



## **INADMISSIBILITY DECISION**

**Date of adoption: 7 March 2017**

**Case No. 2015-15**

**Dorđe Šmigić**

**Against**

**EULEX**

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

Ms Magda MIERZEWSKA, Presiding Member  
Mr Guénaél 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 23 December 2015.

## **II. THE FACTS**

2. The following facts appear from the information which the complainant has provided: On several occasions in 2014, the front door of his house was broken. In May 2015, his house was broken into and the complainant and his family were robbed.
3. The complainant says that he reported the crimes to the Kosovo police and that police took statements in relation to those events. The complainant has not been contacted by the police since.

## **III. COMPLAINTS**

4. The complainant submits that his rights to protection of property and to equality before law have been violated.
5. The provisions that appear to be relevant to this complaint would include Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”), Article 14 of the Convention, Article 1 of Protocol No. 1 to the Convention and Article 26 of the International Covenant on Civil and Political Rights.

## **IV. THE LAW**

6. 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.
7. 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.
8. According to Rule 25, paragraph 1, of the Rules of Procedure the Panel can examine complaints relating to alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.
9. The Panel notes that the complainant’s grievance pertains to the alleged lack of adequate response by the Kosovo police. The complainant does not argue, let alone show, that EULEX was involved in any capacity in these matters.

10. It follows from the above that the complaints do not fall within the ambit of the Panel's mandate, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo.

**FOR THESE REASONS,**

The Panel, unanimously, holds that it lacks competence to examine the complaint, as it as it falls outside its jurisdiction within the meaning of Article 29 (d) of its Rules of Procedure, and

**DECLARES THE COMPLAINT INADMISSIBLE.**

For the Panel,

John J. RYAN  
Senior Legal Officer

Magda MIERZEWSKA  
Presiding Member