Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

11 December 2025*

(Appeal – Economic and monetary policy – Banking union – Regulation (EU) No 806/2014 – Single Resolution Mechanism for credit institutions and certain investment firms – Article 7 – Division of tasks within the Single Resolution Mechanism – Article 18 – Resolution procedure – Conditions – Decision of the Single Resolution Board (SRB) not to adopt a resolution scheme – Competence of the SRB)

In Case C-602/22 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 16 September 2022,

ABLV Bank AS, in liquidation, established in Riga (Latvia), represented by O. Behrends, Rechtsanwalt,

appellant,

the other parties to the proceedings being:

Single Resolution Board (SRB), represented initially by H. Ehlers, L. Forestier, J. Rius Riu and K.-Ph. Wojcik, acting as Agents, and by D. Arts, advocaat, and N. De Backer and F. Miotto, avocates, and subsequently by H. Ehlers, L. Forestier and J. Rius Riu, acting as Agents, and by D. Arts, advocaat, and N. De Backer and F. Miotto, avocates,

defendant at first instance,

European Central Bank (ECB), represented by A. Lefterov, G. Marafioti and R. Ugena Torrejón, acting as Agents,

intervener at first instance,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz, Vice-President, C. Lycourgos, I. Jarukaitis, M.L. Arastey Sahún, I. Ziemele, O. Spineanu Matei, M. Condinanzi and F. Schalin, Presidents of Chambers, N. Piçarra, A. Kumin, D. Gratsias, Z. Csehi, B. Smulders and N. Fenger (Rapporteur), Judges,

Advocate General: A. Biondi,

* Language of the case: English.

Registrar: L. Carrasco Marco, Administrator,

having regard to the written procedure and further to the hearing on 20 January 2025,

after hearing the Opinion of the Advocate General at the sitting on 13 May 2025,

gives the following

Judgment

1 By its appeal, ABLV Bank AS, in liquidation, asks the Court of Justice to set aside the judgment of the General Court of 6 July 2022, *ABLV Bank* v *SRB* (T-280/18, EU:T:2022:429; 'the judgment under appeal'), by which the latter court dismissed ABLV Bank's action seeking annulment of decisions SRB/EES/2018/09 and SRB/EES/2018/10 of the Single Resolution Board (SRB) of 23 February 2018 in which it resolved not to adopt a resolution scheme in respect of the credit institution ABLV Bank AS and the credit institution ABLV Bank Luxembourg SA respectively ('the decisions at issue').

Legal context

Directive 2014/59/EU

2 Article 82(2) of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ 2014 L 173, p. 190) provides as follows:

'A decision whether or not to take resolution action in relation to an institution or an entity referred to in point (b), (c) or (d) of Article 1(1) shall contain the following information:

(a) the reasons for that decision, including the determination that the institution meets or does not meet the conditions for resolution;

(b) the action that the resolution authority intends to take including, where appropriate, the determination to apply for winding up, the appointment of an administrator or any other measure under applicable normal insolvency proceedings or, subject to Article 37(9), under national law.'

Regulation (EU) No 806/2014

3 Recitals 2, 10 to 12, 24, 26, 31, 33, 58 and 122 of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1) are worded as follows:

'(2) Divergences between national resolution rules in different Member States and corresponding administrative practices and the lack of a unified decision-making process for resolution in the banking union contribute to [the lack of confidence in other national banking systems and in the ability of Member States to support banks] and [to] market instability, as they do not ensure predictability as to the possible outcome of a bank failure.

…

(10) In order to address those issues it has been necessary to intensify the integration of the resolution framework for credit institutions and investment firms ("institutions") in order to bolster the [European] Union, restore financial stability and lay the basis for economic recovery. Directive [2014/59] is a significant step towards harmonisation of the rules relating to the resolution of banks across the Union and provides for cooperation among resolution authorities when dealing with the failure of cross-border banks. However, that Directive establishes minimum harmonisation rules and does not lead to centralisation of decision making in the field of resolution. It essentially provides for common resolution tools and resolution powers available for the national authorities of every Member State, but leaves discretion to national authorities in the application of the tools and in the use of national financing arrangements in support of resolution procedures. …

(11) For participating Member States, in the context of the Single Resolution Mechanism (SRM), a centralised power of resolution is established and entrusted to the [SRB] established in accordance with this Regulation ("the [SRB]") and to the national resolution authorities. That establishment is an integral part of the process of harmonisation in the field of resolution operated by Directive [2014/59] and by the set of uniform provisions on resolution laid down in this Regulation. The uniform application of the resolution regime in the participating Member States will be enhanced as a result of it being entrusted to a central authority such as the SRM. …

…

(12) Ensuring effective resolution decisions for failing banks within the Union, including on the use of funding raised at Union level, is essential for the completion of the internal market in financial services. Within the internal market, the failure of banks in one Member State may affect the stability of the financial markets of the Union as a whole. Ensuring effective and uniform resolution rules and equal conditions of resolution financing across Member States is in the best interests not only of the Member States in which banks operate but also of all Member States in general as a means of ensuring a level competitive playing field and improving the functioning of the internal market. Banking systems in the internal market are highly interconnected, bank groups are international and banks have a large percentage of foreign assets. In the absence of the SRM, bank crises in Member States participating in the [single supervisory mechanism ("the SSM")] would have a stronger

negative systemic impact also in non-participating Member States. The establishment of the SRM will ensure a neutral approach in dealing with failing banks and therefore increase stability of the banks of the participating Member States and prevent the spill-over of crises into non-participating Member States and will thus facilitate the functioning of the internal market as a whole. …

…

(24) Since only institutions of the Union may establish the resolution policy of the Union and since a margin of discretion remains in the adoption of each specific resolution scheme, it is necessary to provide for the adequate involvement of the Council [of the European Union] and the [European] Commission, as institutions which may exercise implementing powers, in accordance with Article 291 TFEU. The assessment of the discretionary aspects of the resolution decisions taken by the [SRB] should be exercised by the Commission. Given the considerable impact of the resolution decisions on the financial stability of Member States and on the Union as such, as well as on the fiscal sovereignty of Member States, it is important that implementing power to take certain decisions relating to resolution be conferred on the Council. It should therefore be for the Council, on a proposal from the Commission, to exercise effective control on the assessment by the [SRB] of the existence of a public interest and to assess any material change to the amount of the [Single Resolution Fund (SRF)] to be used in a specific resolution action. Moreover, the Commission should be empowered to adopt delegated acts to specify further criteria or conditions to be taken into account by the [SRB] in the exercise of its different powers. Such a conferral of resolution tasks should not in any way hamper the functioning of the internal market for financial services. [The European Banking Authority (EBA)] should therefore maintain its role and retain its existing powers and tasks: it should develop and contribute to the consistent application of the Union legislation applicable to all Member States and enhance convergence of resolution practices across the Union as a whole.

…

(26) The [European Central Bank (ECB)], as the supervisor within the SSM, and the [SRB], should be able to assess whether a credit institution is failing or is likely to fail and whether there is no reasonable prospect that any alternative private sector or supervisory action would prevent its failure within a reasonable timeframe. The [SRB], if it considers all the criteria relating to the triggering of resolutions to be met, should adopt the resolution scheme. The procedure relating to the adoption of the resolution scheme, which involves the Commission and the Council, strengthens the necessary operational independence of the [SRB] while respecting the principle of delegation of powers to agencies as interpreted by the Court of Justice of the European Union … Therefore, this Regulation provides that the resolution scheme adopted by the [SRB] enters into force only if, within 24 hours after its adoption by the [SRB], there are no objections from the Council or the Commission or the resolution scheme is approved by the Commission. The grounds on which the Council is permitted to object, on a proposal by the Commission, to the [SRB]'s resolution scheme should be strictly limited to the existence of a public interest and to material modifications by the Commission of the amount of the use of the [SRF] as proposed by the [SRB].

…

…

(31) In order to ensure a swift and effective decision-making process in resolution, the [SRB] should be a specific Union agency with a specific structure, corresponding to its specific tasks, and which departs from the model of all other agencies of the Union. Its composition should ensure that due account is taken of all relevant interests at stake in resolution procedures. …

…

(33) The [SRB], in its executive session, should prepare all decisions concerning resolution procedure and, to the fullest extent possible, adopt those decisions. …

…

(58) Liquidation of a failing entity under normal insolvency proceedings could jeopardise financial stability, interrupt the provision of essential services, and affect the protection of depositors. In such a case there is a public interest in applying resolution tools. The objectives of resolution should therefore be to ensure the continuity of essential financial services, to maintain the stability of the financial system, to reduce moral hazard by minimising reliance on public financial support to failing entities, and to protect depositors.

…

(122) Since the objectives of this Regulation, namely setting up an efficient and effective single European framework for the resolution of entities and ensuring the consistent application of resolution rules, cannot be sufficiently achieved by the Member States but can rather be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 [TEU]. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.'

4 Article 7 of Regulation No 806/2014, headed 'Division of tasks within the SRM', states in paragraphs 1 and 2:

'1. The [SRB] shall be responsible for the effective and consistent functioning of the SRM.

2. Subject to the provisions referred to in Article 31(1), the [SRB] shall be responsible for drawing up the resolution plans and adopting all decisions relating to resolution for:

(a) the entities referred to in Article 2 that are not part of a group and for groups:
   (i) which are considered to be significant in accordance with Article 6(4) of [Council] Regulation (EU) No 1024/2013 [of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63)]; or
   (ii) in relation to which the ECB has decided in accordance with Article 6(5)(b) of Regulation … No 1024/2013 to exercise directly all of the relevant powers; and

(b) other cross-border groups.'

5 Article 14(1) and (2) of Regulation No 806/2014 provides as follows:

‘1. When acting under the resolution procedure referred to in Article 18, the [SRB], the Council, the Commission, and, where relevant, the national resolution authorities, in respect of their respective responsibilities, shall take into account the resolution objectives, and choose the resolution tools and resolution powers which, in their view, best achieve the resolution objectives that are relevant in the circumstances of the case.

