

# **Human Rights Review Panel**

## **European Union Rule of Law Mission**

### **Kosovo**

### **Annual Report 2017**

**1 January to 31 December 2017**

**Human Rights Review Panel - Secretariat**

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## Foreword

This is the eighth Annual Report of the Human Rights Review Panel (Panel), which covers the period from 1 January 2017 to 31 December 2017, presented to the public with a view to the dissemination of information on the development of the case law of the Panel.

The European Union established the Panel on 29 October 2009, with a mandate to review alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors as existed at that time. The Panel is the first and, so far, the only human rights accountability mechanism of its kind that deals with alleged violations of human rights by a European Union Common Security and Defence Policy Mission with executive authority.

Together with the Human Rights Advisory Panel of the United Nations Interim Administration in Kosovo (UNMIK), it is one of only two international panels that have ever been mandated to hold international organisations, operating in an executive role, accountable for alleged human rights violations. The UNMIK Human Rights Advisory Panel completed its mandate on 30 June 2016 which means that this Panel is now the only human rights accountability body of its kind in operation.

The inability of the Panel to recommend, upon a finding of a violation, that financial compensation be paid to victims, as provided for by the original legal framework under which the Panel was created in 2008 (see chapters 2.1 and 1.2 below), continues to limit the Panel's ability to offer adequate relief in some cases of rights violations. Whilst victims take some solace from the fact that their allegations of violations have been vindicated by the Panel, this is in many cases inadequate. This situation is compounded by the fact that the Panel's recommendations to the Head of Mission (HoM), EULEX Kosovo to issue an apology for human rights violations or to acknowledge that a violation has occurred have thus far not been implemented.

That said, the HoM and her staff continued providing diligent cooperation to the Panel throughout the reporting period. This included the timely submission of replies or observations in the cases which were communicated to the Mission. The Panel appreciates, in particular, the timely provision of documents which relate to the substance of cases under examination, including police reports and other materials which concern the cases under review. I would like to avail myself of this opportunity to express my appreciation to the HoM for her cooperation with the Panel and the efforts made by her to implement most of the Panel's recommendations during the reporting period.

The Panel continued with its practice of meeting with senior EULEX staff officials and in that regard held two meetings with the Head of Mission as well as further meetings with the Head of the Executive Division and the Head of the Human Rights and Legal Office.

As to the Panel's caseload, seven new complaints were filed in 2017. The Panel finalised twenty five cases and held that EULEX had committed human rights violations in two cases. It also found that there had been no violations in nine cases and that fourteen cases were inadmissible. Its current caseload stands at thirty cases.

The Panel, in accordance with standard practice and acting under Rule 34 and Rule 45 *bis* of its Rules of Procedure, made detailed remedial recommendations to the Head of EULEX Kosovo in the two involving human rights violations and also assessed the implementation of its recommendations made to the Head of the Mission in a number of its earlier decisions.

The Panel experienced serious difficulties due to staff reductions resulting from the EULEX reconfiguration in 2016 which culminated in a 33% loss of staff in the Secretariat. This situation was compounded by the resignation and replacement of one legal officer, which, in effect, meant that the Secretariat operated with just one legal officer for the greater part of the reporting period.

The Panel lost the services of its long serving member, Ms Elka Ermenkova, former Criminal Judge of the Kosovo Supreme Court/Appellate Court, who resigned to take up an appointment as an International Observer with the European Commission led Monitoring Operation in Albania. I wish to thank her for her excellent professional performance and her contribution to the Panel. Her thorough knowledge of the Mission, its legal and institutional history and context made an essential contribution to the work of the Panel. I take this opportunity to wish Ms Ermenkova every success in her further career.

Late in the year, in December 2017, Mr Jorge Martins Ribeiro, EULEX judge, was assigned to the Panel as a Substitute Member.

The Panel also lost the services of Ms Noora Aarnio, Legal Officer, who resigned from the Panel in order to take up an appointment as a Judicial Cooperation Advisor with EUROJUST, an agency of the European Union, (EU), The Hague, Netherlands. I would also like to take this opportunity to thank Ms Aarnio for her contribution to the Panel and to wish her success.

Magda Mierzevska  
Presiding Member  
Human Rights Review Panel

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## **1. Regulatory Framework**

### **1.1. Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission EULEX Kosovo**

The Council Joint Action is the source of the authority and power of the EULEX Mission in Kosovo. It lays down the *mandate* of EULEX Kosovo and, *inter alia*, specifies its responsibility to act in compliance with relevant human rights standards in Article 3 (i): “ensure that all its activities respect international standards concerning human rights and gender mainstreaming”.

### **1.2. Accountability Concept EULEX Kosovo – Human Rights Review Panel, General Secretariat of the Council, Brussels of 29 October 2009**

The establishment of an independent, effective, transparent human rights accountability mechanism was considered early on in the Mission’s life to be a fundamental requirement for EULEX Kosovo as a Rule of Law Mission vested with certain limited executive functions. Such an external accountability mechanism was intended to complement and supplement the overall accountability of EULEX Kosovo as provided by the Third Party Liability Insurance Scheme and the EULEX Internal Disciplinary Mechanism.

Thus, the Accountability Concept laid down the *mandate* of the Panel to: *review complaints from any person, other than EULEX Kosovo personnel, claiming to be the victim of a violation of his or her human rights by EULEX Kosovo in the conduct of the executive mandate of EULEX Kosovo.*<sup>1</sup>

However, pursuant to the Accountability Concept, the Panel does not have jurisdiction in respect of the Kosovo courts. The fact that EULEX judges sit on the bench of a particular court does not modify the character of these courts as Kosovo courts<sup>2</sup>

The Panel adopted its own Rules of Procedure on 10 June 2010, the date from which it was authorized to receive complaints. It amended its rules on 21 November 2011 and on 15 January 2013.

### **1.3. Applicable International Human Rights Instruments**

In accordance with the provisions of the Accountability Concept, the Panel may consider complaints pertaining to alleged breaches of, among others, the following human rights instruments:

- The Universal Declaration on Human Rights (1948)
- The European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention, 1950)
- The Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1965)
- The International Covenant on Civil and Political Rights (CCPR, 1966)
- The International Covenant on Economic, Social and Cultural Rights (CESCR, 1966)

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<sup>1</sup> The Accountability Concept is part of the Operational Plan of EULEX. It is therefore deemed to be a restricted document and thus not accessible to the public. The Panel is therefore not at liberty to disclose its details.

<sup>2</sup> See Case Nos. 2016-08, Hamdi Hasani Against EULEX; 2016-25, Hilmi Krasniqi Against EULEX; 2016-26, T.G. Against EULEX; 2016-27 Afrim Islami Against EULEX; 2016-33, Agron Bytyci Against EULEX; 2016-36, Namon Statovci Against EULEX and 2017-03, Alfred Bobaj Against EULEX. (footnote & Jurisprudence).

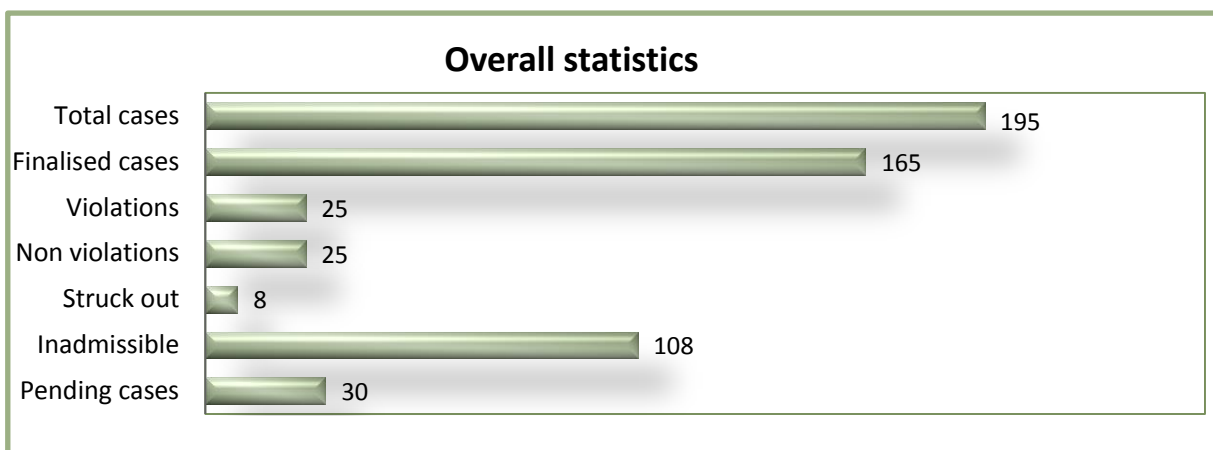
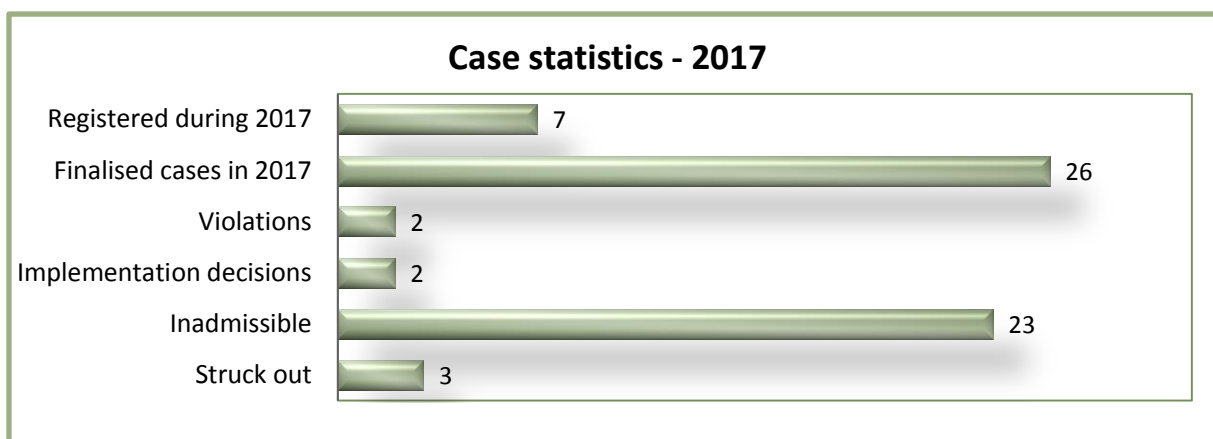
- The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW, 1979)
- The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT, 1984)
- The International Convention on the Rights of the Child (CRC, 1989)

In practice, the complaints filed to date have been primarily based upon the European Convention on Human Rights and its Protocols. A number of complaints made reference, in particular, to the Universal Declaration on Human Rights, International Covenants and other human rights instruments.

## 2. Caseload and subject matter of complaints

### 2.1. Caseload and statistics

The Panel received seven (7) new complaints in 2017. The Panel finalised twenty five (25) cases from its caseload and found that EULEX had committed human rights violations in two (2) cases. It also found that there had been no violation in nine (9) cases and that fourteen (14) cases were inadmissible. The pending caseload stands at thirty (30) cases.



## 2.2. Subject matter of complaints

The most common complaints of alleged human rights violations which were examined by the Panel in 2017 concerned murdered and missing persons. These raise particularly serious allegations of rights violations and are of critical importance in a post-conflict situation like Kosovo. The subject-matter of the Panel's caseload is reviewed briefly in relation to cases dealt with in the course of the reporting year:

- Alleged violations of Article 1 of Protocol No. 1 to the Convention in conjunction with Article 13: case of [Thomas Rusche Against EULEX no. 2013-21](#);
- Alleged violations of Article 2 and 3 of the Convention: case of [F. and Others against EULEX No. 2011-27](#);
- Alleged violations of the right to life (Article 2 of the Convention; Article 6 of the International Covenant on Civil and Political Rights): cases of [D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX](#), Nos. 2014-11 to 2014-17; [L.O. against EULEX](#) no. 2014-32; [Sadiku-Syla against EULEX](#) No. 2014-34; [Sadiku-Sula against EULEX](#), No. 2014-34;
- Alleged violations of prohibition of torture, inhuman or degrading treatment (Article 3 of the Convention; Article 7 of the International Covenant on Civil and Political Rights; Article 6 paras 1 and 2 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment): [D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX](#), Nos. 2014-11 to 2014-17; [L.O. against EULEX](#) No. 2014-32; [Sadiku-Syla against EULEX](#) No. 2014-34; [Sadiku-Sula against EULEX](#), No. 2014-34;
- Alleged violations of the right to a fair trial and access to court (Article 6 of the Convention; Article 14 of the International Covenant on Civil and Political Rights): e.g. cases [X and 115 other Complainants against EULEX](#), No. 2011-20; [M.N against EULEX](#), No. 2014-35; [Shpresim Uka against EULEX](#), Nos 2016-06 & 2017-04;
- ;
- Alleged violations of the right to respect for private and family life (Article 8 of the Convention; Article 17 of the International Covenant on Civil and Political Rights); [Y.B. against EULEX No. 2014-37](#);
- Alleged violations of the right to an effective remedy (Article 13 of the Convention) in conjunction with –
  - Article 6: [X and 115 other Complainants against EULEX](#), No. 2011-20;
  - Article 8: [D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX](#), Nos. 2014-11 to 2014-17; [L.O. against EULEX](#) No. 2014-32; [Sadiku-Syla against EULEX](#) No. 2014-34;
- Alleged violations of the right to the peaceful enjoyment of one's possessions (Article 1 of Protocol No. 1 to the Convention): [Ramadan Hamza against EULEX](#), No. 2015-02; [Thomas Rusche Against EULEX no. 2013-21](#)

A number of Complainants referred, in a general manner, to other international human rights instruments, in particular to the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

### **3. Jurisprudence**

#### **3.1. Introduction**

The Panel continued with the development of its jurisprudence and issued a number of decisions on merits, decisions on admissibility as well as decisions on the implementation of its recommendations by the Head of Mission during the reporting period. The Panel relied extensively on the European Convention on Human Rights and Fundamental Freedoms (ECHR), the jurisprudence of the European Court of Human Rights, (ECtHR), humanitarian law/law on armed conflicts, its own case law as well as the applicable law in Kosovo in its review of its complaints during the reporting period.

