BoA-D-2026-01

**D E C I S I O N**

given by

the **JOINT BOARD OF APPEAL**

**OF THE EUROPEAN SUPERVISORY AUTHORITIES**

in the appeal case brought by

D

against

The European Banking Authority (EBA)
[Respondent]

**APPEAL under Article 60 of Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010 and Regulation (EU) No 1095/2010 of the European Parliament and of the Council (the "ESAs Regulations")**

**Board of Appeal**
Michele Siri (President)
Margarida Lima Rego (Vice President)
Gerben Everts
Christos Gortsos
David Ramos Muñoz (Rapporteur)
Carsten Zatschler

**Paris 30.06.2026**

## Summary

Herewith, you will find the decision by the (Joint) Board of Appeal of the European Supervisory Authorities. The Board of Appeal, composed of six independent members, was responsible for making this decision on this specific case.

The Board of Appeal was informed that the Appellant was confronted with a rather abrupt termination of its bank account with its local bank, which the Appellant questioned, filing a complaint with its local bank and with the national competent supervisory authority, without success. As a follow up, the Appellant filed a complaint with the European Banking Authority (hereafter "the EBA"). The EBA adopted a decision not to start an investigation into the alleged breach or non-application of Union law regarding payment services in the EU internal market and access to payment accounts. The Appellant disputed this decision and filed the present appeal.

While sympathetic to the Appellant's loss of access to a bank account, which is a prerequisite to access numerous services, the Board of Appeal is subject to the case law of the Court of Justice of the European Union, which clearly indicates that the Appellant's complaint, irrespective of the significance of the concern, is directed against a decision which is not challengeable.

Entities which can request the EBA to initiate an investigation are listed explicitly and exhaustively in the Regulation governing the EBA (hereafter "EBA Regulation"). For natural and legal persons not included in that list, such as the Appellant, the EBA has an own-initiative competence to initiate an investigation, where appropriate, including investigations based on well substantiated information from natural or legal persons. However, the EBA's power to initiate an investigation is, according to the case law of the General Court, an entirely discretionary one. Accordingly, the EBA cannot be required to initiate an investigation. Crucially, the decision is not only discretionary. It is also not subject to review by the General Court or by the Board of Appeal.

In the instant case, the EBA determined that the request is more suitable to be dealt with by other means, and thus no investigation should be initiated as a matter of discretion. This is not a decision subject to review, according to the case law of the General Court and the Court of Justice of the EU.

The case at hand presents many similarities with case BoA-2022-01. The Board of Appeal, however, considered whether there are factual and legal circumstances at issue in the instant case, which differ from those at issue in that decision, and in previous Board of Appeal decisions and relevant case law from European Courts, and which might, thus, justify distinguishing the position of the Appellant and potentially lead to a different conclusion on the admissibility of an appeal. No such circumstances were detected. In light of these circumstances, the appeal is found to be inadmissible.

# D v EBA – Decision on admissibility

1 By its Notice of Appeal, dated 20 April 2026, an appeal was filed by a natural person, referred to as "D" ("Appellant") in accordance with Article 60 of the ESAs Regulations, The respondent is the European Banking Authority ("**EBA**"), which was established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 (EBA Regulation[1]). The appeal challenges a communication by the EBA, from 2 February 2026, responding to a complaint by the Appellant.

## I – Background to the dispute

2 This case concerns the Appellant's dispute of an EBA's communication of 2 February 2026 (**EBA Communication**), responding to an Appellant's communication of 14 January 2026, where the Appellant complained of a breach of Union law by the Finnish National Competent Authority (**NCA**).

*3* According to the facts alleged in the Notice of Appeal, the problem giving rise to the appeal began when Finnish S-Bank Plc closed the Appellant's bank account on 17 June 2024, and refused to provide services to the Appellant. The Appellant alleges that both measures were unjustified, since, according to the Appeal, there was sufficient information about the Appellant's identity, the Appellant was legally living in the EU, and was not on the EU's sanctions list. The Appellant also argues that the financial institution alleged that not enough know-your-customer (KYC) information had been provided, although the Appellant was not asked for such information when physically present at their service point. The Appellant tried to convey this information in interactions with the bank in July 2024, and subsequently.