2. The resolution objectives referred to in paragraph 1 are the following:

(a) to ensure the continuity of critical functions;

(b) to avoid significant adverse effects on financial stability, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline;

(c) to protect public funds by minimising reliance on extraordinary public financial support;

(d) to protect depositors covered by Directive 2014/49/EU [of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ 2014 L 173, p. 149)] and investors covered by Directive 97/9/EC [of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ 1997 L 84, p. 22)];

(e) to protect client funds and client assets.

…’

6 Article 15(1) of that regulation is worded as follows:

‘When acting under the resolution procedure referred to in Article 18, the [SRB], the Council, the Commission and, where relevant, the national resolution authorities, shall take all appropriate measures to ensure that the resolution action is taken in accordance with the following principles …’

7 Article 18 of that regulation, headed ‘Resolution procedure’, provides:

‘1. The [SRB] shall adopt a resolution scheme pursuant to paragraph 6 in relation to entities and groups referred to in Article 7(2), and to the entities and groups referred to in Article 7(4)(b) and (5) where the conditions for the application of those paragraphs are met, only when it assesses, in its executive session, on receiving a communication pursuant to the fourth subparagraph, or on its own initiative, that the following conditions are met:

(a) the entity is failing or is likely to fail;

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, including measures by an IPS, or supervisory action, including early intervention measures or the write-down or conversion of relevant capital instruments in accordance with Article 21, taken in respect of the entity, would prevent its failure within a reasonable timeframe;

(c) a resolution action is necessary in the public interest pursuant to paragraph 5.

An assessment of the condition referred to in point (a) of the first subparagraph shall be made by the ECB, after consulting the [SRB]. The [SRB], in its executive session, may make such an assessment only after informing the ECB of its intention and only if the ECB, within three calendar days of receipt of that information, does not make such an assessment. The ECB shall, without delay, provide the [SRB] with any relevant information that the [SRB] requests in order to inform its assessment.

Where the ECB assesses that the condition referred to in point (a) of the first subparagraph is met in relation to an entity or group referred to in the first subparagraph, it shall communicate that assessment without delay to the Commission and to the [SRB].

An assessment of the condition referred to in point (b) of the first subparagraph shall be made by the [SRB], in its executive session, or, where applicable, by the national resolution authorities, in close cooperation with the ECB. The ECB may also inform the [SRB] or the national resolution authorities concerned that it considers the condition laid down in that point to be met.

…

4. For the purposes of point (a) of paragraph 1, the entity shall be deemed to be failing or to be likely to fail in one or more of the following circumstances:

…

(c) the entity is, or there are objective elements to support a determination that the entity will, in the near future, be unable to pay its debts or other liabilities as they fall due;

…

5. For the purposes of point (c) of paragraph 1 of this Article, a resolution action shall be treated as in the public interest if it is necessary for the achievement of, and is proportionate to one or more of the resolution objectives referred to in Article 14 and winding up of the entity under normal insolvency proceedings would not meet those resolution objectives to the same extent.

6. If the conditions laid down in paragraph 1 are met, the [SRB] shall adopt a resolution scheme. The resolution scheme shall:

(a) place the entity under resolution;

(b) determine the application of the resolution tools to the institution under resolution referred to in Article 22(2), in particular any exclusions from the application of the bail-in in accordance with Article 27(5) and (14);

(c) determine the use of the [SRF] to support the resolution action in accordance with Article 76 and in accordance with a Commission decision taken in accordance with Article 19.

7. Immediately after the adoption of the resolution scheme, the [SRB] shall transmit it to the Commission.

Within 24 hours from the transmission of the resolution scheme by the [SRB], the Commission shall either endorse the resolution scheme, or object to it with regard to the discretionary aspects of the resolution scheme in the cases not covered in the third subparagraph of this paragraph.

Within 12 hours from the transmission of the resolution scheme by the [SRB], the Commission may propose to the Council:

(a) to object to the resolution scheme on the ground that the resolution scheme adopted by the [SRB] does not fulfil the criterion of public interest referred to in paragraph 1(c);

(b) to approve or object to a material modification of the amount of the [SRF] provided for in the resolution scheme of the [SRB].

For the purposes of the third subparagraph, the Council shall act by simple majority.

The resolution scheme may enter into force only if no objection has been expressed by the Council or by the Commission within a period of 24 hours after its transmission by the [SRB].

The Council or the Commission, as the case may be, shall provide reasons for the exercise of their power of objection.

Where, within 24 hours from the transmission of the resolution scheme by the [SRB], the Council has approved the proposal of the Commission for modification of the resolution scheme on the ground referred to in point (b) of the third subparagraph or the Commission has objected in accordance with the second subparagraph, the [SRB] shall, within eight hours modify the resolution scheme in accordance with the reasons expressed.

…

8. Where the Council objects to the placing of an institution under resolution on the ground that the public interest criterion referred to in paragraph 1(c) is not fulfilled, the relevant entity shall be wound up in an orderly manner in accordance with the applicable national law.

9. The [SRB] shall ensure that the necessary resolution action is taken to carry out the resolution scheme by the relevant national resolution authorities. The resolution scheme shall be addressed to the relevant national resolution authorities and shall instruct those authorities, which shall take all necessary measures to implement it in accordance with Article 29, by exercising resolution powers. Where State aid or [aid from the SRF] is present, the [SRB] shall act in conformity with a decision on that aid taken by the Commission.

10. The Commission shall have the power to obtain from the [SRB] any information which it deems to be relevant for performing its tasks under this Regulation. The [SRB] shall have the power to obtain from any person, in accordance with Chapter 5 of this Title, any information necessary for it to prepare and decide upon a resolution action, including updates and supplements of information provided in the resolution plans.’

8 Article 22 of that regulation, headed ‘General principles of resolution tools’, provides, in paragraph 2:

‘The resolution tools referred to in point (b) of Article 18(6) are the following:

(a) the sale of business tool;

(b) the bridge institution tool;

(c) the asset separation tool;

(d) the bail-in tool.’

9 Article 29(1) of Regulation No 806/2014 states as follows:

‘National resolution authorities shall take the necessary action to implement decisions referred to in this Regulation, in particular by exercising control over the entities and groups referred to in Article 7(2), and the entities and groups referred to in Article 7(4)(b) and (5) where the conditions for the application of those paragraphs are met, by taking the necessary measures in accordance with Article 35 or 72 of Directive [2014/59] and by ensuring that the safeguards provided for in that Directive are complied with. National resolution authorities shall implement all decisions addressed to them by the [SRB].’

10 Article 43(3) of that regulation states:

‘The Commission and the ECB shall each designate a representative entitled to participate in the meetings of executive sessions and plenary sessions as a permanent observer.

The representatives of the Commission and the ECB shall be entitled to participate in the debates and shall have access to all documents.’

Background to the dispute

11 The background to the dispute is set out in paragraphs 2 to 20 of the judgment under appeal. For the purposes of the present proceedings, it can be summarised as follows.

12 ABLV Bank is a credit institution established in Latvia and is the parent company of the ABLV group. ABLV Bank Luxembourg is a credit institution established in Luxembourg and is one of the subsidiaries of the ABLV group; ABLV Bank is the sole shareholder of ABLV Bank Luxembourg.

13 ABLV Bank and ABLV Bank Luxembourg were each categorised as a ‘significant institution’ and, as such, were subject to supervision by the ECB as part of the SSM established by Regulation No 1024/2013.

14 On 13 February 2018, the United States Department of the Treasury (United States of America), through the Financial Crimes Enforcement Network (United States of America; ‘FinCEN’), announced its intention to adopt special measures to designate ABLV Bank as an entity of primary money laundering concern (‘the FinCEN draft measure’). Following that announcement, ABLV Bank was no longer able to make payments in US dollars (USD).

15 On 18 February 2018, the ECB instructed the Finanšu un kapitāla tirgus komisija (Financial and Capital Markets Commission, Latvia; 'the FKTK'), to suspend payments of the financial obligations of ABLV Bank. The ECB also asked the Commission de surveillance du secteur financier (Financial Sector Supervisory Commission, Luxembourg; 'the CSSF'), to adopt similar measures with regard to ABLV Bank Luxembourg. A moratorium with regard to ABLV Bank entered into force on 19 February 2018, and ABLV Luxembourg was subject to a suspension of payments.

16 On 22 February 2018, the ECB sent to the SRB its draft assessment concerning whether ABLV Bank and ABLV Bank Luxembourg were failing or were likely to fail with the aim of consulting the SRB in that regard.

17 On 23 February 2018, the ECB concluded that ABLV Bank and ABLV Bank Luxembourg were failing or were likely to fail within the meaning of Article 18(1) of Regulation No 806/2014 and sent its assessments to the SRB.

18 On the same day, the SRB adopted decision SRB/EES/2018/09, by which it decided not to adopt a resolution scheme with regard to ABLV Bank ('the ABLV Bank Decision'), and decision SRB/EES/2018/10, by which it decided not to adopt a resolution scheme with regard to the ABLV Bank Luxembourg ('the ABLV Bank Luxembourg Decision'). In those decisions, the SRB endorsed the ECB's assessment that ABLV Bank and ABLV Bank Luxembourg were failing or were likely to fail and found that there was no reasonable prospect that other measures would prevent their failure within a reasonable timeframe. However, the SRB concluded that, in view of the particular characteristics of ABLV Bank and ABLV Bank Luxembourg, resolution action in respect of them was not necessary in the public interest within the meaning of Article 18(1)(c) and (5) of that regulation. Those decisions were notified to their respective addressees, namely the FKTK and the CSSF.

