the FCMC, the Rīgas pilsētas Vidzemes priekšpilsētas tiesa (Riga City Court (Vidzeme District), Latvia) adopted a decision ordering that liquidation proceedings be opened in respect of Trasta Komercbanka and appointed a liquidator. That court also rejected that credit institution's request that the powers of representation of its decision-making body be maintained as regards the lodging of a request for review with the ECB and the bringing of an action against the decision at issue before the Court of Justice of the European Union. No appeal may lie against that judgment.

18 On 17 March 2016, a notice of the opening of liquidation proceedings in respect of Trasta Komercbanka and of the replacement of the management of that credit institution by the liquidator was published in the *Latvijas Vēstnesis* (Official Gazette of the Republic of Latvia). On the same date,

that liquidator adopted a decision revoking all the powers of attorney which had been issued by Trasta Komercbanka. On 21 March 2016, a notary published in the *Latvijas Vēstnesis* a notice of revocation of all powers of attorney adopted before 17 March 2016.

19 It is apparent from paragraph 7 of the order under appeal that, on 3 April 2016, Trasta Komercbanka submitted a request for review of the decision at issue to the Administrative Board of Review referred to in Article 24 of Regulation No 1024/2013. That board rejected that request on 30 May 2016, taking the view that the allegations of procedural and substantive infringements by the decision at issue made in Trasta Komercbanka's request for review were unfounded and that that decision was sufficiently reasoned and proportionate. That board nevertheless recommended that the decision-making body of the ECB clarify certain elements.

Procedure before the General Court and the order under appeal

20 By application lodged at the Registry of the General Court on 13 May 2016, Trasta Komercbanka and its shareholders as referred to in paragraph 15 above ('the shareholders of Trasta Komercbanka') brought an action for annulment of the decision at issue.

21 Following up on the decision of the Administrative Board of Review referred to in paragraph 19 above, the ECB, by Decision ECB/SSM/2016 — 5299WIP0INFDAWTJ81/2 WOANCA-2016-0005 of 11 July 2016, repealed, with effect from that date, the decision at issue and replaced that decision by confirming the withdrawal of Trasta Komercbanka's authorisation. Trasta Komercbanka and its shareholders also brought an action before the General Court for annulment of the decision of 11 July 2016. That case, which is Case T-698/16, is still pending before the General Court.

22 By separate document lodged at the Registry of the General Court on 29 September 2016, the ECB raised a plea of inadmissibility in respect of the action against the decision at issue.

23 In point 1 of the operative part of the order under appeal, the General Court considered that there was no need to adjudicate on the action brought by Trasta Komercbanka. In point 2 of that operative part, it rejected the plea of inadmissibility raised by the ECB in so far as it concerned the action brought by the other applicants.

24 In the first place, the General Court, after examining, in paragraphs 17 to 22 of that order, whether Trasta Komercbanka and its shareholders had an interest in bringing proceedings against the decision at issue despite the repeal of that decision, found, in paragraph 23 of that order, that they had 'demonstrated to the requisite legal standard that they maintained an interest in bringing proceedings against the [decision at issue] despite [that] repeal'.

25 In the second place, the General Court examined, in paragraphs 24 to 51 of the order under appeal, the lawfulness of the power of attorney of the lawyer who had brought the action on behalf of Trasta Komercbanka.

26 It recalled that it was for the General Court to assess, having regard to the decision taken by the liquidator on 17 March 2016 to revoke all the powers of attorney adopted by Trasta Komercbanka before 17 March 2016, whether, under the applicable Latvian law, the liquidator had the power to revoke the power of attorney granted to that lawyer and whether it had actually done so.

27 After noting, in paragraph 32 of the order under appeal, that that power of attorney had been issued before the opening of the liquidation proceedings and that it was not disputed that, 'on that date, the power of attorney was granted by an authorised person within the meaning of the Rules of Procedure', the General Court considered that, under Latvian law, the liquidator had the power to revoke that power of attorney, rejecting, in paragraphs 35 and 36 of the order under appeal,

respectively, Trasta Komercbanka's arguments alleging a conflict of interests on the part of the liquidator and the inability of the latter to bring an action on its behalf, and infringement of EU law and, in particular, of the right to effective judicial protection.

28 In paragraph 46 of that order, the General Court stated that the lawyer who had brought the action on behalf of Trasta Komercbanka had produced a letter of revocation of his power of attorney, signed by the liquidator and dated 31 March 2016, which that lawyer had received by email on 28 October 2016. In the light of that factor, the General Court held, in paragraphs 47 and 48 of that order, that that lawyer cannot claim that the revocation of his power of attorney was not effective as from that second date and that, consequently, he no longer had a properly conferred authority to act on behalf of Trasta Komercbanka.

29 In paragraph 49 of the order under appeal, the General Court considered that, as a condition of admissibility, compliance with the requirement for legal persons to be represented by a lawyer had to continue until the final decision, failing which there would be no need to adjudicate. Having established that Trasta Komercbanka was no longer represented before it by a legally authorised lawyer, it found, in paragraph 50 of that order, that there was no need to adjudicate on the action brought by that company.

30 In the third place, the General Court examined, in paragraphs 52 to 72 of the order under appeal, whether the shareholders of Trasta Komercbanka had an interest in bringing proceedings against the decision at issue and had standing to do so.

