

3. Third plea in law, alleging a failure to examine relevant facts and to adopt only the decision on a sufficiently solid factual basis.
4. Fourth plea in law, alleging the incorrect interpretation and application by the ECB of the concept of a ‘qualifying holding’ by incorrectly calculating and attributing voting rights and capital share and misjudging the facts relating thereto.
5. Fifth plea in law, alleging incorrect interpretation and misapplication by the ECB of the assessment criteria in Article 23(1), (2) of Directive 2013/36/EU of the European Parliament and of the Council<sup>(1)</sup> and the transposing German legislation in Section 2c(1b) sentence 1 of the German Banking Act (Kreditwesengesetz).
6. Sixth plea in law, alleging infringements of the Charter of Fundamental Rights of the EU, in particular the applicant’s rights to family life and marriage (Articles 7, 9 and 33), non-discrimination (Article 21), the presumption of innocence (Article 48) and the right to property (Article 17).
7. Seventh plea in law, alleging infringement of the principle of proportionality.

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- <sup>(1)</sup> Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (OJ 2014 L 141, p. 1).
- <sup>(2)</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63).
- <sup>(3)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ 2013 L 176, p. 338).

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**Action brought on 7 July 2023 — Mincu Pătrașcu Brâncuși v European Public Prosecutor’s Office**

**(Case T-385/23)**

**(2023/C 321/60)**

*Language of the case: Romanian*

**Parties**

*Applicant:* Constantin Mincu Pătrașcu Brâncuși (Bucharest, Romania) (represented by: A. Șandru, lawyer)

*Defendant:* European Public Prosecutor’s Office

**Form of order sought**

The applicant claims that the Court should:

- annul the decision to bring a case to judgment and to dismiss that case in part, issued by the Permanent Chamber of the European Public Prosecutor’s Office on 8 December 2022, in case file EPPO No. I.130/2021, by which the European Public Prosecutor’s Office decided to bring to judgment the case in which the applicant is accused, since the Permanent Chamber was not constituted by the minimum number of European Prosecutors required under the EU legislation, thereby infringing the rules on the composition of Permanent Chambers, governed by Article 10(1) of Council Regulation (EU) 2017/1939 of 12 October 2017;
- [and the applicant] advances the plea of illegality concerning the internal rules of procedure of the European Public Prosecutor’s Office since they are contrary to Article 10 of the EPPO Regulation, and the plea of illegality concerning the provisions of those rules which are contrary to the TFEU and the Charter of Fundamental Rights of the European Union.

**Pleas in law and main arguments**

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of Article 10(1) of the EPPO Regulation, through the issuance of the contested decision.

In essence, the contested decision of Permanent Chamber No 10 was issued in breach of Article 10 of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), which requires the Permanent Chambers to be composed of two permanent Members in addition to the Chair.

2. Second plea in law, raising a plea of illegality in respect of the internal rules of procedure of the European Public Prosecutor's Office.

Given that the EPPO considers that it was sufficient that the provisions of Article 23(5) of the internal rules of procedure of the European Public Prosecutor's Office were complied with in adopting the contested decision of the Permanent Chamber, the applicant put forward, on the basis of Article 277 TFEU, the plea of illegality concerning the abovementioned provision on the ground that it is contrary to Article 10(1) of the EPPO Regulation, which may not be derogated from.

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**Action brought on 13 July 2023 — Teva v Commission****(Case T-393/23)****(2023/C 321/61)***Language of the case: English***Parties**

*Applicant:* Teva GmbH (Ulm, Germany) (represented by: Z. West, S. Love and G. Morgan, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- declare the applicant's request for annulment admissible and well-founded;
- annul the Contested Decision of 2 May 2023 (published on May 2023) amending the marketing authorisation granted by Decision C(2014)601(final) for 'Tecfidera — Dimethyl fumarate', a medicinal product for human use, as well as any later decision, to the extent that they perpetuate and/or replace that decision including any follow-up regulatory actions, in so far as they relate to the applicant;
- order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicant relies on one plea in law alleging that the European Commission failed to observe the simple time limit for meeting the substantive requirement that is necessary to obtain an extension of market protection as required by Article 14(11) of Regulation (EC) No 726/2004 of the European Parliament and of the Council: <sup>(1)</sup>

- An extension of the marketing protection to eleven years may only be granted if an authorisation for a new therapeutic indication is obtained within the first eight years of the marketing authorisation being granted;
- Biogen was required to obtain an authorisation for the new indication during the first eight years following the grant of Tecfidera's marketing authorisation;
- The marketing authorisation for Tecfidera was granted on 30 January 2014 and took effect on 3 February 2014. However, the Commission decision to grant an authorisation for the new therapeutic indication was not issued until 13 May 2022 (over three months after the end of the initial eight year period);