19 The ABLV Bank Decision provided, in Article 1, that 'ABLV Bank … shall not be placed under resolution.' Article 2 of that decision provided that it was 'addressed to the [FKTK], in its capacity as National Resolution Authority, within the meaning of Article 3(1)(3) of Regulation No 806/2014' and that 'pursuant to Article 29(1) of [Regulation No 806/2014], the [FKTK] shall implement [that] Decision and shall ensure that any action it takes complies with it, in line with the considerations provided [therein]'.

20 Articles 1 and 2 of the ABLV Bank Luxembourg Decision are similar in content.

21 On 24 February 2018, the SRB published a press release relating to the decisions at issue. In the press release, it stated that, 'following the decision by the [ECB] to declare [ABLV Bank] and its subsidiary [ABLV Bank Luxembourg] as "failing or likely to fail", the [SRB] has decided that resolution action is not necessary as it is not in the public interest for these banks[;] as a consequence, the winding up of the banks will take place under the law of Latvia and Luxembourg, respectively.'

22 On 26 February 2018, the shareholders of ABLV Bank resolved to initiate a procedure allowing that bank to wind itself up and submitted to the FKTK an application for approval of its voluntary liquidation plan.

23 On 9 March 2018, the tribunal d'arrondissement de Luxembourg (District Court, Luxembourg, Luxembourg) dismissed the application of the CSSF for the dissolution and winding up of ABLV Bank Luxembourg, while allowing the latter to benefit from the suspension of payments procedure for a period of 6 months, which was extended several times. By judgment of 2 July 2019, that court ordered the dissolution and winding up of ABLV Luxembourg.

The action before the General Court and the judgment under appeal

24 By application lodged at the General Court Registry on 3 May 2018, ABLV Bank brought an action for the annulment of the decisions at issue.

25 It relied on 13 pleas in law in support of its action. In the first plea, it alleged that the SRB did not have the power to decide that a credit institution is to be wound up. In the second plea, it alleged that SRB did not have the power to decide not to adopt a resolution scheme. In the third and fourth pleas, it alleged an infringement of Article 18(1)(a) and (b) of Regulation No 806/2014. In the fifth plea, it alleged an infringement of the of the right to be heard and of the right to have access to the file. In the sixth plea, it alleged a failure to discharge the obligation to state reasons. In the seventh and thirteenth pleas, it alleged an infringement of the right to have its affairs handled impartially, as enshrined in Article 41(1) of the Charter of Fundamental Rights of the European Union ('the Charter'). In the eighth to eleventh pleas, it alleged an infringement, respectively, of the principle of proportionality, of the principle of equal treatment, of Articles 16 and 17 of the Charter and of the principle *nemo auditur propriam turpitudinem allegans* (the principle that no one may rely on their own wrongdoing). In the twelfth plea, it alleged a misuse of power.

26 By the judgment under appeal, the General Court dismissed the action brought by ABLV Bank.

27 When examining whether the action was admissible, after stating, in paragraph 36 of that judgment, that the decisions at issue are acts open to challenge, the General Court found, in paragraphs 40 to 42 of that judgment, first, that ABLV Bank had lodged its action against the decision relating to ABLV Bank Luxembourg in its capacity as parent company and sole shareholder of ABLV Bank Luxembourg and, second, that that decision did not directly affect the situation of shareholders since the right of those shareholders to receive dividends and to participate in the management of ABLV Bank Luxembourg had not been affected by that decision. In paragraph 45 of that judgment, it inferred from the above that that decision was not of direct concern to ABLV Bank.

28 Consequently, in paragraph 61 of the judgment under appeal, the General Court dismissed as inadmissible ABLV Bank's head of claim seeking annulment of the ABLV Bank Luxembourg Decision. However, it found the ABLV Bank's action to be admissible in so far as it sought the annulment of the ABLV Bank Decision.

29 On that basis, the General Court examined and rejected all of the pleas in law raised by ABLV Bank.

30 In the first place, the General Court rejected the first plea raised by ABLV Bank, finding, in paragraph 76 of the judgment under appeal, that the SRB had not decided to liquidate that entity by the ABLV Bank Decision.

31 In the second place, it rejected the second plea raised by ABLV Bank, finding, first of all, in paragraphs 81 and 82 of that judgment, that it was apparent from the judgment of 6 May 2021, *ABLV Bank and Others* v *ECB* (C-551/19 P and C-552/19 P, EU:C:2021:369) that the SRB was required to take a positive or negative decision once it had examined whether the conditions laid down in Article 18(1) of Regulation No 806/2014 were satisfied. Then, in paragraph 83 of the judgment under appeal, it found that Article 82(2) of Directive 2014/59, which could be regarded as the equivalent of Article 18 of that regulation, expressly provided for the possibility of taking a decision not to adopt a resolution scheme. Lastly, it found, in paragraph 84 of that judgment, that the lack of power on the part of the SRB to issue a decision not to adopt a resolution scheme could jeopardise the stability of the credit institution concerned and, potentially, of the financial markets, by giving rise to doubts as to the follow-up action to be taken in respect of that institution in the light of the ECB's assessment.

32 In the third place, the General Court examined the third and fourth pleas raised by ABLV Bank together in paragraphs 87 to 153 of the judgment under appeal. First of all, it held, inter alia, in paragraphs 91 and 92 of that judgment, that, since the SRB's assessment of whether a credit institution is failing or is likely to fail is based on complex economic assessments, review by the EU Courts in that regard is limited. It then went on to reject ABLV Bank's line of argument alleging that the FinCEN draft measure was unlawful, finding, in paragraph 101 of that judgment, that the causes of the failure were not a factor that was to be taken into account when carrying out the examination provided for in Article 18(4) of Regulation No 806/2014. Lastly, in paragraphs 103 to 146 of the judgment under appeal, it rejected ABLV Bank's line of argument against the ECB's assessment of whether it was failing or was likely to fail which was subsequently adopted by the SRB.

33 In the fourth place, in paragraphs 154 to 206 of the judgment under appeal, the General Court examined and dismissed the fifth to thirteenth pleas raised by ABLV Bank.

Forms of order sought

34 By its appeal, ABLV Bank claims that the Court of Justice should:

– stay the present proceedings until the decision closing the proceedings in Case C-551/22 P, *Commission* v *SRB*, is available and give the parties in the present proceedings the opportunity to comment on that decision;

– order a measure of organisation of procedure and of inquiry to the effect that the Commission is asked to take position on the present case;

– set aside the judgment under appeal;

– annul the decisions at issue;

– order the SRB to bear the costs at first instance and on appeal; and

– to the extent that the Court of Justice is not in a position to rule on the action at first instance, refer the case back to the General Court.

35 The SRB contends that the Court should:

– reject ABLV Bank's application for measures of organisation of procedure and for measures of inquiry;

– dismiss the appeal as inadmissible and, in any event, as unfounded;

– in the alternative, refer the case back to the General Court;

– in the further alternative, in the event that the Court of Justice does rule on the action at first instance, dismiss that action; and

– order ABLV Bank to pay the costs.

36 The ECB contends that the Court should:

– dismiss the appeal as unfounded; and

– order ABLV Bank to pay the costs.

Procedure before the Court

37 By decision of the President of the Court on 22 March 2023, the present proceedings were stayed in anticipation of the decision closing the proceedings in Case C-551/22 P, *Commission* v *SRB*. Following the delivery of the judgment of 18 June 2024 in *Commission* v *SRB*, (C-551/22 P, EU:C:2024:520), the proceedings were resumed.

38 By decision of the President of the Court of 21 June 2024, the parties to the present proceedings were invited to submit observations on the impact of that judgment on the present proceedings.

The appeal

39 ABLV Bank relies on four grounds of appeal. In the first ground of appeal, it alleges an error on the part of the General Court in its examination of the first two pleas at first instance concerning the powers of the SRB and procedural defects affecting the adoption of the ABLV Bank Decision. In the second ground of appeal, it alleges errors on the part of the General Court in its examination of the third and fourth pleas at first instance concerning the SRB's assessment of whether ABLV Bank was failing or was likely to fail. In the third ground of appeal, it alleges errors on the part of the General Court in its examination of ABLV Bank's line of argument concerning the FinCEN draft measure and decisions adopted by the Latvian authorities. In the fourth ground of appeal, it alleges errors on the part of the General Court in its examination of the admissibility of the action brought against the ABLV Bank Luxembourg Decision.

Application requesting that the Court ask the Commission to take a position on the present case

40 In its reply, ABLV Bank requests that the Court ask the Commission to take a position on the present case. It submits that, in the light of the line of argument put forward by the Commission in the case that gave rise to the judgment of 18 June 2024, *Commission* v *SRB* (C-551/22 P, EU:C:2024:520), that institution shares its opinion that the present appeal is well founded. That institution would, moreover, be in a position to comment on the legislative history of Regulation No 806/2014.

41 In that regard, the Court must point out that the subject of that request is an EU institution that is neither a party to the present proceedings nor to the proceedings at first instance. In addition, the Court takes the view that is has been sufficiently informed by the arguments of the parties and the documents in the file such that that request can be refused.

Admissibility of the appeal

Arguments of the parties

42 The SRB submits that the present appeal is inadmissible because it does not meet the requirements under the Rules of Procedure of the Court of Justice. It argues that the appeal does not indicate with the requisite precision which elements of the judgment under appeal are being contested or identify the legal arguments specifically advanced in support of the grounds raised. The vague and incoherent nature of the appeal means that it is difficult to identify the errors of law allegedly made by the General Court in the judgment under appeal.

43 The ECB argues that the appeal does not contain any specific ground alleging errors in law, which ultimately does not enable either the Court to conduct its review or the SRB and the ECB to prepare their defence. Consequently, the ECB questions the admissibility of the appeal.

