

Decision on how the European Banking Authority (EBA) dealt with a complaint that a Slovakian bank breaches EU law on payment accounts in the EU (case 1310/2022/ABZ)

Decision

Case 1310/2022/ABZ - Opened on 08/08/2022 - Decision on 08/08/2022 - Institution concerned European Banking Authority (No maladministration found) |

Dear Mr X,

You recently submitted a complaint to the European Ombudsman against the European Banking Authority (EBA), on how it handled your complaint about alleged non-compliance with EU law by a Slovakian bank, Tatra Bank, supervised by the National Bank of Slovakia (NBS).

After careful analysis of all the information you provided with your complaint, we have decided to close the inquiry with the conclusion that:

There was no maladministration by the EBA [1] .

According to the founding rules [2] of the EBA, which set out its powers in cases of alleged breaches of EU law, the EBA is required to outline how it intends to proceed with a case and, *where appropriate* , investigate the alleged breach or non-application of EU law. This means that the EBA has discretion in deciding whether or not to start an investigation, as confirmed by the Court of Justice of the European Union [3] .

The role of the European Ombudsman in such cases is thus limited. The Ombudsman can verify if the EBA explained properly how it has exercised its discretion in a given case, but the Ombudsman cannot interfere in the EBA's exercise of its discretion.

In response to your complaint, the EBA said that it could not conclude that the NBS failed to assess the lawfulness of Tatra Bank's closure of your bank account. The EBA found that your bank account was a type of bank account *to which the Payment Accounts Directive [4] does not apply* and which could be closed under the Payment Services Directive [5] . The EBA said that the Slovakian authorities' website provides information on the possibility to open a bank account in Slovakia *to which the Payment Accounts Directive applies* [6] .



Having analysed all of the information above, we consider that the EBA provided you with reasonable explanations in reply to your complaint. We also note that, in dealing with your complaint, the EBA asked you to provide additional information to allow it to reach a conclusion. On that basis, we find nothing to suggest that the EBA did not deal properly with your complaint or that it was manifestly wrong in its assessment of it.

We note that the terminology used by the EBA may have caused some misunderstanding. In particular, it appears that the Slovakian authorities use the term 'standard account' when referring to a 'payment account with basic features' on its above-mentioned website. However, the EBA referred to your bank account as a 'standard account' when it explained that your account *was not* a 'payment account with basic features' to which the Payment Accounts Directive applies. The EBA appears to have used the expression 'basic bank account' when referring to a 'payment account with basic features' to which the Payment Accounts Directive applies.

While we understand that this is not your expected outcome, we hope that you will find these explanations useful.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 08/08/2022

[1] Full information on the procedure and rights pertaining to complaints can be found at <https://www.ombudsman.europa.eu/en/document/70707>.

[2] Arts. 1(2) and 17(2) of Regulation (EU) 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority):
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010R1093-20210626> [Link]

[3] Judgment of the General Court of 9 September 2015, [case T-660/14](#) [Link], *SV Capital OU v EBA*, para. 48, upheld in appeal by the Court's judgment of 14 December 2016, [case C-577/15 P](#) [Link], paras. 64-66.

Also, by analogy, Order of the General Court of 10 August 2021, *case T-760/20, Jakeliunas v ESMA*, para 29.

[4] Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014, on the comparability of fees related to payment accounts, payment account switching and access to



payment accounts with basic features, available at:

<https://eur-lex.europa.eu/legal-content/GA/ALL/?uri=celex:32014L0092> [Link]

[5] Art. 55(3) of the Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015, on payment services in the internal market(...), available at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02015L2366-20151223> [Link]

[6]

<https://www.mfsr.sk/en/finance/financial-market/financial-consumers-protection/basic-banking-product-standard-acc>

[Link]