



DECISION

given by

the
BOARD OF APPEAL
OF THE EUROPEAN SUPERVISORY AUTHORITIES

In the appeal case brought by

Jeffrey Michael Howerton

Against

**The European Insurance and Occupational Pension Funds
Authority**

Board of Appeal

Marco Lamandini (President)

Lars Afrell

Giuseppe Godano

Katalin Mero

Beata Maria Mrozowska

Michele Siri

Place of this decision: Paris

Date: 29 October 2020

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”)

1. This is the decision of the Joint Board of Appeal of the European Supervisory Authorities on the appeal filed by the appellant Jeffrey Michael Howerton (“Howerton” or “appellant”) under Article 60 of the ESAs Regulations.

Background of facts

2. On 18 August 2020 the appellant sent several requests to EIOPA to investigate the following national competent authorities under Article 17 of Regulation (EU) No 1094/2010: (1) the DNB (NL), (2) the FMA (LI), (3) the MFSA (MT); (4) the CBI (IE), (5) the DFSA (DK) (6) the CAA (LUX) and BAFIN (DE). The complaints relate to the same substantive issues already brought to the attention of ESMA and which led the Board of Appeal to adopt its decision of 12 October 2020 (2020-D-01, the “Howerton v ESMA BoA Decision”). In particular, intellectual property rights regarding a TV script that the appellant wanted to sell to Netflix and allegations of abuse and more by several persons who, according to the appellant, would have attended Brown University at the same time as he attended it and would now be working for different law enforcement authorities such as the FBI, the California Department of Justice and the Mossad.
3. EIOPA assessed the content of the requests to investigate and concluded that the facts that were described in the requests were outside the scope of EIOPA’s remit because they did not fall under any of the Union acts referred to in Article 1(2) of Regulation (EU) No 1094/2010. The appellant was informed of this conclusion by EIOPA on 30 September 2020, by e-mail,
4. The appeal against the EIOPA communication L-20-11 of 30 September 2020 was filed on 9 October 2020.
5. The Board of Appeal has read the 54-pages of this new appeal of the appellant and finds that this appeal merely reiterates, albeit vis-à-vis a different authority (EIOPA instead of ESMA), the very same complaints which have been identically raised in the past by the appellant with respect to ESMA and which led to an appeal which the Board of Appeal has determined to be inadmissible in that context.
6. The Board of Appeal further notes that the appellant, at the time of filing of this new appeal, was fully aware of the reasons of inadmissibility of the appeal filed against ESMA, because the draft Howerton v ESMA BoA Decision was communicated to the appellant on 2 October 2020 asking for comments on clerical errors, if any. The Howerton v ESMA BoA Decision has been published in its final form on 12 October 2020.
7. As in the ESMA Decision, also in the instant case the Board of Appeal fails to see how the facts described in the appeal, and previously in the complaint submitted to EIOPA, may involve insurances and occupational pension funds

or any other subject-matter within the remit of EIOPA and of the Board of Appeal.

8. In the circumstances, therefore, considering also that the *Howerton v. ESMA BoA Decision* was known to the appellant before the filing of the present appeal, the Board of Appeal recalls the reasons widely expressed in the *Howerton v ESMA BoA Decision* and in particular that in accordance with settled case-law of the Court of Justice an appeal contesting the decision of EIOPA not to initiate on own initiative a breach of Union law proceeding is inadmissible. Indeed, the GCEU, in its judgments of 9 September 2015, T-660/14 *SV Capital OÜ v EBA*, T-660/14, EU:T:2015:608 and, on appeal, the CJEU in its judgment of 14 December 2016, *SV Capital OÜ v EBA*, C-577/15 P, EU:C:2016:947 clarified that a decision adopted by one of the ESAs (in that case, the European Banking Authority; but the same principle applies in the present case, where the relevant ESA is EIOPA) not to initiate a proceedings under Article 17 is an act which is not reviewable by the Board of Appeal. In the circumstances, the Board of Appeal considers therefore that the appeal is manifestly inadmissible and does not allow for any further consideration.

The decision

On these grounds the Board of Appeal unanimously dismisses the appeal as manifestly inadmissible.

The original of this Decision is signed by the Members of the Board in electronic format, as authorised by Article 22.2 of the Rules of Procedure and countersigned by hand by the Secretariat.

Lars Afrell
(SIGNED)

Giuseppe Godano
(SIGNED)

Marco Lamandini (President)
(SIGNED)

Katalin Mero
(SIGNED)

Beata Mrozowska
(SIGNED)

Michele Siri
(SIGNED)

On behalf of the Secretariat
Tijmen Swank
(SIGNED)

A signed copy of the decision is held by the Secretariat.