



INADMISSIBILITY DECISION

Date of adoption: 20 October 2020

Case No. 2020-01

Reihan Kaja

Against

EULEX

The Human Rights Review Panel (“the Panel”), sitting on 20 October 2020 with the following members present:

Mr Guénaël METTRAUX, Presiding Member
Ms Anna BEDNAREK, Member
Ms Anna AUTIO, Member

Assisted by
Mr Ron HOOGHMSTRA, 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 11 December 2019,

Having deliberated through electronic means in accordance with Rule 13(3) of the Panel’s Rules of Procedure, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered on 17 September 2020.

II. THE FACTS

2. The complainant is a former staff member of the European Union Rule of Law Mission in Kosovo, EULEX Kosovo (hereafter “the Mission”). According to the information submitted by the complainant, he was separated from the Mission as a result of a staff reduction process in his former unit sometime in 2018.
3. In August 2020, he applied for a position with the Mission, but was not selected.

III. COMPLAINTS

4. The complainant alleges that his human rights have been violated under the Universal Declaration of Human Rights (1948) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950). The complainant does not invoke any particular provisions of these instruments. However, he alleges that the Mission, in its personnel and recruitment decisions, has abused its authority, denied the complainant the right to freely practice his religion, and discriminated against the complainant on the basis of his religion and nationality. The complainant also alleges that the Mission is criminally responsible for abuse of official position and exercising influence over others.

IV. THE LAW

5. Before considering the complaint on its merits, the Panel has to decide whether to admit the complaint, taking into account Rule 29(1) of its Rules of Procedure. This provision states that the Panel may declare a complaint inadmissible in summary proceedings, *inter alia*, if the complaint falls outside of the Panel's jurisdiction.
6. According to Rule 25(1) of the Rules of Procedure, the Panel's jurisdiction is limited to examining complaints of alleged human rights violations by the Mission in the conduct of its executive mandate. The Mission's executive mandate was until June 2018 confined to certain matters in the police, justice, and customs sectors, and this executive mandate was further limited in June 2018 (see Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, and Council Decision (CFSP) 2018/856 of 8 June 2018 amending Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO).
7. The present complaint relates to personnel and recruitment decisions, which fall outside the Mission's executive mandate. Consequently, they also fall outside the scope of the types of actions which the Panel may review (see, e.g., *Hunaida Pasuli against EULEX*, 2010-12, 14 September 2010, para 7; *Bojan Mirković against EULEX*, 2011-09, 8 June 2011, para 15).
8. The Panel also notes that the complainant is a former Mission staff member. The Panel refers to Rule 25(1) of its Rules of Procedure, which provides that a complaint may be filed by any person other than EULEX Kosovo personnel. The Panel is consequently not competent to deal with alleged violations of rights committed against EULEX personnel (see, e.g., *Liridona Mustafa-Sadiku against EULEX*, 2014-41, 15 June 2015, par 16; *Nuha Beka against EULEX*, 2014-25, 10 November 2014, par 6; *An EULEX employee against EULEX*, 2010-13, 14 September 2010, par 5). The Panel notes, as a general observation, that its mandate was set up to provide it with a jurisdiction that is limited by, *inter alia*, the aforementioned Rule 25(1) in relation to Mission staff, on the understanding that other avenues could be available for matters falling outside that jurisdiction. In light of the facts and circumstances of the present case, the Panel need not decide whether other avenues are available to the complainant.

FOR THESE REASONS,

The Panel, unanimously, holds that it lacks competence to examine the complaint, as it falls outside the scope of its jurisdiction, within the meaning of Rules 25(1) and 29(1)(d) of its Rules of Procedure, and

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

Mr Guénaël METTRAUX
Presiding Member

Ms Anna BEDNAREK
Member

Ms Anna AUTIO
Member