#### **3.2. Decisions on Merits**

**Case no: [2013-21 Thomas Rusche Against EULEX](#)**

##### **I. FACTS**

On 28 April 2006, the complainant concluded a contract to establish a joint limited company MTI Stone and Building, (MTI) (hereinafter “the company”) in Kosovo with M.L. and I.F. It was agreed that the company would be owned in equal shares (33% each).

The complainant subsequently uncovered alleged criminal activities of his business partners in that they tried to expel him from the company through the falsification of the company’s Articles of Association as well as by issuing threats to him.

The complainant alleged that he was not allowed thereafter to perform his functions as the Executive Director. He was further denied access to documents and financial statements and he was also refused access to the company’s premises. On 3 November 2010, the complainant filed a request with the Kosovo Agency for Registration of Business to have him reinstated as a shareholder and to have its previous decision reversed. Following this request, the Acting Chief Executive of the Agency restored the company to its previous legal status, with the complainant being reinstated as a 33% shareholder. On 16 June 2015, the Commercial Court awarded the complainant Euros 874,000 in compensation for the damage caused to him and the ownership rights of M.L. and I.F., of the shares were terminated. The complaint was registered with the Human Rights Review Panel (Panel) on 12 August, 2013.

##### **II. COMPLAINTS**

The complainant alleged that EULEX Kosovo failed to protect his right to the peaceful enjoyment of his possessions guaranteed under Article 1 of Protocol No. 1 to the of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter “the Convention”). He also complained that EULEX breached his right to an effective remedy guaranteed by Article 13 of



the Convention. As the complaint consisted of two separate elements, it was reviewed as two separate cases (Case No. PPS 26/2010 and Case No. PPS 360 /2012).

### **III. ADMISSIBILITY**

The Panel was satisfied that the complaint fell within the ambit of its mandate and met the admissibility criteria as set out in its Rules of Procedure. The Panel noted in this context that the conduct complained of related directly to the actions of EULEX Prosecutors in the discharge of their executive functions. In accordance with Rule 25, paragraph 1, of its Rules of Procedure, complaints may be filed with the Panel by any person other than EULEX Kosovo personnel who claimed to be the victim of a human rights violation by EULEX Kosovo in the conduct of its executive mandate. The Panel has held on numerous occasions that the actions of a EULEX Prosecutor taken in the examination of a case form part of the executive mandate of EULEX and that such actions fall within the ambit of the mandate of the Panel up to and including a bill of indictment filed with a court which is competent to examine the merits of a case.

### **IV. ASSESSMENT BY THE PANEL**

#### *Realistic investigative expectations of international organisations – EULEX is not a State*

In so far as the applicant complained under Article 13 of the Convention, the Panel has already established in its earlier cases that EULEX Mission is not a State and that its ability to guarantee the effective protection of human rights cannot be compared, in all relevant respects, to what may be expected of a State. The Panel would not seek to impose on the EULEX investigative authorities an obligation to investigate to the extent that would exceed its mandate and resources. The Panel therefore had to consider if there were any obstacles that might undermine the capacity of EULEX to conduct a prompt and effective investigation. Such an evaluation was not intended to justify operational shortcomings unrelated to obvious challenges, but rather to ensure that EULEX was not expected to do more than what its mandate would reasonably enable it to do. The Panel noted that the case was ultimately assigned to a EULEX judge and hence the case was of a sufficiently serious nature as to be taken over by EULEX, a course of action which is reserved for the most serious crimes.

The Panel noted that the complainant contacted EULEX in September 2009 and yet the investigation did not commence until 23 February, 2010. A stay was put on the investigation on 4 August 2011 even though some investigative actions continued thereafter. The investigation was formally resumed on 14 December, 2014 and apparently continues to the present time. EULEX did not make any submissions with regard to what investigative measures may have taken place or otherwise in the interim until such time as the complainant was awarded Euros 874,000.00 by the Commercial Court on 16 June, 2015.

#### **V. Involvement/representation of the complainant**

The Panel further noted that the complainant and his lawyer were not invited to attend an examination of the suspects when they were interviewed with regard to the second investigation in Case No. (PP 360/2012). It has not been revealed if the complainant or his lawyer were informed of these interviews or not and if not, why not. Also, there was no explanation to why the suspects were not interviewed in relation to the investigation in the first case, Case No. PPS. 26/2010, at a time when both suspects were in Kosovo and available for interview.

## VI. Decision on the merits

The Panel found that there was a violation of the complainant's right to an effective remedy guaranteed by Article 13 of the Convention. Having regard to its said findings under Article 13, the Panel considered that it was not necessary to examine the complaint under Article 1 of Protocol No. 1 to the Convention. The Panel thus found it appropriate, in the light of its above findings of fact and law, to make the following recommendation to the Head of Mission under Rule 34 of its Rules of Procedure:

That the HOM make a declaration to acknowledge that the circumstances of the case amounted to a breach of the complainant's rights under Article 13 which were attributable to the acts and/or omissions of EULEX Kosovo in the performance of its executive mandate and that the HoM provide a copy of the Decision to the EULEX Prosecutors for information purposes through the appropriate channels.

### **Case no: 2011-27 F and Others Against EULEX**

#### **FACTS**

The case was lodged with the Panel by the family of X.F. X. F. was a witness for the prosecution in a major criminal case. After a number of attempts on his life by persons unknown, X.F., F. and their children were admitted into the EULEX Witness Security Programme (WSP). They found their conditions whilst in the WSP very difficult and they left the programme voluntarily. However, since X. F. still wished to testify in the case, he was relocated to one of the EU Member States.

X. F. returned to Kosovo to give statements at the pre-trial hearing in the case. He was subsequently re-admitted to the WSP. Shortly afterwards he returned to the EU Member State accompanied by EULEX Kosovo. On 28 September 2011 X. F. died there. An investigation carried out by the local police determined that he had committed suicide.

#### **COMPLAINTS**

The complainants submitted that the psychological pressure X. F. had been subjected to, his treatment by EULEX and his isolation from his family led him to commit suicide. They alleged that EULEX was aware of his fragile mental state but failed to take the necessary steps to prevent his death.

#### **ADMISSIBILITY**

The Panel declared the complaint to be admissible on 13 June 2017 as it considered that the complaint raised serious issues of facts and law under Article 2 and 3 of the Convention. However, it declared that the complaints with regard to the participation of the F. family in the WSP were inadmissible as they fell outside the six-month time-limit provided for by Rule 25 (3) of its Rules of Procedure (ROP).

The Panel also decided on non-disclosure of the full submissions of EULEX to the complainant, upon the basis that: "*publication could adversely affect the operational effectiveness of the Mission or the security of the Mission's personnel*". It satisfied itself that above procedure maintained the necessary balance between the complainants' procedural right to argue their case effectively as well as obtain an effective remedy before the Panel and the need to safeguard the confidentiality of certain aspects of the operations of EULEX in sensitive areas such as witness protection.

## THE LAW

### Article 2 of the Convention

#### *The right to an adequate, effective and prompt investigation; involvement of family of deceased*

The Panel reiterated that Article 2 of the Convention also obliges the State to carry out an effective investigation into alleged breaches of its substantive limb. These standards have been accepted by the Panel as being, in principle, applicable to EULEX, (see, e.g., [Sadiku-Syla against EULEX](#), 2014-34, para. 36; [D.W., E.V., F.U., G.T., Zlata Veselinović, H.S., I.R. against EULEX](#), 2014-11 to 2014-17, Admissibility Decision,). In order to be “effective”, an investigation must be capable of establishing of the facts and, where appropriate, the identification and punishment of those responsible (see ECHR, *Ramsahai and Others v. the Netherlands* [GC], No. 52391/99, § 324, ECHR 2007-II).

The Panel reiterated, that the EULEX Mission is not a State and that its ability to guarantee the effective protection of human rights, including the right to life, cannot be compared to that of a State (see [A, B, C and D against EULEX](#), 2012-09 – 2012-12, 20 June 2012, par. 50). However, if an important witness in a criminal case prosecuted by EULEX prosecutors dies, a prompt enquiry by EULEX to establish the course of events, with the meaningful involvement of the family of the deceased, would be the minimum procedural standard as required by Article 2.

#### *Substantive and procedural obligations under Article 2*

As regards the substantive requirements of Article 2, the Panel noted that, it was not argued that X.F. died as a result of any criminal act or as a result of the unlawful or excessive use of force by any public authority. The conclusion of the criminal investigation conducted by the local police to the effect that X. F. had committed suicide, was not challenged in any way, nor was it shown to lack credibility.

On the other hand, the Panel noted that EULEX failed to act with the requisite diligence in the sensitive circumstances of this case. In particular, it was not shown that EULEX had carefully considered whether its actions in respect of X. F. were in compliance with the legal framework of its executive mandate.

In this connection, the Panel reiterated that Article 2 of the Convention imposed certain positive obligations on public authorities in respect of the protection of the lives of vulnerable persons in State custody or under the State’s responsibility, such as detainees or patients of closed medical institutions. However, this provision does not guarantee, *per se*, a right to effective protection against the suicide of a person at liberty; still less in the situation such as in the present case, namely that of a person remaining outside of Kosovo, hence, outside of reach of EULEX.

The Panel, therefore, concluded that there was no violation of Article 2 under its substantive limb.

However, the Panel also examined whether EULEX satisfied its procedural obligations under Article 2. It concluded that EULEX failed to initiate an investigation in order to establish the facts and, possibly, determine its own responsibility which might have arisen upon X. F.’s death. The Panel noted that there was merely a review conducted by EULEX, some considerable time period after X. F.’s had died and the F. family was not informed of, or involved in this review.

The Panel found that there had therefore been a violation of the procedural limb of Article 2.

## **Article 3 of the Convention**

The Panel reiterated that this provision, in so far as it prohibited inhuman or degrading treatment, could also be breached by public authorities in the absence of any violation of a person's physical integrity, such as in the F. case (e.g. ECHR, *Valasinas v. Lithuania*, No. 44558/98, 24 July 2001, *Khamila Isayeva v. Russia*, No. 6846/02, 15 November 2007),.

The Panel noted that X.F. was a witness in a major criminal case. The risks that this situation entailed for him were abundantly clear, for instance, there were several attempts on his life. Moreover, the family's participation in the WSP was difficult as they felt isolated and their daily life was disrupted. The Panel therefore concluded that X. F. was under severe stress for a considerable period of time, while in the WSP and thereafter, due to his concern for the security and safety of his family and his own life.

### *Obligation to conduct risk assessment - violation of physical integrity*

The Panel noted that it was not shown that adequate efforts were made to carry out a risk assessment of the safety and security of X. F. and his family or that X. F. was informed about the potential risks that the decision to send him abroad involved for them.

Furthermore, it was not shown to the Panel's satisfaction whether any specific security arrangements or other assistance or resources (other than "a certain amount of money") was put in place to assure the safety and security of X. F. while he resided abroad. It was not shown either whether any steps were taken, to establish and address the safety and security of his family left behind in Kosovo. X. F. was, therefore, exposed over time to a climate of fear, uncertainty and anguish with regard to his own safety and that of his family, resulting in their acute vulnerability.

The Panel concluded that the actions or inactions of EULEX were highly relevant to the overall state of the well-being of X. F. and his family. It was not persuaded that sufficient consideration was given by EULEX to their safety and security.

The Panel therefore held that there was a violation of Article 3 of the Convention in so far as it prohibited inhuman or degrading treatment.

The Panel also made the recommendations to the HoM to:

- make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainants' rights attributable to the acts and omissions of EULEX in the performance of its executive mandate;
- disseminate the decision to the Mission's staff whose tasks were relevant for its subject-matter, with a view to provide guidance on the applicable human rights standards.

## **4.3. Decisions on admissibility**

### *Panel session from 9 to 11 January 2017*

The Panel held in case No. [2014-10 Nikollë Sokoli Against EULEX](#) and in case No. [2015-04 Nazmi Maloku Against EULEX](#) that both complaints were inadmissible in accordance with Rules 25(3) and 29 (1) as well as Rule 29 (1)(c), (d) and Rule 25(3) of the Rules of Procedure (ROP) respectively.

### *Panel session from 6 to 8 March 2017*

On 7 March 2017 the Panel held that the following cases were inadmissible in accordance, variously, with Rule 29 (d) and Rule 29 (e); Rule 25 (1); Rule 29 (1) (c) and (e) and Rule 25 (3) of the ROP: [2014-35; M.N. Against EULEX](#); [2015-06 X. C. Against EULEX](#); [2015-11 Zvonimir Jovanović Against EULEX](#); [2015-12 U. Against EULEX](#); [2015-15 Đorđe Šmigić Against EULEX](#); [2016-01 Skender Jashari Against EULEX](#); [2016-02 Against EULEX](#); [2016-04 Valon Jashari Against EULEX](#) and [2015-05 Teresa Peters Against EULEX](#).

*Panel session from 12 to 14 June 2017*

The Panel held on 13 June, 2017 in case No. 2015-02, Ramadan Hamza Against EULEX, that the complaint was inadmissible in accordance with Rule 25 (1) of its Rules of Procedure as well as the OPLAN of EULEX Kosovo as it pertained to alleged violations of his rights in the context of judicial proceedings before Kosovo Courts over which the Panel has no jurisdiction.

*Panel session from 16 to 18 October 2017*

The Panel held on 17 October, 2017 that case Nos. [2016-06 and 2017-04, Shpresim Uka Against EULEX](#) were inadmissible in that they fell outside its jurisdiction under Article 29(a) and that they did not comply with the rules in relation to time limits for the filing of a complaint under Article 25(3), Rules of Procedure, (RoP).