31 The General Court, having first considered that, because of the transfer of the powers of Trasta Komercbanka's decision-making bodies to the liquidator, those applicants were deprived of the practical possibility of exercising their rights as members to defend the interests of that company, held, in paragraph 58 of that order, that they had established to the requisite legal standard their interest in bringing proceedings.

32 Next, the General Court, after finding that the shareholders of Trasta Komercbanka were not addressees of the decision at issue, nevertheless took the view that they formed a group of persons who were identified or identifiable on the day the decision at issue was adopted and that that decision affected them in their particular capacity as shareholders of Trasta Komercbanka, whose authorisation had been withdrawn. It therefore took the view, in paragraph 63 of that order, that the applicants who were direct shareholders of Trasta Komercbanka were individually concerned by the decision at issue.

33 Lastly, the General Court also found, in paragraph 69 of the order under appeal, that those applicants were directly concerned by the decision at issue, as the intensity of the effects of that decision affected the substance and extent of their rights. In paragraphs 66 and 67 of that order, the General Court thus emphasised that that decision had the effect of preventing Trasta Komercbanka from achieving its object and having an economic activity and, consequently, deprived that company's shareholders of the effective exercise of their right to receive dividends and of their voting rights and their right to participate in the management of that company.

34 In addition, in paragraph 70 of that order, the General Court held that, given that the admissibility of the action with regard to the direct shareholders of Trasta Komercbanka had been established, there was no need to examine the *locus standi* of Mr Fursin, an indirect shareholder of Trasta Komercbanka.

35 Therefore, the General Court rejected the plea of inadmissibility raised by the ECB in so far as it concerned the shareholders of Trasta Komercbanka.

Forms of order sought and the procedure before the Court of Justice

36 By its appeal in Case C-663/17 P, the ECB claims that the Court should:

– set aside the order under appeal in so far as it finds that the shareholders of Trasta Komercbanka, applicants before the General Court, had an interest in bringing proceedings and standing to bring proceedings before that Court;

– give a definitive ruling on the substance and dismiss the action brought by those shareholders as being inadmissible; and

– order Trasta Komercbanka and its shareholders to pay the costs.

37 By its appeal in Case C-665/17 P, the Commission claims that the Court should:

– set aside the order under appeal in so far as it rejects the plea of inadmissibility raised as regards the action brought by the shareholders of Trasta Komercbanka;

– dismiss the action brought by those shareholders as inadmissible; and

– order Trasta Komercbanka and its shareholders to pay the costs.

38 By their appeal in Case C-669/17 P, Trasta Komercbanka and its shareholders claim that the Court should:

– set aside the order under appeal in so far as it declares that there is no need to adjudicate on the action for annulment brought by Trasta Komercbanka;

– declare that Trasta Komercbanka's action for annulment is not devoid of purpose;

– declare that the action for annulment is admissible;

– refer the case back to the General Court so that it may give a ruling on the claim for annulment; and

– order the ECB to pay the costs, including those related to the appeal proceedings.

39 In their responses in Cases C-663/17 P and C-665/17 P, Trasta Komercbanka and its shareholders contend that the Court should:

– dismiss the appeals in those cases;

– declare their action for annulment admissible and declare that it has not become devoid of purpose; and

– order the ECB and the Commission, respectively, to pay the costs.

40 In its response in Case C-665/17 P, the ECB reiterates the form of order sought in its appeal, as set out in paragraph 36 above.

41 In its response in Case C-669/17 P, the ECB contends that the Court should dismiss the appeal and order Trasta Komercbanka and its shareholders to pay the costs.

42 By decision of the President of the Court of Justice of 13 March 2018, Cases C-663/17 P, C-665/17 P and C-669/17 P were joined for the purposes of the oral procedure and of the judgment.

43 By decision of the President of the Court of 25 April 2018, the Commission was granted leave to intervene in support of the form of order sought by the ECB in Cases C-663/17 P and C-669/17 P in order to submit its observations at the hearing.

The appeals

Preliminary observations

44 It should be noted that both the appeal in Case C-669/17 P and the other procedural documents lodged on behalf of Trasta Komercbanka and its shareholders in Cases C-663/17 P, C-665/17 P, and C-669/17 P were signed by Mr O.H. Behrends. The latter, who also represented Trasta Komercbanka and its shareholders at the hearing before the Court, relied, for the purpose of justifying his status as a representative of Trasta Komercbanka, on the power of attorney which had been issued to him by the chair of that company's steering committee on 10 February 2016.

45 The General Court held, in paragraphs 46 and 47 of the order under appeal, that that power of attorney had been revoked by a letter from the liquidator, dated 31 March 2016, sent to the lawyer concerned by email on 28 October 2016. Trasta Komercbanka and its shareholders argue that that revocation has had no effect and that Mr Behrends continues to be entitled to represent Trasta Komercbanka before the General Court and before the Court of Justice.

46 It follows that the issue of the admissibility of the appeal in Case C-669/17 P, in so far as it was lodged by Trasta Komercbanka, and the lawfulness of the representation of that company in Cases C-663/17 P and C-665/17 P is inextricably linked to the subject matter of the appeal in Case C-669/17 P, which must therefore be examined first.

