



INADMISSIBILITY DECISION

Date of adoption: 15 January 2013

Case No. 2012-07

Faik Ibishi

Against

EULEX

The Human Rights Review Panel sitting on 14 and 15 January 2013 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 29 June 2012.

II. THE FACTS

2. The complainant submits that he is aware of the existence of a widespread and influential paedophile network in Kosovo, involving both local and international residents, including EULEX staff. From his allegations it does not appear, however, that he, his relatives or any persons in his custody are alleged to have been victims of the alleged network's criminal activities.
3. He claims that since 2007 he has been trying to convince first UNMIK then EULEX investigative bodies to initiate an investigation into the activities of the alleged paedophile ring. He maintains that all of his statements and the evidence he has submitted has been ignored and that both UNMIK and EULEX have refused to carry out an investigation.

III. COMPLAINTS

4. Without invoking any specific provisions of human rights instruments, the complainant submits that EULEX refuses to institute criminal investigation into the activities of the paedophile network, which, in his submissions, amounted to violations of Articles 2 and 6 of the European Convention on the Protection of Human Rights and Fundamental Freedoms ("the Convention").

IV. THE LAW

5. 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.
6. According to Rule 25, paragraph 1 of the Rules of Procedure the Panel can examine complaints filed by any person claiming to be a victim of human rights violations by EULEX Kosovo in the conduct of its executive mandate.
7. As to the meaning of the word "victim", the European Court of Human Rights (ECHR) has found on many occasions that a "victim" within the meaning of the Convention denotes the person directly affected by the act or omission in issue (see, among many authorities, *Amuur v. France*, 25 June 1996, § 36, Reports of Judgments and Decisions 1996-III). On several occasions, when there was a personal and specific link between the direct victim and the applicant, the Court accepted an application from a person, who was considered an indirect victim. Whether a person is such a victim will depend on the existence of special factors which give the suffering of the applicant a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a

serious human rights violation. Relevant elements will include, among others, the existence and proximity of the family tie, the particular circumstances of the relationship, the extent to which the person witnessed the events in question (see, *mutatis mutandis*, *Kurt v. Turkey*, judgment of 25 May 1998, Reports 1998-III, §§ 130-134; *Yaşa v. Turkey*, judgment of 2 September 1998, Reports on Judgments and Decisions 1998-VI, § 71; and conversely, *Çakıcı v. Turkey* [GC], no. 23657/94, §§ 98-99, ECHR 1999-IV). The Panel considers it appropriate to adopt as its own the approach developed by the ECHR. The Rules of Procedure do not, therefore, envisage the bringing of an *actio popularis*; they do not permit individuals to complain against alleged actions and omissions on the part of EULEX *in abstracto* simply because they feel that they infringe human rights.

8. The Panel notes that there is no indication that the complainant himself has ever been a victim of the criminal activities of the alleged paedophile ring. Nor has it been shown that he has any family member who has been a victim of the alleged paedophile ring. He therefore cannot claim to be either a direct or indirect victim in the present case. Therefore, the alleged refusal by EULEX to carry out an investigation into their actions does not affect the complainant's rights in any way.
9. The Panel concludes, therefore, that the complainant cannot claim to be a victim of a human rights violation by EULEX Kosovo within the meaning of Rule 25, paragraph 1 of the Rules of Procedure.

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

Magda MIERZEWSKA
Presiding Member