44 ABLV Bank contends that the appeal is admissible.

Findings of the Court

45 The Court notes that it follows from the second subparagraph of Article 256(1) TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union and Article 168(1)(d) of the Rules of Procedure of the Court of Justice that an appeal must indicate precisely the contested elements of the judgment under appeal and the legal arguments specifically advanced in support of the appeal, failing which the appeal or the ground of appeal concerned may be inadmissible (see order of 26 April 1993, *Kupka-Floridi* v *ESC*, C-244/92 P, EU:C:1993:152, paragraphs 8 and 9; judgments of 25 January 2022, *Commission* v *European Food and Others*, C-638/19 P, EU:C:2022:50, paragraph 75; and of 15 July 2025, *ECB and Commission* v *Corneli*, C-777/22 P and C-789/22 P, EU:C:2025:580, paragraph 58).

46 An appeal supported by an argument that is not sufficiently clear and precise to enable the Court to exercise its powers of judicial review, in particular because essential elements on which the line of argument is based are not indicated sufficiently coherently and intelligibly in the text of the appeal, which is worded in a vague and ambiguous manner in that regard, does not satisfy those

requirements and must be dismissed as inadmissible. The Court has also held that an appeal lacking any coherent structure which simply makes general statements and contains no specific indications as to the paragraphs of the judgment under appeal which may be vitiated by an error of law must be dismissed as clearly inadmissible (see, to that effect, judgment of 4 October 2024, *thyssenkrupp* v *Commission*, C-581/22 P, EU:C:2024:821, paragraph 58 and the case-law cited).

47 In the present case, although a part of ABLV Bank's line of argument does not meet those requirements, the fact remains that the present appeal comprises a series of legal arguments which relate to clearly identified elements of the judgment under appeal and which enable the Court to conduct its review.

48 In those circumstances, it is not necessary to find the present appeal to be inadmissible in its entirety.

49 However, that conclusion has no bearing on any examination of the admissibility of particular grounds of appeal taken individually (see, to that effect, judgment of 14 June 2016, *Marchiani* v *Parliament*, C-566/14 P, EU:C:2016:437, paragraph 34 and the case-law cited).

Substance

The first ground of appeal

– *Arguments of the parties*

50 According to ABLV Bank, the General Court made a number of errors and distortions when examining the first two pleas that it raised at first instance. In addition, it incorrectly failed to raise of its own motion pleas relating to procedural defects affecting the ABLV Bank Decision.

51 In the first place, ABLV Bank submits that the General Court made a number of errors in its interpretation of Article 18 of Regulation No 806/2014 as adopted in the judgment under appeal.

52 First of all, that interpretation allegedly has no basis either in the wording of Article 18 or in that regulation taken as a whole.

53 In addition, ABLV Bank argues that that interpretation disregards the limits of the SRB's powers defined in Article 18 as they result from the case-law of the Court in the judgments of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7) and of judgment of 18 June 2024, *Commission* v *SRB* (C-551/22 P, EU:C:2024:520). In particular, it follows from paragraph 83 of the latter judgment that Article 18 does not confer on the SRB the power to adopt an act producing independent legal effects.

54 ABLV Bank claims that recital 26 of that regulation expressly acknowledges the need to limit the SRB's powers which results from that case-law. The General Court's interpretation of Article 18 of that regulation grants the SRB a very broad power to determine the fate of a bank – which is not provided for in that article – without it being necessary subsequently to obtain the Commission and the Council's endorsement to that end.

55 It is alleged that the General Court also bases its interpretation of Article 18 on two incorrect arguments.

56 First, as regards the General Court's reasoning based on Article 82(2) of Directive 2014/59, ABLV Bank submits that that provision does not apply in the present case and that the absence of any equivalent provision in Regulation No 806/2014 cannot be regarded as an unintended gap. In addition, it follows from that provision that the measures adopted following a decision not to adopt a resolution scheme come solely within the exclusive responsibility of the national authorities.

57 Second, the reasoning in paragraph 84 of the judgment under appeal, which concerns an alleged need to remove any doubt as to the steps at national level to be taken as follow-up to the ECB's assessment that a credit institution is failing or likely to fail, is based on a policy rationale.

58 Lastly, the practice adopted by the SRB after the closure of the oral phase of the proceedings at first instance was allegedly not consistent with the interpretation of Article 18 of that regulation that it proposed in the present case which was adopted by the General Court in the judgment under appeal, in particular in paragraphs 83 and 84 of that judgment.

59 In the second place, ABLV Bank argues that the General Court did not correctly determine the legal effects of the decisions at issue, whereas that was a necessary step in order to examine the lawfulness of those decisions.

60 In particular, the General Court failed to specify how the legal situation of ABLV Bank and of ABLV Bank Luxembourg had been modified by those decisions and merely examined whether or not those decisions involved a 'liquidation order'.

61 In the third place, it is ABLV Bank's submission that the General Court's finding that the decisions at issue did not require ABLV Bank and ABLV Bank Luxembourg to be liquidated distorted the wording of those decisions and is based on errors.

62 First of all, the operative language selected in the wording of those decisions, in so far as it requires the national resolution authorities to implement those decisions in accordance with the recitals therein, leaves no doubt as to the fact that ABLV Bank and ABLV Bank Luxembourg had to be liquidated.

63 The General Court also incorrectly equated the concept of an act open to challenge under Article 263 TFEU to a specific substantive document. That concept refers to the content itself of the decisions at issue, whereas a substantive document merely constitutes evidence of those decisions, in the same way as an announcement made at a press conference. As the General Court found in paragraph 17 of the judgment under appeal, the SRB announced that the decisions at issue would cause ABLV Bank and ABLV Bank Luxembourg to be wound up.

64 Lastly, the General Court erred in its interpretation of the concept of the addressee of an act within the meaning of the fourth paragraph of Article 263 TFEU and of Article 297(2) TFEU. It should have found that the addressee of an act is not the authority entrusted with the implementation of that act, but is the person whose legal situation has been modified. In the present case, ABLV Bank and ABLV Bank Luxembourg are the addressees of the decisions at issue and are the persons who are able to rely on the rights conferred by Article 41 of the Charter.

65 In the fourth place, ABLV Bank claims that the ABLV Bank Decision is vitiated by procedural defects, which ought to have been raised by the General Court of its own motion and must now be raised by the Court of Justice of its own motion. In particular, ABLV Bank's right to be heard and its right to have access to the administrative file were not respected in the procedure that led to the adoption of that decision. In addition, that decision was not correctly notified to ABLV Bank and no statement of reasons was provided.

66 The SRB submits that the first ground of appeal must be rejected as inadmissible in part, ineffective in part and unfounded in part.

67 The ECB claims that the first ground of appeal must be rejected as unfounded.

– *Findings of the Court*

68 As a preliminary point, it must be held that ABLV Bank's line of argument claiming that the errors allegedly made by the General Court in so far as it failed to determine correctly the legal effects of the decisions at issue and did not raise of its own motion the procedural defects supposedly vitiating the ABLV Bank Decision is not sufficiently clear and precise to allow the Court of Justice to review the lawfulness of that decision. That line of argument must therefore be rejected as inadmissible, in accordance with the case-law cited in paragraphs 45 and 46 of the present judgment.

69 With regard to the other arguments relied upon by ABLV Bank in support of its first ground of appeal, it must be held that, as far as concerns, in the first place, the alleged error in law relating to the interpretation of Article 18 of Regulation No 806/2014, the General Court dismissed, in paragraph 86 of the judgment under appeal, the second plea raised by ABLV Bank at first instance alleging that the SRB did not have the power to take a formal decision not to adopt a resolution scheme within the meaning of that provision.

70 In that respect, as regards, as a first consideration, the interpretation of that article, it is clear from the Court's settled case-law that, in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part (see judgments of 17 November 1983, *Merck*, 292/82, EU:C:1983:335, paragraph 12, and of 25 February 2025, *BSH Hausgeräte*, C-339/22, EU:C:2025:108, paragraph 27).

71 First of all, the wording of Article 18 of that regulation states, in paragraphs 1 and 6, that the SRB is to adopt a resolution scheme in respect of, inter alia, financial institutions and groups that are regarded as significant for the financial stability of the European Union and in respect of other cross-border groups only if it takes the view that the conditions in Article 18(1)(a) to (c) of that regulation are satisfied. Those conditions relate (i) to whether the entity or group concerned is failing or is likely to fail, (ii) to the absence of alternative measures with regard to resolution and, (iii) to whether a resolution action is necessary in the public interest.

72 As regards the first of those conditions, which is set out in Article 18(1)(a) of Regulation No 806/2014, it is clear from the second subparagraph of Article 18(1) that the assessment of that condition is to be made by the ECB after consulting the SRB and that the latter can make such as assessment only if, after it has informed the ECB of its intention, the ECB does not make such an assessment within three calendar days of receipt of that information. The third subparagraph of Article 18(1) specifies that, where the ECB assesses that that condition has been met, it is to communicate that assessment without delay to the Commission and the SRB.

73 The ECB's assessment that the entity concerned is failing or is likely to fail within the meaning of Article 18(1)(a) of Regulation No 806/2014 results in the procedure provided for in Article 18 of that regulation being initiated and, consequently, in an examination of the conditions provided for in Article 18(1) of that regulation by the SRB (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 67).

74 Article 18 of that regulation does, therefore, make provision for the SRB to have the power to examine the conditions in paragraph 1(a) to (c) of that article in all cases where the resolution procedure has been initiated on the basis of an assessment either notified by the ECB, concerning whether that the entity or group concerned is failing or is likely to fail, or carried out by the SRB itself where the SRB has expressed its intention to make such an assessment, even though that article does not contain express instructions regarding the follow-up steps that must be taken vis-à-vis that resolution procedure where the SRB takes the view that those conditions are not satisfied.

75 In addition, although the provisions of Article 18(7) of Regulation No 806/2014 make the entry into force of the resolution scheme subject to the Commission's endorsement, in the absence of objections on the part of the Commission or the Council (see, to that effect, judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 80), provision for such involvement by the Commission or the Council is not made in the event that a resolution scheme is not adopted. Accordingly, where the SRB takes the view that the conditions required for the adoption of a resolution scheme are not satisfied, that conclusion on the part of the SRB constitutes the final step of the resolution procedure provided for in Article 18 of that regulation.