The appeal in Case C-669/17 P

Arguments of the parties

47 Trasta Komercbanka and its shareholders challenge both the grounds set out in paragraphs 46 to 48 of the order under appeal, according to which the power of attorney issued to their lawyer by the management of Trasta Komercbanka had been validly revoked by the liquidator of that company, and the resulting conclusion drawn by the General Court in paragraph 50 of that order that there was no need to adjudicate on the action brought by Trasta Komercbanka.

48 As regards the lawfulness of the revocation of the power of attorney, they argue that taking the view that the defence of Trasta Komercbanka's interests in any proceedings seeking to call into question the decision at issue is a matter only for the liquidator, that is to say, a person responsible for the liquidation of that company and proposed by an authority which is itself responsible for the adoption by the ECB of the decision at issue, is incompatible with the right to effective judicial protection. Therefore, the General Court disregarded not only Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'), but also Latvian law. The liquidator has a conflict of interests, given that proceeding with the liquidation of Trasta Komercbanka is by its very nature at odds with maintaining the authorisation of that company as sought by the action for annulment of the decision at issue. However, the General Court failed to take account of the general principle that legal acts are invalid if they involve an obvious conflict of interests.

49 The ECB, with which the Commission, in essence, agreed in its observations as presented at the hearing, states that the General Court correctly held that the defence of Trasta Komercbanka's interests was assured by the liquidator. According to the ECB, Latvian law governs the determination of persons empowered to act on behalf of Trasta Komercbanka.

50 Moreover, while acknowledging that the power of attorney given to the lawyer who brought the action on behalf of Trasta Komercbanka, issued by the management of that company, was valid on the date it was drawn up, the ECB emphasises that, following the signing of that power of attorney, the Latvian court having jurisdiction ordered the liquidation of Trasta Komercbanka and appointed a liquidator who, in accordance with Latvian law, had the necessary power to revoke that power of attorney.

51 The ECB contends that the argument put forward by Trasta Komercbanka and its shareholders, alleging infringement of Article 47 of the Charter, must be rejected, given that Trasta Komercbanka was not deprived of the right to bring an effective judicial action against the decision at issue, as the liquidator had the right to bring such an action on its behalf, if it considered it to be appropriate. The argument that that liquidator was appointed by the FCMC cannot succeed either, given that it was appointed by the Latvian court having jurisdiction and not by the FCMC or by the ECB. According to the ECB, the liquidator has both an interest in bringing an action against the decision at issue and an obligation to do so, given that the value of Trasta Komercbanka's recoverable assets may increase if it is successful.

Findings of the Court

52 As a preliminary point, it should be noted that the appeal in Case C-669/17 P, in so far as it was lodged by the indirect shareholder and the direct shareholders of Trasta Komercbanka, namely Mr Fursin, Mr Buimisters, C & R Invest, Figon Co., GCK Holding Netherlands and Rikam Holding, must be dismissed as inadmissible.

53 As has been noted in paragraph 35 above, by the order under appeal, the General Court held that the action brought by those parties was admissible and rejected the plea of inadmissibility raised by the ECB in relation thereto. It follows that those parties have not, in whole or in part, been unsuccessful for the purposes of the first sentence of the second paragraph of Article 56 of the Statute of the Court of Justice of the European Union and that, accordingly, they are not entitled to bring an appeal against the order under appeal.

54 Regarding that same appeal as lodged by Trasta Komercbanka, it should be borne in mind that the European Union is a Union based on the rule of law in which its institutions are subject to judicial review of the compatibility of their acts with, inter alia, the Treaty on the Functioning of the European Union and the general principles of law, that treaty having established a complete system of legal remedies and procedures designed to permit the Court to review the legality of acts of the EU institutions (see, to that effect, judgments of 23 April 1986, *Les Verts* v *Parliament*, 294/83, EU:C:1986:166, paragraph 23; of 29 June 2010, *E and F*, C-550/09, EU:C:2010:382, paragraph 44; and of 30 May 2017, *Safa Nicu Sepahan* v *Council*, C-45/15 P, EU:C:2017:402, paragraph 35). Individuals are therefore entitled to effective judicial protection of the rights they derive from the EU legal order (judgment of 18 January 2007, *PKK and KNK* v *Council*, C-229/05 P, EU:C:2007:32, paragraph 109 and the case-law cited).

55 In that regard, it should be borne in mind that the principle of the effective judicial protection of individuals' rights under EU law, also referred to in the second subparagraph of Article 19(1) TEU, is a general principle of EU law stemming from the constitutional traditions common to the Member States. That principle has been enshrined in Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950. It is

now reaffirmed by Article 47 of the Charter (judgments of 27 February 2018, *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, paragraph 35, and of 24 June 2019, *Commission* v *Poland (Independence of the Supreme Court)*, C-619/18, EU:C:2019:531, paragraph 49).

56 The effective judicial protection of a legal person such as Trasta Komercbanka, whose authorisation has been withdrawn by a decision of an EU institution such as the ECB, adopted on the basis of an act of the European Union such as Regulation No 1024/2013, is ensured by the right of that person, pursuant to the fourth paragraph of Article 263 TFEU, to bring an action for annulment of that decision before the Courts of the European Union.

