



INADMISSIBILITY DECISION

Date of adoption: 30 August 2013

Case No. 2013-16

Almir Susaj

Against

EULEX

The Human Rights Review Panel sitting on 30 August 2013 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaël 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 complainant first addressed the Panel with a letter on 15 April 2013. After providing additional information, the complaint was registered with the Panel on 24 June 2013.

II. THE FACTS

2. The complainant is an Albanian citizen who was sentenced to long-term imprisonment in Kosovo. He alleges to have been subject to torture, mistreatment and discrimination in prison because he is of Christian belief and holds Albanian citizenship.
3. The complainant submits that he was mistreated in the Dubrava correctional center during a search by a so-called Intervention Team on 21 March 2013. Further, he submits that he was insulted and put into solitary confinement without justification. When asking for medical help, he was allegedly sprayed with tear gas and beaten until he lost consciousness.
4. The complainant submits that proof of his injuries including photos are on file in the medical ward as well as in the security department of the correctional center.
5. The complainant also submits that he was restricted from contacting his family and prohibited from having access to certain facilities like the prison library and the gym. The complainant lodged a complaint with the prison authorities. On 29 March 2013, he was transferred to the detention center in Gjilan/Gnjilane.

III. COMPLAINTS

6. The complainant alleges that he was tortured, mistreated and discriminated against by prison authorities because of his religion and citizenship.

IV. THE LAW

7. 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.
8. According to Rule 25, paragraph 1 of the Rules of Procedure, the Panel can examine complaints relating to the human rights violations by EULEX in the conduct of its executive mandate in the justice, police and customs sectors.
9. The Panel notes that the complainant's grievance concerns, in essence, his treatment by prison authorities. The Panel observes that it has not been argued, let alone shown, that EULEX has been in any way involved in the alleged violations.
10. It follows that the issues raised by the complainant do not fall within the ambit of the executive mandate of EULEX Kosovo. Consequently,

they are outside of the Panel's mandate, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo.

11. The Panel notes finally that the complainant could raise any issue regarding allegations of ill-treatment with the competent prosecutorial authorities.

FOR THESE REASONS,

The Panel, unanimously, holds that it lacks competence to examine the complaint, finds the complaint manifestly ill-founded within the meaning of Article 29 (e) of its Rules of Procedure, and

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

John J. RYAN
Senior Legal Officer

Magda MIERZEWSKA
Presiding Member