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Brussels, 6 February 2023

TO THE PRESIDENT AND THE MEMBERS OF THE GENERAL COURT OF THE EUROPEAN UNION

Application for annulment

Pursuant to Article 263 TFEU and Article 76 of the Rules of Procedure of the General Court of the EU

Submitted by: Eva Kaili, Member of the European Parliament, rue Wiertz 4/3, 1050 Ixelles, Belgium;

-Applicant-

Represented by Spyros Pappas, Member of the Athens and Brussels Bars, Pappas & Associates, 49-51 Stevin Street, B-1000 Brussels, Belgium, agreeing that service is to be effected on him by e-curia, according to Article 57 of the Rules of Procedure of the General Court of the European Union;

Versus

a. The European Public Prosecutor's Office, 11 Avenue John F. Kennedy, L-1855, Luxembourg, represented by the European Chief Prosecutor, Ms Laura Codruta Kövesi; and
b. The European Parliament, 60 rue Wiertz, B-1047 – Brussels, represented by its President, Ms Roberta Metsola;

-Defendants-

Seeking the annulment: i) of the decision of the European Chief Prosecutor of 15 December 2022, requesting the lifting of the parliamentary immunity of MEP Eva Kaili; as well as ii) of the decision of the President of the European Parliament of 10 January 2023 to announce this request in Parliament and refer it to the Committee of Legal Affairs.

I. Factual background

1. On the 15th of December 2022, the European Chief Prosecutor **("ECP")** adopted a decision requesting the President of the European Parliament **("PoEP")** to lift the immunity of the applicant.

2. On the 10th of January 2023, and in implementation of art. 9(1) of the Rules of Procedure of the European Parliament **("EP")**, as applicable at that date, the PoEP decided to announce the above request to the plenary of the Parliament and transfer it to the Committee of Legal Affairs for its proposal **(Annex A-1).**

3. On the 11th of January 2023, the applicant was invited by the EP to consult the file of the European Public Prosecutor's Office **("EPPO") (Annex A-2).**

4. In fact, the legal counsel of the applicant, on 13 January 2023, was received by the competent service of the EP at the premises of the EP in Brussels where he was given the opportunity to consult the relevant file without being allowed to get copies of the relevant documents. In particular, he was explicitly instructed not to take any photos of the documents in question with his mobile phone.

5. On this occasion, he was notified the letter of the EP to the applicant **(Annex A-1)**. By examining this letter, the applicant was for the first-time informed of: **a.** the existence of the request of the ECP of 15 December 2022, likewise of its legal basis that was completed by separate submission to the PoEP, dated 9 January 2023; and **b.** the decision of the PoEP to announce to the plenary of the EP, pursuant to art. 9(1) of the Rules of Procedure of the EP, the ECP's decision requesting the lifting of the applicant's immunity.

6. In that regard, it should be noted that the applicant was never notified the text of the ECP's request of 15.12.2022 as completed on 09.01.2023. Therefore, the applicant cannot produce copies of them; for that reason, she limits herself to their description.

7. Indeed, according to the notes taken by the counsel of the applicant during the consultation of the file containing the request of the ECP, the said request is based on art. 8, 9, 11, 17 and 19-22 of Protocol 7 on the privileges and immunities of the European Union (EU). It is also based on art. 29(2) of Council Regulation (EU)2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the EPPO.[1]

8. As regards the applicant, the ECP's decision of 15 December 2022 concerns the management of parliamentary allowances. In particular, the claimed allegations of irregularities relate to the allowances given to the following of her accredited parliamentary assistants **("APAs")**: **a.** Konstantina Anthi, former APA to the applicant from 28.09.2015-02.07.2019; **b.** Gerassimos Katsikogiannis, former APA to the applicant from 21.04.2015-31.01.2022; **c.** Athanassios Moyssiadis, former APA to the applicant from 02.08.2015-30.06.2019; **d.** Dimitrios Psarrakis, former APA to the applicant from 12.09.2014-31.03.2021.

[1] OJ L 283, 31.10.2017, p. 1–71.

9. However, besides the reference to the articles that constitute the legal basis of the ECP's decision and the officials for whom the waiver of immunity is requested, the ECP does not describe the factual background that could fall under the invoked legal bases.

10. By means of the present application, the applicant would like to challenge the legality of both acts, i.e., the ECP's decision of 15 December 2022 and the PoEP's decision of 10 January 2023.