57 In order for such an action to be admissible, it is necessary to show that the person concerned has indeed made the decision to bring the action and that the lawyers who claim to represent that person have in fact been authorised to do so (see, to that effect, judgment of 18 January 2007, *PKK and KNK* v *Council*, C-229/05 P, EU:C:2007:32, paragraph 113 and the case-law cited). It is precisely in order to ensure that that is indeed the case that Article 51(3) of the Rules of Procedure of the General Court requires lawyers, where the party they represent is a legal person governed by private law, to lodge at the Registry of the General Court an authority to act given by that person, as failure to produce that authority to act may entail, in accordance with Article 51(4) of those Rules, the formal inadmissibility of the application.

58 In the case of a credit institution constituted in the form of a legal person governed by the law of a Member State, such as Trasta Komercbanka, where there are no EU rules in the matter, it is under that law that it is necessary to determine which bodies of that legal person are entitled to take the decisions referred to in the preceding paragraph.

59 However, as the Court has already emphasised, the autonomy enjoyed by the Member States in that regard is restricted by their obligation, in particular, to ensure compliance with the right to an effective remedy and to a fair hearing enshrined in Article 47 of the Charter (judgment of 8 November 2016, *Lesoochranárske zoskupenie VLK*, C-243/15, EU:C:2016:838, paragraph 65 and the case-law cited).

60 The right of a legal person, such as Trasta Komercbanka, to an effective legal remedy before the Courts of the European Union would be infringed if, under the law of the Member State concerned, a liquidator empowered to take such decisions were to be appointed on the basis of a proposal from a national authority which took part in the adoption of the act adversely affecting the legal person concerned and which resulted in its going into liquidation. Having regard to the relationship of trust between that authority and the appointed liquidator which is involved in such an appointment procedure and to the fact that a liquidator's task is to carry out the final liquidation of the legal person which has gone into liquidation, there is a risk that that liquidator may avoid challenging, in court proceedings, an act which that authority has itself adopted or which has been adopted with its assistance and which has led to the legal person concerned going into liquidation.

61 That is a fortiori the case where the liquidator of the legal person concerned may be relieved of its duties by that authority or on a proposal from that authority in the event of annulment, following an action the bringing or maintaining of which depends on its own decision, of an act of the European Union adopted with the assistance of that authority and which led to that legal person going into liquidation.

62 As the Advocate General noted, in essence, in points 75 to 77 of her Opinion, situations such as those described in paragraphs 60 and 61 above, given that they involve a conflict of interests, may adversely affect the right of the legal person concerned to an effective remedy (see, to that effect, judgment of the European Court of Human Rights of 24 November 2005, *Capital Bank AD v. Bulgaria*, CE:ECHR:2005:1124JUD004942999, §§ 117 and 118).

63 In the present case, it is apparent from paragraph 32 of the order under appeal that the power of attorney produced by the lawyer who brought the action before the General Court on behalf of Trasta Komercbanka was issued by a person who, on the date the power of attorney was issued, was authorised to do so.

64 However, as is noted in paragraphs 5 and 34 of that order, the Latvian court having jurisdiction ordered the liquidation of Trasta Komercbanka after the issue of that power of attorney, on 14 March 2016, at the request of the FCMC and pursuant to the provisions of Latvian law which provide for the liquidation of a credit institution whose authorisation has been withdrawn. In accordance with the same provisions, that court appointed the liquidator proposed by the FCMC. That court also rejected Trasta Komercbanka's request that the powers of representation of its former decision-making body be maintained with regard, inter alia, to the bringing of an action against the decision at issue before the Courts of the European Union.

65 Furthermore, it is apparent from paragraphs 6 and 46 of that order that, following its appointment, the liquidator of Trasta Komercbanka revoked all the powers of attorney issued by that company, including that of the lawyer who had brought the action before the General Court on behalf of Trasta Komercbanka, a revocation of which that lawyer was aware by 28 October 2016 at the latest, from which date the revocation must be regarded as effective.

66 The General Court therefore held, in paragraphs 48 to 50 of the order under appeal, that that lawyer no longer had a properly conferred authority to act on behalf of that company for the purposes of Article 51(3) of the Rules of Procedure of the General Court and that, consequently, there was no need to rule on the action brought by that company.

67 To that end, the General Court rejected, in paragraph 35 of that order, Trasta Komercbanka's argument alleging a conflict of interests on the part of the liquidator, taking the view that, in so far as the Latvian court having jurisdiction had rejected Trasta Komercbanka's request that the powers of representation of its decision-making body be maintained, that argument was not such as to call into question the existence, under Latvian law, of the power of the liquidator of Trasta Komercbanka to revoke the power of attorney previously issued to that company's lawyer.

68 In paragraph 36 of the order under appeal, the General Court added that 'in any event … the application of Latvian law [did] not … lead to a breach of EU law and, in particular, of the right to effective judicial protection', given that that application did not lead to the banks whose authorisation had been withdrawn being deprived of a remedy but to a liquidator being given responsibility for seeking that remedy.

69 The grounds put forward by the General Court in paragraphs 35 and 36 of the order under appeal are vitiated by an error of law.

70 As is apparent from paragraph 60 above, the fact, mentioned in paragraph 35 of the order under appeal, that the liquidator had the power, under Latvian law, to revoke the power of attorney issued to Trasta Komercbanka's lawyer for the purpose of bringing an action before the Courts of the European Union against the decision at issue is not sufficient to justify recognition of such a revocation by the Courts of the European Union if that revocation infringes, inter alia for the reasons stated in paragraphs 61 and 62 above, Trasta Komercbanka's right to effective judicial protection as enshrined in Article 47 of the Charter.

