



INADMISSIBILITY DECISION

Date of adoption: 10 November 2014

Case No. 2014-09

Rifat Kadribasic

Against

EULEX

The Human Rights Review Panel sitting on 10 November 2014 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
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 28 February 2014.

II. THE FACTS

2. The facts of the case, as presented by the complainant can be summarised as follows.
3. In 1962, the complainant's father, R.K., bought a piece of immovable property from a certain K.M. The land has been in the possession of the family and cultivated by them ever since.
4. In April 2013, a certain H.K. visited the complainant, claiming that the land belonged to him and warning that the complainant not to use it.
5. On 19 June 2013, the complainant lodged a civil claim against K.M. and H.K. with the Basic Court of Pejë/Peć. He sought a declaration of his ownership of the property in question.
6. The complainant submits that since that date the Basic Court has not taken any action. In particular, no hearings have been held in his case.

III. COMPLAINTS

7. The complainant maintains that the proceedings before the Basic Court of Pejë/Peć have been inordinately lengthy. He requests EULEX to help him prevent injustice and fraud.

IV. THE LAW

8. 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 to be guaranteed by public authorities in all democratic legal systems.
9. 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.
10. 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.

11. The Panel has held on numerous occasions that, according to Rule 25, paragraph 1, of its Rules of Procedure, based on the accountability concept in the OPLAN of EULEX Kosovo, in principle it has no jurisdiction in respect of either administrative or judicial aspects of the work of Kosovo courts. The fact that EULEX judges sit on the bench of any given court does not detract from its character as part of the Kosovo judiciary (see, among others, *V against EULEX*, 2013-23, 26 May 2014, par. 10; *E against EULEX*, 2012-17, 30 August 2013 at § 25; *Halili against EULEX*, 2012-08, 15 January 2013, § 21; *Pajaziti against EULEX*, 2012-05, 4 October 2012 §§ 9-10). Furthermore, the Panel observes that it has not been argued, let alone shown, that EULEX has been in any way involved in the alleged violations of the complainant's rights.
12. 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.

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