Reports of Cases

JUDGMENT OF THE GENERAL COURT (Third Chamber, sitting with five Judges)

6 May 2026 *

(Access to documents – Regulation (EC) No 1049/2001 – Documents exchanged in the course of an investigation procedure under Article 17 of Regulation (EU) No 1094/2010 in respect of a breach of EU law – Refusal of access – Exception relating to protection of the purpose of investigations – Obligation to state reasons – General presumption of confidentiality – Obligation to undertake a specific and individual examination – Overriding public interest – Principle of proportionality – Article 41 of the Charter of Fundamental Rights)

In Case T-185/24,

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 K. Herrmann, M. Burón Pérez and P. Vanden Heede, acting as Agents,

defendant,

supported by

Slovak Republic, represented by S. Ondrášiková, E. Larišová and A. Lukáčik, acting as Agents,

intervener,

THE GENERAL COURT (Third Chamber, sitting with five Judges),

composed of K. Kowalik-Bańczyk (Rapporteur), President, I. Reine, R. da Silva Passos, H. Cassagnabère and T. Pavelin, Judges,

Registrar: A. Audras-Hidelot, Administrator,

having regard to the written part of the procedure,

further to the hearing on 18 December 2025,

* Language of the case: English.

gives the following

Judgment

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 European Commission Decision C(2024) 810 final of 2 February 2024 concerning a confirmatory application for access to documents ('the contested decision').

I. Background to the dispute and events subsequent to the bringing of the action

2 The applicant is a life insurance company established in Slovakia and subject to the supervision of the Národná banka Slovenska (National Bank of Slovakia; 'the NBS').

A. Investigation procedure in respect of a breach of EU law

3 On 17 March 2022, the European Insurance and Occupational Pensions Authority (EIOPA) initiated an investigation in respect of an alleged breach of EU law 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 (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 actions necessary to comply with Directive 2009/138 ('the recommendation of 16 May 2022'). That recommendation was the subject of an action for annulment brought by the applicant before the General Court and dismissed by the latter as inadmissible by order of 23 May 2025, *Novis* v *EIOPA* (T-204/24, EU:T:2025:555).

5 On 13 September 2022, the Commission adopted, on the basis of Article 17(4) of Regulation No 1094/2010, Opinion C(2022) 6455 final, addressed to the NBS, on actions necessary to comply with Directive 2009/138 ('the formal opinion of 13 September 2022'). That opinion was the subject of an action for annulment brought by the applicant before the General Court and dismissed by the latter as inadmissible by order of 23 May 2025, *Novis* v *Commission* (T-179/24, under appeal, EU:T:2025:554).

6 By decision of 31 October 2022, confirmed by decision of 1 June 2023, the NBS withdrew the applicant's licence ('the decision to withdraw the applicant's licence'). On 28 December 2023, the applicant challenged that decision before the Správny súd v Bratislave (Administrative Court, Bratislava, Slovakia).

B. Procedure for access to documents

1. Initial stage

7 By letter of 25 July 2023 ('the initial application'), the applicant asked the Commission, in essence, for access to all the documents relating to the investigation procedure described in paragraphs 3 to 6 above that were held or had been drafted by that institution.

8 By decision of 8 September 2023, the Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union took a decision on the initial application for access.

9 In that decision, the Commission identified 14 documents covered by the application for access. However, it refused to grant full or partial access to those documents on the ground that their disclosure would undermine the protection, first, of the purpose of investigations within the meaning of the third indent of Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43) and, second, of court proceedings within the meaning of the second indent of Article 4(2) of that regulation, while, moreover, there was no overriding public interest in such disclosure.

2. Confirmatory stage

10 On 29 September 2023, the applicant submitted a confirmatory application for access to documents in accordance with Article 7(4) of Regulation No 1049/2001 ('the confirmatory application').

11 On 2 February 2024, the Secretary-General of the Commission adopted the contested decision.

12 In that decision, the Commission identified more precisely the documents covered by the request, namely 19 documents in total, grouped under 14 references:

– NBS opinion of 5 April 2022, addressed to EIOPA, on the draft report EIOPA-22-235, of 17 March 2022, with reference Ares(2022)4798170 (one document);

– recommendation of 16 May 2022 (one document);

– NBS Update of 30 June 2022, addressed to the Commission, with reference Ares(2022)4798170 (two documents);

– Commission reply of 25 July 2022, addressed to the NBS, with reference Ares(2022)5362224 (one document);

– NBS Update of 23 August 2022, addressed to the Commission, with reference Ares(2022)5884917 (two documents);

– NBS Update of 30 August 2022, addressed to the Commission, with reference Ares(2022)6009523 (one document);

– Formal Opinion of 13 September 2022 (1 document);

– NBS Update of 28 September 2022, addressed to the Commission, with reference Ares(2022)6685040 (one document);

– Commission reply of 10 October 2022, addressed to the NBS, with reference Ares(2022)6974798 (one document);

– NBS Update of 4 November 2022, addressed to the Commission, with reference Ares(2022)7621287 (two documents);

– Commission letter of 16 November 2022, addressed to the NBS, with reference Ares(2022)7915331 (one document);

– NBS Update of 16 December 2022, addressed to the Commission, with reference Ares(2022)8752093 (one document);

– Commission letter of 30 January 2023, addressed to the NBS, with reference Ares(2023)661656 (one document);

– NBS Update of 7 June 2023, addressed to the Commission, with reference Ares(2023)3938575 (three documents).

13 In the contested decision, the Commission confirmed the refusal to grant access, in whole or in part, to all the documents requested.

14 The Commission considered, in the first place, that disclosure of the requested documents would undermine the protection, first, of the purpose of certain investigations within the meaning of the third indent of Article 4(2) of Regulation No 1049/2001 and, second, of an ongoing decision-making process for the purposes of the first subparagraph of Article 4(3) of that regulation.

15 In that regard, the Commission stated, in essence, that the requested documents related to an investigation procedure in respect of a breach of EU law under Article 17 of Regulation No 1094/2010 which was still ongoing and which was liable to be followed by infringement proceedings under Article 258 TFEU. Therefore, according to the Commission, disclosure of those documents could undermine the mutual trust underpinning the discussions between it and the NBS aimed at persuading the NBS to comply with its obligations on a voluntary basis. In addition, such disclosure would expose the Commission to external pressure, undermine the effectiveness and proper conduct of the investigation procedure, interfere with the decision-making process regarding whether or not to open infringement proceedings against the Slovak Republic and alter the strictly bilateral nature of the latter procedure.

16 In the second place, the Commission took the view that disclosure of the requested documents would undermine the protection of court proceedings within the meaning of the second indent of Article 4(2) of Regulation No 1049/2001.

17 According to the Commission, the documents requested, which were drawn up in the course of its exchanges with the NBS and contain internal positions adopted by the latter, cannot be dissociated from the court proceedings between the applicant and the NBS before the Správny

súd v Bratislave (Administrative Court, Bratislava). Disclosure of those documents would therefore compromise the integrity of those court proceedings and the equality of arms between the parties to them.

