



INADMISSIBILITY DECISION

Date of adoption: 7 March 2017

Case No. 2016-01

Skender Jashari

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 Anna BEDNAREK, Substitute Member

Assisted by
Mr John 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 28 January 2016.
2. On 9 January 2017, Ms Elka Ermenkova recused herself from the case due to a conflict of interests and did not participate in the consideration of the case, in accordance with Rule 12(1)(1) of the Panel's Rules of Procedure. She was replaced by Ms Anna Bednarek.

II. THE FACTS

3. The facts of the case as submitted by the complainant may be summarized as follows:
 - On 27 May 2009, “Islamic agents of Serbia” attempted to kidnap and kill him. According to him, EULEX failed to do anything about it.
 - On the night of Easter 2012, he received threats from unidentified sources. He claims, again, that EULEX failed to act.
 - Starting from 2012, on alleged instructions of the Foreign Minister of Serbia, he was tried and convicted by Courts of Kosovo and his family members were threatened.
 - On 18 December 2013, his house was intentionally destroyed by unidentified individuals.
 - On 7 February 2014, he and his brother were attacked and on 30 October 2014 they were threatened again whilst in detention.

III. COMPLAINT

4. The complainant claims that EULEX was an accomplice to these acts which he generally attributes to Serbia or Serbia’s agents.

IV. THE LAW

Submissions by the complainant

5. The complainant does not refer to any specific human rights or human rights provisions as having been breached by EULEX. From the content of his complaint, the allegations made appear to relate to Article 3, 6 and 8 of the European Convention of Human Rights (“the Convention”) as well as Article 1 of Protocol No. 1 to the Convention.
6. The complainant requests the Panel to review a specific case file of Basic Court of Gjilan/Gnjilane to find “*all documents proving the violations of human rights and freedoms*” and to apply the law.

The Panel’s assessment

7. 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 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.
8. Before considering the complaint on its merits, the Panel has to decide whether to proceed with the complaints, taking into account the admissibility criteria set out in Rule 29 of its Rules of Procedure.

9. According to Rule 25, paragraph 1, the Panel can only examine complaints relating to the human rights violations by EULEX Kosovo in the conduct of its executive mandate. This provision further stipulates that the Panel is not competent to review judicial proceedings before the courts of Kosovo.
10. Pursuant to Rule 25, paragraph 3, of the Panel's Rules of Procedure, a complainant is required to file a complaint within six months from the act, decision or conduct which is said to amount to or involve a violation of his/her rights (see, e.g., *Gashi against EULEX*, no. 2013-22, 7 April 2014, § 10; *Thaqi against EULEX*, cited above, § 51; *Sadiku-Syla against EULEX*, 2014-34, 29 September 2014, §§ 40 *et seq*).
11. The Panel notes that none of the acts alleged by the complainant come within the required 6-month period since the alleged violation occurred. On that basis alone, the complaint is inadmissible.
12. Regarding the request (see, above, paragraph 6) that the Panel should review a case file and apply the law, the complainant has failed to explain how this would come within the ambit of the Panel's competence as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo.
13. Finally, based on the information provided by the complainant with regard to the alleged facts, the Panel finds that the complainant failed to substantiate his claim that EULEX could be held responsible for any of the claimed violations of his rights. Accordingly, the complainant may be said to be manifestly ill-founded and inadmissible also for that reason.

FOR THESE REASONS,

The Panel unanimously holds that, pursuant to Rule 29(1)(c) and (e), the present complaint fails to comply with Rule 25(3) of the Panel's Rules of Procedure and thus out of time and is, furthermore, unsubstantiated, and therefore

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

John RYAN
Senior Legal Officer

Magda MIERZEWSKA
Presiding Member