II. Legal framework

11. According to art. 343 TFEU *"The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Union. The same shall apply to the European Central Bank and the European Investment Bank"*.

12. Protocol 7 on the privileges and immunities of the EU in Chapter I on the EU reads as follows:

    -Article 1: *"The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice"*.

13. Protocol 7 on the privileges and immunities of the EU in Chapter III providing specifically for the Members of the EP, states the following:

    -Article 7: *"No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament"*.
    -Article 8: *"Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties"*.
    -Article 9: *"During the sessions of the European Parliament, its Members shall enjoy: (a) in the territory of their own State, the immunities accorded to members of their parliament; (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings. Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament. Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members"* (emphasis added).

14. Article 17 in Chapter VII (General Provisions)[2] of Protocol 7 on the privileges and immunities of the EU provides that:

[2] Chapter IV deals with the Representatives of the MS taking part in the work of the EU Institutions; Chapter V deals with the officials and other servants of the EU; Chapter VI deals with the Missions of third countries accredited to the EU.

"Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union. Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union".

15. In that regard, it should be noted that Article 17, pursuant to art. 19, is applicable to the President of the European Council, as well as to the Members of the Commission while according to art. 20, Judges, Advocates General, Registrars and Assistant Rapporteurs of the Court of Justice of the EU also fall under its remit. On the contrary, Members of the EP **("MEPs")** remain thus specifically dealt with in Chapter III.

16. **It derives from the above statutory provisions that MEPs enjoy a particular status of privileges and immunities, the aim of which is to safeguard the highest EU objective, i.e., the functioning of democracy, namely in respect of opinions expressed or votes cast by them in the performance of their duties and the way they perform their duties assisted by their APAs. That is the reason why there is only one exception to this protection, if / when an MEP is found in the act of committing an offence. No other exception is provided for in the case of MEPs. This only one exception should as such be interpreted strictly, i.e., in a narrow manner. In the same vein, their offices in the premises and buildings of the Union are inviolable unless there is prior authorisation by the Court of Justice.**

17. Moreover, according to art. 29(2) of Council Regulation (EU)2017/1939 that is invoked in the letter of 15 December 2022 of the ECP to the PoEP, "*Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law"* (emphasis added).

18. **It follows from the combined reading of the above provisions that, when it comes to MEPs, next to the prerequisite that an MEP is found in the act of committing an offence, the ECP could request the lifting of the privileges and immunities, provided that their application present an obstacle to the investigation in question and that the ECP reasons his/her request in writing along the lines of the Union law in relation to these two conditions.**

19. Finally, according to the Rules of Procedure of the EP, as applicable prior to 18 January 2023:

"Rule 9: Procedures on immunity
1. Any request addressed to the President by a competent authority of a Member State for the immunity of a Member to be waived, or by a Member or a former Member for privileges and immunities to be defended, shall be announced in Parliament and referred to the committee responsible.

2 […]
3. The committee shall consider, without delay […]
4. The committee shall make a proposal for a reasoned decision which recommends the adoption or rejection of the request for the waiver of immunity […] Amendments shall not be admissible. If a proposal is rejected, the contrary decision shall be deemed to have been adopted.
5. The committee may ask the authority concerned to provide any information or explanation which the committee deems necessary in order for it to form an opinion on whether immunity should be waived or defended.
6. The Member concerned shall be given an opportunity to be heard and may present any documents or other written evidence deemed by that Member to be relevant. The Member concerned shall not be present during debates on the request for waiver or defence of his or her immunity, except for the hearing itself. The Chair of the committee shall invite the Member to be heard, indicating a date and time. The Member concerned may renounce the right to be heard […]
7 […]
8. The committee may offer a reasoned opinion as to the competence of the authority in question and the admissibility of the request, but shall not, under any circumstances, pronounce on the guilt, or otherwise, of the Member, nor shall it pronounce on whether or not the opinions or acts attributed to the Member justify prosecution, even if the committee, in considering the request, acquires detailed knowledge of the facts of the case.
9. The committee's proposal for a decision shall be placed on the agenda of the first sitting following the day on which it was tabled. No amendments may be tabled to such a proposal […] The proposal or proposals for a decision contained in the report shall be put to the vote at the first voting time following the debate […] If a proposal is rejected, the contrary decision shall be deemed to have been adopted.
10. The President shall immediately communicate Parliament's decision to the Member concerned and to the competent authority of the Member State concerned, with a request that the President be informed of any developments and judicial rulings in the relevant proceedings […]
11 […]
12. Parliament shall only examine requests for the waiver of a Member's immunity that have been transmitted to it by the judicial authorities or by the Permanent Representations of the Member States" (emphasis added).