18 In the third place, the Commission concluded that no overriding public interest justified disclosure of the requested documents.

19 According to the Commission, first of all, the general considerations relating to the principles of transparency and accountability put forward by the applicant cannot constitute such an overriding public interest. Next, the usefulness of disclosure of the requested documents for (i) the applicant, whose licence has been withdrawn, and (ii) its customers, whose insurance policies have ended, for the purpose of defending their legal rights or supervising the NBS' actions, constitute private interests. Lastly, the public's interest in knowing whether the NBS' actions, and in particular the decision to withdraw the applicant's licence, were lawful or not, cannot prevail over the reasons justifying non-disclosure. In those circumstances, the public interest is better served by ensuring the smooth conduct of the investigation and the proper conduct of the judicial proceedings pending before the Slovak courts.

20 In the fourth place, the Commission took the view that no meaningful partial access was possible without undermining the interests protected by the exceptions referred to in paragraphs 14 and 16 above and that, accordingly, the documents requested were fully covered by those exceptions.

C. Infringement proceedings

21 By letter of formal notice of 24 April 2024, after the present action had been brought, the Commission decided 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 vis-à-vis the applicant.

II. Forms of order sought

22 The applicant claims that the Court should:

– annul the contested decision;

– order the Commission to pay the costs.

23 The Commission, supported by the Slovak Republic, contends that the Court should:

– dismiss the action;

– order the applicant to pay the costs.

III. Law

24 In support of its action, the applicant raises five pleas in law, alleging, (i) infringement of the second indent of Article 4(2) of Regulation No 1049/2001, (ii) infringement of the third indent of Article 4(2) of that regulation, (iii) infringement of the first subparagraph of Article 4(3) of that

regulation, (iv) infringement of Article 4(6) of Regulation No 1049/2001, of the principle of proportionality and of the obligation to state reasons, and (v) infringement of Article 41(2)(b) of the Charter of Fundamental Rights of the European Union.

25 In the circumstances of the present case, it is appropriate to begin by examining the second plea in law, alleging infringement of the third indent of Article 4(2) of Regulation No 1049/2001. The other pleas in law will then be examined, in so far as necessary.

A. The second plea in law, alleging an infringement of the third indent of Article 4(2) of Regulation No 1049/2001

26 By its second plea, the applicant submits that the Commission infringed the third indent of Article 4(2) of Regulation No 1049/2001. This plea consists of three parts, alleging (i) that no distinction was made between the exceptions provided for by the third indent of Article 4(2) of that regulation and by the first subparagraph of Article 4(3) of that regulation, respectively, (ii) that the protection of the purpose of investigations would not be undermined if the requested documents were disclosed and (iii) that there is an overriding public interest in disclosure.

1. The first part of the second plea, alleging that no distinction was made between the exceptions provided for by the third indent of Article 4(2) of Regulation No 1049/2001 and by the first subparagraph of Article 4(3) of that regulation, respectively

27 The applicant complains, in essence, that the Commission failed to examine separately the conditions specific to the exceptions provided for, first, by the third indent of Article 4(2) of Regulation No 1049/2001 and, second, by the first subparagraph of Article 4(3) of that regulation. The result being inconsistent and incomplete reasoning, in particular as regards the second of those exceptions.

28 The Commission disputes the applicant's line of argument.

29 In the first place, as is clear from settled case-law, the statement of reasons required by Article 296 TFEU and by Article 41(2)(c) of the Charter of Fundamental Rights must be appropriate to the act at issue and must disclose in a clear and unequivocal fashion the reasoning followed by the EU institution, body, office or agency that adopted the measure in such a way as to enable the persons concerned to ascertain the reasons for the measure taken and to enable the competent EU court to exercise its power of review. The requirements to be satisfied by the statement of reasons depend on the circumstances of each case, in particular the content of the measure in question, the nature of the reasons given and the interest which the addressees of the measure, or other parties to whom it is of direct and individual concern, may have in obtaining explanations. It is not necessary for the reasoning to go into all the relevant facts and points of law, since the question whether the statement of reasons meets the requirements of that Article 296 must be assessed with regard not only to its wording but also to its context and to all the legal rules governing the matter in question (see judgments of 1 February 2007, *Sison* v *Council*, C-266/05 P, EU:C:2007:75, paragraph 80 and the case-law cited, and of 30 January 2024, *Agentsia 'Patna infrastruktura' (European funding of road infrastructure)*, C-471/22, EU:C:2024:99, paragraphs 25 and 26 and the case-law cited).

30 In the second place, in accordance with equally settled case-law, an EU institution, body, office or agency, when assessing a request for access to documents, may take into account more than one of the grounds for refusal set out in Article 4 of Regulation No 1049/2001 (judgments of 28 June 2012, *Commission* v *Éditions Odile Jacob*, C-404/10 P, EU:C:2012:393, paragraph 113, and of 3 July 2014, *Council* v *in 't Veld*, C-350/12 P, EU:C:2014:2039, paragraph 100). It follows that the joint reliance on several exceptions cannot be regarded as incompatible with the provisions of that regulation (see, to that effect and by analogy, judgment of 5 March 1997, *WWF UK* v *Commission*, T-105/95, EU:T:1997:26, paragraphs 61 and 73).

31 In the present case, in the contested decision, the Commission relied, cumulatively, on three separate exceptions (see paragraphs 14 and 16 above). The applicant does not dispute that it is possible for the Commission to take into account several grounds for refusal, in accordance with the case-law referred to in paragraph 30 above.

32 However, it is also apparent from the structure and content of the contested decision that, as the applicant observes, the Commission examined jointly and not separately the two exceptions provided for, first, by the third indent of Article 4(2) of Regulation No 1049/2001 and, second, by the first subparagraph of Article 4(3) of that regulation (see paragraphs 14 and 15 above).

33 Contrary to the applicant's contention, that approach is not unlawful in itself. Indeed, it cannot be ruled out that identical facts may be taken into account to justify the application of two different exceptions, provided that it is explained how the disclosure of the documents in question could specifically and actually undermine the respective interests protected by each of the two exceptions (see, to that effect, judgment of 3 July 2014, *Council* v *in 't Veld*, C-350/12 P, EU:C:2014:2039, paragraph 101).

34 In that regard, first, the applicant merely criticises the Commission for having 'mixed up' the conditions for the application of the conditions laid down by the two exceptions referred to in paragraph 32 above, without providing any further details to enable the merits of the complaint to be assessed. In particular, it does not identify any error of law in relation to the application of those conditions.

35 Second, the applicant appears to rely on an inadequate statement of reasons. However, in the present case, the application of the exception provided for in the third indent of Article 4(2) of Regulation No 1049/2001 is supported by sufficiently precise, intelligible and non-contradictory reasoning, based on extensive considerations relating to the protection of investigations. Thus, as regards that first exception, the Commission satisfied its obligation to state reasons under Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights, as interpreted by the case-law referred to in paragraph 29 above.