4 As a next step, the Appellant complained to FINE, the Finnish Financial Ombudsman Bureau. According to the organization's site, *"FINE is a financial sector organisation comprising the Finnish Financial Ombudsman Bureau and the three Complaints Boards for Insurance, Banking and Investment issues, Executive Committee and the Board. The Consumer Agency, the Financial Supervisory Authority and the Federation of Finnish Financial Services founded FINE on 1 January 2009, merging the operations of the formerly separate Consumers insurance agency, Insurance Complaints Board, Banks' customer advice office and the Securities Board, setting up a contractual arrangement that is the Financial Ombudsman Service (FINE)"*.[2] FINE also provides advice to customers in the problems they may face in their insurance, banking and investment operations, as well as to solve related complaints.

5 The Appellant also complains that FINE failed to provide proper advice, as it considered that the bank's references to a "termination" of the account must have meant "cancellation" of said

[1] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (EBA Regulation).
[2] https://www.fine.fi/en/about-us/organization.html.

account, which is a legitimate action for failure to receive the requisite KYC information, and recommended seeking the services of a different bank.

6 On 17 July, and again on 28 July 2024 the Appellant contacted the Finnish financial supervisory authorities, complaining about the actions of both the bank, and FINE. On 16 August the supervisory authorities replied that their task was more focused on activities affecting large groups of customers, and they were not competent to solve individual disputes between customers and financial institutions. This was the task of FINE.

7 Subsequently, the Appellant complained to the EBA on 27 November 2025, and again on 14 January 2026, including a reference to FINE, and to FIN-FSA, the Finnish NCA. According to the Appellant, the only response from FIN-FSA was that there had been “some kind of communication failure at the bank”, and to ask about the original closure notification from the bank again.

8 Based on this mention, the EBA replied in an email on 16 January 2026, asking the Appellant to provide the EBA with the request sent to the NCA, and the NCA’s final reply, as well as the supporting documents of the complaint, in readable format. The Appellant provided those documents on 28 January 2026, having previously indicated that some of them would be typewritten, as the Appellant was unable to provide scanned copies.

9 On 2 February 2026 the EBA replied to the Appellant’s complaint. The EBA indicated that it lacked competences regarding institutions such as FINE, which are not competent authorities, and fall within the scope of national law on administrative processes, and not under the EU legal framework, as required under article 1(2) of the EBA Regulation. The EBA also indicated that, in its view, it was not apparent that FIN-FSA, the NCA, had breached EU law. The EBA found no indication of unlawfulness in the statement by FIN-FSA that it lacked competence to resolve individual disputes, referring to FINE as a more adequate institution for that purpose, or the fact that, nonetheless, FIN-FSA examined the matter, telling the Appellant that there may have been some communication disruption at the bank, and that it was advisable to re-examine the matter with the bank, asking for clarification as to which channel the bank sent the notification, and asking, if necessary, to re-submit the notification.

10 After receiving the communication by the EBA, the Appellant filed the present appeal.

## II – Procedure

11 On 21 April 2026 the President of the Board of Appeal issued a Procedural Order, with the following tenor:

*The President acknowledges receipt of the Notice of Appeal in the above case sent by email and received by the Secretariat of the Board of Appeal (BoA) on 20 April 2026.*

*In application of Articles 6(6) and 10 of the BoA Rules of Procedure, the President, after having consulted with the BoA members, gives the following directions:*

*1. EBA shall respond to the admissibility of the appeal within three weeks of service of the Notice of Appeal. The deadline for filing this response is 13 May 2026.*

*2. The Appellant will reply to the Response within three weeks. The deadline for filing this reply expires accordingly on 3 June 2026.*

*The response and the reply are to be filed with the BoA Secretariat and be served on the other party within those deadlines.*

*After the parties have filed their observations, the BoA will decide on the admissibility of the appeal. Should the appeal be determined to be admissible, both parties shall be granted, in due course, along with further directions of case management, appropriate terms for their submissions in the merits.*

*The parties are reminded of the possibility of applying for directions, including for these directions to be varied, at any stage in the appeal in accordance with Article 11(2) of the BoA Rules of Procedure.*