20. **In the light of these provisions, requests for the lifting of the privileges and immunities of an MEP fall under the competence of Member States and may be transmitted either by their judicial authorities or by their Permanent Representations. It is only as from 18 January 2023 that the ECP was added as a competent authority that is authorised next to the Member States to request the lifting of the privileges and immunities of an MEP[3]. In any event, the first ECP assumed office on 31 October 2019[4].**

[3] https://www.europarl.europa.eu/doceo/document/RULES-9-2023-01-18-RULE-009_EN.html
[4] Decision (EU) 2019/1798 of the European Parliament and of the Council of 23 October 2019 appointing the European Chief Prosecutor of the European Public Prosecutor's Office effective as from 31 October 2019.

III. Admissibility

21. The contested acts raise the question of whether they constitute acts that produce legal effects on the applicant, or whether they are simply preparatory acts.

22. In the opinion of the applicant, both contested acts are administrative decisions taken respectively by the ECP and the PoEP.

23. As far as the decision of the ECP is concerned, reference should be made to art. 25 of the EPPO Council Regulation, according to which, "*The EPPO shall exercise its competence either by initiating an investigation under Article 26 or by deciding to use its right of evocation under Article 27".* It is obvious that, in the case at hand, the contested act is not an act falling under this "quasi-judicial" function of EPPO since the relevant procedural steps provided for in art. 26 for the initiation of investigations and in art. 27 for the exercise by EPPO of its right to evocation have not been fulfilled as they both involve a European Delegated Prosecutor and a Permanent Chamber, as well as national authorities, which has not happened in the case at hand. On the contrary, the contested act of 15 December 2022 is not an act of EPPO but an act of its ECP that is based on art. 29 (2) of the EPPO Council Regulation; although necessarily related to an investigation, either already launched (quod non in the case at hand) or to be launched, it is a decision of the ECP that is detached from the "quasi-judicial" competence of EPPO to initiate and conduct an investigation by exercising or not its right of evocation[5].

24. It is worth noting in this regard that the PoEP "shall" announce the request of the ECP to the plenary of the EP. Under this angle, the ECP's request entails a binding legal consequence that in addition bears a negative impact on the legal situation of the applicant.

25. As far as the PoEP is concerned, although the announcement to the plenary of the EP of a request for the lifting of the privileges and immunities of an MEP is compulsory according to the Rules of Procedure of the EP, the exercise of this binding competence of the PoEP requires that the relevant request is lawful, namely that it is asked by a competent authority. Hence, the PoEP, before transferring the request to the plenary, he/she must check its legality. As it will be further sustained, the contested request was not lawful since the ECP was not entitled to address it in the case of the applicant. The failure of the PoEP to exercise her check of legality and the announcement to the plenary of an unlawful request impacts negatively the applicant. This is enhanced by the fact that the applicant finds herself in the middle of another national investigation. It also raises the question of the opportunity to proceed with this announcement at this point of time -*in tempore suspecto*- regarding the parallel judicial proceedings.

26. In support of her thesis, the applicant would like to invoke the following conclusion of the General Court in Case T-764/14 that could be applied by

[5] Recital 89: "The provision of this Regulation on judicial review does not alter the powers of the Court of Justice to review the EPPO administrative decisions, which are intended to have legal effects vis-à-vis third parties, namely decisions that are not taken in the performance of its functions of investigating, prosecuting or bringing to judgement".

