

Action brought on 6 February 2023 – Kaili v Parliament and EPPO

(Case T-46/23)

Language of the case: English

Parties

Applicant: Eva Kaili (Ixelles, Belgium) (represented by: S. Pappas, lawyer)

Defendants: European Parliament, European Public Prosecutor's Office

Form of order sought

The applicant claims that the Court should:

annul the decision of the European Chief Prosecutor of 15 December 2022, requesting the lifting of the parliamentary immunity of the applicant;

annul the decision of the President of the European Parliament of 10 January 2023 to announce this request in the plenary session of the Parliament and refer it to the Committee of Legal Affairs;

order the defendants to pay their own costs and the costs of the applicant in the present proceedings.

Pleas in law and main arguments

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

First plea in law, alleging the lack of competence of the European Chief Prosecutor to issue the contested act: according to the applicable provisions of Article 9 of the Rules of Procedure of the European Parliament, at the time when the European Chief Prosecutor adopted her decision of 15 December 2022, only Member States were entitled to issue such decision. Consequently, the decision of 15 December 2022 of the European Chief Prosecutor was adopted incompetently.

Second plea in law, alleging an infringement of two essential procedural requirements:

- Lack of reasoning: The European Chief Prosecutor's act does not elaborate on i) whether or not the applicant is found in the act of committing an offence; and ii) whether or not the privileges and immunities of the applicant present an obstacle to the investigation of the alleged irregularities;
- Violation of the rights of defence: Neither the European Chief Prosecutor nor the President of the European Parliament allowed the applicant to get copies of the documents on which they based their decisions. In addition, the applicant was not heard prior to the adoption of the contested acts.

Third plea in law, alleging a lack of sufficient and adequate reasoning infringing Article 29(2) 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")¹ and/or infringement of the provisions of that Regulation and of the principle of non-retroactivity.

Fourth plea in law, alleging an infringement of the principle of proportionality.

Fifth plea in law, alleging an infringement of the principle of democracy and of the right to a fair trial.

¹ OJ 2017, L 283, p. 1.