



Human Rights Review Panel

## Newsletter No 17 – 01 July to 31 October 2017

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### Recent session of the Human Rights Review Panel

The Human Rights Review Panel (“the Panel”) held its 35th session from 16 to 18 October, 2017. The Panel issued ten (10) inadmissibility decisions.

The Panel disclosed that there was non-disclosure of the full submissions of EULEX Kosovo to the complainant in the Admissibility Decision taken in Case no. [2011-27 F. and Others](#) by the Human Rights Review Panel on 13 June, 2017. This non-disclosure of the full submissions was decided upon on the basis that: “publication could adversely affect the operational effectiveness of the Mission or the security of the Mission’s personnel”, Para D, (11) Accountability Concept EULEX Kosovo - Human Rights Review Panel refers.

The Panel held that Case Nos. [2016-06 and 2017-04, Uka Against EULEX](#), were inadmissible in that they fell outside its jurisdiction and also because they did not comply with the six-month time limit for the filing of a complaint with the Panel, stipulated by Article 25(3) of the Panel’s Rules of Procedure, (RoP).

The Panel declared Case No. [2016-07, Qela Against EULEX](#) inadmissible because it fell outside the

jurisdiction of the Panel, Article 29(d), and also because it had been filed outside the six-month time limit referred to above and that it was also manifestly ill-founded, Article 29(e), RoP.

The Panel held that Case Nos. [2016-08, Hasani Against EULEX](#); [2016-25, Krasniqi Against EULEX](#); [2016-26, T.G. Against EULEX](#); [2016-27, Islami Against EULEX](#); [2016-33, Bytyçi Against EULEX](#); [2016-36, Statovci Against EULEX](#) and [2017-03, Bobaj Against EULEX](#) fell outside the competence of the Panel because the Panel does not have competence to review judicial proceedings before the courts in Kosovo.

### **Human Rights Review Panel in session on Tuesday 17 October 2017**



Left to right: Magda Mierzevska; John J Ryan; Anna Bednarek; Guenaël Mettraux and Elka Ermenkova.

### **Meeting with Head of Mission EULEX Kosovo**

The Panel also held a meeting with Ms Alexandra Papadopoulou, Head of Mission EULEX during its recent session on Tuesday 17 October 2017. The discussions included issues of common concern and interest to both EULEX and the Panel in the human rights domain in Kosovo.

### **Publication of Panel cases by the European Court of Human Rights - Other Jurisdictions case-law section:**

The recent enforced disappearance decisions of the Panel in Cases [D.V., E.V., G.T., Veselinovic, H.S. and I.R. v. EULEX - nos. 2014-11 to 2014-17](#), and the case of [Rejhane Sadiku-Syla v. EULEX - no. 2014-34](#) were published in the Information Note of the European Court of Human Rights on the Court's case-law in its August-September, 2017 edition.

Website: European Court of Human Rights on the Court's case-law in its August-September, 2017 edition:

[http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n1347528850996\\_pointer](http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n1347528850996_pointer).

European Court of Human Rights publication is reproduced below for ease of reference:  
Human Rights Review Panel/Groupe consultative sur les droits de l'homme

Enforced disappearances in Kosovo/Disparations forcées au Kosovo

Case of D.V., E.V., G.T., Veselinovic, H.S and I.R. v. EULEX/Affaire D.V., E.V., G.T., Veselinovic, H.S et I.R. c. EULEX – nos./nos 2014-11 to/à 2014/17 Case of Sadiku-Syla v. EULEX/Affaire Sadiku-Syla c. EULEX – no/no 2014-34 Decisions on merits/Décisions sur le fond 19.10.2016.

The European Union established the Human Rights Review Panel on 29 October 2009 with a mandate to review alleged human rights violations by EULEX Kosovo (European Union Rule of Law Mission in Kosovo) in the conduct of its executive mandate. If the Panel, which is an independent body, determines that a violation has occurred, its findings may include non-binding recommendations for remedial action by the Head of Mission.

In reaching its determination, the Panel is empowered to apply human rights instruments. Of particular importance to the work of the Panel are the European Convention on Human Rights and the UN International Covenant on Civil and Political Rights (ICCPR).