76 Next, with regard to the context of Article 18 of that regulation, the Court notes, first, that Article 7(2) of that regulation is not such as to rule out the possibility of the SRB having the power to take a decision not to adopt a resolution scheme. As the Advocate General observed in point 23 of his Opinion, there is a disparity between the language versions of that provision. Accordingly, even assuming that it may follow from some of those language versions that the SRB only has the power to adopt resolution decisions concerning, in particular, financial institutions and groups that are regarded as significant for the financial stability of the European Union and other cross-border groups, the fact remains that, according to other language versions of that provision, the SRB does have the power to adopt all decisions 'relating to [the] resolution' of such financial institutions or groups.

77 According to settled case-law, a purely literal interpretation of one or more language versions of a text of EU law, to the exclusion of the others, cannot prevail since the uniform application of EU rules requires that they be interpreted, inter alia, in the light of the versions drawn up in all the languages (judgment of 10 March 2022, *Landkreis Gifhorn*, C-519/20, EU:C:2022:178, paragraph 76 and the case-law cited).

78 By contrast, recital 33 of Regulation No 806/2014 specifies that the SRB should prepare all 'decisions concerning resolution procedure' and, to the fullest extent possible, adopt those decisions.

79 That specification indicates that the EU legislature intended that the range of types of decision that the SRB is tasked with adopting in the context of the SRM be broad.

80 Lastly, as far as concerns the objectives pursued by that regulation, which, as was recalled in paragraph 70 of the present judgment, must be borne in mind when interpreting the provisions of that regulation, it is clear from recitals 2, 10 to 12, 31, 58 and 122 of that regulation that, by putting in place a uniform and centralised decision-making process with regard to resolution, the purpose of that regulation is to ensure a swift and effective decision-making process in resolution in the banking union with a view, inter alia, to ensuring greater predictability regarding the outcome of bank failure, to maintaining financial stability, to ensuring the continuity of essential financial services and to protecting depositors (see, to that effect, judgments of 4 October 2024, *Aeris Invest* v *Commission and SRB*, C-535/22 P, EU:C:2024:819, paragraph 164, and of 4 October 2024, *García Fernández and Others* v *Commission and SRB*, C-541/22 P, EU:C:2024:820, paragraph 190).

81 As was found in paragraph 73 of the present judgment, an assessment by the ECB that the entity concerned is failing or is likely to fail within the meaning of Article 18(1)(a) of that regulation results in the procedure provided for in Article 18 of that regulation being initiated and, consequently, in an examination of the conditions provided for in Article 18(1) thereof by the SRB.

82 Therefore, an interpretation of Article 18 to the effect that the SRB does not have the power to take a decision not to adopt a resolution scheme where it takes the view that the conditions are not met would not make it possible to ensure sufficient transparency as regards the outcome of the resolution procedure carried out by the SRB following a finding that an entity is failing or is likely to fail and, accordingly, to ensure a certain level of predictability as regards the consequences of that failure, in particular concerning the measures that will be taken following that finding.

83 In that regard, as the Court held in paragraph 75 of the present judgment, in the event that the SRB takes the view that those conditions are not satisfied, the SRB's conclusion constitutes the final step of the resolution procedure provided for in Article 18 of Regulation No 806/2014. For reasons of transparency, it is important that national competent authorities be informed of the outcome of the resolution procedure led by the SRB.

84 In the light of all those factors, the General Court did not err in law when it found that Article 18 of that regulation must be interpreted as meaning that the SRB does have the power to take a decision not to adopt a resolution scheme when it takes the view that the conditions provided for in paragraph 1 of that article are not met.

85 Contrary to what is claimed by ABLV Bank, that conclusion is not called into question by the case-law of the Court of Justice in the judgments of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7) and of 18 June 2024, *Commission* v *SRB* (C-551/22 P, EU:C:2024:520).

86 In that regard, the Court notes that the scheme put in place by that regulation is based on the assertion, set out, in essence, in recitals 24 and 26 thereof, that the exercise of the resolution powers provided for in that regulation falls within the resolution policy of the European Union, which only EU institutions may establish, and that a margin of discretion remains in the adoption of each specific resolution scheme, given the considerable impact of resolution decisions on the financial stability of the Member States and on the European Union as such, as well as on the fiscal sovereignty of the Member States. It is apparent from those recitals that the EU legislature, for those reasons, considered it necessary to provide for the adequate involvement of the Council and the Commission, namely involvement that strengthens the necessary operational independence of the SRB while respecting the principles of delegation of powers to

agencies identified in the judgment of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7) and recalled in the judgment of 22 January 2014, *United Kingdom* v *Parliament and Council* (C-270/12, EU:C:2014:18) (see, to that effect, judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 69).

87 In those first two judgments, the Court held, in essence, that the consequences resulting from a delegation of powers are very different depending on whether the delegation involves clearly defined executive powers the exercise of which can, therefore, be subject to strict review in the light of objective criteria determined by the delegating authority or whether it involves a 'discretionary power implying a wide margin of discretion which may, according to the use which is made of it, make possible the execution of actual economic policy' (judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 70 and the case-law cited).

88 A delegation of the first kind cannot appreciably alter the consequences involved in the exercise of the powers concerned, whereas a delegation of the second kind, since it replaces the choices of the delegator with the choices of the delegate, brings about an 'actual transfer of responsibility' (judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 71 and the case-law cited).

89 The Court has also pointed out that the case-law resulting from the judgment of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7), is based on the premiss that the balance of powers, which is characteristic of the institutional structure of the European Union, is a fundamental guarantee granted by the Treaties and that to delegate a broad discretionary power would render that guarantee ineffective, by entrusting it to bodies other than those which the Treaties have established to effect and supervise the exercise thereof within the limits of their respective functions (see, to that effect, judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 72).

90 It follows from that case-law that the validity of a delegation of powers to an agency, in the light of the balance of powers guaranteed by the Treaties, depends on whether that delegation relates to a broad discretionary power or, on the contrary, to executive powers which are precisely delineated (see, to that effect, judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 73).

91 As regards the provisions of Article 18 of Regulation No 806/2014, the Court has held that they are such as to avoid a 'transfer of responsibility' within the meaning of the case-law resulting from the judgment of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7).

92 While conferring on the SRB the power to assess whether the conditions for the adoption of a resolution scheme are met in the present case and the power to determine the tools necessary for the purposes of such a scheme, those provisions confer on the Commission, or, as the case may be, on the Council, the responsibility for the final assessment of the discretionary aspects of the scheme which fall within the scope of EU policy for the resolution of credit institutions and which involve a specific balancing of various objectives and interests, relating to the safeguarding of the financial stability of the European Union and the integrity of the internal market, the taking into account of the fiscal sovereignty of the Member States and the protection of the interests of shareholders and creditors (see, to that effect, judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 81).

93 Moreover, while those provisions confer on the SRB a wide margin of discretion concerning whether and by what means the entity concerned is to be the subject of a resolution procedure, that discretion, by virtue of Article 18(1) and (4) to (6) of that regulation, is circumscribed by objective criteria and conditions delimiting the SRB's scope of action and relating both to the resolution tools and conditions. In addition, the regulation provides for the participation of the Commission and of the Council in the procedure leading to the adoption of a resolution scheme, which, in order to enter into force, must be endorsed by the Commission and, where relevant, the Council (judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraph 77).

94 Accordingly, the Court has found that, while Articles 7 and 18 of that regulation provide that the SRB is responsible for drawing up and adopting a resolution scheme, they do not however confer on it the power to adopt an act producing independent legal effects. It has pointed out that, in the context of the resolution procedure provided for in Article 18 of that regulation, endorsement by the Commission is an essential element for the entry into force of the resolution scheme and for determining the content of that scheme (see, to that effect, judgment of 18 June 2024, *Commission* v *SRB*, C-551/22 P, EU:C:2024:520, paragraphs 83 and 84).

95 Contrary to what is claimed by ABLV Bank, it cannot be inferred from the above that the SRB does not in any circumstances have the power to adopt an act producing independent legal effects.

96 Indeed, the purpose of the findings in paragraph 83 of the judgment of 18 June 2024, *Commission* v *SRB* (C-551/22 P, EU:C:2024:520) is to provide reasons for the assessment in paragraph 82 of that judgment, which states that it would run counter to both the powers conferred to the SRB by Regulation No 806/2014 and to the case-law resulting from the judgment of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7) to find that a resolution scheme can produce binding legal effects irrespective of the Commission's endorsement decision. Accordingly, the finding in paragraph 83, to the effect that Articles 7 and 18 of that regulation do not confer on the SRB the power to adopt an act producing independent legal effects, covers only resolution schemes.

97 In addition, although, as ABLV Bank submits, the Court held, in its judgment of 18 June 2024, *Commission* v *SRB* (C-551/22 P, EU:C:2024:520), that adequate involvement by the Commission and the Council was required in the context of the adoption of a resolution scheme in order to avoid a 'transfer of responsibility', when it did so in paragraphs 75 to 81 of that judgment, the Court acted on the basis of a combination of factors characterising the adoption by the SRB of a resolution scheme. However, not all those factors are present where the SRB decides not to adopt a resolution scheme.

98 First, as the Court found in paragraph 76 of that judgment, Article 18(6) of Regulation No 806/2014 makes clear that, where the conditions laid down in paragraph 1 of Article 18 are satisfied, the SRB is to adopt a resolution scheme that places the entity concerned under resolution and determines the application to that entity of the resolution tools referred to in Article 22(2) of that regulation and the use of the SRF. Article 22(4) of that regulation states that those tools, with the exception of the asset separation tool, may be applied either individually or in any combination in order to meet the resolution objectives specified in Article 14 of that regulation, in accordance with the resolution principles specified in Article 15 thereof.

