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 – Formal opinion of the Commission on actions necessary to comply with EU law – Article 17(4) of Regulation (EU) No 1094/2010 – Actionable measure – Lack of direct concern – Inadmissibility)

In Case T-179/24,

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

applicant,

v

European Commission, represented by B. Stromsky, D. Triantafyllou and P. Vanden Heede, acting as Agents,

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 the European Commission by separate document lodged at the Registry of the General Court on 28 June 2024;

– the applicant's observations on the plea of inadmissibility lodged at the Court Registry on 19 August 2024;

– the application to intervene of the Slovak Republic lodged at the Court Registry on 23 July 2024,

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 Poisťovňa a.s., seeks the annulment of Commission Opinion C(2022) 6455 final of 13 September 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, the European Insurance and Occupational Pensions Authority (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, on the basis of Article 17(3) of Regulation No 1094/2010, a recommendation addressed to the NBS on the action necessary to comply with Directive 2009/138. That recommendation was the subject of an action for annulment brought by the applicant before the General Court and registered as Case T-204/24.

5 In that recommendation, EIOPA found that there had been an infringement of EU law, and in particular of the rules deriving from Directive 2009/138, by the applicant and by the NBS and made 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 consisted, 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 a decision to withdraw its authorisation.

6 On 13 September 2022, the European Commission adopted the contested act on the basis of Article 17(4) of Regulation No 1094/2010.

7 In the contested act, first of all, the Commission recalled and summarised the content of EIOPA's recommendation of 16 May 2022 (paragraphs 21 to 28 of the contested act).

8 Next, the Commission examined the actions planned by the NBS with regard to the applicant (paragraphs 29 to 40 of the contested act). It considered that, as long as that national authority had not adopted supervisory action putting an end to the infringements in a structural and sustainable manner, including, if appropriate or mandatory, a withdrawal of the applicant's authorisation under Article 144 of Directive 2009/138, that national authority would remain in breach of EU law (paragraph 41 of the contested act).

9 Lastly, in the conclusion in paragraphs 42 to 45 of the contested act, the Commission stated as follows:

‘(42) [T]he Commission considers that in order to comply with … Union law, the NBS should make additional efforts to implement planned actions in a timely manner.

(43) In particular, the NBS should, in line with its announced integrated intervention strategy, within four months …, finalise the sanctioning procedure … by adopting as regards [the applicant] a final conclusive supervisory action that ensures compliance with Union law.

(44) A decision to withdraw the authorisation [of the applicant] as a result of the sanctioning proceeding, as envisaged by the NBS, would ensure compliance with Union law. Such a decision … would also ensure that a final position and concrete supervisory actions are taken in relation to all [the applicant’s] … infringements, including but not limited to:

– [the applicant’s] non-compliance with the [NBS’s] decision on [infringements of the rules on] technical provisions issued on 14 January 2022;

– [the applicant’s] unilateral changes to the general terms of contract and … investment policy;

– the adequacy of [the applicant’s own risk and solvency assessment].

(45) The Commission calls on the NBS to inform the Commission and EIOPA within 10 working days … of the steps it has taken or intends to take to comply with this formal opinion …’

10 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

11 The applicant claims that the Court should:

– annul the contested act;

– order the Commission to pay the costs.

12 The Commission contends that the Court should:

– dismiss the action as inadmissible;

– order the applicant to pay the costs.

13 In addition, the applicant also requests the Court, by way of measures of organisation of procedure or measures of inquiry, to order the Commission to produce, in essence, all the documents relevant to the assessment of the origin and effects of the contested act.

Law

The plea of inadmissibility

14 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.

15 In its plea of inadmissibility, the Commission 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, since it is not directly concerned by that act, the applicant does not have standing to bring proceedings and, third, that the action was not brought within the time limit for bringing legal proceedings.

16 The applicant disputes the three parts of the plea of inadmissibility. In particular, it submits (i) that the contested act produces binding legal effects and may therefore be the subject of an action for annulment and (ii) that that act is of direct and individual concern to it. It states, in essence, that that act requires the NBS to take predetermined action, namely to withdraw its authorisation.

17 It is necessary first to examine the first two parts of the plea of inadmissibility and, accordingly, to determine (i) whether the contested act constitutes a challengeable act and (ii) whether that act directly affects the applicant.

Existence of a challengeable act

18 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'.

19 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).

20 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).

