



FOLLOW-UP DECISION

Date of adoption: 19 June 2019

Case No. 2011-27

F. and Others

Against

EULEX

The Human Rights Review Panel sitting on 19 June 2019 in the following composition:

Mr Guénaël METTRAUX, Presiding Member

Ms Anna BEDNAREK, Member

Assisted by:

Mr Ronald Hooghiemstra, Legal Officer

Having considered the aforementioned complaints, 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 2019,

I. AUTHORITY OF THE PANEL TO FOLLOW UP ON DECISIONS AND RECOMMENDATIONS

1. The present Decision is a follow up to a decision rendered by the Panel on 5 December 2017. It is adopted in accordance with Rule 45 *bis* of the Panel's Rules of Procedure, which authorises the Panel to follow up on its decisions and recommendations.
2. This case has been pending with the Panel since November 2011.
3. The complaint raised particularly sensitive issues, both as regards the gravity of the violation of the rights of the complainant and her husband and as regards the involvement of the Mission.
4. As a result of the Panel's limited mandate and ability to grant remedies, these proceedings cannot hope to fully repair the harm done to the complainant's rights and those of her husband. The Panel hopes, however, that the recognition of the violation of those rights and

the Head of Mission's expression of sympathy will go some way to address and repair the damage done to the complainant.

II. PROCEEDINGS BEFORE THE PANEL

5. A complaint on behalf of the wife (hereinafter referred to as F.) and two members of the family of the late X.F. was lodged with the Panel on 14 November 2011. The Panel acceded to the complainants' wish not to have their names disclosed.
6. The Panel communicated the complaint to the Head of Mission (HoM) on 16 October 2012 and requested the then HoM to provide written observations on the admissibility and merits of the case.
7. On 17 January 2013, the HoM provided observations on the admissibility of the case.
8. On 9 April 2013, an officer designated by the Mission provided an oral presentation to the Panel concerning certain facts relevant to the resolution of the complaint.
9. On 15 July 2015, the Panel provided the complainant's lawyer with a copy of a redacted version of this presentation together with a request for his comments. The complainant's reply was submitted to the Panel on 27 July 2015.
10. On 30 October 2015, EULEX presented a report of a review of the case to the Panel which had, in the meantime, been carried out.
11. On two occasions in 2016, the HoM made further submissions on the case, drawing the Panel's attention to the fact that the submissions were considered EU-classified and/or could adversely affect the criminal proceedings which were still pending at that time.
12. By Decision of 13 June 2017, the case was declared admissible (<http://hrrp.eu/docs/decisions/2011-27%20Admissibility%20decision.pdf>).
13. On 5 December 2017, the Panel rendered its Decision on the merit of the case and found that the Mission had violated the complainant's and her husband's fundamental rights under Articles 2 (procedural limb) and 3 of the European Convention of Human Rights (<http://hrrp.eu/docs/decisions/2011-27%20Decision%20and%20Findings.pdf>). In that Decision, the Panel also made the following recommendations for remedial actions:
 - The HoM should 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;
 - The HoM should disseminate the present decision on the substance of the case to the Mission's staff whose tasks are relevant for the subject-matter of the present case, with a view to provide guidance on the applicable human rights standards.
14. By letter of 29 March 2019, the Head of Mission informed the Panel that its Decision and Findings had been disseminated to the Mission's staff whose tasks are relevant to the subject-matter of this case. The Head of Mission also said the following:

“I would like to echo my predecessors and once again express my deepest sympathy to the complainants on behalf of EULEX Kosovo. Under its current mandate, the Mission retains a residual capacity in the field of witness protection and is committed to ensure the full respect of applicable international standards and European best practices.”

III. FOLLOW-UP AND EVALUATION BY THE PANEL OF STEPS TAKEN BY THE MISSION

15. The Panel notes that the Head of Mission fully implemented the first of the Panel's two recommendations.
16. The Panel notes, furthermore, that whilst not formally acknowledging the Mission's responsibility for the violation of the complainant's rights, the Head of Mission has taken the valuable step of expressing her deepest sympathy to the complainant on behalf of the Mission. The Panel hopes that this, as well as the Panel's acknowledgment that her rights and her husband's rights were violated by the Mission, will bring the complainant some relief for the wrong that was done to them.
17. The Panel closes the examination of this case.

For the Panel,

Guénaël Mettraux
Presiding Member

Anna Bednarek
Member