The Panel also held on 17 October, 2017 that case No. [2016-07, Mentor Qela Against EULEX](#) was inadmissible because the complaint had been filed outside the time limit, Article 29(3); it fell outside the jurisdiction of the Panel, Article 29(d) and that it was manifestly ill-founded, Article 29(e), RoP.

The Panel further held on 17 October, 2017 that case Nos. [2016-08](#), Hamdi Hasani Against EULEX; [2016-25](#), Hilmi Krasniqi Against EULEX; [2016-26](#), T.G. Against EULEX; [2016-27](#) Afrim Islami Against EULEX; [2016-33](#), Agron Bytyci Against EULEX; [2016-36](#), Namon Statovci Against EULEX and [2017-03](#), Alfred Bobaj Against EULEX fell outside the competence of the Panel because the Panel does not review judicial proceedings before the courts in Kosovo, Rule 25 (1) and that it lacked the competence to examine the complaint under Article 29(d), RoP.

#### **4.4 Decisions on the implementation of the recommendations of the Panel**

*Panel session from 9 to 11 January, 2017*

The Panel issued one (1) second decision on the implementation of its earlier recommendations by the Head of Mission, (HoM) in case No. [2011-20 X and 115 other complainants against EULEX](#) and two (2) decisions in cases Nos. [2014-18 Fitim Maksutaj Against EULEX](#) and in case No. [2014-37 Y.B. Against EULEX](#) on the implementation of its recommendations by the HOM as follows:

##### **Case No. [2011-20 X and 115 other complainants against EULEX](#)**

In relation to the second follow up Decision, in case No. [2011-20 X and 115 other complainants against EULEX](#), (“the Roma case”), the Panel determined that the HoM had not complied with its recommendations in its Decision of 22 April 2015 and invited the HoM to update the Panel of further progress on the matter by 28 February, 2017.

The Panel held Decision that there had been a violation of Article 13 of the Convention, the right to an effective remedy and accordingly, made the following recommendations:

The HoM should instruct the EULEX prosecutorial officials to make enquiries with the Kosovo authorities as to whether an investigation in this matter was ongoing and, if so, at what stage the matter now stood.

Having received that information, the HoM should instruct EULEX Prosecutors to consider whether to take over the responsibility of this case pursuant to Article 7(A) of Law No. 04/L-273 On Amending and Supplementing the Law Related to the Mandate of the European Union Rule of Law Mission in Kosovo.

The Panel gave a decision on the Implementation of the Recommendations of the Panel on 11 November 2015 and issued its second follow-up Decision on 10 January 2017. The HoM replied to the Panel on 16 March 2017 in relation to its Second Decision as follows: it informed the Panel that the Chief EULEX Prosecutor (CEP) had written to the Chief State Prosecutor (CSP) on 6 February 2017 to remind the CSP of the recommendations contained in the Decision of the Panel. The CEP advised the CSP that, in the circumstances of the case, the statute of limitations should not be invoked and that consideration should be given to the conduct of further investigations to establish if a criminal offence had been committed. It was also suggested that an application for a waiver of immunity on the documents pertaining to the case might be submitted to UNMIK.

The HoM added that the CSP had informed the CEP on 28 February 2017 that a ruling to terminate the investigation was soon to be issued due to the expiry of the statutory limitation period which applied to the criminal offence of “causing general danger”. The HoM also informed the Panel that she would review the said ruling upon its receipt and then determine what were further steps, if any, EULEX might be in a position to take under the circumstances.

The Panel currently awaits further procedural information on the progress in the investigation.

#### **Case No. [2014-18 Fitim Maksutaj Against EULEX](#)**

The Panel found in Case No. 2014-18 Fitim Maksutaj, on 12 November 2015, that there had been a violation of Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It recommended to the HoM to make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainant’s rights and to undertake necessary measures to conduct an examination of what steps could be taken by the Office of the Chief EULEX Prosecutor (OCEP) to ensure that cases under the authority of that Office are dealt with in accordance with the provisions of Article 6(1) of the Convention. The HoM should also ensure that an effective review mechanism is put in place so that all such cases are dealt with within a reasonable time.

The Panel adopted its Decision on the Implementation of its Recommendations on 11 January, 2017. It took note of the steps taken by the HOM to follow its recommendations. It noted in particular, that the Mission was examining how best to put in place effective standards for the review of cases handled by EULEX prosecutors. It Panel further noted that the HOM did not make a declaration, in any form, to acknowledge that the circumstances of the case amounted to a breach of the rights of complainant that were attributable to the acts of EULEX Kosovo.

#### **Case No. [2014-37 Y.B. Against EULEX](#)**

In case No. 2014-37 Y.B. Against EULEX, the Panel held on 19 October 2016 that there had been a violation of Article 8 of the Convention. It also made a recommendation to the effect that the HoM should make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainant's rights by EULEX in the performance of its executive mandate. The HoM should provide copy of the present Decision to the EULEX Prosecutors to inform the EULEX Prosecutors of the general nature of an obligation to make it their priority to protect rights and freedoms of not only suspects and the accused but other persons involved in cases they investigate.

The Panel adopted its Decision on the Implementation of its Recommendations on 10 January, 2017. It took note of the steps taken by the HoM to implement its recommendations. The Panel observed, however, that the HoM did not make a declaration, in any form, to acknowledge that there had been breach of human rights by EULEX.

*Session of the Panel 6-8 March 2017*

**Cases No. [2014-11 to 2014-17, D.W.; E.V.; F.U.; G.T.; Zlata Veselinovic; H.S. and I.R. Against EULEX](#)**

The Panel held in its Decision on Merits of 19 October 2016 that there had been violations of Articles 2 and 3, and of Article 13 in conjunction with Article 2 of the Convention in case Nos. [2014-11 to 2014-17, D.W.; E.V.; F.U.; G.T.; Zlata Veselinovic; H.S. and I.R. Against EULEX](#).

It recommended to the HoM to make a declaration to acknowledge that the circumstances of the case amounted to a breach of the complainant's rights; communicate and transmit the Decision to all relevant EULEX investigative and prosecutorial authorities; that EULEX communicate with relatives of the victims in an expeditious and diligent manner and also to adopt guidelines for such communications. The HoM was also called upon to emphasise to the mission agents the importance of cases of enforced disappearance which should be an investigative priority for EULEX and that the EULEX investigative authorities be provided with the necessary resources to achieve their mission in the protection, in particular, of the rights guaranteed by Articles 2 and 3 of the Convention.

The HoM was further invited to advise the competent EULEX investigative and prosecutorial authorities of the factors listed in the Decision as being relevant in the evaluation of the "exceptional" competence of EULEX prosecutors under Article 7(A) of the revised Law on Jurisdiction.

The HoM informed the Panel on 29 November, 2016 that she would communicate the decision to the relevant investigative and prosecutorial organs of EULEX.

The Panel declared in its Decision on the Implementation of its Recommendations on 7 March 2017 that the HoM had implemented its recommendations in part only and it welcomed the undertaking of the HoM to provide the Panel with the results of the internal review of the related procedures and guidelines in force in the Mission.

**Case No. [2014-32 L.O Against EULEX](#)**

The Panel had found that EULEX Kosovo violated Articles 2 and 3 (procedural limb) and Articles 8 and 13 of the Convention in its Decision of 11 November 2015. It invited the HoM to make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainant's rights; to instruct the Mission to communicate with alleged victims and their close relatives in a diligent, expeditious and careful manner; to consider the adoption of guidelines

laying down in more detail what this general instruction might imply in concrete circumstances; to ensure that EULEX investigative bodies, (the Special Investigation Task Force, (SITF) and the EULEX Prosecutors) have at their disposal resources and support which are required to accomplish their mission.

The HoM should seek to clarify the relationship between the Mission and the SITF to ensure the effective protection of rights and guarantees; provide adequate and sufficient information to complainants; impress upon the SITF and the EU Member States the importance of such cases being fully and effectively investigated and impress upon the SITF the importance and necessity to inform victims of the course of their investigation.

In its follow-up Decision on the Implementation of its Recommendations of 19 October 2016 the Panel stressed that the responsibility to enforce and implement the recommendations of the Panel fell entirely and exclusively to the HoM, not to the CPCC or to Member States. In that sense, whilst the HoM might decide, in a particular case, to seek the assistance of other bodies within EULEX to implement the Panel's recommendations, ultimately the responsibility remained on the HoM. The Panel declared that the outgoing HoM had not implemented the recommendations and invited the new HoM to fully consider and implement each and every recommendation of the Panel.

The new HoM responded on 8 December 2016 to the Panel's Decision on the Implementation of its Recommendations of 19 October 2016.

The Panel thus issued its Second Decision on the Implementation of the Panel's Recommendations on 7 March 2017. It noted with regret that it had been the consistent practice of EULEX to refuse or fail to formally acknowledge responsibility for a violation of the complainant's human rights where the Panel had determined that such had occurred.

With regard to its second recommendation on communications with the complainant, the Panel noted with satisfaction the initiative of the HoM to create a Human Rights Focal Point Network to ensure human rights compliance by EULEX.

With regard to the remainder of the Panel's recommendations, the HoM stated as follows:

"... I refer you to the response from my predecessor of 29 April 2016, and see no reason to depart from the view expressed therein. This is supported by the Council Joint Action 2008/124/CFSP as amended by the Council Decision 2014/685/CFSP of 19 September 2014 and Council Decision 2016/947/CFSP of 14 June 2016, which stipulate that EULEX shall support relocated judicial proceedings within the member states. However, the Member States approved the establishment of a Specialist Chambers and Specialist Prosecutors Office, (SC&SPO) that is fully independent from EULEX. Law No. 05/L-053 adopted by the Kosovo Assembly on the 3 August 2015, stipulates that SPO will take over the mandate and personnel of the SITF, and "shall be an independent office for the investigation and prosecution of crimes within the jurisdiction of the Specialist Chambers". In addition, Member States decided that the SC&SPO shall be accountable to a separate Ombudsperson, and specifically exclude both the SC&SPO from the jurisdiction of the Panel. No pressure can therefore be exercised on SPO&SC by EULEX as suggested by the recommendation. I am therefore not able to implement the Panel's recommendations."

The Panel took note of the HoM's view that she was not competent and had no authority to raise and address the Panel's recommendations with the SITF, SC&SPO or the States supporting the new institution. Based on the above considerations, the Panel was satisfied that the HoM had given



sufficient consideration to its recommendations and ` provided an adequate response to most of those recommendations.

The Panel further declared that the former HoM implemented its recommendations in this case in part only, welcomed the new HoM's undertaking to advise the Panel of the outcome of the internal review and decided to close the examination of the case.

Case No. [2014-34 Rejhane Sadiku Sylja Against EULEX](#)

The Panel found in this case on 19 October, 2016 that EULEX Kosovo violated Articles 2 and 3 and of Article 13 in conjunction with Article 2 of the Convention; and made the following recommendations:

The HoM should make a declaration to acknowledge that the circumstances of the case amounted to a breach of the complainant's rights; communicate and transmit the present decision to all relevant investigative and prosecutorial organs of the Mission; the Mission to communicate with relatives of the victims in an expeditious and diligent manner and to adopt guidelines for such communications. The HoM should also emphasise the importance of cases of enforced disappearance continuing to be an investigative priority and should ensure that the EULEX investigative authorities have the necessary resources to achieve their mission.

The HoM was further invited to draw to the attention of the EULEX competent investigative and prosecutorial authorities, the factors listed in the present decision as being relevant to the evaluation of the "exceptional" competence of EULEX prosecutors under Article 7(A) of the revised Law on Jurisdiction and to impress upon them the importance of taking these factors into consideration in their assessment of whether or not they should seek to take over responsibility for this case. The HoM was invited to inform the Panel of the measures she has undertaken in connection with the present decision by 19 November 2016.

The HoM In her letter of 28 November 2016 stated as follows:

"[A] copy of the Panel's decision has been provided to the EULEX Prosecutors. In addition, I have approved the establishment of a Human Rights Focal Point Network to ensure human rights compliance by the Divisions. An internal review of the procedures and guidelines currently in place will be part of this process and I will inform the Panel of the results of the internal review.

Some of the Panel's recommendations concern measures that are under the competence of the Civilian Planning and Conduct Capability (CPCC), several EU institutions as well as Member States. I have informed the CPCC and Contributing States of the Panel's decision and findings through the Civilian Operation Commander. Further, I would like to emphasise that EULEX prosecutors are well cognitive of the rules and regulations applicable with regard to 'extraordinary circumstances' stipulated by Article 7 (A) of the amended Law on Jurisdiction."

The Panel issued its Decision on the Implementation of its Recommendations on 7 March 2017. In relation to its first recommendation that the circumstances of the case amounted to a breach of the rights of the complainant, the Panel noted with regret that it has been the consistent practice of EUELEX to refuse or fail to formally acknowledge responsibility for a violation of the complainant's rights where the Panel had determined that such had occurred.

The Panel therefore declared that the HoM had implemented its recommendations in this case in part only and welcomed the HoM's undertaking to advise the Panel of the result of the internal review being undertaken and decided to close the examination of the case.

*Session from 12 to 14 June 2017*

The Panel issued one (1) decision case No. 2013-21, Thomas Rusche against EULEX on the implementation of its recommendations by the HoM.

**Case No. [2013-21, Thomas Rusche Against EULEX](#)**

The Panel held in its Decision on the Implementation of its Recommendations on 13 June, 2017 that the HoM had implemented its recommendations in its decision on the merits of the case in part only and decided to close the examination of the case.

The case pertained to the alleged embezzlement of the complainant by private parties and allegations of human rights violations which arose as the result of the alleged insufficient efforts of EULEX to help him safeguard his rights (see page 8 above).

The Panel found that EULEX had violated the right of the complainant's right to an effective remedy as guaranteed by Article 13 of the Convention. Having regard to its said findings under the said Article 13, the Panel considered that it was not necessary to examine the complaint under Article 1 of Protocol No. 1 to the Convention.