99 In paragraphs 77 and 81 of that same judgment, the Court inferred from the above that, in order to adopt a resolution scheme, the SRM must assess, on a discretional basis, two separate aspects of the situation at issue, the first concerning whether the conditions justifying the adoption of such a scheme are met and the second concerning the determination of the resolution tools necessary for that purpose and, where appropriate, the use of the SRF.

100 In order for the SRB to adopt a decision not to adopt a resolution scheme, it need only conclude that the cumulative conditions justifying the adoption of such a scheme are not met, which spares it from having to determine the tools that would have been necessary for the resolution of the institution at issue. As was recalled in paragraph 92 of the present judgment, determination of those tools requires a specific balancing of various objectives and interests, relating to the safeguarding of the financial stability of the European Union and the integrity of the internal market, the taking into account of the fiscal sovereignty of the Member States, and the protection of the interests of shareholders and creditors.

101 It follows that the scope of the discretionary assessments that must be carried out by the SRB in order to decide not to adopt a resolution scheme is necessarily more restricted than the scope of the assessments that must be carried out by the SRB in order to adopt a resolution scheme.

102 Accordingly, as the Court made clear in paragraph 77 of the judgment of 18 June 2024, *Commission* v *SRB*, (C-551/22 P, EU:C:2024:520), the SRB's discretion in assessing whether the conditions provided for in Article 18(1) of Regulation No 806/2014 are met is, under Article 18(1), (4) and (5) of that regulation, circumscribed by objective criteria and conditions delimiting the SRB's scope of action (see, by analogy, judgment of 22 January 2014, *United Kingdom* v *Parliament and Council*, C-270/12, EU:C:2014:18, paragraph 45).

103 Second, unlike a resolution scheme, a decision not to adopt a resolution scheme cannot, in itself, have the effect of imposing concrete measures or committing funds, its sole effect being to bring to an end the resolution procedure led by the SRB.

104 In the light of all of those findings, the Court of Justice must reject ABLV Bank's unfounded line of argument to the effect that the interpretation of Article 18(1) of that regulation adopted by the General Court in the judgment under appeal has no basis in the wording of that provision or in the regulation itself and misconstrues the limits of the powers of the SRB defined in that provision as they result from the case-law of the Court of Justice resulting from the judgments of 13 June 1958, *Meroni* v *High Authority* (9/56, EU:C:1958:7) and of 18 June 2024, *Commission* v *SRB* (C-551/22 P, EU:C:2024:520).

105 As a second consideration, with regard to ABLV Bank's line of argument taking issue with paragraphs 83 and 84 of the judgment under appeal, the Court of Justice must find that it is based on a misreading of that judgment, with the result that it must be rejected as unfounded.

106 The assessment in paragraph 84 of that judgment which relates, in essence, to the risk of uncertainty that would follow from the SRB not having the power to adopt a decision not to put in place a resolution scheme is linked to one of the objectives pursued by Article 18 of Regulation No 806/2014, specifically the need, referred to in paragraph 82 of the present judgment, to ensure sufficient transparency as regards the outcome of the resolution procedure carried out by the SRB following a finding that an entity is failing or is likely to fail and, accordingly, to ensure a certain

level of predictability as regards the consequences of that failure, in particular concerning the measures that will be taken following that finding. Consequently, the General Court cannot reasonably be criticised for having taken the existence of that risk as its basis.

107 In addition, contrary to what is claimed by ABLV Bank, the General Court did not find, in paragraph 83 of that judgment, that Article 82(2) of Directive 2014/59 would apply to the SRB, but referred to that provision by analogy, against the background of a contextual analysis of Article 18 of that regulation.

108 Moreover, even supposing that, by its line of argument focusing on paragraph 83, ABLV Bank is claiming that the General Court erred in law in making such an analogy, it is sufficient to point out that, in the light of the findings in paragraphs 71 to 103 of the present judgment, the fact that such an analogy is erroneous is not, in any event, such as to show that the SRB does not have the power to take a decision not to adopt a resolution scheme and, therefore, to call into question the rejection, by the General Court, of the second plea raised by ABLV Bank at first instance. That line of argument must, in any case, be rejected as ineffective.

109 As a third consideration, the same goes for ABLV Bank's line of argument in respect of the practice followed by the SRB after the oral part of the proceedings at first instance was closed. The fact that that practice is not consistent with the interpretation of Article 18 of Regulation No 806/2014 that the SRB put forward before the General Court and which was endorsed by that court, assuming that it were to be established, is not, in any event, such as to call into question the interpretation of that provision adopted by the General Court in the judgment under appeal.

110 In the second place, as regards ABLV Bank's line of argument focused on the General Court's finding to the effect that the decisions at issue did not require ABLV Bank and ABLV Bank Luxembourg to be liquidated, it must be held that, in paragraph 78 of the judgment under appeal, the General Court rejected the first plea raised by ABLV Bank at first instance, by which it claimed that the SRB had exceeded the powers conferred on it by that regulation by ordering that ABLV Bank be liquidated.

111 As a first consideration as regards ABLV Bank's line of argument alleging errors vitiating the ABLV Bank Luxembourg Decision, it is sufficient to find that such errors, assuming that they were established, would not be such as to call into question the General Court's rejection of the first plea raised by ABLV Bank at first instance, since the examination of the substance of the action for annulment lodged by ABLV Bank related solely to the ABLV Bank Decision, the action lodged by it in respect of the ABLV Bank Luxembourg Decision having been declared inadmissible by the General Court in paragraph 61 of that judgment. Consequently, that line of argument must be rejected, in any event, as being ineffective.

112 As a second consideration, as regards ABLV Bank's claim that the General Court misconstrued the text of the ABLV Bank Decision by finding, in paragraph 76 of the judgment under appeal, that, by that decision, the SRB had not decided to liquidate that credit institution, the Court of Justice finds that it does not follow from the text of that decision that the General Court's finding is inaccurate.

113 ABLV Bank's line of argument alleging a misreading of the ABLV Bank Decision must therefore be rejected as unfounded.

114 Moreover, even supposing that, by that line of argument, ABLV Bank is claiming that the General Court made an error in law in finding, in paragraph 75 of the judgment under appeal, that the ABLV Bank Decision did not require that bank to be liquidated, such a line of argument ought, in any event, to be rejected as being unfounded, since the General Court was correct in finding in paragraph 75 that the liquidation of ABLV Bank arose not from that decision, but from a decision taken by the shareholders of that bank following that decision (see, to that effect, judgments of 6 May 2021, *ABLV Bank and Others* v *ECB*, C-551/19 P and C-552/19 P, EU:C:2021:369, paragraph 49, and of 24 February 2022, *Bernis and Others* v *SRB*, C-364/20 P, EU:C:2022:115, paragraphs 50, 51, 77 and 78).

115 As a third consideration, regarding the alleged error in law in so far as only the text of the decisions at issue was taken into account to the exclusion of the public announcements made by the author of those decisions, it must be found that that line of argument is based on a misreading of the judgment under appeal, with the result that it must be dismissed as unfounded.

116 By finding, in paragraph 77 of that judgment, that the SRB's press release of 24 February 2018 does not replace the decisions at issue and cannot create obligations which do not flow from those decisions, the General Court did not find that the text of those decisions was the sole element that could be taken into account, to the exclusion of all other elements, in order to determine the scope of those decisions, but rather held, in essence, that a press release can play only a supplementary role to that effect and could not therefore call into question the assessment that follows from the text itself of those decisions.

117 As a fourth consideration, as regards the error allegedly made by the General Court by incorrectly interpreting the notion of 'addressee' within the meaning of the fourth paragraph of Article 263 TFEU and Article 297(2) TFEU, such an error would not, in any event, be such as to call into question the General Court's finding in paragraph 76 of the judgment under appeal – to the effect that the ABLV Bank Decision did not require the liquidation of that bank – and, consequently, the rejection of the first plea raised by ABLV Bank at first instance. ABLV Bank's line of argument alleging such an error must therefore be rejected as being ineffective in any event.

118 Moreover, as regards the line of argument that that error deprived ABLV Bank and ABLV Bank Luxembourg of their rights guaranteed under Article 41 of the Charter, it is sufficient to note that that line of argument is not sufficiently clear and precise to allow the Court to carry out its review and that it must, therefore, be declared inadmissible in accordance with the case-law cited in paragraphs 45 and 46 of the present judgment.

119 It follows that the first ground of appeal must be rejected as inadmissible in part, ineffective in part and unfounded in part.

The second ground of appeal

– *Arguments of the parties*

120 ABLV Bank submits, in essence, that the General Court made errors in law and distortions of the facts in its examination of the third and fourth pleas at first instance concerning the SRB's assessment as to whether ABLV Bank was failing or was likely to fail within the meaning of Article 18(1)(a) of Regulation No 806/2014.

121 In the first place, the applicant claims that, in paragraphs 90 to 96 of the judgment under appeal, the General Court adopted an excessively restrictive understanding of the scope of the judicial review that the EU Courts must carry out regarding the assessment of whether the credit institution is failing or is likely to fail, thereby disregarding Article 47 of the Charter and the case-law of both the Court of Justice and the European Court of Human Rights. The General Court incorrectly held that such a review should be more limited than that carried out by national courts in insolvency matters. In addition, the level of judicial review by the EU Courts ought to be commensurate with the consequences of the decision concerned.

122 In the second place, ABLV Bank submits that, in paragraphs 103 to 109 of that judgment, the General Court distorted the file put before it by finding that the ABLV Bank Decision contained an implicit assessment by the SRB of whether that bank is failing or is likely to fail, while the SRB stated, in particular in paragraph 124 of its defence, that the ECB had carried out that assessment alone and that the SRB had only been consulted.

123 In the third place, ABLV Bank claims that the General Court distorted the facts by omitting to take into account the judgment of the tribunal d'arrondissement de Luxembourg (District Court, Luxembourg) of 9 March 2018, as well as other events subsequent to the decisions at issue that called into question the SRB's assessments on which those decisions were based.