71 Given that the liquidation of Trasta Komercbanka is, in accordance with the applicable provisions of Latvian law, a consequence of the withdrawal of its authorisation by the decision at issue, the annulment of that decision following the action brought by Trasta Komercbanka may lead to the withdrawal of the decision ordering the liquidation of that company and, consequently, of the decision appointing the liquidator.

72 It should be noted that, as is apparent from Article 322 of the Commercial Law, the task given to the liquidator of a legal person such as Trasta Komercbanka is not the same as the task usually given to the managing director of such a legal person, given that the sole purpose of the liquidator is to collect debts, sell assets and satisfy the claims of creditors in order to bring about the total cessation of that person's activity.

73 Moreover, the General Court failed to take account of the fact, relied on before it by Trasta Komercbanka, that the liquidator, in accordance with Article 377(2) of the Law on Civil Procedure, had been appointed at the suggestion of the FCMC and that, by virtue of Article 387(2) of that law, the FCMC could request that the liquidator be discharged if it no longer had confidence in that liquidator.

74 Although the FCMC is neither the author of the decision at issue nor the defendant before the General Court, that person being the ECB in both instances, the fact remains that the FCMC participated in the adoption of the decision at issue, which was adopted at its suggestion. Having regard to the task conferred on it pursuant to Latvian law, the liquidator has a conflict of interests because the challenge, before the Courts of the European Union, to the withdrawal of the authorisation of the legal person which it represents could lead it, contrary to that task, to deprive the liquidation proceedings concerning that person of any legal basis.

75 In accordance with what has been stated in paragraphs 60 to 62 above, it follows from the existence of such links between the FCMC and the liquidator and from the role played by the FCMC in the adoption of the decision at issue that the responsibility for any revocation of the power of attorney issued to Trasta Komercbanka's lawyer for the purpose of bringing an action before the Courts of the European Union against that decision cannot be given to that liquidator without infringing Trasta Komercbanka's right to effective judicial protection within the meaning of Article 47 of the Charter.

76 That finding is also supported by the case-law of the European Court of Human Rights. That court considered, in its decision of 9 September 2004, *Capital Bank AD v. Bulgaria* (CE:ECHR:2004:0909DEC004942999), in a case concerning a banking institution represented by liquidators, that the former management of that institution had to be recognised as having the right to bring an individual application before it for the purposes of Article 34 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, in a situation where those liquidators had a conflict of interests which rendered the exercise of that right by the institution which they were responsible for representing theoretical and illusory.

77 That assessment is not called into question by the consideration set out by the General Court in paragraph 36 of the order under appeal. While it is true that the transfer to a liquidator, under Latvian law, of the responsibility for deciding to bring or maintain an action against a decision to withdraw authorisation such as the decision at issue does not, in principle, entail an infringement of the right to effective judicial protection, the situation is otherwise if the person to whom such responsibility is transferred has a conflict of interests as regards the decision to bring or maintain such an action.

78 Having regard to the foregoing, it must be found that the General Court erred in law in ruling, in paragraphs 35 and 36 of the order under appeal, that the application of Latvian law did not, contrary to the arguments put forward by Trasta Komercbanka to justify maintaining the power of representation of its former decision-making bodies, lead to an infringement of that company's right to effective judicial protection and in inferring, in paragraphs 47 and 48 of that order, that the lawyer who had brought the action before it on behalf of Trasta Komercbanka no longer had a properly conferred authority to act, on behalf of that company, from a person qualified to confer it, given that the power of attorney initially issued to him had been revoked by that company's liquidator. Indeed, in the light of the considerations set out in paragraphs 70 to 77 above, the General Court could not take that revocation into account, given that it infringed Trasta Komercbanka's right to effective judicial protection as enshrined in Article 47 of the Charter.

79 Accordingly, it must be held that the appeal lodged by Trasta Komercbanka in Case C-669/17 P is both admissible and well founded, and the order under appeal must be set aside in so far as the General Court ruled that there was no need to adjudicate on the action brought by Trasta Komercbanka.

The action brought by Trasta Komercbanka before the General Court

80 In accordance with the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, if the appeal is well founded, the Court of Justice is to quash the decision of the General Court. It may then itself give final judgment in the matter, where the state of the proceedings so permits.

81 In the present case, the Court has the necessary information to enable it to give final judgment on the admissibility of the action brought by Trasta Komercbanka.

82 For the reasons set out in paragraphs 54 to 61 and 70 to 77 above, the plea of inadmissibility raised by the ECB must be rejected as unfounded in so far as it relates to the action brought by Trasta Komercbanka.

83 By contrast, the Court of Justice considers that it is not in a position to give a ruling on the substance of the action brought by Trasta Komercbanka. The present case must therefore be referred back to the General Court for that purpose.

The appeals in Cases C-663/17 P and C-665/17 P

Admissibility of the appeal in Case C-663/17 P

84 Trasta Komercbanka and its shareholders argue that the form of order sought in the appeal lodged by the ECB in Case C-663/17 P does not seek the setting aside, in whole or in part, of the decision of the General Court as set out in the operative part of the order under appeal, as required by Article 169 of the Rules of Procedure of the Court of Justice, but the setting aside of certain paragraphs in the grounds of that order. According to Trasta Komercbanka and its shareholders, such a form of order cannot be accepted, any more than one seeking a definitive ruling from the Court on the substance of the case, given that, to date, the General Court has ruled only on the admissibility of the action brought before it.

