



Human Rights Review Panel

Newsletter # 12 – January to April 2015

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Two sessions of the Panel

The Human Rights Review Panel held its first regular session in 2015 from 3 to 5 February. The Panel found three cases inadmissible. It also communicated one case to the EULEX Head of Mission (HoM), asking him for his observations on their admissibility and merits.

The 25th regular session was held in Pristina from 20 to 22 April 2015. The Panel found a violation of the complainant's rights in one case and declared that there was no violation of human rights in another. It declared five other cases inadmissible.

The next Panel session is scheduled for mid-June 2015.

Human rights violation in the *X and 115 other complainants against EULEX* case

The Panel examined the case brought by 116 Roma Internally Displaced Persons (IDPs) who were displaced during the 1999 conflict and re-located in a number of IDP camps (*X and 115 other complainants against EULEX, 2011-20*). The complainants alleged that a number of their human rights were violated during or as a consequence of their stay in those camps. In particular, they claimed that they were exposed to serious health hazards in these camps where they had been relocated.

In its decision on admissibility (taken on 5 October 2012), the Panel found the complaint to be inadmissible in relation to the allegations of mistreatment and inadequate living conditions in IDP camps. It declared admissible the complaint regarding the alleged failure of EULEX to ensure that the complainants have access to justice with a view to seek and receive an effective remedy for a breach of their rights.

In its decision of 22 April 2015 on the merits of the case, the Panel found that EULEX Kosovo violated the complainants' right to an effective remedy guaranteed under Article 13 of the European Convention on Human Rights (the Convention). The Panel considered that EULEX's failure to initiate a timely and effective investigation into alleged violations of the complainants' rights compromised their ability to obtain an effective remedy for the harm which they had suffered. The Panel also made recommendations to the Head of Mission for remedial measures. It recommended that the HoM should instruct competent EULEX officials to make enquiries with Kosovo authorities whether an investigation into the alleged violations of the complainants' rights is ongoing. Further, the HoM should instruct EULEX Prosecutors to consider whether to take over the responsibility of this case, taking into account, in particular, the need for the Mission to guarantee the effective protection of the complainants' rights.

No violation in ten cases concerning alleged ill-treatment by Kosovo Police

The Panel examined cases lodged by ten Serbian citizens, who had been arrested and allegedly beaten by the Kosovo Police officers while attending Christmas celebrations in Gračanica/Graçanicë Monastery in 2013 (*K,L,M,N,O,P,Q,R,S and T against EULEX*, nos 2013-05 to 2013-14). The complainants submitted that EULEX had failed to protect them from an arbitrary arrest and ill-treatment at the hands of Kosovo Police. In its decision, the Panel found that there was no violation of the complainants' rights under Article 3 of the Convention (freedom from torture, inhuman or degrading treatment). It considered that EULEX did all that could be expected in the circumstances to ensure that the complainants' human rights were respected and that the situation complained of did not amount to a violation of the complainants' right which could be attributable to EULEX. The Panel also noted that the mistreatment complained of was presently subject to proceedings before the Kosovo judiciary.

Inadmissibility decisions

During its first session in 2015, the Panel found three cases inadmissible. One of them concerned proceedings before Kosovo courts (*Ajet Kaciu against EULEX*, 2014-26). As in many similar previous cases, the Panel declared that it had no jurisdiction in principle to review judicial proceedings before the courts of Kosovo, even if EULEX judges sat on the bench. In two other cases the Panel found that it had not been shown that EULEX was involved in any capacity in the matters complained about (*Qerim Begolli against EULEX*, 2014-27; *Shemsi Musa against EULEX*, 2014-29).

Five other cases were found inadmissible during the Panel's April session. In three of them the Panel declared that it lacked jurisdiction to examine them, as they concerned proceedings before Kosovo courts (*J.Q against EULEX*, 2014-24; *K.P. against EULEX*, 2014-31, *Arben Krasniqi against EULEX*, 2014-33). In one case, the Panel found that it had not been shown that there was any EULEX involvement in the matters complained about (*Adbij Sabani against EULEX*, 2014-30). In another case, the Panel found the complaint premature, as the proceedings complained of were still pending (*Mazlam Ibrahimimi against EULEX*, 2014-05).