36 Third, the applicant's complaints relate primarily to the form of the statement of reasons and the substantive justification of the legally distinct ground for refusal based on the exception provided for in the first subparagraph of Article 4(3) of Regulation No 1049/2001. However, such complaints are irrelevant in the context of the second plea, alleging infringement of the third indent of Article 4(2) of that regulation.

37 In those circumstances, the first part of the second plea must be rejected.

2. The second part of the second plea, alleging that the protection of the purpose of investigations would not be undermined

38 The applicant submits that the exception provided for in the third indent of Article 4(2) Regulation No 1049/2001 is not applicable in the present case. It argues, in essence, first, that no investigation was ongoing at the time access to the documents was refused, second, that neither the protection of the purpose of investigations nor the confidentiality of an ongoing investigation would be undermined if the documents were disclosed, and, third, that the Commission cannot rely on an alleged general presumption of confidentiality exempting it from carrying out a specific and individual examination of the documents requested or, as a minimum, of the various categories of documents requested.

39 The Commission, supported by the Slovak Republic, disputes the applicant's arguments.

(a) The condition that an investigation must be ongoing

40 Pursuant to the third indent of Article 4(2) of Regulation No 1049/2001, the institutions are to refuse access to a document where disclosure would undermine the protection of the purpose of inspections, investigations and audits, unless there is an overriding public interest in disclosure.

41 In the first place, the Court of Justice has held that, without there being any need to identify an exhaustive definition of 'investigation', within the meaning of the third indent of Article 4(2) of Regulation No 1049/2001, a structured and formalised procedure that has the purpose of collecting and analysing information in order to enable an EU institution, body, office or agency to take a position in the context of its functions provided for by the EU and FEU Treaties must be considered to be an investigation (judgment of 7 September 2017, *France* v *Schlyter*, C-331/15 P, EU:C:2017:639, paragraph 46).

42 In the second place, the third indent of Article 4(2) of Regulation No 1049/2001 must be interpreted in such a way that that provision applies only if disclosure of the documents in question may endanger the completion of the inspections, investigations and audits referred to (judgment of 5 April 2017, *France* v *Commission*, T-344/15, EU:T:2017:250, paragraph 86).

43 It follows that, in principle, the various acts of investigation or inspection may remain covered by the exception based on the protection of inspections, investigations and audits as long as the investigations or inspections continue, even if the particular investigation or inspection which gave rise to the report to which access is sought has been completed (see, to that effect, judgment of 5 April 2017, *France* v *Commission*, T-344/15, EU:T:2017:250, paragraph 87).

44 Furthermore, an investigation procedure cannot be regarded as having been completed by the adoption of a final decision by the institution, body, office or agency concerned, without taking into account any subsequent annulment of that decision by the EU judicature. Under Article 266 TFEU, the annulment of such a decision may lead that institution, body, office or agency to resume its investigations with a view to adopting, if appropriate, a new decision and, therefore, to reuse information in the file relating to the annulled decision or to supplement the file with other information. Consequently, investigations may be regarded as completed only when the decision adopted by the institution, body, office or agency concerned is definitive in nature (see, to that effect, judgment of 27 February 2014, *Commission* v *EnBW*, C-365/12 P, EU:C:2014:112, paragraph 99).

45 Furthermore, the protection of investigations extends to their follow-up, in so far as that follow-up takes place within a reasonable period (see judgment of 26 May 2016, *International Management Group* v *Commission*, T-110/15, EU:T:2016:322, paragraph 35 and the case-law cited). That is particularly so where an investigation conducted at EU level is ongoing or has just been concluded, and where, in the latter case, the competent national authorities have not yet decided, within a reasonable period, on the action to be taken in response to an investigation report (see, to that effect, judgments of 1 September 2021, *Homoki* v *Commission*, T-517/19, not published, EU:T:2021:529, paragraph 63, and of 28 September 2022, *Agrofert* v *Parliament*, T-174/21, EU:T:2022:586, paragraph 92).

46 In the present case, in order to justify the application of the exception relating to the protection of the purpose of investigations, the Commission referred to two types of investigation, namely, first, the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law initiated against the NBS and, second, infringement proceedings under Article 258 TFEU which may be initiated against the Slovak Republic (see paragraph 15 above).

47 The applicant submits that no investigation was ongoing at the time access to the documents was refused.

48 According to the applicant, first, the investigation under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law had been concluded by the formal opinion of 13 September 2022 or, at the latest, when the NBS complied with that formal opinion by confirming the withdrawal of the applicant's licence, that is to say, on 1 June 2023. In its view, the Commission is attempting unduly to extend the duration of that investigation by including within its scope alleged 'follow-up exchanges' and 'supervisory measures' that took place outside the formal and temporal scope of that investigation.

49 Second, no infringement procedure under Article 258 TFEU had yet been formally initiated at the time access to the documents was refused.

50 It is appropriate to examine at the outset whether the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law was ongoing on the date the contested decision was adopted.

51 In the first place, as a preliminary point, it should be noted that the investigation procedure provided for in Article 17 of Regulation No 1094/2010 in respect of a breach of EU law constitutes a structured and formalised procedure involving EIOPA, the Commission and the national authority concerned, the purpose of which is to collect and analyse information so that those three authorities may each take a position in the context of their respective functions. Therefore, in accordance with the case-law referred to in paragraph 41 above, such a procedure constitutes an 'investigation' within the meaning of the third indent of Article 4(2) of Regulation No 1049/2001.

52 In the second place, it is common ground that, in the present case, the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law was initiated on 17 March 2022 by EIOPA and gave rise to the recommendation of 16 May 2022, issued by that authority on the basis of Article 17(3) of that regulation, followed by the formal opinion of 13 September 2022, issued by the Commission on the basis of Article 17(4) of that regulation (see paragraphs 3 to 5 above).

53 In the third place, contrary to what the applicant claims, that procedure was not definitively concluded by the formal opinion of 13 September 2022, or even by the decision to withdraw the applicant's licence, taken by the NBS on 31 October 2022 and confirmed on 1 June 2023 (see paragraph 6 above).

54 Indeed, first, the decision to withdraw the applicant's licence forms part of the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law. That decision constitutes one of the 'steps … taken [by the national authority concerned] to comply with [the] formal opinion [from the Commission]' within the meaning of Article 17(5) of that regulation. In that regard, that decision gave rise to the NBS informing the Commission by means of two letters dated 16 December 2022 and 7 June 2023, as is apparent from the wording (and content) of two of the documents requested, entitled 'NBS's Information on actions taken to ensure compliance with the Commission formal opinion [of 13 September 2022]'. This therefore constitutes a follow-up measure within the meaning of paragraph 45 above, or, where applicable, a final decision within the meaning of paragraph 44 above, adopted following the investigation and taken by the national authority concerned within a reasonable period.