*Under Article 7(3) of the BoA Rules of Procedure, the filing and service of any further communication between the Parties and between the Parties and the BoA and its Secretariat may take place by email. The acting BoA Secretariat (boardofappeal@esma.europa.eu) must always be copied in.*

*As in previous cases involving a natural person, the name of the individual bringing the proceedings must be anonymised. The present case will therefore be referred to as 'D v EBA'.*

*In due course, the parties will be informed about the sitting composition of the BoA according to Article 3(4) of the BoA Rules of Procedure and about the designated rapporteur and co-rapporteur(s) for the case.*

12 On 12 May 2026 the EBA made its Response, with the submissions on the admissibility of the appeal, within the deadline set. Together with that submission, attached the EBA's Decision of 7 May 2026 (EBA/DC/651) concerning representation before the Board of Appeal in the present proceedings.

13 On 28 May the President sent a message to the parties, inviting those intending to make an oral representation to inform the Board of Appeal Secretariat by 14:00 on 5 June 2026. The President added that, should any of the parties request a hearing, this would be held in person at ESMA's premises in Paris or via videoconference on 17 June at 10 am. In that same message, the President informed the parties that he had designated Rapporteur for the case David Ramos Muñoz, and that the sitting composition of the Board of Appeal according to Article 3(4) of the BoA Rules of Procedure would include all members, with the exception of Genevieve Helleringer, with alternate member David Ramos Muñoz replacing her.

14 On 1 June 2026 the Appellant submitted the Reply, with the submissions on the admissibility of the appeal, within the deadline set.

15 On June 5, by 14:00, the deadline set in the 28 May communication by the President, no request for a hearing had been filed with the Secretariat by any of the parties. Thus, on 8 June 2026 the President sent another communication to the parties, thanking them for their submissions, replies and rejoinders, and indicating that, as no hearing request had been filed with the Secretariat, the President was declaring the appeal lodged.

## III – Forms of order sought

16 In its Notice of Appeal the Appellant requested the Board of Appeal to remit the 2nd February 2026 communication to the EBA, and acknowledge FIN-FSA's violation, followed by EBA's taking relevant supervisory measures regarding FIN-FSA. The Appellant included other considerations of value that are not, strictly speaking, forms of order. In the Reply with the submissions on admissibility the Appellant requests the BoA to find the Appeal admissible, and continue with the procedure.

17 EBA, for its part, requests the BoA to find the appeal inadmissible, as it does not concern an act open to challenge under Article 60 (1) of the EBA Regulation, on the basis of the case law of European Courts, and thus to dismiss the appeal for lack of competence.

## IV – Legal context

A – *The Board of Appeal's Rules of Procedure*

18 Article 60 (1) of the EBA Regulation states that:

*1. Any natural or legal person, including competent authorities, may appeal against a decision of the Authority referred to in Articles 17, 18 and 19and any other decision taken by the Authority in accordance with the Union acts referred to in Article 1(2) which is addressed to that person, or against a decision which, although in the form of a decision addressed to another person, is of direct and individual concern to that person.*

19 Article 1 (2) of the EBA Regulation states that:

*2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2002/87/EC, Directive 2008/48/EC, Directive 2009/110/EC, Regulation (EU) No 575/2013, Directive 2013/36/EU, Directive 2014/49/EU, Directive 2014/92/EU, Directive (EU) 2015/2366, Regulation (EU) 2023/1114 of the European Parliament and of the Council and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013.*

20 Article 17 (1) and (2) of the EBA Regulation states that:

*1. Where a competent authority has not applied the acts referred to in Article 1(2), or has applied them in a way which appears to be a breach of Union law, including the regulatory technical standards and implementing technical standards established in accordance with Articles 10 to 15, in particular by failing to ensure that a financial institution satisfies the requirements laid down in those acts, the Authority shall act in accordance with the powers set out in paragraphs 2, 3 and 6 of this Article.*

*2. Upon request from one or more competent authorities, the European Parliament, the Council, the Commission, the Banking Stakeholder Group, or on its own initiative, including when this is based on well- substantiated information from natural or legal persons, and after having informed the competent authority concerned, the Authority shall outline how it intends to proceed with the case and, where appropriate, investigate the alleged breach or non-application of Union law.*

21 The main arguments of the parties are briefly summarised below. The Board of Appeal considered all the arguments raised by the parties, irrespective of whether a specific mention to each of them is made or not in this decision.