analogy: *"35 ..., the concept of a legal act, for the purposes of Article 11(4) TEU, Article 2(1) and Article 4(2)(b) of Regulation No 211/2011, cannot, in the absence of any indication to the contrary, be understood, as the Commission interprets it, as being limited only to definitive European Union legal acts which produce legal effects vis-à-vis third parties. 36 Neither the wording of the provisions at issue nor the objectives pursued by them justify in particular that a decision authorising the opening of negotiations with a view to concluding an international agreement, such as in this case the TTIP and the CETA, taken under Article 207(3) and (4) TFEU and Article 218 TFEU and which clearly constitute a decision for the purposes of the fourth subparagraph of Article 288 TFEU (see, to that effect, judgments of 4 September 2014, Commission v Council, C-114/12, EU:C:2014:2151, paragraph 40, and of 16 July 2015, Commission v Council, C-425/13, EU:C:2015:483, paragraph 28) be excluded from the concept of a legal act for the purpose of an ECI. 37 On the contrary, the principle of democracy, which, as it is stated in particular in the preamble to the EU Treaty, in Article 2 TEU and in the preamble to the Charter of Fundamental Rights of the European Union, is one of the fundamental values of the European Union, as is the objective specifically pursued by the ECI mechanism, which consists in improving the democratic functioning of the European Union by granting every citizen a general right to participate in democratic life (see paragraph 24 above), requires an interpretation of the concept of legal act which covers legal acts such as a decision to open negotiations with a view to concluding an international agreement, which manifestly seeks to modify the legal order of the European Union".*

27. However, in view of the novelty of this issue, the applicant is going to also challenge the decision of the EP if finally the lifting of the privileges and immunities of the applicant is granted, so that both cases may then be addressed jointly.

IV. <u>In substance</u>

28. The applicant will be raising, in the following paragraphs, five pleas: a. incompetence, b. infringement of substantial procedural requirements, c. insufficient reasoning and infringement of the EPPO Council Regulation and the principle of non-retroactivity, d. infringement of the principle of proportionality, e. infringement of the principle of democracy.

a. Lack of competence

29. The ECP decided to request the lifting of the privileges and immunities of the applicant on 15 December 2022. However, according to the applicable at that time provisions of the Rules of Procedure of the EP (art. 9), only Member States were entitled to issue such a request. Consequently, the ECP issued her request incompetently.

30. It might be argued that the EPPO Council Regulation in art. 29(2) grants this competence to the ECP. However, this provision is of general nature, while art. 9 of the Rules of Procedure of the EP is specifically dealing with MEPs. Moreover, as it comes out from Protocol 7 on the privileges and immunities of the EU, MEPs

are dealt with specifically in Chapter III in contrast with the other officials and servants of the other EU Institutions who fall under different Chapters of Protocol 7. Consequently, art. 29(2) of the EPPO Council Regulation must be read in conjunction with art. 9 of the Rules of Procedure of EP and the relevant Protocol 7 provisions, meaning that the ECP was competent already as from 31 October 2019 (see footnote 4) to request the lifting of privileges and immunities of all other officials and servants of the EU except from MEPs. This gap was filled in with an amendment of the Rules of Procedure of the EP, which is applicable as from 18 January 2023[6]. This amendment that is posterior to art. 29(2) of the EPPO Council Regulation corroborates the need to establish this competence *expressis verbis* on the ground that it was not covered by the EPPO Council Regulation. In other words, it is an official acknowledgment that, on the date of the request for the lifting of the applicant's immunity (i.e., 15 December 2022), the ECP was not competent to issue such a request. Indeed, if the ECP were competent, there would be no need to amend the Rules of Procedure of the EP.

31. The fact that the ECP got this competence after she decided to exercise it, cannot cure the illegality in question, since the rules on competence form a strict law not open to large interpretation extending the remit of competence.

32. In the same spirit, the PoEP infringed art. 9 of the Rules of Procedure of the EP (as applicable prior to 18 January 2023) by failing to check the legality of the the request of 15 December 2022 and by deciding to announce such request to the plenary of the EP.

33. Lastly, retroactive implementation of the amendment of 18 January 2023 would violate the principle *nullum poena sine lege*.

b. Infringement of substantial procedural requirements

i. Lack of reasoning

34. According to art. 29 of the EPPO Council Regulation, the EPPO request for lifting the privileges and immunities should be reasoned. In any event, a reasoning would be required even if this were not explicitly stipulated; art. 296 TFEU and art. 41 of the Charter of Fundamental Rights of the EU provide for it. However, the fact that the reasoning is explicitly provided for in this provision emphasizes the importance of a reasoning when asking the lifting of this protection that is accorded to a legislator. After all, the purpose and the "reason of being" of the privileges and immunities is to serve the proper functioning of democracy. Therefore, a request for their lifting must be diligently reasoned.