55 Moreover, it is expressly stated in the contested decision and common ground between the parties, first, that the applicant challenged the decision to withdraw its licence before the Správny súd v Bratislave (Administrative Court, Bratislava) and, second, that that legal action was still pending on the date the contested decision was adopted, namely 2 February 2024. Thus, the decision to withdraw the applicant's licence had not become final on that date.

56 In accordance with the case-law referred to in paragraphs 44 and 45 above, an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law may be regarded as completed only where the decision taken by the national authority concerned in the context of that procedure has not only been taken, but has also become definitive in nature. To decide otherwise would risk jeopardising the proper functioning of that procedure, within which, in addition to EIOPA and the Commission, the national authority concerned must also take a position in the context of its functions, as is apparent from paragraph 51 above.

57 Furthermore, the question whether, by adopting the decision to withdraw the applicant's licence, the NBS did in fact comply with the formal opinion of 13 September 2022 cannot be settled in the context of the present action, which concerns the legality of a decision refusing access to documents and not the legality of the NBS' acts. Consequently, the applicant cannot validly argue that, since the NBS complied with that formal opinion, the investigation under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law was necessarily concluded.

58 Second, even after the decision to withdraw the applicant's licence had been taken, the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law was still liable to continue if that decision was not sufficient to ensure compliance with EU law.

59 As the Commission rightly points out in its pleadings, if the national authority concerned does not comply with the formal opinion issued by the Commission within the period 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

EU law, including the cessation of any practice. However, the applicant does not establish, or even allege, that at least one of the conditions enabling EIOPA to adopt such a decision was not satisfied in the present case.

60 Third, the applicant cannot validly rely, in the present case, on the position taken by the Board of Appeal of the European Supervisory Authorities in a decision of 30 July 2024, taken in the context of a request for access to documents submitted by the applicant to EIOPA, as regards when an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law must be regarded as concluded. It must be borne in mind that, in its review of legality, the Court is not bound by the decision-making practice of that board of appeal (see, by analogy, judgments of 26 April 2007, *Alcon* v *OHIM*, C-412/05 P, EU:C:2007:252, paragraph 65, and of 29 September 2021, *Tokin* v *Commission*, T-343/18, EU:T:2021:636, paragraph 176 (not published) and the case-law cited).

61 In the fourth place, contrary to what the applicant claims, the exchanges which took place between the Commission and the NBS after the formal opinion of 13 September 2022 and even, in some cases, after the decision to withdraw the applicant's licence are also linked to the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law. Those exchanges, which correspond to the documents listed in the last seven indents of paragraph 12 above, related specifically to the measures taken or to be taken by the NBS in order to comply with that formal opinion. It was therefore in the light of those exchanges that the Commission could verify whether the NBS had in fact complied with the formal opinion. Accordingly, the exchanges in question constituted follow-up measures to the investigation within the meaning of the case-law referred to in paragraph 45 above.

62 In those circumstances, and having regard to the case-law referred to in paragraphs 42 to 45 above, it must be concluded, first, that the investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law was still ongoing on the date the contested decision was adopted and, second, that all the documents requested were capable, from a temporal point of view, of being covered by the exception based on the protection of the purpose of investigations.

63 It follows that, without it being necessary, at this stage, to determine whether infringement proceedings against the Slovak Republic under Article 258 TFEU were also ongoing or, at the very least, envisaged on the date the contested decision was adopted, the applicant's complaint alleging the absence of an ongoing investigation must be rejected.

(b) The application of a general presumption of confidentiality and the obligation to carry out a specific and individual examination of the documents

(1) Preliminary observations

64 In the first place, it should be borne in mind that where an EU institution, body, office or agency that has received an application for access to a document decides to reject that application on the basis of one of the exceptions laid down in Article 4 of Regulation No 1049/2001, it must, in principle, explain how access to that document could specifically and actually undermine the interest protected by that exception, and the risk of the interest being undermined must be reasonably foreseeable and must not be purely hypothetical (see judgment of 22 January 2020, *MSD Animal Health Innovation and Intervet International* v *EMA*, C-178/18 P, EU:C:2020:24, paragraph 54 and the case-law cited).

65 It follows that the examination required for the purpose of processing an application for access to documents must, first, be specific in nature and, second, be carried out in respect of each document covered by the application. That examination must, furthermore, be apparent from the reasons given for the decision (judgments of 13 April 2005, *Verein für Konsumenteninformation* v *Commission*, T-2/03, EU:T:2005:125, paragraphs 69 and 70, and of 25 September 2018, *Psara and Others* v *Parliament*, T-639/15 to T-666/15 and T-94/16, EU:T:2018:602, paragraphs 103 and 104).

66 In the second place, the EU judicature has nevertheless acknowledged that, in certain cases, it was, in principle, open to an EU institution, body, office or agency to base its decisions on general presumptions which apply to certain categories of documents, as considerations of a generally similar kind are likely to apply to requests for disclosure relating to documents of the same nature (see judgment of 22 January 2020, *MSD Animal Health Innovation and Intervet International* v *EMA*, C-178/18 P, EU:C:2020:24, paragraph 55 and the case-law cited).

67 The objective of such presumptions is thus the possibility, for the EU institution, body, office or agency concerned, to consider that the disclosure of certain categories of documents undermines, in principle, the interest protected by the exception which it is invoking, by relying on such general considerations, without being required to examine specifically and individually each of the documents requested (see judgment of 22 January 2020, *MSD Animal Health Innovation and Intervet International* v *EMA*, C-178/18 P, EU:C:2020:24, paragraph 56 and the case-law cited).

68 The use of general presumptions of confidentiality must be based on sound and convincing grounds. In order to be able to rely as against the applicant for access on a general presumption of non-disclosure, the relevant EU institution, body, office or agency must explain how that presumption is necessary to ensure the proper functioning of the procedure in question (see, to that effect, judgment of 4 October 2018, *Daimler* v *Commission*, T-128/14, EU:T:2018:643, paragraphs 155 and 156 and the case-law cited).

69 The EU judicature has identified in several judgments certain criteria for the recognition of a general presumption of confidentiality.

70 First, it follows from the case-law cited in paragraph 66 above that, in order for a general presumption of confidentiality to be validly used against the person requesting access to documents, the requested documents must form part of the same set of documents or be of the same nature (see judgment of 4 October 2018, *Daimler* v *Commission*, T-128/14, EU:T:2018:643, paragraph 138 and the case-law cited).

71 Second, a general presumption of confidentiality may be recognised on the basis that access to the documents involved in certain procedures is incompatible with the proper conduct of those procedures and on the basis of a risk that those procedures could be undermined, on the understanding that general presumptions ensure that the integrity of the conduct of those procedures can be preserved by limiting intervention by third parties. The existence of specific rules limiting access to a file, documents or information relating to a procedure conducted before an EU institution, body, office or agency is one of the criteria for justifying recognition of a general presumption of confidentiality (see, to that effect, judgment of 26 May 2016, *International Management Group* v *Commission*, T-110/15, EU:T:2016:322, paragraph 32 and the case-law cited).