21 That applies in particular to opinions, which are not intended to produce binding legal effects. By establishing opinions 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 allow the institutions, bodies, offices and agencies of the European Union to express their views in areas in which they have no power to adopt binding decisions (see, to that effect, judgments of 13 December 1990, *Nefarma* v *Commission*, T-113/89, EU:T:1990:82, paragraph 68 and the case-law cited, and of

24 March 2017, *Estonia* v *Commission*, T-117/15, EU:T:2017:217, paragraph 45 and the case-law cited). Moreover, the statement of a simple legal opinion cannot be capable of producing legal effects (see, to that effect, judgment of 25 October 2017, *Romania* v *Commission*, C-599/15 P, EU:C:2017:801, paragraph 62).

22 However, the impossibility of bringing an action for annulment against an opinion does not apply if the contested act, by reason of its content, does not constitute a genuine opinion (see, by analogy, judgment of 20 February 2018, *Belgium* v *Commission*, C-16/16 P, EU:C:2018:79, paragraph 29).

23 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 and the case-law cited).

24 In the present case, in the first place, as regards the content of the contested act, summarised in paragraphs 7 to 9 above, it should be noted that that act finds a persistent infringement of EU law by the NBS and sets out the action to be taken by the NBS in order to bring that infringement to an end. According to the Commission, this means adopting, with regard to the applicant, within four months, a final decision entailing supervisory action such as to ensure compliance with EU law, such as a decision to withdraw the applicant's authorisation.

25 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, in its title and in paragraph 43, as an 'opinion' (in the English-language version, 'stanovisko' in the Slovak-language version), and in paragraphs 10 and 45, as a 'formal opinion' (in the English-language version, 'formálne stanovisko' in the Slovak-language version). The reference to the concept of 'formal opinion', although ambiguous, may suggest that the contested act is not a mere opinion with no binding effect.

26 Furthermore, the Commission rightly points out that 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 in the conclusion set out in that act, as evidenced by the use of the terms 'should' and 'would ensure' in English as well as 'by … mala' (should) and 'by … zabezpečil' or 'by … zabezpečilo' (would ensure) in Slovak (paragraphs 42 to 44 of the contested act).

27 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.

28 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'.

29 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'.

30 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'.

31 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 the necessary action.

32 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.

33 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 (see, to that effect and by analogy, judgment of 25 March 2021, *Balgarska Narodna Banka*, C-501/18, EU:C:2021:249, paragraphs 79 and 80). 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.

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(4) of Regulation No 1094/2010, the Commission in fact intended to adopt a mere opinion with no binding effects. In particular, the contested act contains no express indication that the NBS is not required to comply with it. By contrast, that act expressly states that, under Article 17(4) of Regulation No 1094/2010, the Commission may issue a 'formal opinion requiring the [national authority concerned] to take the action necessary' (paragraph 10 of the contested act). In addition, in the press release relating to the contested act, the Commission stated that it had acted 'in accordance with its role as set out in Article 17 of [Regulation No 1094/2010]'.

35 In those circumstances, in the light of all of the considerations set out in paragraphs 24 to 34 above and even though the contested act is essentially drafted in non-mandatory terms (see paragraph 26 above), it must be concluded that that act produces binding legal effects vis-à-vis the NBS, in so far as it requires it to adopt, with regard to the applicant, within a period of four months, a final decision entailing supervisory action such as to ensure compliance with EU law. It follows that, contrary to what the Commission maintains, that act may be the subject of an action for annulment under Article 263 TFEU.

36 Accordingly, the first part of the plea of inadmissibility must be rejected.

Standing to bring proceedings and in particular whether the applicant is directly concerned

37 Under the fourth paragraph of Article 263 TFEU, any natural or legal person may, under the conditions laid down in the first and second paragraphs of that article, institute proceedings for annulment of three types of act, namely, first, an act addressed to that person, second, an act which is of direct and individual concern to them and, third, a regulatory act which is of direct concern to them and does not entail implementing measures.

38 It should be noted at the outset that the contested act is addressed solely to the NBS. It follows that, since it is not an addressee of that act, the applicant has no right of action on the basis of the first limb of the fourth paragraph of Article 263 TFEU.

39 Moreover, the contested act is an act of individual scope and, therefore, does not constitute a regulatory act. It follows that the applicant has no right of action on the basis of the third limb of the fourth paragraph of Article 263 TFEU either.

40 In those circumstances, it remains to be examined whether the applicant has a right of action on the basis of the second limb of the fourth paragraph of Article 263 TFEU.