22 The Appellant argued in its submissions that the cancelation of the bank account is against Directive 2014/92/EU, that the actions by FINE, and by FIN-FSA are a breach of Union law that should have been investigated, and that the EBA's failure to take supervisory action, stated in its communication to the Appellant, despite confirming FIN-FSA's violation, is unlawful. In the Reply the Appellant reiterated some of these grounds, arguing that FINE's and FIN-FSA's actions evidenced a violation of EU Law, that FINE's change of approach from its reaction in 2020 was evidence of a breach of law, and that EBA mishandled the Appellant's request, by refusing to undertake an investigation, thus tacitly affirming FIN-FSA's violation, despite the Appellant's indications of a clear violation of EU Law. On the admissibility of the appeal, the Appellant argued that the Appellant had provided overwhelming proof of Union Law violations, and that the reform of Article 17 (2) of the EBA Regulation, which now states that the EBA *"<u>on its own initiative</u>, including when this is based on <u>well substantiated information from natural or legal persons</u>, and after having informed the competent authority concerned, the Authority <u>shall outline how it intends to proceed</u> with the case and, <u>where appropriate, investigate</u>"* shows an intention to not let the EBA ignore Union law breaches, and that the EBA must carry out investigation when well-substantiated information is presented.

23 The EBA argued in its Response that the Appellant misrepresents the EBA Communication, which stated, on the contrary, that it clearly indicated that it considered the acts of FIN-FSA not to be in breach of Union law. The EBA also stated that, in line with the judgment of the General Court of 9 September 2015 in case T-660/14 *SV Capital v EBA*, confirmed by the judgment of the Court of Justice of 14 December 2016 in case C-577/15 P, *SV Capital v EBA,* EU:C:2016:947, an act rejecting a complaint on the basis that there were insufficient grounds for initiating an investigation under Article 17 of the EBA Regulation is not a decision that can be challenged before the BoA, as the BoA has confirmed in different cases, including, most recently, in case C v EBA, BoA-D-2022-01. According to the EBA, the EBA Communication is not a decision within the scope of the BoA's jurisdiction, and the Appellant is not one of the entities expressly referred to in Article 17 (2) EBA Regulation which may request the EBA to initiate an investigation.

## V – Admissibility of the appeal

24 The Appellant in this case was confronted with an abrupt termination of a bank account. The Appellant channelled the communications with the bank, and then the national authorities before asking the EBA to intervene. The Appellant also sought the assistance of the national Ombudsman. These attempts were unsuccessful, and were followed by an appeal before the BoA.

25 The facts of the case invite reflection about the complexities facing consumers of financial services in obtaining redress. The Appellant's bank account was cancelled. Unlike a previous instance, in 2020, where, in a similar situation, FINE's intercession sufficed to restore the bank account, in this case FINE, the Ombudsman, and FIN-FSA (the NCA) suggested that the client should seek information from its bank, or change to a different bank.

26 However, although the setting may be complex, from this it does not follow that the EBA should be the authority tasked with ensuring redress, or that the BoA should find itself competent to assess the EBA's decision not to pursue any further investigations. The European System of Financial Supervision is based on a division of competences between national and European levels, and the role of the BoA, as an administrative appeal body, is based on its review competence, as explicitly stated in Article 60 of the respective ESAs Regulations.

27 First, the decision over the allegations concerning FINE cannot give rise to an appeal before the BoA. FINE is an Ombudsman body, subject entirely to national (Finnish) law, and not tasked with a public mandate or responsibilities. It is not a National Competent Authority (NCA) against which the EBA can open proceedings for breach of Union law, pursuant to Article 17 of the EBA Regulation, and thus Article 60 of the EBA Regulation cannot be engaged. It is unclear whether such allegations are included by the Appellant as part of the appeal, or merely by way of context, but, in any event, an appeal against them can be considered manifestly inadmissible.