(2) The application of a general presumption of confidentiality

72 At the hearing, the parties were questioned on the possible application of a general presumption of confidentiality in respect of the exception relating to the protection of the purpose of investigations.

73 The applicant submits, first, that the Commission did not apply any general presumption of confidentiality in the contested decision and, second, that no general presumption of confidentiality is applicable in the present case. In its view, in particular, the Commission cannot rely on an alleged general presumption of confidentiality applicable to documents relating to an investigation under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law.

74 The Commission submits that it correctly applied, in the contested decision, two separate general presumptions of confidentiality, namely, first, a new presumption covering the documents exchanged in the context of Article 17 of Regulation No 1094/2010 and, second, an existing presumption covering documents relating to infringement proceedings under Article 258 TFEU. It considers that the documents requested are covered by a general presumption of confidentiality, in the same way as those contained in the file of an EU Pilot procedure.

75 The Slovak Republic also supports the application of the general presumption of confidentiality covering documents relating to infringement proceedings under Article 258 TFEU.

76 In the first place, it is necessary to determine whether the Commission applied a general presumption of confidentiality in the contested decision.

77 In that regard, it is true that, in the contested decision, the Commission did not expressly refer to a general presumption of confidentiality in the context of the application of the exception relating to the protection of the purpose of investigations.

78 However, it is apparent from the contested decision that the Commission provided general reasoning for the application of that exception, without distinguishing between the various documents requested. In particular, to begin with, it described the operation of the investigation procedure provided for in Article 17 of Regulation No 1094/2010 in respect of a breach of EU law and recalled its purpose. It then explained, in general terms, that the disclosure of the requested documents could undermine the protection of the purpose pursued by its investigation and monitoring activities, first, by undermining the mutual trust underpinning the discussions between the Commission and the NBS and by deterring the latter from complying with its obligations on a voluntary basis, second, by exposing the Commission to external pressure and, third, by undermining the effectiveness and proper conduct of that investigation procedure. Lastly, it concluded that access had to be refused to ‘all [the] documents requested’ and that, moreover, they were ‘covered in their entirety’ by the exceptions relied on.

79 In the light of that information taken together, it appears that, in the contested decision, the Commission implicitly but necessarily applied a general presumption of confidentiality covering all documents relating to the conduct and follow-up of an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law.

80 Contrary to what the applicant suggested at the hearing, the mere fact that the Commission did not expressly refer to the concept of a general presumption of confidentiality in the contested decision is not sufficient to render that decision vitiated by a lack of reasoning or to prevent the

General Court from taking into account the general presumption of confidentiality referred to in paragraph 79 above. It should be borne in mind that reasoning may be implicit on condition that it enables the persons concerned to know why the measures in question were taken and provides the competent court with sufficient material for it to exercise its power of review (see judgment of 25 March 2015, *Central Bank of Iran* v *Council*, T-563/12, EU:T:2015:187, paragraph 77 and the case-law cited; judgment of 13 July 2018, *K. Chrysostomides & Co. and Others* v *Council and Others*, T-680/13, EU:T:2018:486, paragraph 394). In the present case, as the Commission pointed out at the hearing, it was clear from the wording of the contested decision that, according to the Commission's reasoning, the considerations relied on were applicable to all the documents and the entirety of their content. Moreover, it is apparent from the complaints raised by the applicant, first in its application and then in its reply, that the latter had indeed perceived that, across the board, the Commission had not drawn any distinction between the various documents and between the various parts of those documents and that, therefore, the Commission had followed, in order to justify its position regarding the confidentiality of the documents requested, a presumptive and general approach.

81 In the second place, it must be examined whether the Commission could rely on a general presumption of confidentiality covering all documents relating to the conduct and follow-up of an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law.

82 In that regard, first, it must be noted that the investigation procedure provided for by Article 17 of Regulation No 1094/2010 in respect of a breach of EU law is sufficiently structured and formalised for it to be possible to define and identify precisely the documents relating to it. Moreover, in the present case, it is undisputed that the documents requested, listed in paragraph 12 above, were exchanged, in the case of the first two, between EIOPA and the NBS and, in the case of the remaining 17, between the Commission and the NBS during the same investigation procedure concerning the NBS. Those documents therefore form part of the same administrative file and, consequently, all belong to the same category (see, by analogy, judgment of 4 October 2018, *Daimler* v *Commission*, T-128/14, EU:T:2018:643, paragraph 141).

83 Second, in accordance with the case-law referred to in paragraph 68 above, the Commission set out, in the contested decision, sound and convincing grounds justifying the application of a general presumption of confidentiality in the circumstances of the case at hand, as noted in paragraph 78 above. The applicant does not dispute the relevance of those factors in justifying the recognition of a general presumption of confidentiality covering the documents exchanged in the context of Article 17 of Regulation No 1094/2010.

84 Third, it must be noted that the investigation procedure provided for in Article 17 of Regulation No 1094/2010 in respect of a breach of EU law contains specific rules limiting the disclosure of information obtained or established in the course of such a procedure. Under Article 70(1) to (3) of that regulation, EIOPA and its staff are subject to the requirements of professional secrecy and may not divulge confidential information or information covered by such professional secrecy which they receive or exchange with the competent national authorities. It should also be noted that there is no provision for the financial institution concerned by an investigation under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law to have access to the file or to documents relating to that investigation procedure. It follows that the criterion mentioned in the case-law referred to in paragraph 71 above is also fulfilled.

85 In those circumstances, it must be acknowledged that the documents exchanged by EIOPA, the Commission and the national authority concerned in the course of an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law are covered by a general presumption of confidentiality.

86 It should be noted that that general presumption of confidentiality, which is specifically linked to the investigation procedure provided for in Article 17 of Regulation No 1094/2010 in respect of a breach of EU law, is distinct from the presumptions already recognised by the EU judicature as regards documents drawn up and exchanged, first, during the pre-litigation stage of an infringement procedure (judgment of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraph 65) and, second, in the context of an EU Pilot procedure (judgment of 11 May 2017, *Sweden* v *Commission*, C-562/14 P, EU:C:2017:356, paragraph 51).

87 Accordingly, the applicant's claim that the Commission cannot, in the present case, rely on a general presumption of confidentiality must be rejected.

(3) The obligation to carry out a specific and individual examination of the documents

88 The applicant recalls the obligation to carry out a specific and individual examination of each of the documents covered by an application for access. It adds that, even if a general presumption of confidentiality were applied, the Commission should, as a minimum, have assessed whether different categories of documents required different treatment.

89 The Commission considers that it was not required to carry out a specific and individual examination of the documents requested in so far as, clearly, the arguments set out in the contested decision applied to all those documents and they were all covered by a general presumption of confidentiality.