41 In that regard, it must be borne in mind that the conditions of direct concern, on the one hand, and individual concern, on the other, laid down in the second limb of the fourth paragraph of Article 263 TFEU, are separate and cumulative (see, to that effect, judgment of 3 October 2013, *Inuit Tapiriit Kanatami and Others* v *Parliament and Council*, C-583/11 P, EU:C:2013:625, paragraphs 75 and 76 and the case-law cited).

42 In the circumstances of the present case, it is necessary to begin by examining whether the first condition, relating to whether the applicant is directly concerned, is satisfied.

43 According to settled case-law, the condition that a natural or legal person must be directly concerned by the measure being challenged requires two cumulative criteria to be met, namely, first, that the contested measure must directly affect the legal situation of that person and, second, that it must leave no discretion to its 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 judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 43 and the case-law cited).

44 The Court of Justice has clarified that any act may, in principle, directly concern an individual and thus directly affect its legal situation, irrespective of whether it entails implementing measures. Thus, the fact that implementing measures have been adopted or have yet to be adopted is not, in itself, relevant since they do not call into question the direct nature of the connection between the

contested acts and those effects. That is the case provided that that act does not leave any discretion to its addressees as to the imposition of those effects on that individual (see, to that effect, judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 74).

45 Furthermore, whether an act is capable of directly affecting the legal situation of a natural or legal person, on the one hand, and the existence of a discretion on the part of the addressees responsible for implementing that act, on the other, must be assessed by reference to the substance of that act (see, to that effect, judgment of 12 July 2022, *Nord Stream 2* v *Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraphs 63, 64 and 95).

46 In the present case, the contested act, in particular paragraph 43 thereof, requires the NBS to adopt a final decision with regard to the applicant, within four months, entailing supervisory action such as to ensure compliance with EU law (see paragraphs 24 and 35 above).

47 It follows that the contested act leaves no discretion to the NBS as regards the very principle of the adoption of a decision and supervisory action within a specified period.

48 By contrast, the contested act undeniably leaves the NBS a discretion as regards the nature of the supervisory action to be adopted. That act neither requires nor prohibits the NBS from taking specific action.

49 In particular, the Commission did not require the NBS to withdraw the applicant's authorisation. First of all, in paragraph 38 of the contested act, that institution recalled that 'the choice of each individual supervisory measure in relation to a supervised entity is a prerogative of the supervisor'. Next, it is apparent from paragraph 41 of the contested act that the Commission considered withdrawing the applicant's authorisation only on condition that such action was 'appropriate or mandatory' under Article 144 of Directive 2009/138. Lastly and above all, in the conclusion of that act and, more specifically, in paragraph 44 thereof, the Commission merely stated that such a withdrawal would be such as to ensure compliance with EU law by the applicant and by the NBS, without, however, requiring the latter to effect that withdrawal.

50 In that context, the NBS's discretion was limited only by the applicable legal provisions, and in particular by Article 144(1) of Directive 2009/138, which allows, in certain cases, and requires, in other cases, the supervisory authority of the home Member State to withdraw the authorisation of an insurance or reinsurance undertaking.

51 It follows that the NBS retained a discretion in defining the action to be taken with regard to the applicant and that, therefore, only the action taken by the NBS could directly affect the applicant. Thus, there is no direct connection, within the meaning of the case-law cited in paragraph 44 above, between the contested act and the effects of the implementing measures subsequently taken by the NBS with regard to the applicant.

52 In those circumstances, it must be concluded that, at the very least, the second criterion set out in paragraph 43 above is not satisfied in the present case, with the result that the condition relating to whether the applicant is directly concerned is not satisfied.

53 That finding is not called into question by the applicant's arguments.

54 First, the applicant submits, in essence, that the Commission 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. It infers from this that the decision to withdraw the authorisation is the direct and automatic consequence of the contested act.

55 In that regard, it follows from the findings in paragraphs 48 to 51 above that the Commission did not limit the NBS's discretion as regards the nature of the supervisory action to be taken with regard to the applicant and, in particular, did not require it to withdraw the applicant's authorisation.

56 It should be added, first of all, that although, in paragraph 38 of the contested act, the Commission stated, in essence, that the discretion of a supervisory authority was 'limited' by the need to adopt effective and conclusive supervisory action, that general reference did not prejudge the nature of the supervisory action to be taken in the present case.

57 Similarly, although the Commission referred, in paragraph 32 of the contested act, to a preliminary assessment by EIOPA, received on 6 July 2022, according to which compliance with EU law 'would require a final conclusive decision (i.e. the withdrawal of authorisation)', that reference to EIOPA's position is not the position of the Commission, which is expressed in paragraphs 41 and 44 of that act and envisages the withdrawal of the applicant's authorisation only by way of guidance and provided that such action is 'appropriate or mandatory' under Article 144 of Directive 2009/138 (see paragraph 49 above).