#### **4.5 Cases struck out**

*Session from 12 to 14 June 2017.*

In case No. [2015-14, Miodrag Konic Against EULEX](#) and in case No. [2015-16, Vuleta Vostic Against EULEX](#), the Panel decided to strike out these two applications from its list of cases on 13 June, 2017 in accordance with Rule 29 bis paragraph 1(1) of its ROP. In these instances, the Panel was not able to establish proper communications with the complainants who had repeatedly failed to respond to the Panel's letters.

#### **4. Publication of Panel cases by the European Court of Human Rights - Other Jurisdictions case-law section:**

The enforced disappearance decisions of the Panel in Cases [D.V., E.V., G.T., Veselinovic., H.S. and I.R. v. EULEX - nos. 2014-11 to 2014-17](#), and the case of [Rejhane Sadiku-Syla v. EULEX - no. 2014-34](#) were published in the Case-Law Information Note of the European Court of Human Rights in its August-September, 2017 issue.

[http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n1347528850996\\_pointer](http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n1347528850996_pointer).

The European Court of Human Rights publication is reproduced below for ease of reference:

« Human Rights Review Panel/Groupe consultative sur les droits de l’homme  
Enforced disappearances in Kosovo/Disparations forcées au Kosovo

Case of D.V., E.V., G.T., Veselinovic, H.S and I.R. v. EULEX/Affaire D.V., E.V., G.T., Veselinovic, H.S et I.R. c. EULEX – Nos./Nos. 2014-11 to/à 2014/17 ; Case of Sadiku-Syla v. EULEX/Affaire Sadiku-Syla c. EULEX – No./No. 2014-34 Decisions on merits/Décisions sur le fond 19.10.2016.

The European Union established the Human Rights Review Panel on 29 October 2009 with a mandate to review alleged human rights violations by EULEX Kosovo (European Union Rule of Law Mission in Kosovo) in the conduct of its executive mandate. If the Panel, which is an independent body, determines that a violation has occurred, its findings may include non-binding recommendations for remedial action by the Head of Mission.

In reaching its determination, the Panel is empowered to apply human rights instruments. Of particular importance to the work of the Panel are the European Convention on Human Rights and the UN International Covenant on Civil and Political Rights (ICCPR).

In its decisions and findings the Panel has consistently had recourse in its case-law to the Convention standards developed by the European Court of Human Rights. (For further information on the work of the Human Rights Review Panel please see its website and its Annual Report 2016).

This group of cases concerned murdered and missing persons, the so-called “enforced disappearance” cases that came about as a result of the armed conflict in Kosovo in the latter half of 1999 and in early 2000. The complainants alleged that there were inadequate criminal investigations to establish the facts and that there was a consequent failure to determine the responsibility of the perpetrators.

The Panel had regard to the standards developed by the European Court of Human Rights under Article 2 of the Convention in so far as it imposed on the public authorities a procedural obligation to establish facts concerning alleged breaches of the right to life. It examined the scope of these obligations in the context of the executive mandate of EULEX. It held that the procedural response expected of the Mission must be commensurate to the gravity of the alleged violation and importance of the protected rights, but also that the scope of the obligations of the Mission could not go further than the limited nature of the Mission’s executive mandate dictated.

It held that EULEX’s investigative efforts were insufficient and resulted in a violation of the complainants’ rights guaranteed by Articles 2 and 3 of the Convention in respect and by Article 13 in conjunction with Article 2 of the Convention.”

## **6. Other activities of the Panel**

### **6.1 Meetings**

#### **Meeting with Head of Mission EULEX Kosovo on 7 March 2017.**

The Panel met with Ms Alexandra Papadopoulou, Head of Mission, accompanied by Ms Elaine A Paplos, Ms Marianne Fennema and Ms Valentina Vitali in the HRRP Building on 7 March 2017. The agenda included discussions on the current workload of the Panel and its impact on the reduced

human resources of the Secretariat in the wake of the staff reconfiguration of EULEX in 2016. Discussions also covered issues related to murdered and missing persons, i.e. enforced disappearances during the armed conflict after June 1999. The terms of reference of the proposed EULEX Human Rights Focal Point Network were also discussed.

**Meeting with Head, Human Rights and Legal Office, EULEX Kosovo on 13 June 2017.**

The agenda included, inter alia, the human resource challenges for the Panel Secretariat in the context of staff reconfiguration; the mainstreaming of human rights and gender matters in EULEX; the executive mandate of EULEX, vis-a-vis, the amendments to Law No. 03/L053 on the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo; Articles 2 and 3 of the European Convention on Human Rights and Fundamental Freedoms in the context of murdered and missing persons cases; the terms of reference of the EULEX Human Rights Focal Point; transitional justice and issues arising for the Panel in the context of the cessation of the Mission's activities in indeterminate future.

**Meeting with Ms Katja Dominik, Head, Executive Division, EULEX Kosovo on 13 June 2017.**

The agenda included, inter alia, the mainstreaming of human rights in EULEX, transitional justice and matters arising for the Panel in the context of the anticipated cessation of the operations of EULEX in the near future.

**Meeting with Head of Mission EULEX Kosovo on 17 October 2017.**

The Panel also held a meeting with Ms Alexandra Papadopoulou, Head of Mission EULEX during its recent session on Tuesday 17 October 2017. The discussions included issues of common concern and interest to both EULEX and the Panel in the human rights domain in Kosovo.

## **6.2. Public Outreach Campaign 2017**

The Accountability Concept Document of 29 October, 2009 stated, *inter alia*, at para E, that, "...EULEX Kosovo will ensure a proper dissemination of public information on the Panel and its work..."

The Civilian Operations Commander, in his instruction of 13 November 2009, stated, in relation to the Panel, that the Road Map for Civilian Planning Conduct Capability should include, "...preparation of a comprehensive PR campaign".

Unfortunately, due to severe staff shortages in the Secretariat, it was not possible to implement the public outreach campaign to the fullest during the reporting period. This may account for the small number of seven (7) complaints which were registered in 2017. It is a well-established fact that a human rights violation legal remedy such that which the Panel provides would only be effective if complainants are aware of its existence and the nature of its mandate.

As stated in previous Annual Reports, there continues to be a general lack of awareness and knowledge of the Panel, its mandate and operations throughout the EULEX Mission area. This is mainly due to the inability of the Secretariat, for resources reasons, to conduct the type of robust information campaign which is necessary to address this problem.

In this context, since the Panel has now reached its quota of two legal officers, more outreach activities will be possible during 2018. The continuation of the TV and radio advertisement campaigns will assist the Panel in this regard.

### **6.3. Induction training**

The Secretariat continued its participation in the EULEX induction training program for incoming EULEX staff members. The format consists of a presentation on the Panel with time allocated for questions and answers. This process is useful to brief future staff members on the mandate of the Panel, to further underline the importance of human rights compliance for the EULEX Kosovo and to raise the profile of the Panel with EULEX staff members in the EULEX Kosovo area of operations.

The Panel considered this to be an important element of its public outreach campaign which provides the Panel with an opportunity to ensure that all new EULEX staff members are aware of their obligation to comply with relevant human rights standards in the performance of their functions and of the accountability implications for possible breaches of human rights in the exercise of their executive functions.

### **6.4. HRRP online**

The Secretariat maintains the Panel website at: [www.hrrp.eu](http://www.hrrp.eu). The site contains information on the mandate, procedure and operations of the Panel, as well as regularly updated information on the decisions of the Panel as well as the list of pending and finalised cases.

The table of the jurisprudence of the Panel is readily accessible. It lists the Panel's growing case law by subject matter both on admissibility and substance of cases under consideration. This was created, inter alia, to provide ready and user-friendly access to the case law of the Panel for complainants, lawyers and the public at large: (<http://www.hrrp/jurisprudence.php>).

The website also provides information on:

Applicable human rights standards: (<http://www.hrrp.eu/relevant-rights.php>);

Application forms and instructions for filing complaints: (<http://hrrp.eu/filing%20complaints.php>);

The Panel also has a profile on Facebook: Human Rights Review Panel;

The above information is available in the English, Albanian and Serbian languages.

## **7. Judicial appointments to Specialist Chambers and Specialist Prosecutors Office**

Ms. Alexandra Papadopoulou, Head of Mission, EULEX Kosovo appointed two current and former members of the EULEX Human Rights Review Panel respectively as well as a former Member of the UNMIK Human Rights Advisory Panel as Judges with the Specialist Chambers, The Hague, Netherlands on 7 February, 2017, (see below). The Law on the Specialist Chambers and Specialist Prosecutor's Office, Law No. 05 L/-053 was promulgated by Decree No. DL-027-2015 on 3 August 2015. The Specialist Chambers and Specialist Prosecutor's Office have jurisdiction over crimes

against humanity, war crimes and other crimes under Kosovo law in relation to the allegations reported in the Council of Europe Parliamentary Assembly Report of 7 January 2011 primarily with regard to the war crimes committed by the ex-paramilitary Kosovo Albanian UCK, Kosovo Liberation Army (<https://www.scp-ks.org/en>)

### **Dr Guénaël Mettraux**

Dr Mettraux was appointed as a Judge with the Specialist Chambers on 7 February 2017. He has served as a member of the Human Rights Review Panel since 30 September, 2012 (see also below, Section 8.1). Dr Mettraux is a Swiss citizen and he holds a *licence en droit* from the University of Lausanne (Switzerland), an LLM from University College London and a PhD in law from the London School of Economics and Political Science.

He has practiced law as a Defence counsel and consultant before international criminal jurisdictions (ICTY, ICC, STL and ECCC) over the last fifteen years. In that time, he has represented several high-ranking military and civilian leaders accused of international crimes. He has advised governments and NGOs on various issues pertaining to regulatory regimes, criminal trials, legislations and transitional justice. He is currently Professor at the University of Amsterdam (The Netherlands) and guest lecturer at the University of Fribourg (Switzerland).

Dr Mettraux has published extensively in the field of international criminal law. His scholarly works include three books: *International Crimes and the ad hoc Tribunals* (Oxford University Press, 2005), *Perspectives on the Nuremberg Trial* (Oxford University Press, 2008) and *The Law of Command Responsibility* (Oxford University Press, 2009), which was awarded the Lieber Prize from the American Society of International Law. Dr Mettraux is a member of the Editorial Committee of the Journal of International Criminal Justice and the Board of Editors of the International Criminal Law Review.

### **Judge Antonio Balsamo**

Judge Antonio Balsamo, Italy was also appointed as an International Judge with the Specialist Chambers, The Hague, Netherlands, on 7 February, 2017. He served as Presiding Member of the Human Rights Review Panel of EULEX in Kosovo from May 2010 until May 2012.

He has served as Deputy Prosecutor General of the Italian Supreme Court of Cassation since 2016, and as Professor of Criminal law at the Faculty of Law of the LUMSA in Palermo. He previously served as the President of the Court of Assize of Caltanissetta from 2011 to 2016. Prior to this, Judge Balsamo was Judge seconded to the Italian Supreme Court of Cassation from 2007 to 2011 and Judge of the Court of Palermo from 1992 to 2007.

Judge Balsamo participated as an expert and consultant in EU projects concerning the reform of the Criminal Code of Bulgaria, the establishment of a Public Prosecutors Office to deal with organized crime and corruption in the Former Yugoslav Republic of Macedonia and human trafficking in Turkey. He was a member of several Italian judicial committees and boards.

Judge Balsamo holds a law degree from the University of Palermo (Italy), and received his specialization Diploma in Regional and Local Government Law from the University of Palermo. He was appointed as a trainee Judge in 1991. He has published extensively on various topics related to the protection of human rights at both national and international level and to criminal law.

## **Judge Michele Picard**

Judge Michele Picard (France) was also appointed as an International Judge with the Specialist Chambers, The Hague, Netherlands, on 7 February, 2017. She served as a member of the UNMIK Human Rights Advisory Panel from January 2007 until March 2008.

Judge Picard has served as Judge at the Appeals Court of Paris since June 2013. She previously served as Judge at the International Criminal Tribunal for the former Yugoslavia from 2008 through 2013. Prior to that, between 2007 and 2008, she served as a Member of the UNMIK Human Rights Advisory Panel in Kosovo, and from 1996 to 2003 she presided over the Human Rights Chamber for Bosnia and Herzegovina. In 2005, she was appointed as independent expert on the Human Rights Situation in Uzbekistan. She also worked for the Council of Europe as an expert on compatibility exercises in Macedonia, Albania and Bosnia and Herzegovina.

Judge Picard holds a law degree from the University of Paris II. She graduated from the National School for Magistrates in Bordeaux in 1992.

## **8. The Panel and the Secretariat**

### **8.1. Members of the Panel**

Under the Accountability Concept and the Panel's Rules of Procedure based on it, the Panel consists of four members; two external members, the Presiding Member as well as one full member and one full and one substitute member of the Panel. Two of the latter are EULEX judges.

#### **Presiding Member**

**Ms Magda Mierzewska**, a Polish citizen, passed the Polish State Examination for judicial posts in 1982. She was admitted to the Gdańsk Chamber of Legal Counsel in 1989 and received her LLM in European Union Law from the University of Leicester in 2005.

She was appointed as a case lawyer in the Secretariat of the European Commission of Human Rights, Strasbourg in 1993. She has been employed as a lawyer and subsequently as Head of Division at the Registry of the European Court of Human Rights, Strasbourg, France since 1998. She has extensive international training experience in various substantive and procedural human rights issues.

Ms. Mierzewska was appointed as a member of the EULEX Human Rights Review Panel by the EULEX Acting Head of Mission on 4 May, 2010. She was elected as the Presiding Member of the Panel on 3 October, 2012.

