



DECISION ON REQUEST FOR RE-EXAMINATION

Date of adoption: 7 April 2014

Case No. 2013-04

J.

Against

EULEX

The Human Rights Review Panel sitting on 7 April 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 10 June 2013. The complainant asked for her name to be withheld. The Panel granted her request.
2. On 4 February 2014, the Panel found the complaint inadmissible. It found that it lacked competence to examine the complaints concerning alleged errors on the part of Kosovo courts and prolonged proceedings, as these fell outside its jurisdiction within the meaning of Article 29 (d) of its Rules of Procedure.
3. On 3 March 2014 the complainant requested re-examination of her complaint within the meaning of Rule 42 of the Panel's Rules of Procedure.

IV. THE LAW

Request for re-examination

4. The complainant asked the Panel for a re-examination of its decision of 4 February 2014. She argued that the Panel misunderstood her submissions and did not examine her complaint about losing a crucial document during the proceedings relating to her property by Kosovo courts. She enclosed the document in question, namely a power of attorney authorising her to represent her brother in the proceedings.
5. The Panel notes that the re-examination procedure provided for in Rule 42 is intended to provide a procedural mechanism whereby a complainant can seek re-examination of an inadmissibility decision only where a new fact which he or she could not reasonably have known of at the time of the initial complaint would have had a decisive influence on the Panel's findings (see *Y against EULEX (re-examination)*, no. 2011-28, paras. 7-8).
6. In the present case, the complainant does not present any new evidence as the documents presented by the complainant were sent by her together with her initial complaint. She merely disagrees with the Panel's qualification of her complaint and its decision. The documents attached to the request were duly examined by the Panel and taken into consideration in its decision on inadmissibility.
7. The Panel notes in passing that, in any event, the documents in question did not have decisive influence on the admissibility of the complaint. The complaint, relating to the conduct of courts during judicial proceedings before Kosovo courts, was outside of the Panel's jurisdiction as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo. It has no competence to evaluate either administrative (e.g. handling of documents) or judicial aspects of the work of Kosovo courts (see, among many other decisions *Gani Zeka*


against EULEX, no. 2012-02; par. 21; Z against EULEX, no. 2012-06, par. 31).

8. It follows that the complainant has failed to point to any new evidence relevant to Rule 42.

FOR THESE REASONS, THE PANEL, UNANIMOUSLY

Rejects the complainant's request for re-examination.

For the Panel,


John J. RYAN
Senior Legal Officer




Magda MIERZEWSKA
Presiding Member