58 Next, even if it were established that the Commission applied a form of 'political pressure' on the NBS to withdraw the applicant's authorisation, that is not sufficient to support the conclusion that the Commission intended not only to exhort but also to legally compel the NBS to effect such a withdrawal.

59 Lastly, even if it were established that the contested act may have been a catalyst for the adoption 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 establish a direct and automatic connection between the contested act and the decision to withdraw the authorisation.

60 Second, the applicant claims that, in the contested act, the Commission approved, by conferring binding effect on them, EIOPA's incorrect findings that it had committed 'identified infringements' and was facing a '[deterioration in its] financial condition'. In so doing, the Commission directly and negatively affected its legal position, irrespective of the decision to withdraw the authorisation.

61 In that regard, it should be borne in mind that, regardless of the grounds on which a decision is based, only the operative part thereof is capable of producing legal effects and, as a consequence, of directly affecting an applicant (see, by analogy, order of 28 January 2004, *Netherlands* v *Commission*, C-164/02, EU:C:2004:54, paragraph 21). However, in the present case, the Commission's assessments relied on by the applicant merely recall EIOPA's position and confirm the persistence of inappropriate practices on the part of the applicant (paragraphs 26 and 38, inter alia, of the contested act). Such assessments constitute, at most, grounds for the contested act and do not, as such, produce any legal effects separate from those resulting from the concluding part of that act (paragraphs 42 to 45 of the contested act). It follows that those assessments cannot directly affect the applicant.

62 Third, the applicant states that, following the decision to withdraw its authorisation, it had to stop distributing its life insurance products and face criticism from the press. In addition, it was subject to, or threatened with, liquidation and insolvency proceedings in Slovakia. As a result, many customers surrendered their life insurance policies. Moreover, its relations with intermediaries and asset managers were adversely affected, many employees left it and it was forced to incur high legal costs.

63 In that regard, it must be observed, on the one hand, that the obligation on the applicant to cease its business activities does not arise directly from the contested act, but solely from the decision to withdraw its authorisation. Moreover, the applicant has not established, or even alleged, that there is any legal connection between the contested act and the liquidation and insolvency proceedings to which it refers.

64 On the other hand, the other negative effects relied on by the applicant are economic in nature, with the result that they cannot be taken into consideration in order to establish that its legal situation was affected (see, to that effect, judgment of 5 November 2019, *ECB and Others* v *Trasta Komercbanka and Others*, C-663/17 P, C-665/17 P and C-669/17 P, EU:C:2019:923, paragraph 109).

65 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.

66 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).

67 However, that would be precisely the case if the applicant were allowed to bring an action for annulment against a formal opinion of the Commission which does not directly affect it, for the purpose of the case-law cited in paragraph 43 above.

68 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, of formal opinions adopted by the Commission on the basis of Article 17(4) 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). 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.

69 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.

70 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 the Commission's argument that that decision is based on grounds entirely autonomous and independent of those of the contested act. In such a case, a reference for a preliminary ruling on the validity of that act might prove unnecessary.

71 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).

72 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*, C-456/13 P, EU:C:2015:284, paragraphs 49 and 50 and the case-law cited).

73 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.

74 It follows from paragraphs 46 to 73 above that the applicant is not directly concerned by the contested act. Consequently, without it being necessary to examine whether it is individually concerned by that act, it also has no right of action on the basis of the second limb of the fourth paragraph of Article 263 TFEU. It follows that the applicant has not shown that it has standing to bring proceedings.

75 Accordingly, without it being necessary to examine the third part of the plea of inadmissibility, the second part of that plea must be upheld and the action must be dismissed as inadmissible.

The application to intervene

76 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 application to intervene submitted by the Slovak Republic.

Costs

77 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 the Commission, in accordance with the form of order sought by the Commission, with the exception of those relating to the application to intervene.

78 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, the Commission and the Slovak Republic are each to bear their own costs relating to the application 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 Slovak Republic's application to intervene.**

3. **Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poisťovňa a.s. shall bear its own costs and pay those incurred by the European Commission, with the exception of those relating to the application to intervene.**

4. **Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poisťovňa, the Commission and the Slovak Republic shall each bear their own costs relating to the application to intervene.**

Luxembourg, 23 May 2025.

V. Di Bucci
Registrar

K. Kowalik-Bańczyk
President