Ms Mierzewska's numerous academic publications include: *The European Convention on Human Rights and Fundamental Freedoms: Ten Years after the Ratification*, Council of Europe Information Office, Warsaw 2004; *Ten Years On: The Popularity of the Convention in Poland* (co-author), European Human Rights Law Review, Issue 4, 2004; *Ten Years On: Voluminous and Interesting Polish Case Law* (co-author), European Human Rights Law Review, Issue 5, 2004; *Standards*

*Established in the Case Law of the European Court of Human Rights in Cases Concerning Expropriations and their Application to German Property Claims*, Polish Institute of International Affairs, 2005; *The Process of Reception of the European Convention on the Protection of Human Rights and Fundamental Freedoms in Poland and Slovakia* in: *The Reception of the European Convention on the Protection of Human Rights*, eds. H. Keller, A. Stone-Sweet, Oxford University Press, May, 2008; *Consistency of judicial practice as a human rights issue in the case-law of the European Court of Human Rights*, in: *Cohérence et impact de la jurisprudence de la Cour européenne des droits de l'Homme*, Liber amicorum Vincent Berger, 2013. She co-authored, with J. Krzyzanowski, *Według ojca, według córki* (According to the father, according to the daughter), which obtained a prize for the best historical book published in Poland in 2010.

## **Members**

### **Prof Dr Guénaël Mettraux**

See Section 7 above.

### **Ms Elka Ermenkova**

Ms Elka Ermenkova, a Bulgarian citizen, studied law at the University of Blagoevgrad, Bulgaria where she graduated in 1997. Upon completion of her post-graduate internship, in October 1998 she was appointed as a Junior Judge at the District Court, Blagoevgrad in an appeals panel, where under the supervision of two District Court judges she presided over cases in all subject matters: civil, criminal and administrative law. In 2001 she became a Judge at the Regional Court of Law in Blagoevgrad where she presided over civil and criminal cases. In 2003 she was appointed as President of the Regional Court in Blagoevgrad.

In 2004 Ms Ermenkova became a District Court Judge, second and first instance, and she worked both as a first instance and as an appellate judge both in civil and criminal matters, with the main emphasis on civil matters. As an appeals judge she adjudicated on appeals against judgements of five regional courts in both criminal and civil cases. In January 2008, she was seconded to the Council of the European Union (EU), in the department for Civilian Planning and Conduct Capability (CPCC) as a Rule of Law Adviser where she worked until January 2012. In this capacity she assisted the Council Secretariat (later the European External Action Service (EEAS), in the planning and conduct of civilian crisis management missions, through the provision of expertise in Rule of Law.

In January 2012, she was employed by EULEX Kosovo as an International Judge at the Appeals Panel for the appeals against decision of the Kosovo Property Claims Commission, where she decided upon property disputes related to the armed conflict in Kosovo from 1998/1999. In August 2014 she was appointed as International Criminal Judge to the Supreme Court of Kosovo with mandate over criminal cases related to war crimes, organised crime and other serious crimes.

Ms Ermenkova was appointed to the Human Rights Review Panel in January 2013 as a Substitute Member and in November 2016 she was appointed as the EULEX Member of the Panel. She has amassed extensive experience in Human Rights Law, especially the right to a fair trial, right of liberty, freedom of speech, prohibition of discrimination and right to property throughout her professional career.

### **Ms Anna Bednarek**



Anna Bednarek graduated from the University of Gdańsk, Poland with a Magister of Law (LLM) in 1994 and she passed the Polish State Examination for Judicial Posts in 1997. She completed Postgraduate studies as a civil judge at the Polish Academy of Science, Warsaw as well as her Postgraduate studies at the Institute of Science of Developing Countries at the University of Warsaw in 2008/2009. Ms. Bednarek was employed as a Senior Expert in the Office of the Agent of the Polish Government at the European Commission and Court of Human Rights, Human Rights and National Minorities Division, Legal and Treaty Department of the Polish Ministry for Foreign Affairs, Warsaw. She was also a member of the Delegation of the Polish Government at the 54th Session of the United Nations Commission on Human Rights.

She was appointed as a Judge in the District Court of Warsaw between June, 1998 and 2001. She was employed as Consul in the Polish Embassy, Rome, Italy from 2001 until 2007. She worked as a Judge at the District Court of Warsaw from April, 2007 until January, 2009. She was then appointed as a EULEX Judge at the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters where she served since February 2009. Ms Bednarek was appointed as a Substitute Member of the EULEX Human Rights Review Panel by the Head of Mission EULEX Kosovo on 25 May, 2011 and she was appointed as a Member of the Panel by the EULEX Head of EULEX Kosovo on 12 July, 2011.

Thereafter Ms. Bednarek worked as a Judge at the District Court of Warsaw from January, 2012 until September 2015. She participated as the co-author and consultant in a Project run by the Helsinki Foundation in Poland which was aimed at the publication of the Manual for Judges and Prosecutors "*Equal Treatment of the Parties to the Proceedings*" in 2015. Between September 2014 and June 2015, Ms. Bednarek co-operated with the Central and Eastern European Law Initiative Institute in Prague, Czech Republic, in the Project aimed at the publication of the "*Judicial Manual on Independence, Impartiality and Integrity of Justice: A Thematic Compilation of International Standards, Policies and Best Practices*".

In April 2015, she took part in the Project "Judging in Democratic Society", where she was involved as a trainer of Courts' Presidents in Tunisia on international human rights standards. Afterwards, invited by IBAHRI she delivered trainings to Tunisian judges on human rights in 2013 and 2014. In October 2013, Ms. Bednarek took part as a facilitator in the Project run by the Foundation for Polish-Ukrainian Cooperation (PAUCI) from Warsaw and delivered seminars at the Ukrainian Universities (Lvov, Kharkov, Donetsk) on the theme: "Strengthening the control function of the judiciary as a balance between the authorities in Ukraine".

In 2008 she participated as a trainer with the "Human Trafficking-Training for Judges" Project designed to combat trafficking in human beings and slavery. This Project was organized by the La Strada Foundation, Warsaw, Poland in cooperation with the Polish Ministry of the Interior and the British Embassy in Warsaw. Ms. Bednarek also worked for Amnesty International as Project Manager of a project in Poland for the publication of a Handbook on Human Rights Education.

Ms Bednarek was appointed as the Substitute Member of the Human Rights Review Panel by the Head of Mission EULEX Kosovo on 14 October 2016. The HoM appointed judge Bednarek as a Member of the Panel in December 2017.

### **Mr Jorge Martins Ribeiro**

Mr Jorge Martins Ribeiro graduated in Law in June 1993, at the School of Law of the University of Coimbra. He enrolled in the Portuguese School of Judges and Prosecutors, in Lisboa, in September 1994 and has been a Judge since May 1996 and a District Court Judge since September 1999.

He was Judge Member of the High Judicial and Prosecutorial Councils of Bosnia and Herzegovina (O.H.R. – H.J.P.C.), seconded by the Portuguese M.F.A and M.J., between December 2002 and March 2004. He completed the European Commission Core Course on the Civilian Aspects of Crisis Management at the Austrian Study Centre for Peace and Conflict Resolution in Stadtschlaining, Austria, in January 2005; the European Commission Specialisation Course on Rule of Law at the Folke Bernadotte Academy in Sändowerken, Sweden, in April 2005, and the European Commission Specialisation Course on Human Rights at the Scuola Superior Sant’Anna in Pisa, Italy, in May 2005.

Since 2008 he is expert on Human Rights for the European Commission / T.A.I.E.X. having taken part in such capacity in the Peer Review Mission to Former Yugoslav Republic of Macedonia, in May 2010, and participated in the meeting of the State Council of Egypt, in Cairo, in April 2013.

He post-graduated in Human Rights at the School of Law of the University of Minho in Braga in July 201, and holds an Academic Master of Human Rights, since May 2012, by the same School of Law.

From September 2013 to November 2015 he was International Criminal Judge in the European Union Rule of Law Mission in Kosovo and has been a member of the Working Group on Criminal Justice, EULEX Kosovo and is the author of the *“Report on the Compilation of Previous and Current Proposals to Amend the Criminal Code of Kosovo and Criminal Procedure Code of Kosovo”*. Has also been Chairing Appeal Disciplinary Boards within EULEX – Kosovo and since November 2015 he has been an International Criminal Judge at the Supreme Court of Kosovo, in Pristina.

He has attended a number of trainings, seminars and conferences, including as guest speaker, in Portugal, Spain, Slovenia, Poland, Bosnia, Kosovo, France and Germany. He is a researcher in the Research Centre for Justice and Governance, Human Rights, JUSGOV, at the University of Minho, Braga, Portugal.

He is the author of the thesis *“O Direito do Homem a Rejeitar a Paternidade de Filho Nascido Contra a Sua Vontade. A Igualdade na Decisão de Procriar”* (The man’s right to reject the paternity of a child born against his will. The equality in the decision of procreating), Coimbra, Coimbra Editora, May 2013, and co-author in the joint work *“A Lei Tutelar Educativa Portuguesa. Medidas Educativas Não-Institucionais”* (The Portuguese educational and correctional Law for juveniles. Non-Institutional Correctional Measures and Sanctions), Lisbon, Portuguese School of Judges and Prosecutors, C.E.J., December 2008.

Currently, Mr. Martins Ribeiro is PhD Student of General Juridical Sciences (2014-2018) at the School of Law of the University of Minho in Braga.

Mr. Martins Ribeiro was appointed as the Substitute Member of the Human Rights Review Panel by the Head of Mission EULEX Kosovo December 2017.

## **8.2. The Secretariat**

In 2017 the Secretariat of the Panel consisted of a Senior Legal Officer and two Interpreters/Translators.

### **Mr John J. Ryan**

John J Ryan, an Irish citizen and former army officer, graduated with a Bachelor of Laws, (Hons), Law and European Studies, University of Limerick, Ireland, and he holds a post graduate degree as a Solicitor from the Incorporated Law Society of Ireland. He practiced as a Solicitor with Stephen

MacKenzie and Co. Solicitors, Dublin, Ireland. He has served with the United Nations in Lebanon, Syria, Israel, Cambodia, Bosnia Herzegovina, Croatia, Macedonia, East Timor, Nepal, Kosovo and as a consultant with the European Commission in China. Prior to taking up his current assignment, he was employed with UNMIK, inter alia, as the Administrator of Zvecan Municipality, Mitrovica Region, Head of the International Judicial Support Division, Department of Justice, Deputy Legal Adviser, Office of the Special Representative of the Secretary General, (O/SRSG), UNMIK and Executive Officer, UNMIK Human Rights Advisory Panel, (O/SRSG). He was appointed to his present post as the Senior Legal Officer and Head of the Panel Secretariat, EU Human Rights Review Panel in April, 2010. His articles on the UNMIK Human Rights Advisory Panel and the EU Human Rights Review Panel, EULEX Kosovo were published in the Irish Defence Forces Annual Reviews, 2010 and 2015 respectively.

#### **Ms Katica Kovacevic**

Ms Katica Kovacevic, Kosovo Serbian, was previously employed as Administrative/Language Assistant (Serbian/English) in the Office of the Auditor General from May, 2003 until December, 2008 and as Language Assistant with the Privatization Agency of Kosovo from January, 2009 to November 2010. She commenced her assignment as an Interpreter/Translator with the Panel Secretariat in December, 2010.

#### **Mr Kushtrim Xhaferi**

Mr Kushtrim Xhaferi, Kosovo Albanian, is a graduate of the University of Prishtina, Kosovo, in English Language and Literature. He previously worked as an Interpreter/Translator (Albanian/English) with Kosovo Energy Corporation from February, 2004 to January, 2009 and as a language assistant with EULEX Police Component thereafter. He is Interpreter/Translator with the Secretariat since September, 2010.

### **8.3. Former staff members – Panel and Secretariat**

#### **Mr. Antonio Balsamo**

See Section 7 above.

#### **Ms. Verginia Micheva-Ruseva**

Ms. Verginia Micheva-Ruseva graduated from Sofia University, Bulgaria with a Magisters in Law in 1995 and she passed the Bulgarian State Examination for judicial posts in December, 1995. She also completed various legal courses, including human rights law courses for which she was awarded certificates. She has served as a judge during her entire fifteen year professional career. She commenced her judicial career as a junior judge, she subsequently served as a Municipal Court judge for eight years and she was then appointed as a District Court judge by the High Judicial Council.

Ms. Micheva-Ruseva dealt with civil law and criminal law cases, including violations of human rights in cases of unlawful discrimination, discrimination on grounds of disability, sexual harassment, access to personal information, disclosure of information and remedies, confiscation of assets, etc. at both the Municipal Court and the District Court level. In addition to her human rights studies during her Master's Degree, she completed numerous courses on the European Convention on

Human Rights and Fundamental Freedoms (Convention) and its Protocols and studied the case law of the European Court of Human Rights as a young judge.

She was granted extraordinary leave by her national court in September 2008 when she was appointed to serve as a civil judge at District Court level with the EULEX Mission in Kosovo. Ms. Micheva-Ruseva was appointed as a substitute member of the EULEX Human Rights Review Panel by the EULEX Head of Mission on 6 July, 2011.

#### **Mr. Francesco Florit**

Mr. Francesco Florit, an Italian citizen, graduated in Law from the University of Trieste in 1988 where he was awarded first place for his dissertation on taxation law and commercial law. He completed a one year course at the Law University of Edinburgh on the British Courts, the criminal law system and the common law system under the auspices of the European Young Lawyers Scheme in 1998. He passed the Bar Exam in 1990 and worked as a lawyer in the labour law sector. After a further two year study period, he passed the exam to become a judge in 1992.

As a judge, he dealt initially with both criminal and civil law matters and he thereafter specialized in criminal law. He worked as an International Judge with UNTAET in East Timor in the Special Panel for Serious Crime from 2002 to 2005 where he dealt with Crimes against Humanity perpetrated by the Indonesian Army. He was seconded by the Italian Government to the EULEX Rule of Law Mission (Justice Component) in March 2008. Since the start of the Initial Operational Capability on 9 December 2008 he has worked as an International Judge at the District Court of Pristina, dealing with the most serious criminal cases.

#### **Ms. Gabriele Gaube**

Ms. Gabriele Gaube, a German citizen, graduated in law at Trier University, Federal Republic of Germany in 1990. Upon completion of her postgraduate studies as well as the second State Examination she was awarded her postgraduate degree in law in 1993. She was appointed as an Administrative Court Judge to the Berlin Administrative Court in 1993 where she served until her deputation to the Berlin Ministry of Justice, Department for Education and Training/Law Examination Board, in March 1999. During her deputation she was appointed as a Presiding Administrative Court Judge in January 2003 and as an Administrative High Court Judge in December 2004.