90 In that regard, in the first place, it is sufficient to note that it follows from paragraph 85 above that the requested documents were covered by a general presumption of confidentiality, with the result that, in accordance with the case-law referred to in paragraph 67 above, the Commission was not required to examine specifically and individually each of those documents.

91 In the second place, the documents requested were exchanged during the same investigation procedure, relate to the same administrative file and thus belong to the same category (see paragraph 82 above). It follows that the Commission was also not required to identify different categories or subcategories of documents and to examine whether they required different treatment. Indeed, such a requirement would deprive the general presumption of confidentiality of part of its practical effect, which is to permit the Commission to reply to a global request for access in a manner that is equally global (see, by analogy, judgment of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraph 68). Moreover, the applicant does not specify what those different categories or subcategories of documents are and merely states that they can be distinguished from the titles of the documents alone.

92 Accordingly, the applicant's complaint that there was no specific and individual examination of the documents requested or, as a minimum, of the various categories of documents requested must be rejected as ineffective.

(c) Whether the purpose of investigations would be undermined

93 The recognition of a general presumption of confidentiality allows the EU institution, body, office or agency concerned to consider that the disclosure of documents of the same nature or belonging to the same category would, in principle, undermine the protection of one of the interests listed in Article 4 of Regulation No 1049/2001 (see, to that effect, judgment of 14 November 2013, *LPN and Finland* v *Commission*, C- 514/11 P and C-605/11 P, EU:C:2013:738, paragraph 48).

94 However, that general presumption of confidentiality does not exclude the right of the applicant for access to demonstrate that a given document, disclosure of which has been requested, is not covered by that presumption, or that there is a higher public interest justifying the disclosure of the document concerned by virtue of Article 4(2) of Regulation No 1049/2001 (judgments of 29 June 2010, *Commission* v *Technische Glaswerke Ilmenau*, C-139/07 P, EU:C:2010:376, paragraph 62, and of 27 February 2014, *Commission* v *EnBW*, C-365/12 P, EU:C:2014:112, paragraph 100).

95 The applicant submits, first, that, in the absence of any ongoing investigation and, in particular, of initiation of the pre-litigation stage of infringement proceedings, it cannot be established that the protection of the purpose of investigations or the confidentiality of the documents relating to an investigation would be undermined. Nor can the Commission rely on a possible infringement of a future and hypothetical investigation.

96 In that regard, it must be held that that line of argument is based on an incorrect premiss. Indeed, it has been established that, irrespective of the initiation of infringement proceedings under Article 258 TFEU, the investigation into an alleged breach of EU law initiated under Article 17 of Regulation No 1094/2010 was, for its part, ongoing at the date the contested decision was adopted (see paragraphs 62 and 63 above).

97 Second, the applicant submits that the Commission should have concluded that the general presumption of confidentiality allegedly applied had to be rebutted in the present case. However, it provides no specific evidence in support of that assertion and, notably, fails to demonstrate that one or more of the documents requested are not covered by that presumption. In particular, its argument that the 'follow-up exchanges' between the Commission and the NBS fall outside the formal and temporal scope of the investigation for breach of EU law initiated under Article 17 of Regulation No 1094/2010 has been rejected in paragraphs 61 and 62 above.

98 Third, the applicant is of the view that public intervention or pressure was very unlikely in the context of the infringement proceedings subsequently initiated against the Slovak Republic on the basis of Article 258 TFEU. However, such an argument is irrelevant for the purpose of disputing that the purpose of investigations into an alleged breach of EU law initiated under Article 17 of Regulation No 1094/2010 would be undermined, given that a separate general presumption of confidentiality is applicable to the documents relating to those investigations and, in particular, to the documents requested (see paragraphs 85 and 90 above).

99 In those circumstances, the applicant's claim that the purpose of the investigations would not be undermined must be rejected, as must, consequently, the second part of the second plea in its entirety.

3. The third part of the second plea, alleging that there is an overriding public interest in disclosure of the documents requested

100 The applicant refers to its argument, set out in the context of the second part of the first plea, that there is, in the present case, an overriding public interest justifying the disclosure of the requested documents.

101 The Commission, supported by the Slovak Republic, disputes the applicant's argument.

102 In that regard, it should be borne in mind that, where an EU institution, body, office or agency applies one of the exceptions provided for in Article 4 of Regulation No 1049/2001, it is for that institution, body, office or agency to weigh the particular interest to be protected by non-disclosure of the document concerned against, inter alia, the public interest in that document being made accessible, having regard to the advantages arising from increased transparency (see judgments of 17 October 2013, *Council* v *Access Info Europe*, C-280/11 P, EU:C:2013:671, paragraph 32 and the case-law cited, and of 3 July 2014, *Council* v *in 't Veld*, C-350/12 P, EU:C:2014:2039, paragraph 53 and the case-law cited).

103 It is, however, for the applicant for access to refer to specific circumstances to establish an overriding public interest which justifies the disclosure of the documents concerned (judgments of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraph 94, and of 16 July 2015, *ClientEarth* v *Commission*, C-612/13 P, EU:C:2015:486, paragraph 90).

104 It must be noted, first, that the overriding interest capable of justifying the disclosure of a document need not necessarily be distinct from the principles which underlie Regulation No 1049/2001. Nevertheless, general considerations alone cannot provide an appropriate basis for establishing that, in the present case, the principle of transparency was especially pressing and capable, therefore, of prevailing over the reasons justifying the refusal to disclose the information in question (see, to that effect, judgment of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraphs 92 and 93).

105 Second, the interest in facilitating the exercise of the rights of individuals by allowing them to use documents in order to facilitate their defence before national courts is a private interest, not a public interest (see, to that effect, judgments of 14 July 2016, *Sea Handling* v *Commission*, C-271/15 P, not published, EU:C:2016:557, paragraphs 97 and 99, and of 25 September 2014, *Spirlea* v *Commission*, T-306/12, EU:T:2014:816, paragraph 99). In that respect, it should be noted that the communication of documents for the purposes of the exercise by a person of his or her rights of defence would result in their disclosure to that person alone, unlike their communication under Regulation No 1049/2001, which would make those documents accessible to any person. The fact that the documents in question may be used in a large number of proceedings does not alter that analysis, since it cannot be considered that, as a matter of principle, the addition of private interests transforms those interests into a public interest (judgment of 9 October 2018, *Pint* v *Commission*, T-634/17, not published, EU:T:2018:662, paragraph 59).

106 In the present case, in the first place, the applicant submits that the Commission did not weigh up the interests concerned, namely, on the one hand, protection of the interests protected by the exceptions relied on by the Commission and, on the other, the public interest in making the requested documents available.

107 In that regard, it should be noted that, in the contested decision, the Commission stated that the interests relied on by the applicant, in particular the public right to know whether the NBS's actions and the withdrawal of the applicant's licence were lawful, were not capable of prevailing over the exceptions justifying non-disclosure. In those circumstances, the applicant is wrong to assert that the Commission did not weigh up the interests concerned.