In its decisions and findings the Panel has consistently had recourse in its case-law to the Convention standards developed by the European Court of Human Rights. (For further information on the work of the Human Rights Review Panel please see its website and its Annual Report 2016).

This group of cases concerned murdered and missing persons, the so called “enforced disappearance” cases that came about as a result of the armed conflict in Kosovo in the latter half of 1999 and in early 2000. The complainants alleged that there were inadequate criminal investigations to establish the facts and that there was a consequent failure to determine the responsibility of the perpetrators.

The Panel had regard to the standards developed by the European Court of Human Rights under Article 2 of the Convention in so far as it imposed on the public authorities a procedural obligation to establish facts concerning alleged breaches of the right to life. It examined the scope of these obligations in the context of the executive mandate of EULEX. It held that the procedural response expected of the Mission must be commensurate to the gravity of the alleged violation and importance of the protected rights, but also that the scope of the obligations of the Mission could not go further than the limited nature of the Mission’s executive mandate dictated.

It held that EULEX’s investigative efforts were insufficient and resulted in a violation of the complainants’ rights guaranteed by Articles 2 and 3 of the Convention in respect and by Article 13 in conjunction with Article 2 of the Convention.

#### **Resignation of Ms Elka Ermenkova, EULEX Member, Human Rights Review Panel**

Ms Elka Ermenkova, International Criminal Judge, Supreme Court/Appellate Court, Executive Division, EULEX Kosovo has tendered her resignation from EULEX and the Human Rights Review Panel in order to take up an appointment as an International Observer with the European Commission led Monitoring Operation in Albania. The Monitoring Operation supports the re-evaluation of Albanian judges and prosecutors by monitoring and overseeing the entire re-evaluation process of Albanian judges and prosecutors. The Monitoring Operation includes partners within the framework of the European integration process and Euro-Atlantic cooperation and is led by the European Commission. Ms Magda Mierzevska, Presiding Member of the Panel avails of this opportunity to thank Ms Ermenkova for her excellent professional performance and her outstanding contribution to the Panel. She made a remarkable contribution to the operations and deliberations of the Panel through her sound legal skills and her ability to argue her legal views and positions. Her thorough knowledge of the Mission, its legal and institutional history and context was extremely helpful in the decision making process for the cases which were brought before the Panel. I am most pleased that her profes-

sional achievements have now been recognised with the offer of this prestigious international post with the European Commission led Monitoring Operation in Albania.

### **Resignation of Ms Noora Aarnio, Legal Officer, Human Rights Review Panel**

Ms Noora Aarnio, Legal Officer, resigned from the Human Rights Review Panel on 25 August 2017 in order to take up an appointment as a Judicial Cooperation Advisor with EUROJUST, an agency of the European Union, (EU). The agency deals with judicial co-operation in criminal matters and it was created to improve the handling of serious cross-border and organized crime by stimulating investigative and prosecutorial co-ordination among agencies of the EU Member States. The seat of EUROJUST is in The Hague, Netherlands.