In January 2005 she resumed her judicial tasks at the Berlin-Brandenburg Administrative High Court (court of appeal and court of last instance with regard to the legislation of the federal states of Berlin and Brandenburg,) where she was appointed Deputy Presiding Judge in January 2007. She has been on extraordinary leave of absence from the Administrative High Court and seconded by the Federal Republic of Germany to EULEX Kosovo since November, 2008. She was appointed as an international judge to the Appeals Panel of the Supreme Court for Kosovo Property Agency cases and Appeal Judge for Kosovo Property Agency Appeals respectively by the International Civilian Representative and the Head of Mission of EULEX Kosovo in January 2009. In April 2010 her appointment was extended to cover general civil proceedings as well as criminal proceedings referring to requests for the protection of legality at the Supreme Court of Kosovo.

#### **Ms. Esma Özkan Erterzi**

Ms. Esma Özkan Erterzi, a citizen of Turkey, graduated in Law from University of Izmir, on 9 September, 1990. She passed the State exams to become a judge in 1991. After the training period,

she initially dealt with both criminal and civil law matters. Having served seven years in the Courts, she was assigned to the General Directorate of International Law and Foreign Affairs of the Ministry of Justice of the Republic of Turkey. She represented the said Ministry of Justice in many meetings in international law matters at both national and international level. She received certificates from the University, Ankara, Turkey, in European Union (EU) law and intellectual property rights in 2003. In the same year, she was granted the Jean-Monnet Scholarship by the European Commission. In 2004, she received her LLM in European Community Law from the University of Essex, United Kingdom, where she studied the European Convention on Human Rights as well as the EU Justice and Home Affairs, as well. Her LLM dissertation was on the “Compatibility of European Law on Illegal Migration with International Human Rights Law”.

In 2005, she was appointed to the Chief Public Prosecution Office of the Court of Cassation as a public prosecutor to deal mainly with cases on the use of drugs; trading in drugs; financial cheque fraud and other financial cheque related issues as well as international affairs of the said Office. She represented the Chief Public Prosecution Office of Turkey at the World Summit of Prosecutors General, Qatar/Doha, in 2005, and at the Conference of European General Prosecutors under the framework of Council of Europe, Moscow, in 2006. Ms. Erterzi participated in the screening meetings between the European Commission and Republic of Turkey on Chapter 24: “Justice, Freedom and Security” in the negotiations of Turkey’s accession to the European Union. She served as a trainer in the seminars provided to the judges and public prosecutors of Turkey on United Nations document, the so called Istanbul Protocol on how to deal with allegations of torture, how to assess allegations of torture and the clarification of human rights safeguards in international Conventions.

Ms Ertezi was granted extraordinary leave of absence from the High Council of Judges and Public Prosecutors of the Republic of Turkey in order to serve as an international Judge with the EULEX Mission from May 2009. She was appointed as an international judge to the Special Chamber of Supreme Court of Kosovo on Kosovo Trust Agency Related Matters. Ms. Erterzi was appointed as a substitute member of the Human Rights Review Panel by the Head of Mission EULEX on 10 January, 2011.

### **Dr Katja Dominik**

Dr Katja Dominik, a German citizen, studied law and Slavic languages at the University of Goettingen, Germany from which she graduated in 1996. Dr Dominik was awarded a post graduate scholarship and completed her studies on the legal aspects of the State collapse of the Socialist Federal Republic of the Former Yugoslavia in Zagreb, Croatia in 1998/99. Her dissertation on the subject matter was published in 2001.

From 2000 to 2002, she worked as a law clerk which included periods at the Higher Regional Court, Duesseldorf and also at an advocacy office which specialized in asylum law. In 2002 she was employed by the Federal German Ministry of Development and Economic Co-operation in Bonn where she worked in the Division for European development policy. In this capacity, she researched and drafted texts and speeches for international development aid conferences in Brussels and Bonn where she also on occasion represented the German government.

In October 2002, Dr Dominik was appointed as a Judge at the District Court, Dusseldorf where she specialized in various types of criminal law. She thereafter became deputy chairman in the District Court criminal chambers for serious capital crimes and economic crimes. Dr Dominik was appointed

as an International Judge with EULEX Kosovo in October, 2011 whereupon she was assigned to the District Court Mitrovica where she dealt with high profile cases of war crimes, murder, corruption and human trafficking. The Head of EULEX Kosovo EULEX appointed Dr Dominik as a Member of the European Union Human Rights Review Panel in January 2013. She took the position of Acting Head of Executive Division EULEX in December 2016 and since January 2017 she has been appointed the Head of Executive Division.

#### **Ms Noora Aarnio**

Ms Noora Aarnio, a Finnish citizen, graduated with a Master of Laws from the University of Helsinki, Finland, in 2004. She completed a one year in-bench-training course in a District Court of Lohja Finland, in 2005, in order to qualify to work as a judge. From January 2006 until February 2010 she was employed as an Assistant Judge, firstly in the Insurance Court and thereafter in the Court of Appeals, Helsinki. Subsequently, she worked as a Legal Officer in EULEX, initially for one year in the District Court, Mitrovica followed by two years in the Supreme Court of Kosovo. She returned to Finland to work as a Judge in the District Court, Pirkanmaa where she was employed from August 2013 to October 2014. Thereafter, she worked as a Legal Advisor, in the International Unit of the Department of Judicial Administration, Ministry of Justice, Finland from October 2014 to December 2015. She returned to EULEX in April 2016 where she worked as a Legal Officer in the Court of Appeals/Supreme Court of Kosovo until November 2016 at which time she was appointed as the Legal Officer with the Secretariat of the Human Rights Review Panel.

#### **Ms Joanna Marszalik**

Ms Joanna Marszalik, a Polish citizen, graduated with a Master of Laws from the Jagiellonian University in Krakow, Poland. For five years she worked as a lawyer at the Registry of the European Court of Human Rights in Strasbourg, France. Subsequently, she was the Project Manager for the Council of Europe institution building project "Support for Ombudsperson Institution in Kosovo" and the Team Leader of the Council of Europe and European Union project "Transparency and Efficiency of the Judicial System in Ukraine", which supported reform of the Ukrainian judicial system. She was recruited by the Organisation for Security and Cooperation in Europe, Kosovo in December 2010 where she was employed as the Senior Human Rights Officer, supervising the Regional Centre, Pristina. She was appointed as a Legal Officer in the Panel Secretariat in April 2012. Since October 2016 she has worked as a Project Officer for the Council of Europe and European Union project "Strengthening Institutional Frameworks for Local Governance (Azerbaijan, Armenia, Georgia, Moldova, Ukraine and Belarus)".

#### **Mr Paul Landers**

Mr Paul Landers, an Irish citizen, is a Barrister at Law having graduated from the Honourable Society of King's Inns, Ireland. He has been called to the Bar of the Republic of Ireland. He also holds a post graduate degree in Human Rights and Criminal Justice from Queen's University, Belfast, Northern Ireland. He is a former member of the Garda Siochana (Irish Police) having served for 15 years in the Special Detective Unit. Thereafter, he took up the position of Legal and Human Rights Adviser to the Garda Siochana. Mr. Landers previously worked as a lawyer with EULEX Kosovo in the Human Rights and Legal Office. Prior to taking up his current assignment, he was employed with the EU Rule of Law Regional EULEX Kosovo in the Horn of Africa as Head of Policing Pillar with responsibility for Djibouti, Somalia, Somaliland, Puntland, Seychelles and Tanzania. He was appointed as Legal Officer of the Secretariat of the EU Human Rights Review Panel in August, 2015.

### **Mr Florian Razesberger**

Mr Florian Razesberger, an Austrian citizen, studied law at the Universities of Vienna, Copenhagen and Innsbruck (Magister iuris 2001, Doctor iuris 2005). He worked initially as a Law Clerk at the Regional Court of Innsbruck and he was appointed as an Assistant Legal Officer within the Presidency and Chambers of the International Criminal Court in The Hague. He was subsequently appointed as a Legal Adviser with the British Legal Aid NGO, Africa Middle East Refugee Assistance in Cairo, Egypt. Thereafter he was appointed as a Legal Officer in the judicial reform and human rights sector with the OSCE Missions in Skopje and Sarajevo (where he worked for 5 years). Thereafter he was appointed as a Human Rights Officer and Team Leader for the United Nations Assistance Mission in Afghanistan. He worked as a Human Rights Expert within EULEX before joining the Secretariat of the HRRP.

### **Ms. Leena Leikas**

Ms. Leena Leikas, a Finnish citizen, graduated with a Master of Laws from the University of Turku, Finland and subsequently qualified as a judge. After some years in the Law Drafting Department, Ministry of Justice, she was employed by the Unit for Human Rights Courts and Conventions in the Legal Department, Ministry for Foreign Affairs, where she specialized in international human rights issues. She worked as a case processing lawyer in the European Court of Human Rights in Strasbourg, France from November 2007 to April 2010. She was appointed as a Legal Officer with the Panel Secretariat in May, 2010.

### **Ms. Stephanie Selg**

Ms. Stephanie Selg, a Swiss citizen, graduated with Master of Laws from the University of Basel and Geneva, Switzerland. During her studies, she specialized in international humanitarian law and human rights law, obtaining a Certificate of Transnational Law from the University of Geneva. After legal traineeship at the Constitutional Court and Administrative High Court of Basel County and the Appeal Court of Basel, Switzerland, she was employed by the Swiss Government as a legal advisor and senior legal advisor for the Temporary International Presence in Hebron (TIPH), West Bank, Israel. She has been a member of the Swiss National Expert Pool for Civilian Peace building since 2009. From October 2010 until April 2011 she was employed as a legal consultant and research officer in the field of international law with the Swiss Forum for Human Rights, Bern, Switzerland. She was appointed as a Legal Officer with the Secretariat of the Human Rights Review Panel in June, 2011.

### **Ms Shpresa Gosalci**

Ms Shpresa Gosalci, Kosovo Albanian, holds a Master's Degree in Business Marketing and Management from the AAB University, Pristina. She was employed as an Interpreter (Albanian/Serbian/English) with KFOR from July 1999 to June 2000 and as an Administrative/Language Assistant in the UNMIK Police Commissioner's Press and Public Information Office from June 2000 until March 2009. She commenced her assignment as an Administrative /Language Assistant with the Panel Secretariat in July, 2010.

## **9. Operational and Administrative Matters**

### **9.1. Budget**

In 2017, as in the previous years, a separate budget for an outreach campaign and promotional materials was allocated to the Panel. This enables the Panel to make its own decisions on the implementation of the public outreach campaign, in particular, the TV and/or radio broadcasts, without recourse to the discretionary budgetary resources of EULEX Kosovo.

Nonetheless, additional budgetary resources would assist the Panel in its day to day operations. This would also enhance the actual and perceived independence of the Panel and thereby further add to the credibility of EULEX Kosovo in relation to its commitment to protect and promote human rights in Kosovo.

## **9.2. Human resources**

The Secretariat of the Panel has been adversely affected by staffing issues since the reconfiguration of EULEX in June 2016. The Panel lost one legal officer post in the reconfiguration exercise as well as one administrative assistant/language assistant post at that time. In addition the resignation of the second legal officer and the long-drawn recruitment procedure of a new legal officer culminated in the situation whereby the Panel/Secretariat had to function with only one legal officer for the greater part of 2017.

In addition, Ms Elka Ermenkova, EULEX Panel member resigned from her Panel membership in December 2017.

Ms Ermenkova was replaced by Ms Anna Bednarek as the full EULEX member of the Panel. Mr Jorge Martins Ribeiro, EULEX Judge, was appointed a substitute Member of the Panel in December 2017.

## **10. Conclusions and recommendations**

### **Acknowledgment of violations of human rights by EULEX**

As stated in previous reports, the Panel once again recommends that the HoM acknowledge the violations of human rights which are attributable to EULEX, since a public acknowledgment of responsibility for human rights violations is recognised in the field of human rights as a form of remedy to the violation.

The HoM has consistently declined to do so. The basis of this reluctance appears to be a concern associated with possible further litigation and liability. The Panel is not convinced by such an argument. Firstly, once the Panel itself has found such a violation, an organ of the Mission has, for all purposes, made that determination. There has been no indication of law suits being triggered as a result of the findings and decisions of the Panel.

In addition, such an acknowledgment can readily be phrased in a way that does not imply any recognition of civil liability beyond what EULEX might already incur as a result of its function. Furthermore, absent the possibility under the regime regulating the Panel to recommend financial compensations, the acknowledgment of responsibility would provide an important (albeit often insufficient) means of remedying the wrong. Based on the above, the Panel would invite the HoM,



in consultation with relevant authorities, to consider further the implications of such an acknowledgment with a view to enable the HoM to considering a change of practice.

### **Murdered and Missing Persons Cases**

It is noted that UNMIK and EULEX signed a Memorandum of Understanding on 26 November 2008, on the modalities, and the respective rights and obligations which arose from the transfer from UNMIK to EULEX Kosovo of cases of murdered and missing persons i.e. “enforced disappearance” cases and the related files which involved ongoing investigations, prosecutions and other activities which had been undertaken into these cases up to that time by UNMIK International Prosecutors.

It is further noted that the UNMIK HRAP recommended in its Final Report on 30 June 2016 that EULEX Kosovo should continue with the investigations of these missing and murdered person’s cases in order to comply with the requirements of the procedural limb of Article 2 of the Convention. It was imperative that the circumstances of the “enforced disappearance” of these ethnic minorities, including political opponents, be established and that the alleged perpetrators, the KLA and other armed Kosovo Albanian armed groups be brought to justice.