35. The need for a diligent reasoning when requesting the lifting of the privileges and immunities is also corroborated by the nature of its legal basis {(art. 29(2) EPPO Council Regulation}, which is an exception to the rule (Protocol 7 to TFEU). Moreover, this is an exception to a primary law by a provision of a secondary law. Hence, the contested request not only should incorporate in it the reasoning, but this reasoning should also be sufficiently specific.

[6] https://www.europarl.europa.eu/doceo/document/RULES-9-2023-01-18-RULE-009_EN.html

36. Against the foregoing, the contested request of 15 December 2022 limits itself to invoking Protocol 7 and art. 29(2) of the EPPO Council Regulation, without any further explanation, except for a general reference stating that the individuals mentioned in it (among whom also the applicant) are currently under investigation by the EPPO (case ref. 1.290/2021) for the facts and under the criminal qualifications mentioned in the Annex to this request. However, this reference is far from complying with the obligation to have an explicit reasoning in the corps itself of the request. A reasoning to be lawful should address the twofold question of: i) whether or not the applicant is found in the act of committing an offence; and ii) if the privileges and immunities present an obstacle to the investigation for the alleged irregularities. Neither of those conditions is elaborated either in the act itself or in its Annex. The alleged irregularities are related to former APAs of the applicant, i.e., they have occurred in the past and, thus, it cannot be sustained that the applicant is found committing an offence. In addition, the alleged irregularities are established by a complete report by OLAF. From this latter point of view, it cannot be sustained that the maintenance of the privileges and immunities in the person of the applicant would present an obstacle to the (accomplished) investigation. Therefore, the Annex, even if it were considered as forming part of the contested decision, cannot be qualified as completing the missing reasoning.

37. Finally, in a subsidiary manner, it should be added that the applicant was not allowed to get copies of the file of the ECP. Hence, the applicant was not in a position to thoroughly examine the documents in question and, subsequently, to understand them. In particular, the applicant has not been able to understand the extent of the alleged liability that is attributed to her as opposed to each of her APAs. In that regard, it should be recalled that the ECP decision of 15 December 2022 seeks the lifting of the immunity of both the applicant and her APAs.

38. As already explained in the previous sections, the PoEP should have checked the legality of the request of 15 December 2022 (and in particular compliance with the requirement to state reasons) prior to deciding to announce it to the plenary.

ii. Rights of defence

39. According to recital 85 of the EPPO Council Regulation, "*The rights of defence provided for in the relevant Union law…as implemented by national law, should apply to the activities of the EPPO".*

40. In the case at hand, neither the ECP nor the PoEP allowed the applicant to get copies of the documents on which they based their decisions. Moreover, neither the ECP nor the PoEP heard the applicant prior to adopting respectively their decision. Should they have heard her, they might have decided differently. Suffice to say in this regard that the request for lifting the privileges and immunities from the applicant was decided just after her public declarations on Quatar that were delivered in the context of her parliamentary tasks; moreover, that so far, and without exception, all previous and numerous similar irregularities committed by MEPs were dealt with administratively without involving criminal investigations.

c. Insufficient reasoning infringing art. 29(2) of Council Regulation (EU) 2017/1939 and/or infringement of the provisions of Council Regulation 2017/1939 and of the principle of non-retroactivity

41. In a subsidiary manner, should it be considered that the formal requirement of containing a reasoning is satisfied in the case of the contested acts, the applicant would like to contend that the ECP act infringes the law as it is not adequately and sufficiently reasoned.

42. In fact, both the ECP letter of 15 December 2022 and its Annex not only do not address what they should (see above par. 36), but, in addition, they limit themselves to repeating the (national) law without drawing any conclusion in the light of the Union law, without submitting the alleged facts to these laws in order to reason that the alleged irregularities do fall within the remit of the EPPO Council Regulation; more specifically, yet not exhaustively, the ECP does not explain if the alleged irregularities meet the requirements of art. 22 (material competence of EPPO), art. 23 (territorial and personal competence of EPPO), if the case falls under art. 24 or 25, if it is the start of an investigation under art. 26 or after exercising the right of evocation of art. 27 of the EPPO Council Regulation.

43. The omission to address these questions in the request for the lifting of the privileges and immunities in question becomes even more crucial if it is considered that the alleged and not identified irregularities refer to APAs who have worked in the past and of whom the contract ended prior to establishment of EPPO and/or to the ECP assuming her responsibilities. If the latter date is taken into account (31.10.2019), then, Konstantina Anthi and Athanassios Moyssiadis fall entirely outside the remit of the EPPO Council Regulation, while the other two APAs only partly. As a result, the remaining alleged irregularities are minimal and it is questionable if they can justify the EPPO's intervention.