28 Regarding the acts by FIN-FSA, the BoA considers the appeal against the decision by the EBA not to investigate to be also inadmissible.

29 As the BoA held in its case BoA-2022-01, the meaning of said Article 60 (1) has been clarified by European Courts, notably in cases such as the judgment of the General Court in case T-660/14 *SV Capital v EBA*, EU:T:2015:608, confirmed by the judgment of the Court of Justice of 14 December 2016, in case C-577/15 P, EU:C:2016:947, or the Orders of the General Court of 10 August 2021, case T-760/20, *Jakeliūnas v. ESMA*, EU:T:2021:512, 24 June 2016, case T-590/15, *Onix Asigurări v EIOPA*, EU:T:2016:374, or of 20 May 2026, case T-247/24, *Evroins inshurans grup AD v EIOPA*, EU:T:2026:353 a complaint against a decision by the EBA, or any one of the ESAs, not to open an investigation for breach of Union law, under Article 17 of any of the ESAs Regulations, is inadmissible.

30 In the Reply, the Appellant offered a persuasive reading of Article 17 (2) of the EBA Regulation, in the sense that, by including an express reference to the possibility to investigate breaches of Union law, based on well substantiated information from natural or legal persons, the legislator was clearly expanding the role of private parties in prompting investigations from the ESAs. However, as the BoA held in its case BoA-2022-01, this does not suffice to create

an actionable right to have one's own case investigated, or a right of action to challenge the EBA's decision not to investigate. In fact, as the BoA also noted in its case BoA-2022-01, the *Jakeliūnas v. ESMA* case, referred to above, was based under the new language of Article 17 (2). Although *Jakeliūnas v. ESMA* did not explicitly consider the point noted by the Appellant, the finding of the Court was clear. Furthermore, in *Onix Asigurări v EIOPA,* paragraphs 53-58, and in *Evroins inshurans grup AD v EIOPA*, paragraphs 46-52 the General Court considered the specific structure of Article 17(2), finding that the lodging of a request does not create any special legal relationship between the applicant and EIOPA and cannot require EIOPA to carry out an investigation under Article 17(2) of Regulation, and that the acknowledgement, in the amended text of Article 17 (2) of the EBA Regulation of the role of natural and legal persons in prompting investigations for breach of Union law, does not transform the decision refusing to undertake an investigation into a challengeable act. The case *Evroins inshurans grup AD v EIOPA* offers an even closer parallel, since in that case the General Court dismissed an appeal against a decision by the Board of Appeal to dismiss as inadmissible an appeal against EIOPA's refusal to initiate an investigation under Article 17(2).

31 Thus, even though the BoA recognises the factual interest of an appellant in the EBA opening an investigation, that interest cannot be transformed into a legal right to challenge the EBA decision not to open an investigation. The text of Articles 17 and 60 of the EBA Regulation, their context and finality, and the balance that they establish between the competences of the EBA and the NCAs, or the role of the European Parliament, the Council, the Commission, the Banking Stakeholder Group, as well as the BoA itself, mean that a decision by the EBA not to open an investigation, upon receipt of information by natural or legal persons is not reviewable by the BoA. The case law by the General Court and the Court of Justice make this conclusion abundantly clear.

32 On the basis of the above-mentioned, even if one may note with regret the labyrinthine path facing customers of financial services in their quest to obtain redress, the BoA does not have the competence to decide this dispute. The appeal is thus clearly inadmissible.

## VI – Decision

33 On those grounds, the Board of Appeal hereby:

**Considers the appeal to be inadmissible.**

The original of this Decision is signed by the Members of the Board of Appeal in electronic format and countersigned by hand by the Secretariat.

Michele Siri (President)

(SIGNED)

Margarida Lima Rego (Vice President)

(SIGNED)

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| Gerben Everts<br>(SIGNED) | Christos Gortsos<br>(SIGNED) |
| David Ramos Muñoz (Rapporteur)<br>(SIGNED) | Carsten Zatschler<br>(SIGNED) |

On behalf of the Board of Appeal Secretariat

_____ ______
(SIGNED)

A signed copy of the decision is held by the Secretariat

***Date of the decision: 30.06.2026.***