### **Publication of decisions**

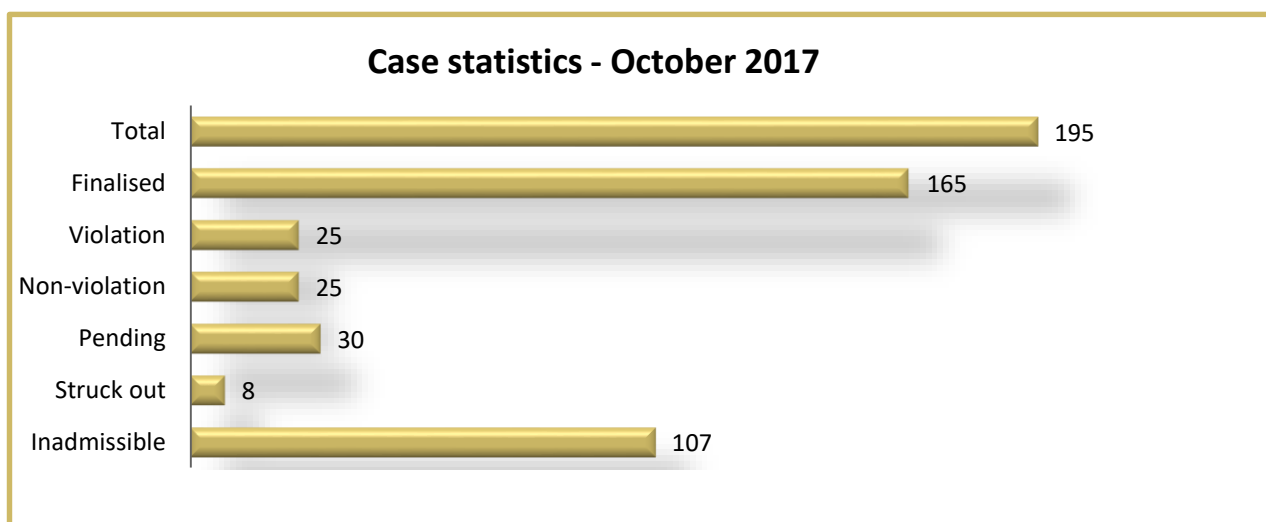
The decisions of the Panel are published on the website of the Panel in the English, Albanian and Serbian languages: [www.hrrp.eu](http://www.hrrp.eu).

### **Caseload**

There are currently thirty (30) complaints pending before the Panel.

### **Case statistics**

The Panel has reviewed one hundred and sixty five (165) cases since it commenced its operation in June 2010. It held that EULEX Kosovo has committed rights violations in twenty five (25) cases. It has additionally found that there were no human rights violations in twenty five (25) other cases which it had deemed admissible. Seven (7) cases have been filed with the Panel since 1 January 2017 and there are currently thirty (30) cases pending before the Panel.



### **Next session of the Human Rights Review Panel**

The next session of the Panel is scheduled to take place from 4 December to 6 December 2017.

Visit Panel website: [www.hrrp.eu](http://www.hrrp.eu)



## HOW TO FILE A COMPLAINT WITH HRRP

(Rules 25 and 26 of the Rules of Procedure of the HRRP)

### Who?

Any person who does not work for EULEX Kosovo and who claims to be a victim of a human rights violation by EULEX Kosovo in the performance of its executive mandate.

The complainant (the person making the complaint) can be represented by a lawyer or another representative of his or her choice. In that case a letter of authority must be filled in.

### What?

The Panel will only examine complaints concerning alleged human rights violations that happened after 9 December 2008 in Kosovo. The violation must be caused by EULEX Kosovo in the performance of its executive mandate.

The Panel will not review judicial proceedings before the courts in Kosovo.

### When?

The complaint must be submitted to the Panel within six months from the date of the alleged violation.

### How?

The complaint must be submitted in writing. No complaints may be made by phone. The complainant can use either the English, Albanian or Serbian language.

The complaint should normally be made on the complaint form and be accompanied by relevant documents and decisions (if any), as instructed in the form.

If a complaint is introduced in a letter, such letter must set out, at least in summary form, the subject matter of the complaint in order for the matter to be examined further.

### Where?

The complaint may be filed at:



#### Human Rights Review Panel - Secretariat

Rrustem Statovci Street no. 29 – 10000 Pristina – Kosovo

Tel: +381 (0) 38 28 2207

A complaint can also be sent by email to [office@hrrp.eu](mailto:office@hrrp.eu)

[www.hrrp.eu](http://www.hrrp.eu)

If the complaint is e-mailed, the signed original complaint must be delivered within four weeks from the date of the original e-mail.

### Completion of the Complaint Form

The complaint should be written legibly and, preferably, typed.

The form should contain all contact details of the complainant.

If the complainant provides documentary evidence, legible copies should be submitted. **Do not send original documents.**

The documents should be listed in date-order, numbered consecutively and with a short description (e.g. letter, order, judgment, appeal, etc.).

The complaint will be assigned a file number upon registration. The file number must be referenced in all subsequent correspondence. If the complainant has an earlier complaint pending before the Panel, he or she must inform the Panel of the file number. If the complainant for some reason does not wish his or her identity to be disclosed, he or she should fill in the appropriate section of the complaint for.