44. In any event, the illegality of extending the EPPO's competence prior to its establishment renders the entire request unlawful, likewise the contested decision of the PoEP, which is based on it.

d. Infringement of the principle of proportionality

45. According to art. 5(2) of the EPPO Council Regulation, reiterating the TEU principle of proportionality enshrined in its art. 5, *"The EPPO shall be bound by the principle of the rule of law and proportionality in all its activities".*

46. Was this reminder necessary? The answer is that it could have been omitted as art. 5 TEU and 296 TFEU are directly applicable on all EU acts. However, the fact that the legislator deemed it opportune to reiterate this principle in the EPPO Council Regulation is a token of the importance attributed to the respect of this principle when it comes to a body that is expected to exercise "quasi-judicial" function such as EPPO. Therefore, the application of this principle by EPPO should be of primordial importance.

47. In the case at hand, it is established that the alleged irregularities (that are not described in the contested act of the ECP and its Annex) are related to the APAs' allowances; prior to the issuance of the contested acts, cases of this kind have been numerous; they all have been addressed internally in a conciliatory manner; the reason is that in a large Institution such as the EP, in which MEPs are taken by their legislative function, administrative issues are considered to occur and to be addressed and settled by the relevant HR department of the EP. There is no case before, that led to raising an MEP's responsibility. Besides, the applicant has never refused to restitute financial discrepancies, should there be any. From this point of view, the interference of the ECP seems to be rather disproportional.

48. In the case at hand, the alleged irregularities are limited to such an extent that it is doubtful if they fall under the EPPO Council Regulation. Given that OLAF has completed its report and that the applicant did not oppose it, the question arises if the ECP intervention was necessary. According to art. 5(4) TEU, *"Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties"*.

49. In view of these considerations, the applicant sustains that the contested acts of the ECP and the PoEP have gone beyond what was necessary in her case and for that reason they should be annulled.

e. Infringement of the principle of democracy and of the right of fair trial (art. 47 ECFR)

50. Art. 2 TEU stipulates that *"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights…"*. Although democracy is next to other values, there is no doubt that as a principle it enjoys a fundamental role in relation to the other principles and in particular vis-à-vis the rule of law[7]. Therefore, it could be said that it stands for *primus inter pares* and that its respect is of absolute value.

51. In the case at hand, it cannot be overlooked that the ECP took the initiative to launch the contested request in the middle of the Qatar parallel case, in which the applicant is a concerned person. Neither can it be overlooked that this case created a considerable political turmoil and that it is still ongoing by the Belgian judicial authorities. Given the discrepancy between on the one hand several administrative irregularities and on the other hand the allegations related to the ongoing judicial investigation that is related to the exercise by the applicant of her parliamentary tasks (Public Declaration on Qatar), the assumption arises that the contested acts are meant to weaken the position of the applicant before the Belgian judicial authorities and in this way impact on her freedom of parliamentary opinion. Ultimately, democracy is at stake. Ultimately, the contested acts undermine the fair trial with which the applicant is confronted. There was no rush to proceed with the contested acts as there is no imminent deadline for them. Moreover, the investigative procedure was accomplished and the disciplinary one on its way.

[7] https://uef-greece.gr/δημοκρατία-και-κράτος-δικαίου-στην-εε/

V. Forms of order sought

52. For the reasons described above, the applicant respectfully requests the Court to:

a. Annul the act of the European Chief Prosecutor of 15 December 2022;

b. Annul the act of the President of the European Parliament of 10 January 2023;

c. Order the European Public Prosecutor's Office and the European Parliament to pay their own costs and the costs of the applicant in the present proceedings.

For the Applicant,

Spyros Pappas

TABLE OF ANNEXES

Number	Description of the document	Language	Page and paragraph number in the pleading where the annex is mentioned	Total number of pages	Page number from which the Annex starts and ends (excluding the cover page)
A-1	Letter of 10.01.2023 of the European Parliament informing the applicant of the existence of the two contested acts	Greek	p. 2, par. 2 and 5	1	2-2
A-2	Correspondence of 11.01.2023-13.01.2023 between the applicant's counsel and the EP's services regarding consultation of the file of the ECP	French	p.2 par. 4	3	4-6