



DECISION TO STRIKE OUT A COMPLAINT

Date of adoption: 15 June 2015

Case No. 2014-40

Avni Hajdari

Against

EULEX

The Human Rights Review Panel sitting on 15 June 2015
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

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 lodged on behalf of the complainant by his son, Adil Hajdari. The complaint was registered on 22 October 2014.
2. On 27 May 2015, the Secretariat of the Panel sent a letter to Mr Adil Hajdari asking him to provide a letter of authority, authorising him to

represent his father in the proceedings before the Panel. The Secretariat also notified him that, were he not to reply to the letter, the Panel might consider that the complainant did not intend to pursue his complaint and strike it out of the list of cases.

3. The letter to the complainants' son was returned undelivered. The Secretariat attempted to contact Mr Adil Hajdari by phone, also unsuccessfully.

II. THE FACTS

4. On 13 September 2010, the complainant and six others were charged by the Special Prosecutor of Kosovo with organized crime and smuggling of migrants.
5. The indictment was confirmed by the confirmation judge of the District Court of Pristina on 20 October 2010.
6. On 17 June 2011, a mixed panel of EULEX and local judges rendered its judgment in that case. The complainant was found guilty of participating in an organized crime group in conjunction with the smuggling of migrants and he was sentenced to nineteen years of imprisonment and fined 50,000 Euros. The complainant and the co-defendants appealed against the judgment.
7. On 3 October 2012, the Supreme Court sitting as a mixed panel of EULEX and local judges and presided by an EULEX judge, rejected all appeals and confirmed the sentences handed out.
8. On 2 April 2014, The Supreme Court, sitting as a mixed panel of one EULEX and two Kosovo judges rejected the complainant's and other co-defendants' request for protection of legality as unfounded.

III. COMPLAINTS

9. Without invoking any specific international instruments for the protection of human rights, the complainant submits that he was unfairly convicted and that he is innocent of the crimes for which he was convicted.

IV. THE LAW

10. 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 to be guaranteed by public authorities in all democratic legal systems.

11. Before considering the complaint on its merit, 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.
12. 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.
13. In accordance with Rule 25, paragraph 5, of its Rules of Procedure, where a complainant is represented by another person in the proceedings before the Panel, a document certifying his/her capacity to represent the complainant must be presented to the Panel by the representative. According to Rule 29 bis, paragraph 1, of the its Rules the Panel may, at any stage of the proceedings, decide to strike a complaint out of its list of cases where the circumstances lead to the conclusion that the complainant does not intend to pursue his or her complaint.
14. The complainant's representative failed to provide a letter of authority and could not be contacted at the address and by the phone number he listed in the application form. Therefore, and in the absence of an indication of a serious human rights violation (see, Rule 29 bis, paragraph 2 of the Rules of Procedure), the Panel has concluded that it would not be justified to continue the examination of this complaint.

FOR THESE REASONS,

The Panel, unanimously, decides to strike the application out of its list of cases, in accordance with Rule 29 bis paragraph 1(a) of its Rules of Procedure.

For the Panel,


John J. RYAN
Senior Legal Officer




Magda MIERZEWSKA
Presiding Member