



INADMISSIBILITY DECISION

Date of adoption: 7 March 2017

Case No. 2015-05

Teresa Peters

Against

EULEX

The Human Rights Review Panel sitting on 7 March 2017 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaël METTRAUX, Member
Ms Elka ERMENKOVA, Member

Assisted by
Mr John J. RYAN, Senior Legal Officer
Ms Noora AARNIO, Legal Officer

Having considered the aforementioned complaint, introduced pursuant to Council Joint Action 2008/124/CFSP of 4 February 2008, the EULEX Accountability Concept of 29 October 2009 on the establishment of the Human Rights Review Panel and the Rules of Procedure of the Panel as last amended on 15 January 2013,

Having deliberated, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered on 7 May 2015.

II. THE FACTS

2. In 2010, Ms and Mr Teresa and Harry Peters reported a certain Mr X, a Kosovo citizen to EULEX for fraud, deception, illegal border crossing and wrongfully personifying a EULEX officer.
3. The complaint was processed by a EULEX officer, but was subsequently forwarded to the Public Prosecutor in Gjilan/Gnjilane, as it was outside EULEX jurisdiction, with which Ms Peters does not agree.
4. Ms Peters claims that Mr X embezzled money from different women from different countries in Western Europe; illegally crossed borders; and suggested that he may be involved in human trafficking and corruption and other serious crimes.
5. In relation to the various alleged crimes of Mr X, Ms Peters had communication in the form of exchange of letters and emails with a Dutch prosecutor, EULEX SPRK Prosecutor, the Dutch Ambassador in Kosovo and subsequently the latter had communication with the Kosovo Ministry of Justice.
6. Ms Peters contacted EULEX in April 2012 and all her inquiries were recorded and responded to.
7. On 19/20 April 2012, Ms Peters exchanged emails with a EULEX officer named, who informed her that there is an indictment filed against Mr X in the court in Viti/Vitina.
8. Further on Ms Peters was in contact mainly with a EULEX SPRK Prosecutor. The latter repeatedly explained to Ms Peters, that the case is investigated by the Prosecution office in Gjilan/Gnjilane and that the case is outside of the jurisdiction of EULEX prosecutors.
9. The SPRK Prosecutor sent the following correspondence to Ms Peters in relation to the present matter:
 - a letter dated 30 November 2012 (in response of enquiry / complaint 231/2010, related to an investigation case of fraud, against Mr X in the Basic Prosecution Office in Gjilan/Gnjilane);
 - an email dated 25 February 2013 in response to Ms Peter's email of 22 February 2013 (related to complaints 28/2013 and 231/2010 according to the text of the email);
 - a letter dated 6 March 2013 (related to complaint 231/2010 and complaint 36/2013, which is linked to 28/2013 and 231/2010 and is related to allegation of usage of EULEX ID by Mr X).
10. In her letter of 6 March 2013, the SPRK Prosecutor again explained to Ms Peters that the case is outside EULEX jurisdiction, that EULEX

was not involved in the investigation and that EULEX has completed its inquiries into her (Ms Peters's) case.

11. Thereafter, there was no further correspondence with EULEX.
12. The file, which the complainant has provided to the Panel, also includes several letters, a correspondence between the Dutch Ambassador in Kosovo and the Ministry of Justice in Kosovo and a decision of the Supreme Court of Kosovo pursuant to which the case of Mr X is returned for a retrial to the Court of Appeals.

III. COMPLAINTS

13. Ms Peters complains that EULEX is “opposing their claim”, that they (Mr Peters and herself) were never “supported” by EULEX. She does not articulate any particular violations of her basic rights. It could be inferred from the tenor of her submissions that she is complaining about what she regards as EULEX’s inadequate response to her solicitations for Mr X to be prosecuted and punished for his alleged wrongdoings.

IV. THE LAW

14. As a matter of substantive law, the Panel is empowered to apply human rights instruments as reflected in the EULEX Accountability Concept of 29 October 2009 on the establishment of the Human Rights Review Panel. Of particular importance to the work of the Panel are the European Convention on the Protection of Human Rights and Fundamental Freedoms (the Convention) and the International Covenant on Civil and Political Rights which set out minimum standards for the protection of human rights to be guaranteed by public authorities in all democratic legal systems.
15. Before considering the complaint on its merits the Panel has to decide whether to proceed with the complaint, taking into account the admissibility criteria set out in Rule 29 of its Rules of Procedure.
16. The Panel reiterates that the legal instruments referred to above do not confer a self-standing right to “private revenge” or to an *actio popularis*. Thus, the right to have third parties prosecuted or sentenced for a criminal offence cannot be asserted independently: it must be indissociable from the victim's exercise of a right to bring civil proceedings in domestic law, even if only to secure symbolic reparation or to protect a civil right such as the right to a “good reputation” (see ECtHR, *Golder v. the United Kingdom*, judgment of 21 February 1975, Series A no. 18, p. 13, § 27; *Tolstoy Miloslavsky v. the United Kingdom*, judgment of 13 July 1995, Series A no. 316-B, p. 78, § 58 and *Perez v. France* [GC], no. 47287/99, 12 February 2004, § 70). Even assuming that Ms Peters considers herself a victim of the

alleged wrongdoings of Mr X, she has not referred to any concrete facts that would substantiate such a suggestion. She does not claim that she herself has been a victim of the fraud or any other crime allegedly committed by Mr X (see, for example, *Faik Ibishi against EULEX*, 2012-07, 15 January 2013; *Shefqet Emërllahu against EULEX*, 2012-15, 8 April 2013).

17. In any event, according to Rule 25, paragraph 3, of the Rules of Procedure, a complaint related to alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors should be filed within 6 months of the date of the alleged violation.
18. Special considerations could apply in exceptional cases where a complainant first avails himself/herself of a remedy in respect of the alleged violation and only at a later stage becomes aware, or should have become aware, of the circumstances which make that remedy ineffective. In such a situation, the six-month period might be calculated from the time when the applicant becomes aware, or should have become aware, of these circumstances (see ECtHR, *Brunner v. Turkey* (dec.), no. 10/10, 6 December 2011).
19. The Panel notes that in the present case there were several communications from the EULEX SPRK to Ms Peters and the last one is from 6 March 2013. The complaint of Ms Peters to the Human Rights Review Panel was registered more than two years later on 7 May 2015 (signed by Ms Peters on 5 May 2015).
20. Given the repetitive nature of the SPRKs' refusals to investigate the alleged wrongdoings of Mr X it should have been clear to Ms Peters, at the latest in March 2013, that no concrete actions on behalf of SPRK would be initiated to investigate Mr X. In those circumstances, she should have filed her complaint within six month of the Prosecutor's response of March 2013. She failed to do so and provided no explanation for her failure to do so.
21. It follows that the present complaint has been lodged outside the 6-month time limit under Rule 25 of its Rules of Procedure and therefore is inadmissible as time-barred.

FOR THESE REASONS,

The Panel, unanimously, holds that the complaint is filed outside the 6-month time limit under Rule 25 paragraph 3 of the Rules of Procedure and therefore

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

John J. RYAN
Senior Legal Officer

Magda MIERZEWSKA
Presiding Member