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Judgment of the Court in Case C-328/24 P | Mincu Pătrașcu Brâncuși v EPPO

European Public Prosecutor's Office (EPPO): the Court of Justice dismisses the appeal of a Romanian citizen against an order of the General Court of the European Union

The Court of Justice confirms that the General Court does not have jurisdiction to review the legality of procedural acts of the EPPO

On 6 July 2021, the EPPO ¹ opened an investigation in criminal proceedings in which Mr Constantin Mincu Pătrașcu Brâncuși, a Romanian citizen, was involved as a suspect on 24 May 2022 then as a defendant on 25 May 2022.

On 8 December 2022, Permanent Chamber 10 of the EPPO adopted a decision ordering that that Romanian citizen and other persons be brought before the Regional Court of Bucharest (Romania).

Mr Mincu Pătrașcu Brâncuși is accused of the offences of establishing a criminal organised group ² and complicity in the use or presentation of false, incorrect or incomplete statements or documents, ³ which resulted in unlawful acquiring or retention of funds from the EU budget.

On 7 July 2023, he requested that the General Court of the European Union annul ⁴ the decision of the EPPO of 8 December 2022, and the subsequent acts. After the EPPO claimed that the General Court lacked jurisdiction, Mr Mincu Pătrașcu Brâncuși maintained that his action was admissible and that the position of the EPPO was contrary to the EU treaties and to his right to an effective remedy and to a fair trial.

By order of 28 February 2024, ⁵ the General Court, without examining the substance of the dispute, dismissed the action brought by Mr Mincu Pătrașcu Brâncuși, declaring that it lacked jurisdiction.

An appeal against that order of the General Court was brought before the Court of Justice.

By today's judgment, **the Court of Justice dismisses that appeal in its entirety.**

While finding that the General Court **did indeed err in law** in declaring that it lacked jurisdiction to hear and determine his action against a procedural act of the EPPO, ⁶ without examining whether the EU Treaties precluded such a finding, **the Court of Justice**, having itself carried out that examination, **upholds the dismissal of the action** brought by Mr Mincu Pătrașcu Brâncuși.

Indeed, the Court of Justice finds that the **Treaties** ⁷ **allow the EU legislature** ⁸ **to lay down special rules applicable to the judicial review of procedural acts of the EPPO**, having regard to the organisation and tasks of the latter. ⁹ It concludes that, by conferring on the national courts, and not on the General Court, jurisdiction to review the procedural acts of the EPPO intended to produce legal effects vis-à-vis third parties, save where otherwise provided, **the EU legislature did not exceed the scope of that authorisation.**

The Court states, in this regard, that **the legal effects of those procedural acts depend, to a large extent, on the**

national law of the Member State concerned and that **the final decision on criminal proceedings conducted by the EPPO lies with the national courts**. Furthermore, it notes that **the activities of the EPPO are subject to judicial review by the General Court and the Court of Justice**, either through a reference for a preliminary ruling¹⁰ or directly,¹¹ in accordance with the Treaties.

Thus, **the Court concludes that the EU legislature has complied with the division of powers between the national courts and the Court of Justice of the European Union, as provided for by the EU Treaties**.¹² **Furthermore, in so doing, it has respected the fundamental right to effective judicial protection**.¹³

Consequently, the Court finds that **the General Court does not have jurisdiction to examine the action** brought by Mr Mincu Pătrașcu Brâncuși.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ The EPPO is an independent EU body responsible for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union.

² Provided for in Article 367(1) and (2) of the Romanian Criminal Code.

³ In accordance with Article 48 of the Romanian Criminal Code, read in conjunction with Article 18a(1) and (3) of Law No 78/2000, pursuant to Article 35(1) and Article 38(1) of that criminal code.

⁴ Action based on Article 263 TFEU.

⁵ Order of the General Court of the European Union of 28 February 2024, *Mincu Pătrașcu Brâncuși v EPPO* ([T-385/23](#)).

⁶ Within the meaning of Article 42(1) of Council [Regulation \(EU\) 2017/1939](#) of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (EPPO).

⁷ More specifically, Article 86(3) TFEU.

⁸ Namely, in this case, the Council of the European Union.

⁹ The EPPO conducts its investigations in accordance with the national law of the Member States concerned and prosecutes accused persons before the courts of those Member States.

¹⁰ Procedure laid down in Article 267 TFEU.

¹¹ Apart from the cases provided for in Article 42(1) of Regulation 2017/1939, the review of the legality of the acts of the EPPO is based on Article 263 TFEU.

¹² Provided for, in particular, in Article 19 TEU and Article 263 TFEU.

¹³ In accordance with Article 47 of the Charter of Fundamental Rights of the European Union.