85 That line of argument cannot be accepted.

86 First, the ECB's first head of claim in its appeal refers expressly to the setting aside of point 2 of the operative part of the order under appeal. Secondly, by the second head of claim in that appeal, the ECB asks the Court, in essence, and as it is allowed to do under Article 170(1) of the Rules of Procedure of the Court of Justice, to grant the form of order sought by it at first instance, namely the dismissal of the action brought by the shareholders of Trasta Komercbanka as being inadmissible.

87 The appeal lodged by the ECB in Case C-663/17 P is therefore admissible.

Substance of the appeals in Cases C-663/17 P and C-665/17 P

88 In support of its appeal in Case C-663/17 P, the ECB relies on, in essence, three grounds of appeal. The first ground of appeal alleges that the General Court erred in law in finding that the shareholders of Trasta Komercbanka had an interest in bringing proceedings against the decision at issue. By the

second ground of appeal, the ECB submits that the General Court wrongly held that those shareholders were individually concerned by the decision at issue for the purposes of the fourth paragraph of Article 263 TFEU. The third ground of appeal alleges that the General Court erred in law in finding that those shareholders were directly concerned by that decision for the purposes of that provision.

89 In support of its appeal in Case C-665/17 P, the Commission puts forward two grounds of appeal. The first ground alleges infringement of Article 263 TFEU, in that the General Court wrongly found that the shareholders of Trasta Komercbanka had an interest in bringing proceedings. The second ground of appeal alleges infringement of the fourth paragraph of Article 263 TFEU and comprises two parts, relating to the error of law committed by the General Court in finding that the shareholders were, first, individually and, second, directly concerned by that decision.

90 It is appropriate to examine together, first of all, the third ground of appeal in Case C-663/17 P and the second part of the second ground of appeal in Case C-665/17 P.

– *Arguments of the parties*

91 The ECB and the Commission argue that the shareholders of Trasta Komercbanka are not directly concerned by the decision at issue, which does not adversely affect the essence of their rights. Only Trasta Komercbanka, whose authorisation as a credit institution has been withdrawn, could be considered to be directly concerned by that decision. That decision thus directly produces legal effects only in relation to Trasta Komercbanka. The shareholders of that company do not themselves hold a banking licence and, therefore, cannot claim to have been personally affected by the withdrawal of such authorisation. In deciding, in the order under appeal, that the shareholders of Trasta Komercbanka were directly concerned by that decision, by reason of the intensity of the effects of that decision on their situation, the General Court misapplied its own case-law.

92 The ECB and the Commission submit that a distinction must be drawn between the economic interest of the company and the interest of its shareholders, as the latter do not have any rights in the undertaking's assets. It is true that the withdrawal of Trasta Komercbanka's authorisation has an economic impact on its shareholders, but it does not affect their legal situation. For the purpose of determining whether those shareholders are directly concerned by the withdrawal decision for the purposes of the fourth paragraph of Article 263 TFEU, it is not necessary to take account of that economic impact, regardless of its extent. A criterion based on the qualitative assessment of the effects of an act is contrary to the wording and objectives of the fourth paragraph of Article 263 TFEU.

93 In addition, the decision at issue did not produce any legal effect on the right of the shareholders of Trasta Komercbanka to receive dividends.

94 Moreover, it is incorrect to say that the withdrawal of Trasta Komercbanka's banking licence prevents it from achieving its object and having an economic activity. That withdrawal does not prevent Trasta Komercbanka from carrying on a different economic activity, if necessary after amending its articles of association.

95 The ECB and the Commission argue that the decision at issue also did not affect the structure of Trasta Komercbanka or its internal administration. These might perhaps have been affected by the decision to order the liquidation of Trasta Komercbanka, but that decision was adopted on the basis of Latvian law and not of EU law, which does not require the liquidation of a credit institution whose authorisation has been withdrawn. In that regard, the General Court failed to distinguish between the decision at issue and the decision ordering the liquidation of Trasta Komercbanka.

96 For their part, Trasta Komercbanka and its shareholders contend that the situation of those shareholders is not comparable to that of minority shareholders of a commercial company. The shareholders of Trasta Komercbanka are holders of the vast majority of the shares in that company. Moreover, the General Court has already accepted that a majority shareholder is entitled to challenge a decision which is addressed to the company in which he holds shares, solely on the basis of the economic effect produced by that decision on that shareholder.

97 The interpretation that only the legal effects and not the economic effects of a measure should be taken into account for the purpose of determining whether a person is directly and individually concerned by that measure for the purposes of the fourth paragraph of Article 263 TFEU has no support in case-law. On the contrary, in the area of State aid and in the area of mergers, the Courts of the European Union have recognised the *locus standi* of persons who are competitors of the addressee of a measure, solely on the basis of the economic consequences of that measure on those persons.

98 Moreover, the decision at issue directly and individually concerns the shareholders of Trasta Komercbanka, given that it deprives them of the possibility of deciding to establish a branch of Trasta Komercbanka in another Member State, on the basis of its Latvian banking licence. It also deprives them, in accordance with Latvian law, of the possibility of deciding on the voluntary liquidation of their company and appointing the liquidator themselves. Moreover, the shareholders of Trasta Komercbanka are identified by name in the decision at issue and were accepted as interlocutors in the course of the procedure which led to that decision, in the same way as persons authorised to legally represent Trasta Komercbanka.