Communication of cases to the Head of Mission of EULEX

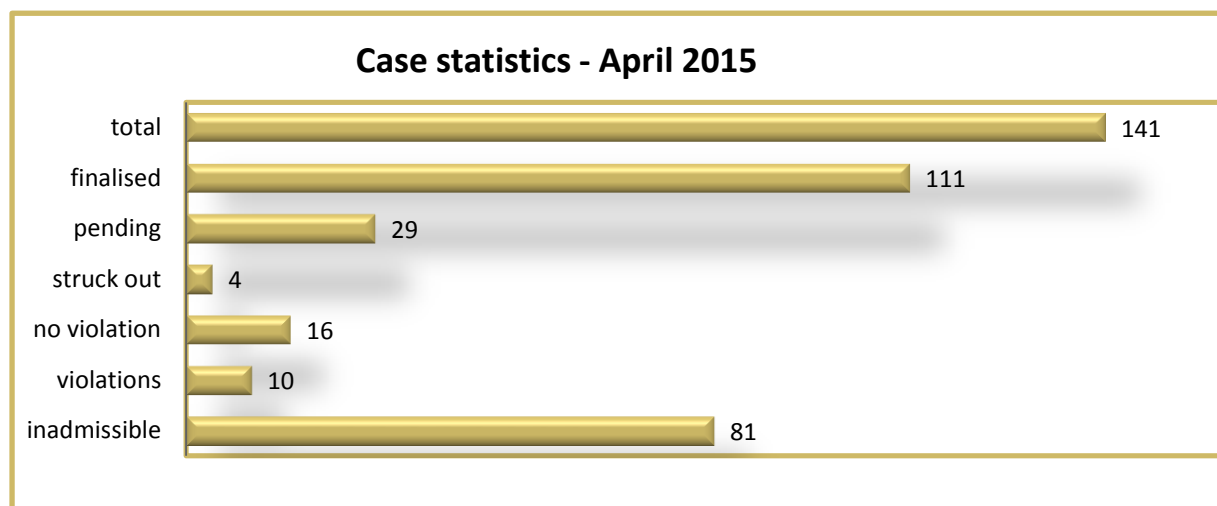
The Panel communicated one case (*Y.B. against EULEX*, 2014-37) to the EULEX Head of Mission, requesting his observations on the admissibility and merits of the complaint. The case concerns an alleged violation of the complainant's rights to private life (Article 8 of the European Convention on Human Rights) and presumption of innocence (Article 6 par. 2 of the Convention) by an EULEX prosecutor.

Meetings with the EULEX Head of Press and Public Information Office and command of EULEX Executive Police

Mr Roland Bless, the new Head of EULEX Press and Public Information Office (PPIO), met with the Panel on 20 April 2015. The Panel briefed Mr Bless on its mandate and operations and expressed its appreciation for the ongoing support and assistance provided by the PPIO. The meeting was also an occasion to discuss future co-operation between the PPIO and the Panel in awareness raising and an outreach campaign in the media.

The following day, the Panel met Mr Alban Ragg, the Deputy Head of EULEX Executive Division and the Head of Executive Police, as well as the EULEX Executive Police command. The participants discussed human rights issues and challenges the EULEX Police officers face in their everyday work. They also considered the Panel's case-law which can be relevant and helpful to the work of the EULEX Police.

Case statistics



HOW TO FILE A COMPLAINT WITH HRRP

(Rules 25 and 26 of the Rules of Procedure of the HRRP)

Who?

Any person who does not work for EULEX Kosovo and who claims to be a victim of a human rights violation by EULEX Kosovo in the performance of its executive mandate.

The complainant (the person making the complaint) can be represented by a lawyer or another representative of his or her choice. In that case a letter of authority must be filled in.

What?

The Panel will only examine complaints concerning alleged human rights violations that happened after 9 December 2008 in Kosovo. The violation must be caused by EULEX Kosovo in the performance of its executive mandate.

The Panel will not review judicial proceedings before the courts in Kosovo.

When?

The complaint must be submitted to the Panel within six months from the date of the alleged violation.

How?

The complaint must be submitted in writing. No complaints may be made by phone. The complainant can use either the English, Albanian or Serbian language.

The complaint should normally be made on the complaint form and be accompanied by relevant documents and decisions (if any), as instructed in the form.

If a complaint is introduced in a letter, such letter must set out, at least in summary form, the subject matter of the complaint in order for the matter to be examined further.

Where?

The complaint may be filed at:

Human Rights Review Panel - Secretariat

Rrustem Statovci Street no. 29 – 10000 Pristina – Kosovo

Tel: +381 (0) 78 78 2125

A complaint can also be sent by email to office@hrrp.eu

www.hrrp.eu

Completion of the Complaint Form

The complaint should be written legibly and, preferably, typed.

The form should contain all contact details of the complainant.

If the complainant provides documentary evidence, legible copies should be submitted. **Do not send original documents.**

The documents should be listed in date-order, numbered consecutively and with a short description (e.g. letter, order, judgment, appeal, etc.).

The complaint will be assigned a file number upon registration. The file number must be referenced in all subsequent correspondence. If the complainant has an earlier complaint pending before the Panel, he or she must inform the Panel of the file number. If the complainant for some reason does not wish his or her identity to be disclosed, he or she should fill in the appropriate section of the complaint form.