



## **INADMISSIBILITY DECISION**

**Date of adoption: 21 April 2015**

**Case No. 2014-30**

**Abdil Shabani**

**Against**

**EULEX**

The Human Rights Review Panel sitting on 21 April 2015 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

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 13 May 2014.

## **II. THE FACTS**

### *Proceedings concerning the building permit*

2. On an unspecified date, the complainant filed a request with the Directorate for Urbanisation and Land Planning of the Prizren Municipality, asking for a building permit to have a wall put up on his property.
3. His request was dismissed on 10 July 2011.
4. On 10 October 2011, the Ministry of Environment and Land Planning dismissed the complainant's appeal against that decision.
5. The complainant lodged an appeal against the Ministry's decision with the Supreme Court of Kosovo on 15 November 2011.
6. On 28 August 2013, the Supreme Court informed the complainant that, from the beginning of January 2013, the Basic Court of Pristina had been competent to deal with his case.
7. It is not clear what has been the further course of proceedings.

### *Proceedings concerning privatisation of "ELAN" company*

8. The complainant was an employee of the socially owned enterprise "ELAN" in Prizren, which was privatised on an unspecified date in 2009.
9. On 18 December 2011, the complainant filed an appeal with the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (SCSC). He complained that his name had not been included on the list of the "ELAN" former employees, entitled to a 20% share in the proceeds from the sale of the privatised company.
10. The Trial Panel of the SCSC rejected the complainant's appeal on 20 June 2013.
11. On 1 July 2013, the complainant lodged an appeal with the Appellate Panel of the SCSC.
12. It is not clear what was the further course of proceedings.

## **III. COMPLAINTS**

13. Without invoking any particular provisions of the international documents for the protection of human rights, the complainant submits that both sets of proceedings were unfair. He also maintains

that he has been discriminated against on the grounds of his ethnic origin (the complainant is a Kosovo-Bosniak).

#### **IV. THE LAW**

14. 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 (the Convention) 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.
15. 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.
16. 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.
17. The Panel observes that it has not been argued, let alone shown, that EULEX was in any way involved in the alleged violations of the complainant's rights.
18. 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 competence, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo (compare *Shaip Gashi v. EULEX*, 2013-20, 26 November 2013 § 9; *Jovanka, Dragan and Milan Vuković* against EULEX, no. 2013-18, 7 April 2014, §§ 11-12).

#### **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