



INADMISSIBILITY DECISION

Date of adoption: 23 November 2011

Case No. 2011-24

Mr. Predrag Lazic

Against

EULEX

The Human Rights Review Panel, sitting on 23 November 2011, with the following members present:

Mr. Antonio BALSAMO, Presiding Member
Ms. Magda MIERZEWSKA, Member
Ms. Verginia MICHEVA-RUSEVA, Substitute Member

Assisted by
Mr. John J. RYAN, Senior Legal Officer
Ms. Leena LEIKAS, Legal Officer
Ms. Stephanie SELG, 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 of 9 June 2010,

Having deliberated, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered on 8 September 2011.
2. The complaint concerns proceedings before the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (hereafter SCSC). Ms. Bednarek is a Panel Member and also a EULEX judge serving at the SCSC. Therefore Ms. Bednarek cannot participate in the examination of the present case as a member of the

Panel. She has been replaced by Ms. Micheva-Ruseva, the Substitute Member.

II. THE FACTS

3. The facts of the case, as submitted by the complainant, and as apparent from documents available to the Panel, may be summarized as follows.

Background

4. The complaint concerns a dispute over property rights in Prishtinë/Priština Municipality. The complainant and four other persons are the co-owners of the land in question.

The expropriation and the decision to return the land

5. In 1953 the District Committee for Agricultural Land Fund, under Resolution no. 62/53, expropriated some 2.85 hectares of the owners' land for the benefit of the agricultural fund as general national property.
6. On 31 October 1991 the complainant and the other four owners made a restitution request to the Prishtinë/Priština Commission for Restitution of Land ("Commission"), based on the Law on Restitution of Land, dated March 1991. The main part of the land in question was registered as socially owned property (SOE) to be used by "Kosovo Export".
7. On 4 October 1992 the Commission approved the request and ordered "Kosovo Export" to hand over the land in their possession upon the coming into force of the decision. For the restitution of the other parcels of land the parties had reached an agreement.

Proceedings before the Municipal Court and SCSC

8. On an unknown date Mr. D.A. filed a damage compensation claim against Agricultural Cooperative Laplje Selo and others with the Prishtinë/Priština Municipal Court, concerning the parcels owned by the complainant and the four other persons. Mr. D.A. also claims ownership to those parcels. The complainant and the other owners were not party to these proceedings.
9. On 16 July 2010 the Municipal Court granted an interim measure to Mr. D.A. with regard to the land in question. This decision effectively prevented the return of the complainant's land as stipulated in the decision of 1992 (see paragraph 7 above).
10. Upon finding out about this interim measure, the complainant, on 7 September 2011, requested the SCSC to annul the decision of the Municipal Court and the interim measure. The proceedings remain pending.

Proceedings before the Kosovo Cadastral Agency

11. On 11 October 2007 the complainant and the other four owners requested registration of their ownership of the land in question with the Kosovo Cadastral Agency.
12. On 23 May 2011 the complainant was informed of the temporary suspension of registration proceedings before the Kosovo Cadastral Agency. He was requested to provide, within five days, evidence that the interim measure of 16 July 2010 had been lifted by the Prishtinë/Priština Municipal Court.
13. The complainant informed the Cadastral Agency, within the allocated time limit, that the civil proceedings were pending before the SCSC and that the complainant and the other four owners of the land were only indirectly involved in the proceedings. Later they filed a request to annul the interim measure (see paragraph 10 above).
14. In order for the complainant to have his ownership registered, the interim measure ordered in respect of the land parcels in question has to be lifted. Only then will the Cadastral Agency continue with the registration. It appears that the proceedings before the Cadastral Agency are still suspended.

III. COMPLAINTS

15. The complainant requests that the Panel speed up the proceedings before the SCSC, to ensure that his property is excluded from the civil procedure before the SCSC in order to have it registered with the Cadastral Office in Prishtinë/Priština.

IV. THE LAW

16. Before considering the complaint on its merits the Panel has to decide whether to accept the complaint, taking into account the admissibility criteria set out in Rule 29 of its Rules of Procedure.
17. The Panel can only examine complaints relating to human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors as outlined in Rule 25, paragraph 1 of its Rules of Procedure.
18. According to the said Rule, based on the accountability concept in the OPLAN of EULEX Kosovo, the Panel cannot review judicial proceedings before the courts of Kosovo.
19. The Panel notes that the complainant requests, in essence, that the Panel takes measures in order to speed up the proceedings in a case which is pending before the SCSC, a Kosovo institution.

20. The Panel has no jurisdiction in respect of either administrative or judicial aspects of the work of Kosovo courts. The fact that EULEX judges sit on the bench of the SCSC does not detract from the SCSC its character as part of the Kosovo judiciary. Consequently, the Panel cannot influence the order and speed with which the pending complaints are examined by the SCSC.
21. As a result, the issue raised in the present complaint does not fall within the ambit of the executive mandate of EULEX Kosovo, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo.

FOR THESE REASONS, THE PANEL, UNANIMOUSLY,

holds that it lacks competence to examine the complaint,

finds the complaint manifestly ill-founded within the meaning of Article 29 (d) of its Rules of Procedure, and

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

John J. RYAN
Senior Legal Officer

Antonio BALSAMO
Presiding Member