108 In the second place, the applicant submits that there is an overriding public interest in disclosure, in accordance with the principle of transparency, of the main documents drawn up in the context of investigation procedures for breach of EU law under Article 17 of Regulation No 1094/2010, in particular the recommendations issued by EIOPA and the formal opinions adopted by the Commission, in order to allow for scrutiny of the conduct of those procedures and to ensure the legitimacy of the decision-making process and the public trust. Those investigation procedures are of great importance and may have serious consequences for the financial institutions concerned, for the holders of insurance contracts and, accordingly, for the stability of the insurance market in the Member States. That public interest, first, is not based solely on private interests and, second, outweighs the considerations put forward by the Commission.

109 In that regard, it should be noted, first of all, that, as the Commission rightly pointed out in the contested decision and subsequently at the hearing, and in accordance with the case-law referred to in paragraph 105 above, the usefulness of disclosure of the requested documents for the applicant and for its customers corresponds to private interests.

110 Next, in accordance with the case-law referred to in paragraph 104 above, general considerations based on the principle of transparency are not sufficient, in themselves, to establish the existence of an overriding public interest.

111 Lastly, the public interest in disclosure of documents drawn up in the context of an investigation procedure under Article 17 of Regulation No 1094/2010 in respect of a breach of EU law appears to be limited. Contrary to what the applicant claims, such an interest is not, in the present case, an overriding public interest capable of prevailing over the reasons justifying the refusal to disclose the requested documents, namely, in the present case, the protection of the purpose of investigations carried out on that basis. As the Commission explains, disclosure of those documents, far from ensuring the stability of the insurance market in the Member States, would rather have the effect of compromising the activities of the authorities responsible for ensuring the proper functioning and stability of those markets.

112 Moreover, it is common ground that the public was informed, albeit in a minimal but sufficient manner, by the publication of press releases relating to the recommendation of 16 May 2022, the formal opinion of 13 September 2022 and the decision to withdraw the applicant's licence.

113 In those circumstances, the applicant has failed to demonstrate the existence of any overriding public interest in the disclosure of the documents requested.

114 Consequently, the third part of the second plea must be rejected, as must, accordingly, the second plea in law in its entirety.

B. The first and third pleas in law, alleging, respectively, infringement of the second indent of Article 4(2) of Regulation No 1049/2001 and infringement of the first subparagraph of Article 4(3) of that regulation

115 By its first and third pleas, the applicant submits that the Commission infringed, respectively, the second indent of Article 4(2) of Regulation No 1049/2001 and the first subparagraph of Article 4(3) of that regulation. In so doing, the applicant challenges the legality of the grounds of the contested decision on the basis of which the Commission applied the exceptions relating, first, to the protection of court proceedings and, second, to the protection of an ongoing decision-making process.

116 In that regard, it should be borne in mind that, where some of the grounds given in an act are, by themselves, sufficient to justify that act to the requisite legal standard, errors which might invalidate other grounds of the decision do not, in any event, have any effect on its operative part. It is, moreover, settled case-law that a plea which, even if it were well founded, is incapable of bringing about the annulment which the applicant seeks is ineffective (see judgment of 14 December 2005, *Honeywell* v *Commission*, T-209/01, EU:T:2005:455, paragraph 48 and the case-law cited; judgment of 15 September 2021, *France* v *ECHA*, T-127/20, not published, EU:T:2021:572, paragraph 32).

117 As regards public access to documents, each exception provided for in Article 4 of Regulation No 1049/2001 constitutes a sufficient ground for refusing access (see, by analogy, judgment of 13 September 2000, *Denkavit Nederland* v *Commission*, T-20/99, EU:T:2000:209, paragraph 42).

118 In the present case, since, in the context of its second plea, the applicant has failed to rebut the ground for refusal based on the exception provided for in the third indent of Article 4(2) of Regulation No 1049/2001, the first and third pleas in law, challenging the other two grounds for refusal, must be dismissed as ineffective.

C. The fourth plea in law, alleging infringement of Article 4(6) of Regulation No 1049/2001, the principle of proportionality and the obligation to state reasons

119 By its fourth plea, the applicant submits that, as regards the refusal of partial access to the requested documents, the Commission, first, infringed Article 4(6) of Regulation No 1049/2001 and the principle of proportionality and, second, vitiated the contested decision by providing insufficient reasoning. According to the applicant, the Commission failed to explain why no meaningful partial access was possible, failed to distinguish between the various documents requested and the different parts of those documents, and failed to explain how the exceptions relied on actually applied to all those documents and all parts thereof.

120 The Commission disputes the applicant's line of argument.

121 Pursuant to Article 4(6) of Regulation No 1049/2001, if only parts of the requested document are covered by any of the exceptions, the remaining parts of the document are to be released.

122 It must be borne in mind that the principle of proportionality requires the EU institution, body, office or agency concerned to consider partial access to a document (judgment of 6 December 2001, *Council* v *Hautala*, C-353/99 P, EU:C:2001:661, paragraph 27; see also, to that effect, judgment of 7 February 2018, *Access Info Europe* v *Commission*, T-851/16, EU:T:2018:69, paragraphs 117 and 118 and the case-law cited). That requirement implies, in principle, a

specific, individual examination of the content of each document (see, to that effect, judgments of 6 July 2006, *Franchet and Byk* v *Commission*, T-391/03 and T-70/04, EU:T:2006:190, paragraph 117, and of 23 September 2015, *ClientEarth and International Chemical Secretariat* v *ECHA*, T-245/11, EU:T:2015:675, paragraph 230).

123 However, it has been held that documents covered by a general presumption of confidentiality fall outside the scope of the obligation to disclose their content, in full or in part (see, to that effect, judgments of 28 June 2012, *Commission* v *Éditions Odile Jacob*, C-404/10 P, EU:C:2012:393, paragraph 133, and of 27 February 2014, *Commission* v *EnBW*, C-365/12 P, EU:C:2014:112, paragraph 134). In such a case, the Commission is entitled to respond to the application for access to documents in a general manner, without carrying out a specific and individual examination of the content of each of the documents in question (see, to that effect, judgment of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraph 68).

124 In the present case, it follows from the examination of the second plea that the requested documents were covered by a general presumption of confidentiality (see paragraph 90 above), which has not been rebutted by the applicant (see paragraphs 97 and 113 above).

125 It follows, in the first place, that, in accordance with the case-law referred to in paragraph 123 above, the Commission, first, was not required to carry out a specific and individual examination of each of the documents requested as regards the possibility of granting partial access to one or other of those documents and, second, could lawfully consider that those documents were entirely covered by the exception laid down in the third indent of Article 4(2) of Regulation No 1049/2001.

126 Consequently, the applicant is not justified in claiming that the contested decision infringes Article 4(6) of Regulation No 1049/2001 and the principle of proportionality.

