



C/2026/2012

13.4.2026

Appeal brought on 27 January 2026 by Nagila Warburg against the judgment of the General Court (Fourth Chamber, sitting with five Judges) delivered on 19 November 2025 in Case T-366/23, YH v ECB

(Case C-39/26 P)

(C/2026/2012)

Language of the case: English

Parties

Appellant: Nagila Warburg (represented by: R. Hübner, Rechtsanwalt)

Other party to the proceedings: European Central Bank (ECB)

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal;
- consequently, annul the decision of the ECB at issue;
- in the alternative, set aside the judgment under appeal and refer the case to another Chamber of the General Court; and
- order the ECB to pay the costs, including those incurred at first instance.

Pleas in law and main arguments

The appellant relies on ten grounds of appeal to support her appeal.

First ground of appeal, alleging infringements of Article 22(2) and (6) of Directive 2013/36/EU⁽¹⁾ ('CRD IV'). The General Court erred in law assuming that information accompanying the notification of a proposed acquisition must be provided in the written form like the notification itself. Therefore, it miscalculated the assessment period. Had the General Court correctly calculated the assessment period, it would have concluded that the decision of the ECB was sent after the assessment period had already elapsed. It follows, that the proposed acquisition should have been deemed approved.

Second ground of appeal, alleging violation of Article 35(1), (10) and 88(1) (b) of Regulation (EU) No. 468/2014 'SSMFR'⁽²⁾. The General Court erred in law allowing the ECB to notify the appellant of the Decision by simple email without having provided for any rules on electronic notifications as required by Article 35(1) and (10) SSMFR.

Third ground of appeal, alleging misapplication of Article 41(2) (a) of the Charter of Fundamental Rights of the European Union ('CFR'), 31(1) SSMFR and 22(1) of Council Regulation (EU) No. 1024/2013 ('SSMR')⁽³⁾. The General Court misapplied the above-mentioned provisions by denying a violation of the appellant's right to be heard by the ECB not hearing the appellant on the facts the ECB used to assert an acting in concert on the level of Warburg Gruppe.

⁽¹⁾ 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 Text with EEA relevance (OJ 2013 L 176, p. 338).

⁽²⁾ 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).

⁽³⁾ 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).

Fourth ground of appeal, alleging the General Court misapplied settled case-law on the obligation to state reasons for a decision by declaring it irrelevant that the ECB delivered part of its Decision – the ‘Separate Assessment Note’ – only ten days after the adoption of the Decision.

Fifth ground of appeal, alleging misapplication of settled case-law that the Courts have to establish whether the evidence relied on is factually accurate, reliable and consistent and contains all the relevant information which must be taken into account. The General Court ignored that the ECB did not take into account all the relevant information on the appellant’s husband’s repute by declaring irrelevant that the Regional Court of Bonn, in a judgment of December 2022, did oppose BaFin’s view on the appellant’s husband in the 2019 reassessment procedure. Thus, neither the General Court nor the ECB nor BaFin examined the facts carefully and impartially.

Sixth ground of appeal, alleging the General Court committed a manifest error in assessing the facts. The General Court not only ignored that the ECB did not examine the facts carefully and impartially. It also let the ECB’s assertions suffice for an acting in concert of the applicant with other shareholders of Warburg Gruppe and thus – falsely – supported the view that the appellant would acquire a qualifying holding while in fact, she would not.

Seventh ground of appeal, alleging the General Court violated Article 22(8) and 23(1) (2) CRD IV by including professional competence in the assessment criteria for the appellant as a proposed acquirer.

Eighth ground of appeal, alleging that even if professional competence would be among the assessment criteria for proposed acquirers, the General Court erred in law concerning the level of competence required. Further, holding a PhD in business administration, the appellant is sufficiently competent to manage the holding she intends to acquire.

Ninth ground of appeal, alleging the General Court violated Article 48 CFR by denying the appellant to invoke the presumption of her husband’s innocence and attributing the alleged lack of integrity of the appellant’s husband to her. Further, the assessment of the appellant’s husband misapplied settled case-law by ignoring that the evidence relied on by the ECB has not been examined carefully and impartially, is outdated and thus does not contain all the relevant information.

Tenth, the General Court distorts the facts by ignoring Paragraph 2c(1b) S. 3 of the German Banking Act (KWG), a provision of national law that allows for the ECB to authorize an acquisition subject to conditions, and therefore misapplied the principle of proportionality.
