



INADMISSIBILITY DECISION

Date of adoption: 27 November 2013

Case No. 2013-19

U.

Against

EULEX

The Human Rights Review Panel sitting on 27 November 2013 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 with the Panel on 10 July 2013. On 11 November 2013 the complainant submitted further information on the case. The complainant objected to having his/her name being made public and will be consequently referred to as "U."

II. THE FACTS

2. The following facts were established on the basis of the information provided by complainant:

Complaints before the Kosovo Courts

3. U. submits that on 28 March 2011, he/she filed a complaint with the Municipal Court in Pristina against the Ministry of Labour and Social Welfare regarding the promulgation of the Law on Pension and Disability Insurance in Kosovo, to which he/she never received a reply. According to the complainant, he/she cannot claim his/her pension entitlements as the necessary law has not been promulgated.
4. Between April 2011 and May 2013, U. filed a number of complaints and amendments thereto with various Kosovo courts and institutions.
5. On 20 September 2012, U. also filed a complaint with "*the European Commission for Legislation in Brussels through the Liaison Office of the European Commission in Pristina, Kosovo, against the Government of Kosovo for failing to promulgate the Pension and Disability Insurance Law and Health Insurance Law in Kosovo.*" On 13 October 2012, U. requested from the European Commission to resolve the issue no later than 30 October 2012. On 5 March 2013, U. received a reply from the European Court that he/she should file a claim against the European Council and not the European Commission.

Complaints with EULEX Kosovo

6. On 28 March 2013, U. filed a complaint with EULEX Kosovo against the Ministry of Labour and Social Welfare of Kosovo "*in order to force them to promulgate the Pension and Disability Insurance Law.*" On 10 April, 29 April, 8 May, 23 May, 29 May, the complainant filed further submissions and requests to amend his/her claim with EULEX.
7. On 8 May 2013, U. filed a complaint with the Office of the European Council in Kosovo against EULEX "*for administrative silence and for refusing my complaint, by thinking that the complaint against EULEX could be filed with that office*". This was supplemented by further submissions on 15 May 2013.
8. On 14 June 2013, U. was informed by an unspecified source "*that a complaint against EULEX should be filed with the Human Rights Review Panel*".
9. On 19 June 2013, U. withdrew his/her request from the European Council regarding the promulgation of the Pension and Disability Insurance Law.

Further comments by the complainant

10. The complainant submits that the Government of Kosovo gave a public promise through the press that the Pension Law will be implemented after 2008 and said that the amount of pensions would range from € 60 to € 180. The complainant also made further submissions in regard to alleged inadequacies of the legislative framework regarding his/her claim.

III. COMPLAINTS

11. The complainant relies on a number of protected rights, including Articles 1, 2, 7, 8 and 29, Paragraph 2 of the Universal Declaration of Human Rights; Article 2, Paragraph 1 and 3, (a), Article 5, Article 14, Paragraph 1, Article 17, Paragraph 2, Article 25, Paragraph 1 and Article 26 of the International Covenant on Civil and Political Rights; as well as Article 1 and 14 of the European Convention for the protection of Fundamental Rights and Freedoms (ECHR) and Article 1 of Protocol 1 of the ECHR. Further, the complainant refers to the European Social Charter.

IV. THE LAW

12. 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.
13. According to Rule 25, paragraph 1 of the Rules of Procedure, the Panel can examine complaints relating to the human rights violations by EULEX in the conduct of its executive mandate in the justice, police and customs sectors.
14. The Panel notes that the complainant's grievance concerns, in essence, the fact that Kosovo authorities did not promulgate the Law on Pension and Disability Insurance. 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. Further, the matter complained of, namely the non-promulgation of a law, does not, for obvious reasons, fall within the executive mandate of EULEX Kosovo, which rests within certain areas of the justice, police and customs sectors.
15. 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 mandate, 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 falls outside the Panel's jurisdiction according to 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