

## **A Groundbreaking Decision in Favor of NOVIS: EIOPA Must Reconsider Its Decision to Withhold Crucial Documents**

*The Joint Board of Appeal of the European Supervisory Authorities (the EBA, ESMA and EIOPA) has rendered a decision in favour of NOVIS. Following an appeal by NOVIS relating to its right to access documents, the Joint Board of Appeal upheld NOVIS' rights and remitted the case to EIOPA for an amended decision.*

NOVIS had requested access to several documents held by the European Insurance and Occupational Pensions Authority (EIOPA) and relating to the assessment of EIOPA and the European Commission of the supervision of NOVIS by Národná banka Slovenska (NBS). Among these documents are, in particular, a recommendation by EIOPA and a formal opinion by the European Commission, both issued in 2022. They contain statements on NOVIS and on potential infringements of Union law by NBS and are critical to uncover the background and motives of NBS for revocation of the NOVIS' licence.

These documents are of crucial importance not only for NOVIS, but also for the public as they finally shed light on the conduct and methods of all participating institutions with impact on financial institutions like NOVIS. These documents have been kept secret until today.

Despite several detailed requests, EIOPA had refused access to these documents. In 2023, NOVIS lodged an appeal with the Joint Board of Appeal. In its ground-breaking decision of 31 July 2024, the Joint Board of Appeal found in favour of NOVIS.

The Joint Board of Appeal confirmed that the right to public access to information under the European Regulation (EC) No 1049/2001 strictly relies on a 'rule versus exception' system: the rule is disclosure, and the exception is non-disclosure. The Joint Board of Appeal acknowledged rejection is solely justified under special prerequisites to protect certain public and private interests.

The Joint Board of Appeal agreed with NOVIS that EIOPA, when rejecting access to the entirety of the documents requested, was acting against the law. The recognised exceptions did not justify the blanket refusal adopted by EIOPA.

In particular, EIOPA's interpretation of three exceptions was too extensive:

- (1) the protection of court proceedings,
- (2) the decision-making process at institutions, and
- (3) investigations pursuant to Article 17 of the EIOPA Regulation, which are closed as soon as the national authority informs EIOPA of the steps it intends to take to ensure compliance with EU law.

The Joint Board of Appeal remitted the case to EIOPA for the adoption of an amended decision that respects NOVIS' rights and ordered EIOPA to reimburse NOVIS its costs.

Full text of the decision: [HERE](#)

NOVIS Insurance Company,  
NOVIS Versicherungsgesellschaft,  
NOVIS Compagnia di Assicurazioni,  
NOVIS Poistovňa a.s.

Bratislava, 11. 09. 2024