124 In the fourth place, ABLV Bank argues that the General Court responded incorrectly to certain arguments regarding the assessment of whether ABLV Bank was failing or was likely to fail that had been raised at first instance. Accordingly, the General Court gave no response in respect of (i) the argument that the moratorium in respect of ABLV Bank could have been extended to avoid the liquidity problems it was facing, (ii) the errors in connection with the deposit protection mechanism and (iii) the allegedly unjustified and arbitrary nature of the request to convert all Euroclear-liquidity into liquidity with Latvijas Banka (Bank of Latvia).

125 In the fifth place, it is ABLV Bank's submission that the judgment under appeal was based on a misinterpretation of the concept of bank liquidity within the meaning of Article 18 of Regulation No 806/2014 and of the EU legal framework on prudential supervision and the resolution of credit institutions. The judgment under appeal assumes that the liquidity scheme provided for by EU law is relevant only during good times and not during a liquidity crisis. In addition, the General Court did not take account, in that judgment, of the fact that that liquidity regime is turned on its head if additional liquidity requirements are imposed on a credit institution in the event of a crisis.

126 The SRB claims that the second ground of appeal must be rejected as inadmissible or, in any event, as unfounded and as manifestly ineffective in part.

127 According to the ECB, the second ground of appeal must be rejected as being inadmissible in part and, in any event, as unfounded.

– *Findings of the Court*

128 In the first place, as regards the alleged error in law relating to the intensity of the judicial review of the assessment by the SRB as to whether an entity is failing or is likely to fail, Article 18(1)(a) of Regulation No 806/2014 grants the SRB some discretion as regards the question of whether the conditions provided for in that provision, which include the condition that the entity or group concerned must be failing or likely to fail, are satisfied.

129 As the General Court held, in essence, in paragraphs 91 and 92 of the judgment under appeal, to the extent that the SRB has some discretion when examining that condition – which calls for technical choices to be made and requires complex economic assessments – the judicial review which the EU judicature must carry out of the merits of that examination must not lead them to substitute their own assessment for that of the SRB, but seeks to ascertain that the decision taken by the SRB is not based on materially incorrect facts and that it is not vitiated by a manifest error of assessment or misuse of powers (see, by analogy, judgments of 4 May 2023, *ECB* v *Crédit lyonnais*, C-389/21 P, EU:C:2023:368, paragraph 55; of 4 October 2024, *Aeris Invest* v *Commission and SRB*, C-535/22 P, EU:C:2024:819, paragraph 266; and of 4 October 2024, *García Fernández and Others* v *Commission and SRB*, C-541/22 P, EU:C:2024:820, paragraph 275).

130 In addition, contrary to what is claimed by ABLV Bank, the notion of judicial review adopted by the General Court in paragraphs 91 and 92 of the judgment under appeal, which follows from the settled case-law of the Court of Justice, is not incompatible with either Article 47 of the Charter or with the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 or with the proportionality principle.

131 Although, in a field entailing complex economic assessments, the institutions, bodies, offices and agencies of the Union have a margin of discretion with regard to economic matters, that does not mean that the EU judicature must refrain from reviewing interpretations adopted by those institutions, bodies, offices and agencies of information of an economic nature. The EU judicature must, among other things, not only establish whether the evidence put forward is factually accurate, reliable and consistent, but must also determine whether that evidence contains all the relevant data that must be taken into consideration in appraising a complex situation and whether it is capable of substantiating the conclusions drawn from it (see, by analogy, judgments of 10 July 2014, *Telefónica and Telefónica de España* v *Commission*, C-295/12 P, EU:C:2014:2062, paragraph 54, and of 13 July 2023, *Commission* v *CK Telecoms UK Investments*, C-376/20 P, EU:C:2023:561, paragraph 125).

132 The Court has held previously that, given those characteristics, the review of legality that is to be carried out by the EU judicature on the basis of Article 263 TFEU satisfies the requirements of the right to an effective remedy enshrined in Article 47 of the Charter, which corresponds to the principle of effective judicial protection in Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (see, to that effect, judgment of 10 July 2014, *Telefónica and Telefónica de España* v *Commission*, C-295/12 P, EU:C:2014:2062, paragraph 57 and the case-law cited).

133 It follows that ABLV Bank's line of argument to the effect that the General Court adopted an excessively restrictive understanding of the notion of the intensity of the judicial review that the EU judicature are to carry out on the SRB's assessment of whether an entity is failing or is likely to fail must be rejected as unfounded.

134 Moreover, the fact that that understanding of the notion of the intensity of judicial review is different from the understanding adopted by the competent national courts in the field of insolvency, assuming that it were to be established, is not such as to show that the General Court made an error in law in defining the intensity of its review. The argument on the basis of that fact must therefore be rejected as being ineffective in any event.

135 In the second place, as regards the alleged distortion of the file put before the General Court in paragraphs 103 to 109 of the judgment under appeal, it is not clear, in the light of the documents in that file referred to by ABLV Bank, that the General Court's finding in paragraph 107 of that judgment, according to which, in the ABLV Bank Decision, the SRB adopted the ECB's assessment as to whether ABLV Bank was failing or was likely to fail, is inaccurate. Consequently, ABLV Bank's line of argument alleging that such distortion had taken place must be rejected as unfounded.

136 In the third place, the same goes for ABLV Bank's line of argument alleging that the General Court failed to take into account the judgment of the tribunal d'arrondissement de Luxembourg (District Court, Luxembourg) of 9 March 2018.

137 As the Advocate General stated in point 78 of his Opinion, that judgment does not concern the situation of ABLV Bank, but solely that of ABLV Bank Luxembourg. The action for annulment lodged by ABLV Bank against the ABLV Bank Luxembourg Decision was declared inadmissible by the General Court in paragraph 61 of the judgment under appeal, with the result that the General Court cannot be regarded as having erred in law by failing to take into account the judgment of the tribunal d'arrondissement de Luxembourg (District Court, Luxembourg) in the context of its examination of the substance of the action brought against the ABLV Bank Decision.

138 As regards the line of argument concerning the General Court's failure to take into account other events that occurred after the decisions at issue, that line of argument does not identify which elements of the judgment under appeal are being criticised and is not sufficiently clear and precise to allow the Court of Justice to exercise its review of the lawfulness of that judgment, with the result that it must, as the ECB and SRB argue, be rejected as inadmissible, in accordance with the case-law cited in paragraphs 45 and 46 of the present judgment.

139 In the fourth place, for the same reasons, as the SRB submits, the Court of Justice must reject as inadmissible ABLV Bank's line of argument to the effect that the General Court failed to respond correctly to its arguments linked to its moratorium, the deposit protection mechanism and the request to convert Euroclear-liquidity into liquidity with the Bank of Latvia.

140 In the fifth place, as regards the alleged error in law concerning the interpretation of the concept of liquidity in the context of the resolution procedure provided for in Article 18 of Regulation No 806/2014, the Court of Justice must find that, in paragraph 115 of the judgment under appeal, the General Court stated that, in the circumstances of the present case, characterised by huge withdrawals of deposits following a breakdown in confidence between ABLV Bank and its customers, that credit institution's cover ratio and its capitalisation are of less importance compared to the immediate availability of liquidity within that credit institution.

141 ABLV Bank's argument that the General Court found, in that judgment, that the liquidity regime provided for by EU law is irrelevant in the context of the assessment as to whether an entity is failing or likely to fail is based on a misreading of paragraph 115. Contrary to what is claimed by ABLV Bank, by finding that, in the circumstances of the present case, the cover ratio of the bank was of lesser importance compared to the immediate availability of liquidity within the credit institution, the General Court did not in any way find that the cover ratio was, in general, irrelevant, but merely that, in the light of the particular circumstances of the present case, other factors had to be regarded as being of greater importance.

142 In addition, to the extent that, by that argument, ABLV Bank seeks to submit that the General Court erred in law by finding that liquidity requirements additional to those imposed by the liquidity regime provided for by EU law could be imposed on credit institutions, it does not show that such a solution would be contrary to EU law.

143 Consequently, ABLV Bank's line of argument regarding the interpretation of the concept of liquidity in the context of the resolution procedure provided for in Article 18 of Regulation No 806/2014 must be rejected as being unfounded.

144 It follows that the Court of Justice must reject the second ground of appeal as being unfounded in part, ineffective in part, and inadmissible in part, without there being any need to examine the pleas of inadmissibility raised by the SRB in respect of that ground as a whole and by the ECB in respect of one part of the line of argument put forward by ABLV Bank in the context of that ground.

The third ground of appeal

– *Arguments of the parties*

145 ABLV Bank claims that the General Court made a certain number of errors and distortions in its examination of the bank's line of argument concerning the FinCEN draft measure and decisions adopted by the Latvian authorities.

146 In the first place, it is ABLV Bank's submission that the General Court distorted the line of argument that ABLV Bank put forward at first instance concerning the FinCEN draft measure by suggesting, in paragraph 100 of the judgment under appeal, that ABLV Bank had merely criticised the ECB for having failed to clarify the scope of that draft to the former's partners. In fact, ABLV Bank criticised the ECB and the SRB for having referred to that draft as constituting an authoritative determination and for having given it considerable weight when assessing its situation.

147 In addition, the General Court allegedly imposed too great a burden of proof on ABLV Bank and distorted its line of argument by dismissing it on the ground that it was not necessary to take account of what had caused the entity to be in the situation that it was failing or was likely to fail. By its line of argument, ABLV Bank submitted that the assessments of the ECB and the SRB concerning the failing or likely to fail situation were founded not on a technical assessment of that situation, but on vague and general findings and on the finding that ABLV Bank's commercial model was no longer viable as a result of the draft FinCEN measure.

148 In the second place, ABLV Bank argues that the General Court failed to take sufficient account of a certain number of circumstances and items of evidence adduced by ABLV Bank in support of its line of argument.

