



INADMISSIBILITY DECISION

Date of adoption: 17 October 2017

Case No. 2016-26

T.G.

Against

EULEX

The Human Rights Review Panel sitting on 17 October, 2017 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaël METTRAUX, Member
Ms Elka ERMENKOVA, Member

Assisted by
Mr John J. RYAN, Senior 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, the Human Rights Review Panel (“the Panel”) decides as follows:

I. PROCEDURE

1. The complaint was registered with the Panel on 19 September 2016.
2. The Complainant requested that the Panel withhold the details of his identity for personal reasons and the Panel acceded to this request.

II. THE FACTS

3. The facts of the case as submitted by the Complainant may be summarised as follows:

4. The complainant travelled as a refugee to Ireland, accompanied by his girlfriend and members of her family, in May 1999. They settled there and he and his girlfriend married one week later.
5. The complainant found employment where he worked for less than one year. He was dismissed from his employment in April 2000 at which point in time he returned to Kosovo on his own. His wife remained in Ireland where she still resides.
6. The complainant's wife gave birth to a baby in Ireland in February 2000. He suspected that he was not the father of the child and his marriage consequently failed.
7. The complainant alleged that a child of his had died at an unspecified date in the University Hospital of Kosovo as a result of a noxious injection which had been administered to him by a doctor in Ireland.
8. In February 2016 the complainant applied to the Irish Embassy in Belgrade for a visa to visit Ireland. His application was denied, apparently because he submitted incomplete documentation.
9. The complainant wrote a letter to EULEX on 2 February 2016 in which he complained about the alleged delays in the issuance of a visa to him by the Irish Embassy.
10. The Chief of Staff EULEX replied on 2 March 2016 and informed him that EULEX Kosovo implemented its rule of law mandate mainly through an executive and strengthening division. The complainant was further informed that EULEX was not in a position to take any action with regard to the visa application as such matters were outside the terms of its mandate. He further advised the complainant to submit his arguments to the Embassy of Ireland and provided him with contact details of the Free Legal Aid Office, Kosovo.

III. COMPLAINTS

11. In essence, the complainant wishes to obtain a visa to travel to Ireland where he wants to claim compensation against his former employer in relation to his unfair dismissal and to file a claim for compensation against the doctor who allegedly administered the injection which damaged his health.
12. Without invoking any particular provisions of the international instruments for the protection of human rights, it can be assumed from his submissions that the complainant alleges violations of the following provisions: Article 6 of the European Convention for the Protection of Human Rights ("the Convention") (fair trial rights), Article 8 ECHR (right to respect for private and family life) and Article 13 ECHR (right to an effective remedy).

IV. THE LAW

13. 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 the minimum standards for the protection of the human rights to be guaranteed by public authorities in all democratic legal systems.
14. Before considering the complaint on its merits, the Panel must decide whether to accept the complaint, taking into account the admissibility criteria set out in Rule 29 of its Rules of Procedure. According to Rule 25, paragraph 1, of the Rules of Procedure, the Panel can examine complaints relating to alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.
15. In the present case, 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. He sought EULEX assistance in relation to a refusal of an Irish visa. In reply, he was provided with a detailed response on the terms and limits of the mandate under which EULEX operated in Kosovo. Certain steps he could take to address his situations were also suggested. This letter does not disclose any acts attributable to EULEX that could be said to amount to a violation of the complainant's rights.
16. The Panel notes, furthermore, that the matters concerning issuance of visas by third states do not fall within the ambit of the executive mandate of EULEX Kosovo. It follows that the present complaint falls outside the competence of the Panel as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo, (see, generally, *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 therefore

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

John J. RYAN
Senior Legal Officer

Magda MIERZEWSKA
Presiding Member