127 In the second place, in the context referred to in paragraph 124 above, the refusal to grant partial access must be regarded as sufficiently reasoned in form, since the contested decision mentions the possibility of granting partial access to the documents requested and it is concluded therein that those documents were covered in their entirety by the exceptions relied on by the Commission (see, by analogy, judgments of 25 March 2015, *Sea Handling* v *Commission*, T-456/13, not published, EU:T:2015:185, paragraph 92, and of 7 September 2017, *AlzChem* v *Commission*, T-451/15, not published, EU:T:2017:588, paragraphs 96 and 97).

128 Furthermore, while it is true that the Commission also stated, without further explanation, that no meaningful partial access was possible without undermining the interests protected by the exceptions relied on, such a statement of reasons, although brief, is also sufficient, having regard to the need not to disclose information covered, inter alia, by the exception provided for in the third indent of Article 4(2) of Regulation No 1049/2001 (see, to that effect, judgments of 1 February 2007, *Sison* v *Council*, C-266/05 P, EU:C:2007:75, paragraph 82, and of 7 February 2018, *Access Info Europe* v *Commission*, T-851/16, EU:T:2018:69, paragraph 122).

129 Consequently, the applicant is also not justified in claiming that the contested decision infringes the obligation to state reasons under Article 296 TFEU.

130 Accordingly, the fourth plea in law must be rejected.

D. The fifth plea in law, alleging infringement of the right to have access to the file, guaranteed by Article 41(2)(b) of the Charter of Fundamental Rights

131 The applicant maintains that the Commission infringed its right, guaranteed by Article 41(2)(b) of the Charter of Fundamental Rights, to have access to the file. It claims, first, that the Commission was also asked to give access to a file, second, that the Secretary-General of the Commission, the author of the contested decision, was competent to rule on that request, third, that the requested documents were part of an administrative file of significant concern to it and, fourth, that the Commission was required to give it access to that file.

132 The Commission disputes the applicant's line of argument.

133 As a preliminary point, it should be noted that Article 41 of the Charter of Fundamental Rights, concerning the right to good administration, states in paragraph 2(b) thereof, that that right includes 'the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy'.

134 Article 42 of the Charter of Fundamental Rights, concerning the right of access to documents, provides, for its part, that any citizen of the European Union, and any natural or legal person residing or having its registered office in a Member State, has a 'right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium'. Regulation No 1049/2001 lays down the conditions and detailed rules for the exercise of that right in respect of documents of the European Parliament, the Council of the European Union and the Commission.

135 The rules governing access to documents and access to the file thus constitute two separate regimes, subject to separate procedures (see, to that effect, judgment of 6 November 2024, *MeSoFa* v *ECB*, T-790/22, not published, EU:T:2024:783, paragraph 29). Both, in any event, require a request to have been made (judgment of 11 December 2014, *Heli-Flight* v *EASA*, T-102/13, EU:T:2014:1064, paragraph 51).

136 In the present case, it should be noted, in the first place, that the initial application, although primarily based on Regulation No 1049/2001 and not referring to Article 41 of the Charter of Fundamental Rights, contained certain elements capable of supporting a request for access to the file. Indeed, first, it cited Articles 47 and 48 of that charter and, second, it emphasised the need for the applicant to have the requested documents in order to prepare its 'defence' in the context of a 'sanctioning procedure' brought against it by the NBS and which resulted in the withdrawal of its licence.

137 By contrast, the confirmatory application was clearly and exclusively based on Regulation No 1049/2001 and on Article 42 of the Charter of Fundamental Rights. It did not mention Article 41 of that charter or the right of access to the file. Moreover, unlike the initial application, it did not refer to Articles 47 and 48 of that charter or to the applicant's rights of defence as the basis for the request for access. It was only incidentally, and for the sole purpose of challenging the application of the exception based on the protection of court proceedings within the meaning of the second indent of Article 4(2) of Regulation No 1049/2001, that the confirmatory application referred to the applicant's right to an 'effective defence' and to the fact that the requested documents concerned the applicant.

138 In the second place, the contested decision takes a decision on only the confirmatory application submitted by the applicant on the basis of Article 7(2) of Regulation No 1049/2001. It does not examine, or even mention, the applicant's right of access to its file under Article 41(2)(b) of the Charter of Fundamental Rights. Nor does it refer to Articles 47 and 48 of that charter, or to the applicant's rights of defence. Moreover, it dismisses as a private interest and, consequently, as irrelevant in the context of Regulation No 1049/2001, the interest which the applicant might have in disclosure of the requested documents for the purposes of preparing its defence before national courts (see paragraph 19 above).

139 As it happens, pursuant to the first paragraph of Article 4, applicable at that time, of the provisions concerning the implementation of Regulation No 1049/2001, annexed to the Rules of Procedure of the Commission (OJ 2000 L 308, p. 26), as amended by Commission Decision 2001/937/EC, ECSC, Euratom, of 5 December 2001 (OJ 2001 L 345, p. 94), the power to take decisions on confirmatory applications for access to documents is, in principle, delegated to the Secretary-General of that institution. However, it is apparent from the Commission's explanations in the present case that its Secretary-General was not competent to examine challenges directed against decisions refusing access to the file.

140 In those circumstances, the Secretary-General of the Commission, who issued the contested decision, did not receive any request for access to the file and did not take, and could not take, any decision in that regard. It follows that the applicant cannot validly criticise the Commission, in the context of an action against the contested decision, for failing to recognise a right of access to the file on the basis of Article 41(2)(b) of the Charter of Fundamental Rights (see, by analogy, judgments of 20 December 2023, *OCU* v *SRB*, T-496/18, not published, EU:T:2023:857, paragraphs 32 to 35 and 38, and of 13 November 2024, *Kargins* v *Commission*, T-110/23, not published, EU:T:2024:805, paragraphs 137 and 138).

141 Accordingly, the fifth plea in law must be rejected.

142 It follows from all of the foregoing that the action must be dismissed.

IV. Costs

143 Under Article 134(1) of the Rules of Procedure of the General Court, 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 incurred by the Commission, in accordance with the forms of order sought by the latter.

144 In addition, in accordance with Article 138(1) of the Rules of Procedure, Member States and institutions which have intervened in the proceedings are to bear their own costs. The Slovak Republic must therefore bear its own costs.

On those grounds,

THE GENERAL COURT (Third Chamber, sitting with five Judges)

hereby:

1. **Dismisses the action;**

2. **Orders Novis Insurance Company, Novis Versicherungsgesellschaft, Novis Compagnia di Assicurazioni, Novis Poisťovňa a.s. to bear its own costs and to pay those incurred by the European Commission;**

3. **Orders the Slovak Republic to bear its own costs.**

Kowalik-Bańczyk Reine da Silva Passos

Cassagnabère Pavelin

Delivered in open court in Luxembourg on 6 May 2026.

V. Di Bucci S. Papasavvas
Registrar President

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