



INADMISSIBILITY DECISION

Date of adoption: 26 November 2013

Case No. 2013-20

Shaip Gashi

Against

EULEX

The Human Rights Review Panel sitting on 25 and 26 November 2013 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 11 July 2013.

II. THE FACTS

2. The facts, as submitted by the complainant, can be summarised as follows.
3. On 31 July 2001, the International Organisation for Migration (IOM) granted the complainant compensation for forced labour under the Nazi regime in Germany, in the amount of EUR 7600 (seven thousand six hundred euros). The compensation was awarded as part of the German Forced Labour Compensation Programme, carried out by the German Foundation "Remembrance, Responsibility and Future". The programme was implemented in cooperation with partner organisations, among them the IOM.
4. The complainant maintains that the compensation money never reached him and was misappropriated. His complaints to the IOM and to the German authorities have been unsuccessful.

III. COMPLAINTS

5. The complainant, without invoking any specific provisions of international instruments for the protection of human rights, submits that his economic rights have been violated.

IV. THE LAW

6. 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 which must be guaranteed by public authorities in all democratic legal systems.
7. Before considering the complaint on its merits the Panel has to decide whether to accept the complaint, taking into account the admissibility criteria as formulated in the Accountability Concept mentioned above and set out in Rule 29 of the Panel's 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 Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.
9. The Panel notes that the complainant's grievance pertains to the execution of a decision given by IOM, concerning compensation for

forced labour. It has not been shown that EULEX was involved in any capacity in this matter.

10. It follows that the present complaint falls outside the ambit of the executive mandate of EULEX Kosovo and, consequently, outside of the competence of the Panel, 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, finds the complaint manifestly ill-founded 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