It is also noteworthy, that the Presiding Member of HRAP stated that the transfer of jurisdiction in these cases to the Kosovo authorities was not a viable solution, inter alia, since nearly all such cases concerned Kosovo Serb victims. These complainants were understandably concerned about their security at the time they filed these complaints with UNMIK and later on with the HRAP and had, in fact, requested anonymity in most cases.

In light of the many decisions and findings of the Panel in relation to the “enforced disappearance” cases over time, it is recommended that EULEX Kosovo give due consideration to the provision of the necessary human and material resources in order to conduct comprehensive investigations into the cases which were transferred from UNMIK to EULEX Kosovo in November 2008.

The Panel believes that an effective resolution of these cases, and the upholding of the rights of relatives of the victims, require a holistic approach that will involve all relevant stakeholders - the HoM, EULEX Kosovo, the EUSR, Kosovo, the Kosovo authorities and all those active in Kosovo with regard to the resolution of those cases, in particular, in cases of “enforced disappearance”. The pooling of resources by the concerned stakeholders and the adoption of a coherent strategy between these different actors is essential, and in fact necessary, to the effective guaranteeing of the rights of relatives of the murdered and disappeared.

To assist that process, the Panel has issued a [“White Paper” on the issue of disappearances](#) with a view to providing a general human rights framework within which relevant stakeholders should try to resolve this matter. In addition, the Panel has published a research/analytical note that summarises its jurisprudence regarding cases of enforced disappearance. <http://hrrp.eu/docs/Case%20law%20Note%20on%20Disappearance.pdf>.

### **Prioritisation of cases**

A number of complaints placed before the Panel in the past pertained to allegations of inadequate, incomplete or indeed non-existent investigation of serious allegations of human rights violations by EULEX. The Panel determined that a number of those complaints had merit and that violations had indeed occurred. As part of its evaluation of those cases, the Panel became acutely aware of a number of systemic problems pertaining to the treatment of these cases, including inadequate coordination within EULEX as well as inadequate recording of cases etc.

One of these systemic issues appears to pertain to the failure of EULEX Prosecutors to prioritise cases that clearly and evidently raise serious issues of human rights. This includes, in particular, the many un-investigated or inadequately investigated cases of enforced disappearances linked to the Kosovo conflict. It also pertains to a number of serious cases involving the fundamental rights of minorities, including Case No. [2011-20 X and 115 other complainants](#) (the *Roma* case), which came before both the UNMIK HRAP <http://www.unmikonline.org/hrap/Eng/Cases%20Eng/26-08%20NM%20etal%20Opinion%20FINAL%2026feb16.pdf> and the HRRP <http://hrrp.eu/docs/decisions/Decision%20and%20findings%202011-20%20pdf.pdf>. It seems therefore to be essential that, in the residual performance of its investigative and prosecutorial duties, EULEX should seek to give some degree of priority and urgency to the effective investigation of those cases that involve the serious and systematic violation of fundamental rights.

### **Continued reinforcement of the rule of law in Kosovo**

It is essential that the EU continues, in particular through EULEX Kosovo, to support efforts in Kosovo to reinforce the rule of law. Guaranteeing the independence, impartiality and effectiveness of the judiciary as well as ensuring the effective investigation of human rights violations which occurred in Kosovo should remain a priority for the Mission and for the EU itself. Particularly important in that context is the improved protection of rights of minorities with a view to prevent any sort of discrimination, in particular based on ethnic or religious grounds.

### **Reparation programme**

The payment of compensation to complainants and concerned family members is a constant theme in the public domain in the event of the perpetration human rights violations by EULEX Kosovo. The fact that the Complaint is vindicated with a finding of a human rights violation might not represent a full or adequate remedy for the violations in question.

It is therefore recommended that EULEX give serious consideration to the introduction of a full and comprehensive reparation programme, to include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, for the victims, complainants and other concerned family members and parties.

### **Other human rights issues associated with the reconfiguration of the Mission planned for June 2018**

The Mission is programmed to reduce its activities in the course of 2018. This raises a number of possible issues and challenges from the point of view of the effective protection of human rights in Kosovo which the Panel has identified as follows:

- i. **Staffing:** The effectiveness of the Mission depends on the continued presence and commitment of qualified staff. For the Mission to succeed and fulfill its mandate, the number and qualification of staff should be commensurate to the nature and breadth of the Mission's mandate. It is therefore essential that the Mission should continue to be provided with a sufficient number of staff that is a) commensurate with the nature and

scope of its mandate and b) which reflects the requisite level of knowledge and expertise to ensure continued compliance by the Mission with its human rights obligations.

- ii. **Transition and necessary legal framework:** It is essential for the EU and member states to ensure that the Mission is able to operate, at all times, within the relevant and necessary legal framework. Any new or amended mandate for the Mission should fully account for this fact.
- iii. **Transfer of cases and casefiles:** Transfer of files and records from the EU to local authorities raise a number of important (and sometimes conflicting) human rights issues, including: the right to truth and to investigation for human rights victims; access to information; issues of confidentiality over sensitive material. It is essential that careful consideration be given to the human rights implications of such transfer.
- iv. **Ongoing criminal investigations:** EULEX remains involved in a number of criminal investigations. Criminal investigations constitute a core element of the rule of law. It is essential that the EU should consider them as such and should give careful consideration to the need to perpetuate the Mission's involvement in those, in particular in relation to ongoing investigations which must be continued and finalized with the requisite level of effectiveness and expeditiousness.
- v. **Witnesses and collaborators of justice:** The issue of the transfer of cases and ongoing (EULEX) criminal investigations also raises a most sensitive issue regarding the protection of (potential) witnesses and other collaborators of (informants; judicial officials; etc.). Should all files be disclosed, third party access to this information could occur and could in turn cause security threats to individual concerned. Careful consideration should be given to this matter and to the best way to ensure the continued protection of witnesses and collaborators of justice, in full and effective compliance with their fundamental rights.
- vi. **Records of the Mission:** The Mission has collected and produced large records of its activities. Some of these might be relevant to issues arising after the closure of the Mission. They might also involve questions of human rights. It is essential that the Mission should ensure that its records are properly kept, organized, maintained and transferred to the

competent authorities. For that purpose, the Mission also needs to adopt certain policies in particular as regards a) custodianship, b) accessibility, c) procedure for access and competent authority to grant access, d) issues of immunities and e) confidentiality.

- vii. **Enforced disappearances:** Enforced disappearances remain one of the greatest challenges facing the Mission. This issue has not been adequately dealt with thus far by any of the relevant stake-holders (the UN; EULEX; national authorities). It remains very much an issue to be finally and properly addressed. The EU should ensure that this remains a core issue in any discussion regarding the future of the Mission and EU's involvement in Kosovo.
- viii. **Future role and mandate of the Mission:** Should the Mission continue to exist, be it with a reduced mandate, after the current (June 2018) deadline provided for the reconfiguration, the Panel strongly recommends that it should continue to focus on the effective protection of human rights.
- ix. **Rights and protection of minorities:** The protection of minorities remains a key social and political issue in Kosovo. This is also one of the most important human rights challenge for the Mission and Kosovo at large. The EU and any future mission should ensure that this issue remains a top priority of the local authorities and that the rights of minorities are duly and effectively protected in Kosovo.
- x. **Legacy issues:** As part of the transition process, the Panel would recommend that the Mission should draw up a fair, balanced and candid assessment of its performance, with a particular focus on human rights issues (past, present and future). The Panel recommends particular focus on the following: a) identified human rights shortcomings of the Mission (past or present) and b) future or outstanding human rights challenges in Kosovo. It is indeed essential that the EU, States and other stakeholders should learn from this Mission so as to improve upon its performance in future mission and so as to seek to address pending issues. As part of that process, the Panel would also recommend that consultations should take place between the Mission and other relevant human rights stake-holders (including, NGOs; civil society; the ombudsman; etc.) in order to help the

Mission identify outstanding human rights challenges that should inform the EU's position regarding the future of the Mission and its relationship with Kosovo.

- xi. **The justice area:** This area is particularly sensitive as it is one of the pillars of the rule of law. It is also particularly important in the Kosovo context as an essential actor of the transition towards a fully functional democracy. Major improvements still need to be made to ensure that the judiciary plays its central function as regards the effective protection of human rights in Kosovo.
- xii. **Human rights education and promotion:** Human rights education and promotion activities are essential ways to spread and promote knowledge of human rights within the community. It is essential that the EU and the Mission should play their part in fostering a greater understanding of these issues within Kosovo.
- xiii. **The continued existence of the Panel:** The Accountability Concept Paper provides expressly that "(t)he role of the Panel is linked to the duration of the executive mandate of EULEX Kosovo. The Panel may act for a limited supplementary period of time after completion of the executive mandate of EULEX Kosovo, to the extent necessary for examining complaints still being processed or to be made within the six month time limit." Hence, the Panel finds it natural that it should continue to exist after June 2018 in order to ensure that the Mission continues to perform its functions in compliance with relevant human rights and that it serves as a symbol of the EU's commitment to human rights and accountability for all.

**ANNEX 1 Staff table for 2017**

<b>Panel</b>	
<b>Magda Mierzewska</b>	Presiding Panel Member
<b>Guénaël Mettraux</b>	Panel Member
<b>Elka Ermenkova</b>	Panel Member, EULEX Judge
<b>Anna Bednarek</b>	Panel Member, EULEX Judge
<b>Jorge Martins Ribeiro</b>	Substitute Panel Member, EULEX Judge

<b>Secretariat</b>	
<b>John J. Ryan</b>	Senior Legal Officer
<b>Noora Aarnio</b>	Legal Officer
<b>Katica Kovačević</b>	Interpreter/Translator (Serbian-English)
<b>Kushtrim Xhaferi</b>	Interpreter/Translator (Albanian-English)

## ANNEX 2 Statistics 2010 - 2017

	2010	2011	2012	2013	2014	2015	2016	2017	Total
<b>Registered cases in total</b>	<b>16</b>	<b>28</b>	<b>23</b>	<b>27</b>	<b>42</b>	<b>16</b>	<b>36</b>	<b>7</b>	<b>195</b>
<b>Finalized cases in total</b>	<b>6</b>	<b>30</b>	<b>10</b>	<b>20</b>	<b>28</b>	<b>27</b>	<b>19</b>	<b>25</b>	<b>165</b>
Admissible			2		1	8	0	0	<b>11</b>
Inadmissible	6	22	10	13	22	12	9	14	<b>108</b>
Violation	0	2	0	7	2	4	9	1	<b>25</b>
No violation	0	5	0	0	1	10	0	9	<b>25</b>
Strike out	0	1	0	0	3	1	1	2	<b>8</b>

	<b>As of 31 December 2017</b>
Pending	30
Communicated to HoM	23

**ANNEX 3 Decisions of the HRRP 2010-2017**

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2010-01</b>	Djeljalj Kazagić	Alleged failure to act by EULEX Prosecutor, property matter	Violation
<b>2010-02</b>	Sadik Thaqi	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
<b>2010-03</b>	Osman Mehmetaj	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
<b>2010-04</b>	Feti Demolli	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
<b>2010-05</b>	Mursel Hasani	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
<b>2010-06</b>	Latif Fanaj	Alleged failure to act by EULEX Prosecutor, death in Dubrava Prison 04/09/2003	No violation
<b>2010-07</b>	Blerim Rudi	Alleged failure of the Financial Intelligence Unit to comply with the order of the Independent Oversight Board to reinstate the complainant.	Violation
<b>2010-08</b>	Delimir Krstić	Alleged failure to act by EULEX police and prosecutor, property matter	Inadmissible
<b>2010-09</b>	Burim Ramadani	Alleged non-functioning of the court system, Kitchina-case	Inadmissible
<b>2010-10</b>	Horst Proetel	Unsuccessful candidature for a EULEX position	Inadmissible
<b>2010-11</b>	Laura Rudi	Private financial claim against a EULEX employee	Inadmissible
<b>2010-12</b>	Hunaida Pasuli	Unsuccessful candidature for a EULEX position	Inadmissible
<b>2010-13</b>	An EULEX-Employee	Internal EULEX dispute with regard to performance appraisal and personal relationship with supervisor	Inadmissible



<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2010-14</b>	Lulzim Gashi	Unsuccessful candidature for a EULEX position	Inadmissible
<b>2010-15</b>	Faton Sefa	Failure to get reinstated to previous employment (private sector), alleged failure to implement court rulings	Inadmissible
<b>2010-16</b>	Cyma Agovic	Transferred from EULEX - Failure of the EULEX judges to fairly examine the complainant's case	Inadmissible
<b>2011-01</b>	Family of Dede Gecaj	Request for investigation of the extradition decision of EULEX Courts in Kosovo in the case of the late Dede Gecaj	Inadmissible
<b>2011-02</b>	Chamalagai Krishna Bahadur	Alleged Failure to Act	Inadmissible
<b>2011-03</b>	Afrim Mustafa	Dispute with regard to closing down a private radio station and confiscation of radio equipment	Inadmissible
<b>2011-04</b>	Besim Berisha	Complaint about living conditions in Dubrava Prison	Strike out
<b>2011-05</b>	SH.P.K "Syri"	Alleged denial of the right to a fair hearing, freedom of expression and equality before the law, SCSC.	Inadmissible
<b>2011-06</b>	Milazim Blakqori	Alleged non-enforcement of a decision, failure to act by EULEX	Inadmissible
<b>2011-07</b>	Case W	Alleged violation of Article 6 Convention	Violation
<b>2011-08</b>	Anton Rruka	Alleged denial of the right to a fair hearing, freedom of expression and equality before the law, SCSC.	Inadmissible
<b>2011-09</b>	Mirkovic Bojan	Alleged unlawful dismissal from EULEX	Inadmissible
<b>2011-10</b>	Dejan Jovanović	Alleged undue delay in the proceedings before the SCSC.	Inadmissible
<b>2011-11</b>	Srecko Martinović	Alleged excessive use of force, inhumane treatment and denial of right to a fair trial	Inadmissible
<b>2011-12</b>	Novica Trajković	Alleged excessive use of force	Inadmissible
<b>2011-13</b>	S.M.	Alleged excessive use of force, denial of right to a fair trial and failure to respect the right to private life	Inadmissible

