



INADMISSIBILITY DECISION

Date of adoption: 7 April 2014

Case No. 2013-18

Jovanka, Dragan and Milan Vuković

Against

EULEX

The Human Rights Review Panel sitting on 7 April 2014 with the following members present:

Ms Magda MIERZEWSKA, 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 26 June 2013.

II. THE FACTS

2. The facts, as submitted by the complainants can be summarised as follows.
3. The complainants own a plot of land in Gjakovë/Đakovica municipality. On an unspecified date they received information from a certain B.D. that their property had been sold to him and five other persons.
4. On an unspecified later date the complainants lodged an ownership claim with the Kosovo Property Agency. On 11 January 2012, the Kosovo Property Claims Commission (KPCC) declared that the complainants were owners of the property in question. The KPCC ordered that persons occupying the property vacate it within 30 days. It is not clear whether the decision of the KPCC has been appealed against or whether the complainants have requested that an eviction order be issued.
5. On 27 May 2013, in reply to the complainants' enquiry, the EULEX Property Right Coordinator advised them that they should report their case to the Head of the Basic Prosecution Office in Gjakovë/Đakovica for him to determine whether to open a criminal case. He also suggested that the complainants might seek legal advice on whether to commence civil court proceedings in order to protect their property rights.
6. There is no indication that the complainants attempted to initiate criminal or civil proceedings in the case.

III. COMPLAINTS

7. The complainants submit that their property has been illegally appropriated and request that the Panel determines that they are owners of the plot of land in question.

IV. THE LAW

8. 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.

9. 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.
10. 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.
11. The Panel observes that it has not been argued, let alone shown, that EULEX has been in any way involved in the alleged violations of the complainant's rights.
12. It follows that the issues raised by the complainant do not fall within the ambit of the executive mandate of EULEX Kosovo. Consequently, they are outside of the Panel's competence, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo.
13. The Panel notes finally that the complainant can continue to pursue their case before the Kosovo Property Agency or raise issues regarding their property rights with the competent prosecutorial authorities.

FOR THESE REASONS,

The Panel, unanimously, holds that it lacks competence to examine the complaint, as it falls outside its 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