



DECISION ON THE IMPLEMENTATION OF THE PANEL'S RECOMMENDATIONS

Date of adoption: 29 February 2016

Case no. 2012-22

Desanka and Zoran Stanisić

Against

EULEX

The Human Rights Review Panel, sitting on 29 February 2016, with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaël METTRAUX, Member
Ms Katja DOMINIK, Member

Assisted by
Ms Joanna MARSZALIK, Legal Officer
Mr Paul LANDERS, Legal Officer

Having considered the aforementioned complaint, introduced pursuant to Council Joint Action 2008/124/CFSP of 4 February 2008, the EULEX Accountability Concept of 29 October 2009 on the establishment of the Human Rights Review Panel and the Rules of Procedure of the Panel as last amended on 15 January 2013,

Having deliberated, decides as follows:

I. DECISION OF THE PANEL OF 11 NOVEMBER 2015

1. On 11 November 2015, the Panel rendered its decision in relation to the complaint filed by the complainants against EULEX and made a number of recommendations to the Head of Mission (HoM) in accordance with Rule 34 of the Rules of Procedure. The decision reads in its relevant parts:

"THE PANEL, UNANIMOUSLY,

1. *Declares* the complaints under Article 3 of the Convention inadmissible as being manifestly ill-founded;
2. *Holds* that there has been no violation of Article 8 of the Convention;
3. *Finds* a violation of Article 13 of the Convention;
4. *Holds* that it is not necessary to examine the case under Article 14 of the Convention.

and

DECLARES

that in the light of its above findings of fact and law the Panel finds it appropriate to make recommendations to the HoM, and

RECOMMENDS THE FOLLOWING REMEDIAL ACTION

- a. The HoM should make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainants' rights attributable to the acts [and/or omissions] attributable to EULEX in the performance of its executive mandate;
 - b. The HoM should provide copy of the present Decision to the EULEX Prosecutors through the relevant channels. This should serve to inform the EULEX Prosecutors of the general nature of their obligation to involve victims into their investigations and to provide adequate reasons for terminating an investigation in a particular case".
2. The present decision constitutes a follow-up to the Panel's decision of 11 November 2015 and the recommendations made therein.
 3. The power and authority of the Panel to follow-up on its decisions and recommendations is provided for in Rule 45 bis of the Panel's Rules of Procedure (see, e.g., the decisions on the implementation of recommendations [W against EULEX](#), 2011-07, 26 August 2014; [Becić against EULEX](#), 2013-03, 11 November 2015).

II. INFORMATION RECEIVED FROM EULEX'S HEAD OF MISSION REGARDING THE IMPLEMENTATION OF THE PANEL'S RECOMMENDATIONS

4. On 15 December 2015, the HoM informed the Panel about the measures which he had taken in response to the Panel's recommendations in this case.
5. The HoM formally expressed his regret for the fact that the complainants were not sufficiently involved in the investigative proceedings and that they were not given reasons for the termination of the investigations.
6. With regard to the second recommendation of the Panel, the HoM indicated that the Panel's decision of 15 November 2015 had been disseminated to EULEX prosecutors by the Acting Chief EULEX Prosecutor. In particular, EULEX Prosecutors were reminded that decisions on dismissal of criminal reports should include "a brief summary of the reasons for the decision". Moreover, the need and feasibility of interviewing the person who has submitted the report should be assessed in each case before the decision on dismissal is issued.

III. EVALUATION BY THE PANEL

7. The Panel takes note of the steps taken by the HoM to implement its recommendations.
8. The Panel's notes that its first recommendation was for the HoM to make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainants' rights attributable to the Mission in the performance of its executive mandate. In his letter of 15 December 2015, the Head of Mission expressed his regret that the complainants had not been sufficiently involved in the investigation process and that they had not been given adequate reasons for terminating that process. Whilst such a response does not fully embrace the Panel's recommendation, the regrets expressed by the Head of Mission constitute an implicit acknowledgment of the inadequacies of the investigative process, which goes some way towards providing relief to the complainants for the violation of their rights.
9. In its decision of 15 November 2015, the Panel also recommended that the HoM should provide copies of that decision to the EULEX Prosecutors through the relevant channels. In his letter, the HoM indicated that the Panel's decision had indeed been disseminated among EULEX Prosecutors by the Acting Chief EULEX Prosecutor. The HoM further indicated that EULEX Prosecutors had been reminded of their obligation to provide a brief summary of their reasons when dismissing a criminal report and that the feasibility of interviewing the person who filed the report should be evaluated in every case. The Panel is satisfied that these steps are consistent with and fully satisfy the recommendation issued by the Panel on the point.

10. Having examined the information provided by the HoM with regard to the implementation of the recommendations of the Panel,

THE PANEL UNANIMOUSLY

Declares that the HoM has implemented the Panel's recommendations.

Decides to close the examination of this case.

For the Panel,



Joanna MARSZALIK
Legal Officer



Magda MIERZEWSKA
Presiding Member