

First plea: The General Court was wrong to conclude that the Commission was entitled to consider that Matrix and Niche could be classified as potential competitors on the basis of the Niche/Matrix Agreement.

Second plea: The General Court misapplied the legal test for potential competition in reaching the conclusion that Matrix and Servier were potential competitors at the time of entering into the Settlement.

2. Second Ground of Appeal: The General Court erred in law in finding that the settlement had the object of restricting competition.

First plea: The General Court has erred in finding that a patent settlement can have the object of restricting competition even though the terms of that settlement are within the scope of the patent.

Second plea: The General Court has erred in deriving the existence of a restriction of competition by object from the alleged inducement represented by the payment made by Servier to Matrix.

Third plea: The General Court erred in the manner in which it inferred the existence of an inducement from the payment received by Matrix.

3. Third Ground of Appeal: The General Court erred in declining to rule on the Commission's classification of the settlement as a restriction of competition by effect.
4. Fourth Ground of Appeal: The General Court erred in law in finding that Mylan Inc. exercised decisive influence over the conduct of Matrix during the relevant period.
5. Fifth Ground of Appeal: The General Court has infringed Article 23 of Regulation 1/2003^(?) and the principles of *nullum crimen nula poena sine lege*, and legal certainty in finding that a fine could be imposed on the appellants.

⁽¹⁾ Summary of Commission Decision of 9 July 2014 relating to a proceeding under Articles 101 and 102 of the Treaty on the Functioning of the European Union (Case AT.39612 — Perindopril (Servier)) (notified under document C(2014) 4955), OJ 2016, C 393, p. 7

⁽²⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ 2003, L 1, p. 1

Appeal brought on 28 February 2019 by Teva UK Ltd, Teva Pharmaceuticals Europe BV, Teva Pharmaceutical Industries Ltd against the judgment of the General Court (Ninth Chamber) delivered on 12 December 2018 in Case T-679/14: Teva UK Ltd and Others v Commission

(Case C-198/19 P)

(2019/C 164/32)

Language of the case: English

Parties

Appellants: Teva UK Ltd, Teva Pharmaceuticals Europe BV, Teva Pharmaceutical Industries Ltd (represented by: D. Tayar, avocat, A. Richard, avocate)

Other parties to the proceedings: European Generic medicines Association AISBL (EGA), European Commission

Form of order sought

The appellants claim that the Court should:

- accept the appeal and declare the action admissible;
- set aside the judgment of the General Court of 12 December 2018 in case T-679/14;
- refer the case back to the General Court for a new decision to be taken, unless the Court considers that it is sufficiently well informed to annul Commission Decision COMP/AT.39612 ⁽¹⁾ 'Perindopril (Servier)' of 9 July 2014 insofar as it finds that Teva UK limited, Teva Pharmaceuticals Europe B.V. and Teva Pharmaceutical Industries Limited infringed Article 101 of the TFEU and cancel the fine imposed Teva UK limited, Teva Pharmaceuticals Europe B.V. and Teva Pharmaceutical Industries Limited, and
- order the Commission to pay the costs of these proceedings, including the costs incurred by the appellants before this Court and before the General Court.

Pleas in law and main arguments

The appellants put forward three pleas in law to support their request:

1. The General Court erred in law in the standard applied to assess whether Teva was a potential competitor to Servier.
2. The General Court erred in law in finding that the agreement was restrictive of competition by object under Article 101(1) TFEU.
3. The General Court erred in law in its application of Article 101(3) TFEU.

⁽¹⁾ Summary of Commission Decision of 9 July 2014 relating to a proceeding under Articles 101 and 102 of the Treaty on the Functioning of the European Union (Case AT.39612 — Perindopril (Servier)) (notified under document C(2014) 4955) (JO 2016 C 393, p. 7).

Request for a preliminary ruling from the Sąd Rejonowy dla Łodzi-Śródmieścia w Łodzi (Poland) lodged on 27 February 2019 — RL sp. z o.o., having its seat in Ł. v J.M.

(Case C-199/19)

(2019/C 164/33)

Language of the case: Polish

Referring court

Sąd Rejonowy dla Łodzi-Śródmieścia w Łodzi