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2011-14</b>	Lindita Shabani	Alleged denial of the right to private and family life	Inadmissible
<b>2011-15</b>	Samedin Smajli	Alleged denial of a fair trial and undue delay in proceedings	Inadmissible
<b>2011-16</b>	Avdyll Smajli	Alleged denial of a fair trial and undue delay in proceedings	Inadmissible
<b>2011-17</b>	Faik Azemi	Alleged denial of the right to a fair hearing	Inadmissible
<b>2011-18</b>	Mykereme Hoxha	Alleged failure to act by EULEX Prosecutor	Inadmissible
<b>2011-19</b>	Sefer Sharku	Alleged failure to respect a binding court-decision.	Inadmissible
<b>2011-20</b>	X and 115 other complainants	Alleged failure by EULEX to protect the health and life of persons living in the lead contaminated Roma camps.	Violation
<b>2011-21</b>	Ventor Maznikolli	Alleged undue delay by EULEX judges in scheduling a Supreme Court hearing.	Inadmissible
<b>2011-22</b>	Hysni Gashi	Alleged denial of a fair trial and alleged incompetence of EULEX judges.	Inadmissible
<b>2011-23</b>	Hashim Rexhepi	Alleged violations of the right to liberty and the right to a fair trial.	Inadmissible
<b>2011-24</b>	Predrag Lazić	Alleged failure to get a fair hearing in a reasonable time.	Inadmissible
<b>2011-25</b>	Shaip Gashi	Alleged deprivation of German disability pension.	Inadmissible
<b>2011-26</b>	Njazi Asllani	Alleged non-enforcement of a decision, failure to act by EULEX	Inadmissible
<b>2011-28</b>	Case Y	Alleged breach of the right to respect private and family life.	Inadmissible
<b>2012-01</b>	Qamil Hamiti	Alleged denial of the right to a fair hearing	Inadmissible
<b>2012-02</b>	Arben Zeka	Alleged failure to adjudicate property case	Inadmissible
<b>2012-03</b>	Rexhep Dobruna	Alleged denial of the right to a fair hearing.	Inadmissible
<b>2012-04</b>	Izet Maxhera	Property related dispute with EULEX in Mitrovica.	Inadmissible
<b>2012-05</b>	Fatmir Pajaziti	Alleged breach of right to liberty and right to a fair trial.	Inadmissible
<b>2012-06</b>	Case Z	Alleged violations of Articles 10 and 11 UDHR, Articles 5 and 6	Inadmissible

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
		Convention, Article 9 ICCPR and Article 6 CAT	
<b>2012-07</b>	Case I	Alleged failure to act by EULEX Prosecutor and EULEX Police	Inadmissible
<b>2012-08</b>	Case U	Alleged violation of Article 6 of the European Convention on Human Rights (Convention)	Inadmissible
<b>2012-09</b>	Case A	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
<b>2012-10</b>	Case B	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
<b>2012-11</b>	Case C	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
<b>2012-12</b>	Case D	Alleged violations of Articles 2, 3, 8, 9, 10 and 11 Convention	Violation
<b>2012-13</b>	Bejtush Gashi	Alleged violations of Article 6 Convention and Article 1 of Protocol 1 Convention	Inadmissible
<b>2012-14</b>	Valbone Zahiti	Alleged violation of Article 8 Convention	Violation
<b>2012-15</b>	Shefqet Emerllahu	Alleged violation of Article 6 Convention, failure to investigate	Inadmissible
<b>2012-16</b>	Kristian Kahrs	Alleged violation of Article 6 Convention, failure to act	Inadmissible
<b>2012-17</b>	Case E	Alleged violations of Articles 5 and 6 of Convention	Inadmissible
<b>2012-18</b>	Hamdi Sogojeva	Alleged violation of Article 1 of Protocol 1 of the Convention	Inadmissible
<b>2012-19</b>	Case H	Alleged confiscation of property	Violation
<b>2012-20</b>	Case G	Alleged violations of Articles 3, 10, 11 Convention and Article 1 of Protocol 1 Convention	Violation
<b>2012-21</b>	Mirko Krlić	Alleged violations of Article 9 Convention and Article 2 of Protocol 4 Convention	No violation
<b>2012-22</b>	Zoran Stanisić	Alleged violations of Articles 3, 6 and 8 Convention and Article 1 of Protocol 1 Convention	Violation
<b>2012-23</b>	Predrag Blagić	Alleged violations of Article 5 Convention and Article 2 of Protocol 4 Convention	Strike out
<b>2013-01</b>	Case I	Alleged violation of Article 6 Convention	Inadmissible

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2013-02</b>	Arsim Krasniqi	Alleged violation of Article 3 Convention	Inadmissible
<b>2013-03</b>	Goran Becić	Alleged violations of Articles 13 and 14 Convention and Article 1 of Protocol 1 Convention	Violation
<b>2013-04</b>	J	Alleged violation of Article 6 Convention (access to justice).	Inadmissible
<b>2013-05</b>	Case K	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-06</b>	Case L	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-07</b>	Case M	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-08</b>	Case N	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-09</b>	Case O	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-10</b>	Case P	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-11</b>	Case Q	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-12</b>	Case R	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-13</b>	Case S	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-14</b>	Case T	Alleged violations of Article 3, 5, 13 and 14 Convention	No violation
<b>2013-15</b>	Gani Zeka	Alleged violations of Article 6 and Article 1 of Protocol No 1 of Convention	Inadmissible
<b>2013-16</b>	Almir Susaj	Alleged violation of Article 3 and 8 Convention	Inadmissible
<b>2013-17</b>	Ramadan Rahmani	Alleged violation of Article 1 Protocol 1 Convention	Inadmissible
<b>2013-18</b>	Jovanka, Dragan, Milan Vuković	Alleged violation of Article 1 Protocol 1 Convention	Inadmissible
<b>2013-19</b>	U	Alleged violation of Article 1 Protocol 1 Convention	Inadmissible
<b>2013-20</b>	Shaip Gashi	Alleged violations of Article 1 of Protocol 1 Convention	Inadmissible
<b>2013-22</b>	Gani Gashi	Alleged violation of Article 6 Convention	Inadmissible
<b>2013-23</b>	V	Alleged violations of Article 6 and Article 1 of Protocol 1 of Convention	Inadmissible

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2013-24</b>	Emin Maxhuni	Alleged violation of Article 1 of Protocol 1 of Convention	Inadmissible
<b>2013-25</b>	Milorad Rajović	Alleged violation of Article 1 of Protocol 1 Convention	Inadmissible
<b>2013-26</b>	Selami Taraku	Alleged violation of Article 1 of Protocol 1 Convention	Inadmissible
<b>2013-27</b>	Shaban Kadriu	Alleged violations of Article 6 and Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-01</b>	Nexhat Qubreli	Alleged violations of Article 5 and Article 6 Convention	Inadmissible
<b>2014-02</b>	Milica Radunović	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-03</b>	Case A.Z.	Alleged violation of Articles 3, 8 and 13 Convention	Strike out
<b>2014-04</b>	Tomë Krasniqi	Alleged violation of Article 1, 3, 6, 14 and 17 Convention, Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-05</b>	Mazlam Ibrahim	Alleged violations of Article 6 and Article 1 of Protocol 1 of Convention	Inadmissible
<b>2014-06</b>	Case B.Y.	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-07</b>	Fitore Rastelica	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-08</b>	C.X.	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-09</b>	Rifat Kadribasic	Alleged violations of Article 6 and Article 1 of Protocol 1 of Convention	Inadmissible
<b>2014-11</b>	Case D.W.	Alleged violation of Articles 2 and 3 Convention	Admissible
<b>2014-18</b>	Fitim Maksutaj	Alleged violation of Article 6 Convention	Violation
<b>2014-19</b>	Fahri Rexhepi	Alleged violations of Article 6 and Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-20</b>	Mensur Fezaj	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-21</b>	Shefki Hyseni	Alleged violation of Article 5 Convention	Strike out
<b>2014-22</b>	Ismajl Krapi	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-23</b>	Shaip Selmani	Alleged violation of Article 6 Convention	Inadmissible

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2014-24</b>	Case J.Q.	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-25</b>	Nuha Beka	Employment Dispute	Inadmissible
<b>2014-28</b>	Selatin Fazliu	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-26</b>	Ajet Kaçiu	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-27</b>	Qerim Begolli	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-29</b>	Shemsi Musa	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-30</b>	Abdilj Sabani	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-31</b>	Case K.P.	Alleged violation of Article 6 Convention	Inadmissible
<b>2014-32</b>	L.O.	Alleged violation of Articles 2 and 3 Convention	Violation
<b>2014-33</b>	Arben Krasniqi	Alleged violation of Articles 5 and 6 Convention	Inadmissible
<b>2014-34</b>	Rejhane Sadiku Syla	Alleged violation of Articles 2 and 3 Convention	Admissible
<b>2014-36</b>	Case Z.A.	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2014-38</b>	Slavica Mikic	Alleged violation of Article 13 Convention	Inadmissible
<b>2014-39</b>	Musli Hyseni	Alleged violation of Article 5 Convention	strike out
<b>2014-40</b>	Avni Hajdari	Alleged violation of Article 6 Convention	Strike out
<b>2014-41</b>	Liridona Mustafa Sadiku	Alleged violation of Articles 2 and 3 Convention	Inadmissible
<b>2014-42</b>	Bujar Zherka	Alleged violations of Article 6 and Article 1 of Protocol No 1 Convention	Inadmissible
<b>2015-01</b>	Milos Jokic	Alleged violations of Article 5, 6, 8, 9, 10 and 12 of Convention	Inadmissible
<b>2015-03</b>	Dekart Shkololli	Alleged violation of Article 8 Convention	Inadmissible
<b>2015-07</b>	Dobrivoje Radovanovic	Alleged violation of Article 6, and Article 1, Protocol No.1	Inadmissible

Case	Complainant	Subject matter	Result
		Convention	
<b>2015-08</b>	Afrim Berisha	Alleged violation of Article 1 of Protocol No 1 Convention	Inadmissible
<b>2015-09</b>	Driton Hajdari	Alleged violation of Article 6, and Article 1, Protocol No.1 Convention	Inadmissible
<b>2015-10</b>	Shaban Sylja	Alleged violation of Article 6 Convention	Inadmissible
<b>2015-13</b>	Case W.D.	Alleged violation of Articles 6 and 8 Convention	Inadmissible
<b>Decisions 2017</b>			
<b>2016-03</b>	Afrim Islami	Alleged violation of Article 6, and Article 1, Protocol No.1 Convention	Inadmissible
<b>2015-04</b>	Nazmi Maloku	Alleged violation of Article 6 ECHR	Inadmissible
<b>2014-10</b>	Nikole Sokoli	Alleged violation of Articles 2, 3 and 13 ECHR	Inadmissible
<b>2016-04</b>	Valon Jashari	Alleged violation of Articles 3, 6 and 8 ECHR	Inadmissible
<b>2016-02</b>	V.E.	Alleged violation of Article 6 ECHR	Inadmissible
<b>2016-01</b>	Skender Jashari	Alleged violation of Article 6 ECHR	Inadmissible
<b>2015-15</b>	Đorđe Šmigić	Alleged violation of Articles 2, 3, 8 and Article 2 of Protocol no. 4 ECHR	Inadmissible
<b>2015-12</b>	U	Alleged violation of Articles 6, 13 and 14 of ECHR	Inadmissible
<b>2015-11</b>	Zvonimir Jovanović	Alleged violation of Article 6, and Article 1, Protocol No.1 ECHR	Inadmissible
<b>2015-06</b>	X.C.	Alleged violation of Article 6 ECHR	Inadmissible
<b>2015-05</b>	Teresa Peters	Alleged violation of Article 6 ECHR	Inadmissible
<b>2014-35</b>	M.N.	Alleged violation of Article 6 ECHR	Inadmissible
<b>2015-14</b>	Miodrag Konić	Alleged violation of Articles 2, 3, 8 and Article 2 of Protocol no. 4 of ECHR	Strike out
<b>2015-16</b>	Vuleta Voštić	Alleged violation of Articles 2, 3, 8 and Article 2 of Protocol no. 4 of ECHR	Strike out

<b>Case</b>	<b>Complainant</b>	<b>Subject matter</b>	<b>Result</b>
<b>2015-02</b>	Ramadan Hamza	Alleged violation of Article 1 of Protocol No 1 ECHR	Inadmissible
<b>2017-03</b>	Alfred Bobaj	Alleged violation of Article 6 of ECHR	Inadmissible
<b>2016-36</b>	Namon Statovci	Alleged violation of Article 1 of Protocol no. 1 and Article 9 and 11 of ECHR	Inadmissible
<b>2016-33</b>	Agron Bytyci	Alleged violation of Article 6 ECHR	Inadmissible
<b>2016-27</b>	Afrim Islami	Alleged violation of Article 6 ECHR	Inadmissible
<b>2016-26</b>	T.G.	Alleged violation of Article 8 ECHR	Inadmissible
<b>2016-25</b>	Hilmi Krasniqi	Alleged violation of Article 6 ECHR	Inadmissible
<b>2016-08</b>	Hamdi Hasani	Alleged violation of Article 8, and Article 1, Protocol No.1 ECHR	Inadmissible
<b>2016-07</b>	Mentor Qela	Alleged violation of Article 3, 6 and 17 of ECHR	Inadmissible
<b>2016-06 /2017-04</b>	Shpresim Uka	Alleged violation of Article 6 ECHR	Inadmissible
<b>2016-05</b>	Axhemi Zyhdi	Alleged violation of Article 6, Article 13, and Article 1 of Protocol 1 ECHR	Inadmissible
<b>2013-21</b>	Thomas Rusche	Alleged violations of Article 6 and Article 1 of Protocol No 1 ECHR	Violation
<b>2011-27</b>	F and Others	Alleged failure to protect a witness, the right to life	<b>Violation</b>