99 Trasta Komercbanka and its shareholders add that the consequences of applying national law must be taken into consideration for the purpose of assessing an applicant's standing to bring proceedings in accordance with Article 263 TFEU. They emphasise, in that regard, that, under Latvian law, the liquidation of Trasta Komercbanka is an automatic consequence of the withdrawal of its authorisation and that neither the FCMC nor the Latvian court which ordered that liquidation had discretion in the matter.

100 In any event, the requirement that the shareholders of a company should show a distinct interest in the annulment of a measure addressed to a company in which they hold shares does not apply in a situation, such as that in the present case, where the shareholders of the company concerned, although holders of the majority of the shares, are unable to exercise their rights to compel the company to bring an action.

101 Lastly, Trasta Komercbanka and its shareholders assert that the *locus standi* of the shareholders of Trasta Komercbanka is independent of the outcome of the appeal in Case C-669/17 P.

– *Findings of the Court*

102 It should be borne in mind that, in accordance with the fourth paragraph of Article 263 TFEU, a natural or legal person may institute proceedings against a decision addressed to another person only if that decision is of direct and individual concern to him.

103 It is apparent from the settled case-law of the Court of Justice, also recalled by the General Court in paragraph 64 of the order under appeal, that the condition that the decision forming the subject matter of the proceedings must be of direct concern to a natural or legal person, as laid down in the fourth paragraph of Article 263 TFEU, requires the fulfilment of two cumulative criteria, namely the contested measure must, first, directly affect the legal situation of the individual and, secondly, leave no discretion to the addressees who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from EU rules alone without the application of

other intermediate rules (see, inter alia, judgments of 22 March 2007, *Regione Siciliana* v *Commission*, C-15/06 P, EU:C:2007:183, paragraph 31; of 13 October 2011, *Deutsche Post and Germany* v *Commission*, C-463/10 P and C-475/10 P, EU:C:2011:656, paragraph 66; and of 6 November 2018, *Scuola Elementare Maria Montessori* v *Commission, Commission* v *Scuola Elementare Maria Montessori and Commission* v *Ferracci*, C-622/16 P to C-624/16 P, EU:C:2018:873, paragraph 42).

104 In that regard, it should be noted that the decision at issue withdrew Trasta Komercbanka's authorisation as a credit institution and, consequently, directly affected the legal situation of that company, which, once the decision was adopted, was no longer authorised to continue its activity as a credit institution. That authorisation had been issued to Trasta Komercbanka itself and not to its shareholders *ad personam*.

105 The General Court nevertheless found, on the basis of the grounds set out in paragraphs 66 to 68 of the order under appeal, that the decision at issue also directly concerned the shareholders of Trasta Komercbanka.

106 In essence, as is apparent from paragraph 67 of that order, the General Court based that assessment on the 'intensity' of the effects of the decision at issue, which it found 'necessarily affects the substance and extent' of the rights of the shareholders of Trasta Komercbanka. First, it stated that the right of shareholders to receive dividends from a company 'which is no longer authorised to carry on its business activities' 'necessarily becomes illusory'. Secondly, it held that, in so far as the effect of the decision at issue was to 'prohibit [Trasta Komercbanka] from achieving its objects', the exercise by shareholders of their voting rights or of the right to participate in the management of that company 'becomes essentially formal'.

107 Those grounds are vitiated by errors of law.

108 First, by favouring an incorrect criterion, based on the 'intensity' of the effects of the decision at issue, the General Court did not, as it was required to do, determine whether that decision might have a direct effect on the legal situation of the shareholders of Trasta Komercbanka.

109 Secondly, as is correctly noted by the ECB and the Commission, the General Court was wrong to take account of the non-legal, economic effects of the decision at issue on the situation of the shareholders of Trasta Komercbanka (see, to that effect, judgment of 28 February 2019, *Council* v *Growth Energy and Renewable Fuels Association*, C-465/16 P, EU:C:2019:155, paragraph 81 and the case-law cited).

110 The right of shareholders to receive dividends and to participate in the management of Trasta Komercbanka, as a company constituted under Latvian law, has not been affected by the decision at issue.

111 It is true that, following the withdrawal of its authorisation, Trasta Komercbanka is no longer in a position to continue its activity as a credit institution and, consequently, its ability to distribute dividends to its shareholders is questionable. However, the negative effect of that withdrawal is economic in nature; the right of shareholders to receive dividends, just like their right to participate in the management of that company, if necessary by changing its object, has in no way been affected by the decision at issue.

112 The foregoing considerations are not called into question by the arguments put forward by Trasta Komercbanka and its shareholders, summarised in paragraph 97 above, based on the case-law of the Courts of the European Union in the area of State aid and in the area of mergers. Thus, the recognition that some competitors of the addressees of an act of the European Union relating to those areas may be directly affected by that act is justified, not by the purely economic effects of the act in question on their situation, but by the fact that that act affects the legal situation of those competitors, in particular their right under the Treaty on the Functioning of the European Union not

to be subject to distorted competition (see, to that effect, judgment of 6 November 2018, *Scuola Elementare Maria Montessori* v *Commission, Commission* v *Scuola Elementare Maria Montessori and Commission* v *Ferracci*, C-622/16 P to C-624/16 P, EU:C:2018:873, paragraph 43).

