



INADMISSIBILITY DECISION

Date of adoption: 17 October 2017

Case No. 2016-33

Agron Bytyçi

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, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered with the Panel on 20 October 2016.

II. THE FACTS

2. The facts of the case as submitted by the complainant may be summarised as follows:
3. The complainant, Agron Bytyçi, attended the Basic Court, Prizren, on 1 July, 2016 in relation to a hearing on a divorce application from his wife. There was a further hearing on the matter on 3 October

2016 when Mr. Bytyçi was not in attendance as he was not aware of the hearing and said he did not receive the standard court summons.

4. The matter was heard again on 11 October 2016 when the court granted the divorce petition. The complainant was granted custody of the couple's child, El. B. whilst Mrs Bytyçi was granted access to the child once per month.
5. The complainant stated that on 13 June 2016, the Prosecutor from Kukes, Albania asked Mr S. S., the father of the complainant's former wife, if he would be prepared to bring her to see her child once a month.
6. The complainant also stated that the Prosecutor asked Mr S.S. if Mrs Bytyçi would return to her husband in Prizren. Mr S.S. replied that his daughter would never return to her husband in Kosovo.
7. Mr S.S. allegedly added that both he and his daughter were deeply in debt as a result of the divorce proceedings. It also appears from the facts as presented by the complainant, that Mrs Bytyçi did not visit her son in Prizren, nor has she any intention of doing so.
8. The complainant thus alleges that Mrs Bytyçi has abandoned her child and that she has thus committed an offence which is punishable with a sentence of up to 3 years of imprisonment.

III. COMPLAINTS

9. The complainant alleges that Mr S.S. corrupted the court in that the judge "expedited" court proceedings in favour of his opponent in and that he did not implement the provisions of procedural law as it concerned his former wife in accordance with the provisions of Article 124, (Summoning Witnesses) of the Criminal Procedure Code of Kosovo. Whilst the complainant is not making reference to any particular fundamental rights, the tenor of his complaint suggests that it pertains to alleged violations of his rights under Article 6 of the European Court of Human Rights (ECHR) (and Article 14/16 of the International Covenant on Civil and Political Rights – ICCPR).

IV. THE LAW

10. 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 in the OPLAN of EULEX Kosovo 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 to be guaranteed by public authorities in all democratic legal systems.

11. Before considering the complaint on its merits, the Panel has to decide whether to proceed with it, taking into account the admissibility criteria set out in Rule 29, in conjunction with the Rule 25, of its Rules of Procedure.
12. 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
13. The Panel notes that the complainant's grievance appears to relate exclusively to family law matters determined by judicial decisions given by the courts of Kosovo.
14. The complainant did not claim that his rights have been violated or interfered with by EULEX. Furthermore, the complainant has not argued, let alone shown, that EULEX was involved in any capacity in the matters complained of.
15. 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 (see *Dekart Shkolli against EULEX*, 2015-03, 29 February 2016, para. 9; *Qerim Begolli against EULEX*, 2014-27, 2 February 2015, para. 12, *Mensur Fezaj against EULEX*, no. 2014-20, 26 August 2014, paras. 9-10).

FOR THESE REASONS,

The Panel holds unanimously that it lacks competence to examine the complaint under 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