



INADMISSIBILITY DECISION

Date of adoption: 27 May 2014

Case No. 2013-23

V.

Against

EULEX

The Human Rights Review Panel sitting on 27 May 2014 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaél METTRAUX, Member
Ms Katja DOMINIK, Member

Assisted by
Mr John J. RYAN, Senior Legal Officer
Ms Joanna MARSZALIK, Legal Officer
Mr Florian RAZESBERGER, 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 8 October 2013. The complainant's legal representative submitted further information to the Panel on 2 April 2014. The complainant requested not to have his/her name disclosed.

II. THE FACTS

2. The facts of the case as submitted by the complainant can be summarized as follows:
3. The complainant submits to be the legitimate owner of real estate in Kosovo close to the village of *Gornje Dobrevo/Miradi e Epreme*. It is submitted that the Kosovo Property Agency (KPA) wrongly assigned this property to another individual. According to the complainant, the KPA could have easily verified that he/she was the legitimate owner. On a further unspecified date in 2007, the complainant filed a lawsuit at the Municipal Court of Pristina in order to regain his property.
4. On 1 October 2010, the Municipal Court of Pristina dismissed the complaint.
5. On an unspecified date in January 2011, the complainant appealed to the Special Chamber of the Supreme Court (SCSC). Thereafter, the complainant addressed the SCSC on 29 October 2011 and on 12 and 14 January 2013, requesting the SCSC to speed up the proceedings and decide his case.

III. COMPLAINTS

6. In essence, the complainant asks the Panel to speed up the proceedings pending before the SCSC in order to obtain a decision on his case.

IV. THE LAW

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 accept the complaint, taking into account the admissibility criteria set out in Rule 29 of its Rules of Procedure.
9. According to Rule 25, paragraph 1 of the Rules of Procedure the Panel can examine complaints relating to the human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.

10. The Panel has held on numerous occasions that, according to Rule 25, paragraph 1 of its Rules of Procedure, based on the accountability concept in the OPLAN of EULEX Kosovo, in principle it has no jurisdiction in respect of either administrative or judicial aspects of the work of Kosovo courts. The fact that EULEX judges sit on the bench of the SCSC does not detract from its character as part of the Kosovo judiciary (see, *inter alia*, *E against EULEX*, 2012-17, 30 August 2013 at par. 25; *Halili against EULEX*, 2012-08, 15 January 2013, par. 21; *Pajaziti against EULEX*, 2012-05, 4 October 2012 pars. 9-10; *Dobruna against EULEX*, 2012-03, 4 October 2012 par. 12; *Zeka against EULEX*, 2012-02, 4 October 2012 par. 21). As a result, the Panel cannot take or suggest taking measures with a view to change the order in which the cases are processed or to expedite their processing.
11. It follows that the complaint 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 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