



INADMISSIBILITY DECISION

Date of adoption: 4 October 2012

Case No. 2012-04

Izet Maxhera

Against

EULEX

The Human Rights Review Panel sitting on 4 October 2012 with the following members present:

Ms. Magda MIERZEWSKA, Presiding Member
Ms. Verginia MICHEVA-RUSEVA, Member
Mr. Guénaél METTRAUX, Member

Assisted by

Mr. John J. RYAN, Senior Legal Officer
Ms. Joanna MARSZALIK, Legal Officer
Mr. Florian RAZESBERGER, 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 5 April 2012.

II. THE FACTS

1. The facts of the case, as submitted by the complainant, and as apparent from documents provided to the Panel, may be summarized as follows.
2. On an unspecified date in 2011 the Kosovo Privatization Agency (KPA) put a plot of land, previously belonging to the so-called socially owned enterprise Kosovasirovina and located in Mitrovicë/Mitrovica to a public tender.
3. The premises were at that time occupied by EULEX by virtue of a Memorandum of Understanding signed between EULEX and UNMIK.
4. On 21 September 2011 the complainant won the tender. On 11 January 2012 he signed an agreement with KPA and acquired a long-term leasehold of the plot of land in question.
5. On 24 January 2012 the complainant wrote an email to EULEX, proposing that the parties reach an agreement on a rent rate for the premises. On the next day he received a response from the EULEX Office of the Chief of Staff, who asked him to provide documents asserting his title to the parcel. The complainant produced copies of the sale agreement, the property map and the certificate for immovable property rights from the Kosovo Cadastral Agency. In reply, the EULEX Office of the director of Administration and Support asked him to provide a "court certificate on the purchase agreements" foreseen in Articles 36(2) and 287(2) of the Law No. 03/L-154 on Property and Other Real Rights.
6. On 5 March 2012 the complainant asked the Municipal Court of Mitrovicë/Mitrovica to certify his rights to the parcel. However, as he explained in an e-mail to the Panel Secretariat on 1 June 2012, he had been informed that the court did not issue such certificates.
7. On 19 April 2012 the complainant sent another e-mail to EULEX, explaining that the quoted articles of the Law on Property and Other Real Rights did not apply to his case as he had not purchased an ownership interest in the parcel in question, but a long-term leasehold. An agreement with the Kosovo Privatisation Agency was sufficient to generate civil rights on his part with respect to the land. He pointed out that he had been registered as a leaseholder in the Mitrovicë/Mitrovica Municipal Cadastral Office. He submitted the copy of the certificate to this effect.
8. On 27 August 2012 the complainant and EULEX signed a lease agreement. The complainant leased the disputed plot of land to EULEX, effective from 11 January 2012 until 14 June 2013.

III. COMPLAINTS

9. The complainant claims that his right to the peaceful enjoyment of possessions has been violated by EULEX which occupied his land property without a legal basis. He invokes Article 1 of Protocol no. 1 to the European Convention of Human Rights (the Convention).

IV. THE LAW

10. 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.
11. According to Rule 25, paragraph 1 of the Rules of Procedure the Panel can examine complaints relating to human rights violations by EULEX Kosovo in the conduct of its executive mandate.
12. However, the Panel finds it unnecessary in the present case to determine whether the complaint falls within its mandate. It observes that the situation complained of has been remedied. The complainant has signed a lease agreement with EULEX, effective from the date when he acquired rights to the plot of land at issue on the basis of the long term leasehold concluded between the complainant and the KPA.
13. The Panel is therefore satisfied that EULEX acknowledged the complainant's rights and undertook to pay the rent for use of his property.

FOR THESE REASONS, THE PANEL UNANIMOUSLY

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

Magda MIERZEWSKA
Presiding Member