113 As regards the liquidation of Trasta Komercbanka following the adoption of the decision at issue, it is true that this circumstance has directly affected the right of the shareholders of Trasta Komercbanka to participate in the management of that company, as that management was entrusted, by the decision ordering the liquidation, to a liquidator.

114 However, the liquidation of Trasta Komercbanka does not constitute implementation of the decision at issue which is 'purely automatic and [results] from EU rules alone' for the purposes of the case-law cited in paragraph 103 above. Indeed, EU rules make no provision for the liquidation of a credit institution whose authorisation has been withdrawn. The liquidation decision was taken by a Latvian court, on the basis of Latvian law, that is, on the basis of 'other intermediate rules' for the purposes of that same case-law.

115 It follows that the General Court was wrong to consider that the shareholders of Trasta Komercbanka were directly concerned by the decision at issue for the purposes of the fourth paragraph of Article 263 TFEU.

116 Having regard to the foregoing, the third ground of appeal in Case C-663/17 P and the second part of the second ground of appeal in Case C-665/17 P must be upheld and, without it being necessary to examine the other grounds of appeal, the order under appeal must be set aside in so far as it rejects the plea of inadmissibility raised by the ECB in relation to the action brought by the shareholders of Trasta Komercbanka.

The action brought before the General Court by the shareholders of Trasta Komercbanka

117 In accordance with the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, if the appeal is well founded, the Court of Justice is to quash the decision of the General Court. It may then itself give final judgment in the matter, where the state of the proceedings so permits.

118 In the present case, the Court has the necessary information to enable it to give final judgment on the admissibility of the action brought by the shareholders of Trasta Komercbanka.

119 For the reasons set out in paragraphs 108 to 114 above, it must be held that the decision at issue does not directly concern the shareholders of Trasta Komercbanka. Consequently, the ECB's plea of inadmissibility must be upheld in so far as it concerns the action brought by those shareholders and, accordingly, that action must be dismissed as being inadmissible.

Costs

120 Under Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded or where the appeal is well founded and the Court itself gives final judgment in the case, the Court is to make a decision as to the costs.

121 Under Article 138(1) of those Rules of Procedure, applicable to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

122 As the ECB and the Commission have applied for costs and Trasta Komercbanka and its shareholders have been unsuccessful in Cases C-663/17 P and C-665/17 P, they must be ordered to bear their own costs and to pay those incurred by the ECB and the Commission in respect of those appeals. Moreover, as the shareholders of Trasta Komercbanka have been unsuccessful in the action before the General Court, they must, in accordance with the form of order sought by the ECB, be ordered to bear their own costs and to pay those incurred by the ECB in connection with the proceedings at first instance relating to that action, as brought by those shareholders.

123 In addition, under Article 140(1) of the Rules of Procedure of the Court of Justice, the EU institutions which have intervened in the proceedings are to bear their own costs.

124 The Commission, as the intervener in Case C-663/17 P, is to bear its own costs incurred in that case.

125 Lastly, the costs in Case C-669/17 P must be reserved, as the case is referred back to the General Court.

On those grounds, the Court (Grand Chamber) hereby:

1. **Dismisses the appeal in Case C-669/17 P as inadmissible, in so far as it was lodged by Mr Ivan Fursin, Mr Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV and Rikam Holding SA;**

2. **Sets aside the order of the General Court of the European Union of 12 September 2017, *Fursin and Others* v *ECB* (T-247/16, not published, EU:T:2017:623);**

3. **Rejects the plea of inadmissibility raised by the European Central Bank, in so far as it concerns the action brought by Trasta Komercbanka AS seeking the annulment of Decision ECB/SSM/2016 — 529900WIP0INFDAWTJ81/1 WOANCA-2016-0005 of the European Central Bank of 3 March 2016 withdrawing the authorisation granted to Trasta Komercbanka;**

4. **Dismisses the action brought by Mr Ivan Fursin, Mr Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV and Rikam Holding SA, seeking annulment of the European Central Bank's decision of 3 March 2016;**

5. **Refers the case back to the General Court of the European Union so that it may give a ruling on the action brought by Trasta Komercbanka AS seeking annulment of the European Central Bank's decision of 3 March 2016;**

6. **Orders Trasta Komercbanka AS, Mr Ivan Fursin, Mr Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV and Rikam Holding SA to bear their own costs and to pay those incurred by the European Central Bank and the European Commission in connection with the appeals in Cases C-663/17 P and C-665/17 P, respectively;**

7. **Orders the European Commission to bear its own costs in Case C-663/17 P;**

8. **Orders Mr Ivan Fursin, Mr Igors Buimisters, C & R Invest SIA, Figon Co. Ltd, GCK Holding Netherlands BV and Rikam Holding SA to bear their own costs and to pay those incurred by the European Central Bank in connection with the proceedings at first instance relating to the action brought by those shareholders;**

9. **Reserves the costs in Case C-669/17 P.**

Lenaerts	Silva de Lapuerta	Prechal
Vilaras	Safjan	Rodin
Bay Larsen	von Danwitz	Toader
Vajda	Biltgen	Jürimäe
Lycourgos		

Delivered in open court in Luxembourg on 5 November 2019.

A. Calot Escobar	K. Lenaerts
Registrar	President