149 In particular, ABLV Bank submits that it relied on Latvian law and on the competence of the FKTK in the field of anti-money laundering. ABLV Bank also referred to discrepancies between the FinCEN draft measure and the FKTK decisions finding that ABLV Bank had complied with the applicable regulations in the field. In addition, ABLV Bank put forward before the General Court that the FinCEN draft measure constituted an attempt by a third country to put pressure on the Republic of Latvia with a view to causing it to amend its legislation.

150 Moreover, ABLV Bank claims that it adduced evidence regarding the findings of the Korupcijas novēršanas un apkarošanas birojs (Corruption Prevention and Combating Bureau, Latvia), which allegedly proved the existence of collusion between ECB officials and FinCEN of which the ECB and the SRB were aware.

151 In the third place, ABLV Bank submits that the General Court erred in rejecting its plea alleging a misuse of power by the SRB on the ground that it sets out in paragraph 205 of the judgment under appeal, namely that the evidence put forward by ABLV Bank, in that regard, was not attributable to the SRB, whereas the SRB broadly relied on work prepared by the ECB and at national level.

152 The SRB and the ECB contend that the third ground of appeal must be rejected as inadmissible and, in any event, as unfounded.

– *Findings of the Court*

153 In the first place, ABLV Bank's line of argument alleging that the General Court distorted the file put before it is based on a misreading of the judgment under appeal, with the result that it must be dismissed as unfounded.

154 The General Court found, in paragraph 100 of that judgment, that ABLV Bank had referred on several occasions to the unlawful nature of the FinCEN draft measure. In addition, the General Court held, in paragraph 179 of that judgment, that ABLV Bank claimed that the ECB and the SRB had based the ABLV Bank Decision on the FinCEN draft measure. Consequently, contrary to what is claimed by ABLV Bank, by finding, in paragraph 100 of that judgment, that that bank was claiming that the ECB was obliged to clarify the scope of the FinCEN draft measure for those partners, the General Court did not reduce the scope if its line of argument concerning that draft measure, but found that that argument was part of its line of argument, which is not contested by ABLV Bank.

155 In addition, by holding, in paragraph 101 of the judgment under appeal that, since the causes of an entity failing or being likely to fail are not a factor to be taken into account when carrying out the examination provided for in Article 18(4) of Regulation No 806/2014, it was not necessary to examine whether the FinCEN draft measure was substantiated, the General Court did not, contrary to what is claimed by ABLV Bank, merely summarise the content of the line of argument that the bank had put forward at first instance, but provided reasons for rejecting that line of argument.

156 Moreover, even assuming that, by its line of argument, ABLV Bank is alleging that the General Court erred in law in holding, in paragraph 101, that the causes of an entity failing or being likely to fail were not factors to be taken into account in order to carry out the examination provided for in Article 18(4) of that regulation, such a line of argument should, in any event, be disregarded as unfounded. The Court has held previously that a resolution scheme is validly adopted where the conditions laid down in Article 18 of that regulation are satisfied, irrespective of the reasons that caused the entity in question to fail or to be likely to fail (see, to that effect, judgment of 4 October 2024, *García Fernández and Others* v *Commission and SRB*, C-541/22 P, EU:C:2024:820, paragraph 191).

157 In the second place, as regards ABLV Bank's line of argument concerning the burden of proof, it is sufficient to find that ABLV Bank's line of argument is not sufficiently clear and precise to allow the Court to carry out its review and that it must, therefore, be declared inadmissible in accordance with the case-law cited in paragraphs 45 and 46 of the present judgment.

158 In the third place, as regards ABLV Bank's line of argument claiming that insufficient account was taken of a certain number of circumstances and items of evidence, the Court of Justice notes that it is apparent from Article 256(1) TFEU and the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union that an appeal is to be limited to points of law and that the General Court therefore has exclusive jurisdiction to find and appraise the relevant facts and to assess the evidence. The assessment of the facts and evidence does not, save where the facts or evidence are distorted, constitute a point of law, which is subject, as such, to review by the Court of Justice on appeal. Such a distortion must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of the facts and evidence (judgment of 2 March 2021, *Commission* v *Italy and Others*, C-425/19 P, EU:C:2021:154, paragraph 52 and the case-law cited).

159 Consequently, that line of argument can succeed only if it had been established that the General Court distorted the facts. ABLV Bank has not invoked such a distortion; it has, in essence, merely asked for a new assessment of the facts, which does not come within the jurisdiction of the Court of Justice in the context of an appeal.

160 That line of argument must therefore be rejected as inadmissible, in accordance with the submissions made by the SRB and the ECB.

161 In the fourth place, ABLV Bank's line of argument alleging that the General Court made an error in paragraph 205 of the judgment under appeal must be dismissed as unfounded.

162 Accordingly, the General Court was correct in so far as it noted, in paragraph 204 of the judgment under appeal, that, according to settled case-law, a measure is vitiated by misuse of powers only if it appears, on the basis of objective, relevant and consistent evidence, to have been taken solely, or at the very least chiefly, for ends other than those for which the power in question was conferred or with the aim of evading a procedure specifically prescribed by the FEU Treaty for dealing with the circumstances of the case (judgment of 5 May 2015, *Spain* v *Parliament and Council*, C-146/13, EU:C:2015:298, paragraph 56 and the case-law cited).

163 Therefore, the mere fact that, in the context of the adoption of the ABLV Bank Decision, the SRB relied in part on measures adopted by the ECB and by national authorities is not, in any event, sufficient to show that it adopted that decision for ends other than those for which the power in question was conferred or with the aim of evading a procedure specially prescribed by the TFEU.

164 It follows that the Court must reject the third ground of appeal as being unfounded in part and inadmissible in part, without there being any need to examine the pleas of inadmissibility raised by the SRB and the ECB in respect of that ground as a whole.

The fourth ground of appeal

– *Arguments of the parties*

165 ABLV Bank claims that the General Court made a number of errors when examining the admissibility of the action in so far as it was directed against the ABLV Bank Luxembourg Decision.

166 In the first place, the General Court allegedly made an error by finding that only the text of the decisions at issue is relevant and that that text must not be interpreted in accordance with the public announcements made by the author of that text.

167 In doing so, the General Court incorrectly equated the concept of an act that is open to challenge, for the purpose of Article 263 TFEU, to a specific substantive document, whereas that concept covers the content of the decisions at issue, and a substantive document constitutes merely one item of evidence in that respect, as do oral announcements. The interpretation adopted by the General Court has unacceptable consequences and undermines the rule of law.

168 In the second place, the ABLV Bank claims that the General Court distorted the text of the decisions at issue by finding that they did not require the liquidation of the entities concerned. The operative language selected in the wording of those decisions, in so far as it requires the national resolution authorities to implement those decisions in accordance with the recitals therein, leaves no doubt as to the fact that ABLV Bank and ABLV Bank Luxembourg had to be liquidated. In addition, the issue of whether a specific method of liquidation was decided upon or whether the decision to that effect resulted directly from the opening of a liquidation procedure is irrelevant.

169 ABLV Bank puts forward, in the third place, that the General Court has not given due effect to its finding that a decision not to adopt a resolution scheme is an act open to challenge. It claims, referring to resolution schemes adopted by the SRB in respect of other entities, that such decisions modify the legal situation of the shareholders of the entity that is the subject of such a scheme. It concludes from this that the same applies to a decision not to adopt a resolution scheme.

170 In the fourth place, it claims that the General Court was incorrect not to have found that a decision to withdraw the licence of a credit institution has more specific consequences, because it prevents that institution from being able to carry out the regulated activity of taking deposits and lending.

171 The SRB and the ECB claim that the fourth ground of appeal must be rejected as unfounded.

– *Findings of the Court*

172 It must be stated that, in the context of the examination of the admissibility of ABLV Bank's action against the ABLV Bank Luxembourg Decision, after having held, in paragraph 41 of the judgment under appeal, that that decision provides that no resolution scheme will be adopted in respect of ABLV Bank Luxembourg, the General Court found, in paragraph 42 of that judgment, that that decision did not directly affect the legal situation of shareholders of ABLV Bank Luxembourg, such as ABLV Bank.

173 In that regard, in the light of the findings in paragraphs 112 to 116 of the present judgment and for the same reasons, it is necessary to reject ABLV Bank's line of argument alleging distortion of the ABLV Bank Luxembourg Decision and errors in the determination of its effects as being unfounded.

174 The same goes for ABLV Bank's argument drawing an analogy with resolution decisions adopted by the SRB in respect of other entities, since such decisions are irrelevant for the purpose of determining the effects of the ABLV Bank Luxembourg Decision.

175 As for the remainder, ABLV Bank's line of argument directed against the General Court's examination of the admissibility of its action in so far as it was directed against the ABLV Bank Luxembourg Decision is not sufficiently clear and precise to allow the Court of Justice to review the lawfulness of the judgment under appeal, with the result that it must be rejected as inadmissible, in accordance with the case-law cited in paragraphs 45 and 46 of the present appeal.

176 It follows that the fourth ground of appeal must be rejected as being unfounded in part and inadmissible in part.

177 Having regard to all of the findings above, the appeal must be dismissed in its entirety.

Costs

178 Under Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court is to make a decision as to costs.

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

180 Since the SRB and the ECB have applied for costs to be awarded against ABLV Bank and the latter has been unsuccessful, it must be ordered to bear its own costs and to pay those incurred by the SRB and the ECB.

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

1. **Dismisses the appeal;**

2. **Orders ABLV Bank AS, in liquidation, to bear its own costs and to pay those incurred by the Single Resolution Board (SRB) and the European Central Bank (ECB).**

Lenaerts	von Danwitz	Lycourgos
Jarukaitis	Arastey Sahún	Ziemele
Spineanu-Matei	Condinanzi	Schalin
Piçarra	Kumin	Gratsias
Csehi	Smulders	Fenger

Delivered in open court in Luxembourg on 11 December 2025.

A. Calot Escobar	K. Lenaerts
Registrar	President