

2. Second plea in law, alleging a violation of Regulation No 1049/2001 and specifically of Article 2(3) thereof.

By applying an extra-legal argument based on Article 7(1) of Decision 2021/2121, the Commission has unlawfully set aside Article 2(3) of Regulation No 1049/2001, considering non-registered text messages as not qualifying as documents held by the Commission under Regulation No 1049/2001 and/or by interpreting Article 2(3) of Regulation No 1049/2001 as leading to the conclusion that the requested information would not be held by the Commission.

3. Third plea in law, alleging a violation of the principle of good administration and the obligation to state reasons.

The Commission in the contested decision holds without stating any reasons that the requested information does not exist, contradicting the President of the Commission without any foundation, which qualifies as maladministration.

---

(<sup>1</sup>) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001, L 145, p. 43).

(<sup>2</sup>) Commission Decision (EU) 2021/2121 of 6 July 2020 on records management and archives (OJ 2021, L 430, p. 30).

---

**Action brought on 3 February 2023 — Pollen + Grace v EUIPO — Grace Foods (POLLEN + GRACE)**

**(Case T-41/23)**

(2023/C 112/49)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Pollen + Grace Ltd (London, United Kingdom) (represented by: P. Johnson, Barrister-at-Law, and L. Buckley, Solicitor)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Grace Foods Ltd (Castries, Saint Lucia)

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant before the General Court

*Trade mark at issue:* Application for European Union figurative mark POLLEN + GRACE — Application for registration No 17 099 623

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 13 December 2022 in Case R 1815/2021-4

**Form of order sought**

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party to the proceedings before the Board of Appeal to bear their own costs and to pay those of the applicant.

**Plea in law**

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

---

**Action brought on 6 February 2023 — Kaili v Parliament and EPPO****(Case T-46/23)**

(2023/C 112/50)

*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.

1. 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.
2. 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.
3. 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')<sup>(1)</sup> and/or infringement of the provisions of that Regulation and of the principle of non-retroactivity.