

Action brought on 7 November 2022 — Dr. Neumann & Kindler v EUIPO — Laboratory Corporation of America Holdings (LabCorp)

(Case T-674/22)

(2023/C 7/52)

Language in which the application was lodged: German

Parties

Applicant: Dr. Neumann & Kindler GmbH & Co. KG (Bochum, Germany) (represented by: T. Pfeifer and N. Gottschalk, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Laboratory Corporation of America Holdings (Burlington, North Carolina, United States)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for the EU figurative mark LabCorp — Application No 15 174 774

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 25 August 2022 in Case R 1998/2020-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs of the proceedings before the General Court of the European Union and order the potential intervener to pay the costs of the appeal proceedings before EUIPO.

Plea in law

- Infringement of Article 47(2) and (3) of Regulation 2017/1001 of the European Parliament and of the Council.

Action brought on 9 November 2022 — Giuffrida v European Public Prosecutor's Office

(Case T-676/22)

(2023/C 7/53)

Language of the case: Italian

Parties

Applicant: Carmela Giuffrida (Catania, Italy) (represented by: S. Petillo, lawyer)

Defendant: European Public Prosecutor's Office (EPPO)

Form of order sought

The applicant claims that the Court should:

- annul Decision No 038/2022, issued on 14 September 2022 and communicated by email on 16 September, with which the EPPO rejected, without reason, the appointment of Ms Carmela Giuffrida to the position of European Delegated Prosecutor located in Bari under Article 17(2) of the EPPO Regulation; ⁽¹⁾
- grant compensation for the harm caused to Ms Giuffrida as a result of both the delay in concluding the procedure and the unlawful refusal of her nomination which resulted in damage to her image, in the amount of EUR 445,94 for material damage and EUR 50 000 for non-material damage to her image, making a sum total of EUR 50 445,94.

Pleas in law and main arguments

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

1. First plea in law, alleging a failure to state adequate reasons. Contradictory reasoning.

- The grounds of the decision rejecting the nomination of Ms Carmela Giuffrida as an EPPO European Delegated Prosecutor located in Bari appear inadequate inasmuch as the applicant had performed the required function at national level for more than eight years, from 30 September 1999 to 8 January 2008. During that whole period she had performed her role dealing specifically with offences affecting the European Union's financial interests.
- From the cover letter the applicant sent to supplement and clarify her CV it is apparent that during the abovementioned period she had formed part of the working group set up at the public prosecutor's office that dealt with the offences referred to in Article 640a, that is to say, with fraud involving EU funds and, consequently, with all offences related thereto.

2. Second plea in law, alleging unequal treatment.

- The applicant claims unequal treatment in relation to other Italian colleagues hired.
- The applicant notes that only one year earlier, under a previous notice for the recruitment of Italian European Delegated Prosecutors (EDP), the EPPO hired fifteen judicial officers simply on the basis of their nomination by the Consiglio Superiore della Magistratura (Supreme Council of the Judiciary, Italy; 'CSM'), without any of those judicial officers having to undergo an interview.

3. Third plea in law, alleging a misuse of power.

- The applicant claims that, with respect to the nomination by the CSM, an institution which knows Ms Giuffrida's entire career, in that it holds her personal file, and which nominated her on the basis of that knowledge, the College of European Prosecutors renounced that decision without even gathering information from the Italian institutions, in infringement of Article 1(2) of College Decision 013/202 on the procedure for the appointment of the European Delegated Prosecutors.

4. Fourth plea in law, regarding the request for compensation for material damage and for damage to the applicant's image.

- Waiting in vain for the end of the EPPO's procedure caused the applicant substantial harm both professionally and personally.
- Ms Giuffrida states that even if the Court were to annul the rejection decision and she were hired by the EPPO she has suffered irreparable harm. The delay in her recruitment results in a loss of professionalism, specifically with regard to the EDP position, as compared to colleagues already hired and also causes a delay to her wage increase which is scheduled every three years

⁽¹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (the EPPO) (OJ 2017 L 283, p. 1)