



INADMISSIBILITY DECISION

Date of adoption: 5 February 2014

Case No. 2013-17

Ramadan Rahmani

Against

EULEX

The Human Rights Review Panel sitting on 5 February 2014 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaél METTRAUX, Member
Ms Katja DOMINIK, 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 as last amended on 15 January 2013,

Having deliberated, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered on 24 June 2013.

II. THE FACTS

2. The facts of the case, as submitted by the complainant, can be summarized as follows:

3. The complainant submits that on 14 September 1977 he was injured at his workplace, the State Owned Enterprise (SOE) "Ramiz Sadiku".
4. The complainant states that several decisions were taken in his case, confirming that he was entitled to receive a disability pension. Beside the pension, he was also recognized as having the right to supplementary benefit which should compensate his salary until he would turn 65.
5. The complainant refers to "decisions" made by his former employer SOE "Ramiz Sadiku" on 13 May 1989, a decision by the Court of Joint Labour in Pristina of 17 March 1986, a decision by the Basic Court of Pristina of 17 March 1987 and a decision by the Supreme Court of Kosovo of 21 April 1993.
6. The complainant submits that all these decisions confirmed that he was entitled to receive a disability pension and the right to supplementary benefit. He received those entitlements until 1999. Thereafter, he still received the disability pension, but not any longer supplementary benefit.
7. The complainant submits that he filed complaints with a number of authorities. On 19 March 2013, the Constitutional Court rendered a "Resolution on Inadmissibility", in which it rejected the application of the complainant as having been lodged "out of time".
8. On 10 June 2011, the Trial Panel of the Special Chamber of the Supreme Court (SCSC) rendered its judgment on the matter and rejected the complainant's application as ill-founded.
9. On 15 August 2011, the complainant and 117 other appellants filed an appeal against the judgment of the Trial Panel of the SCSC with the Appellate Panel of the SCSC. The complainant requested to allow his appeal, to include him into the list of eligible employees entitled to a share of 20% of the proceeds from the privatisation of the SOE "Ramiz Sadiku", as well as to annul the contested judgment.
10. On 22 April 2013, the Appellate Panel of the SCSC determined the complainant's case as admissible but ill-founded. The SCSC held that the applicant as well as some other appellants had not submitted evidence to prove that they were discriminated in any specific way "*and that they [had not even alleged] a fact from which it m[ight] be presumed that there [was] direct or indirect discrimination.*" Regarding the complainant's claims to his pension rights, the Appellate Panel of the SCSC rejected his claim as ill-founded, without, however, providing any reasoning.
11. The complainant submits that the Supreme Court and the Constitutional Court denied his "*fundamental right as a disabled person to a supplement to [his] salary*".

12. Further, the complainant submits he was not duly compensated in regard to the privatization of the SOE "Ramiz Sadiku".

III. COMPLAINTS

13. In essence, the complainant requests to have his case reviewed once again by international judges of EULEX. He requests compensation for a share of 20% of the proceeds from the privatisation of the SOE "Ramiz Sadiku", as well as supplementary benefit in addition to his disability pension.

IV. THE LAW

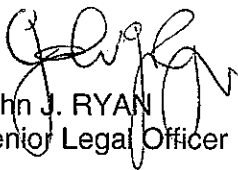
14. As a matter of substantive law, the Panel is empowered to apply human rights instruments as reflected in the EULEX Accountability Concept of 29 October 2009 on the establishment of the Human Rights Review Panel. Of particular importance to the work of the Panel are the European Convention on the Protection of Human Rights and Fundamental Freedoms (the Convention) and the International Covenant on Civil and Political Rights, which set out minimum standards for the protection of human rights which must be guaranteed by public authorities in all democratic legal systems.
15. 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.
16. According to Rule 25, paragraph 1 of the Rules of Procedure the Panel can examine complaints relating to the human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.
17. The Panel has held on numerous occasions that, according to Rule 25, para. 1 of its Rules of Procedure, based on the accountability concept in the OPLAN of EULEX Kosovo, it 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 Special Chamber of the Supreme Court of Kosovo, or on the bench of the Constitutional Court of Kosovo, does not detract from its character as part of the Kosovo judiciary (see, inter alia, *E against EULEX*, 2012-17, 30 August 2013 at par. 25; *Z. against EULEX*, 2012-06, 10 April 2013 at par. 31 or *Halili against EULEX*, 2012-08, 15 January 2013 at par 21).
18. Therefore, the issues concerned in the present case do not fall within the ambit of the Panel's mandate, as formulated in Rule 25 para.1 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 falls outside of the Panel's jurisdiction 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