INADMISSIBILITY DECISION

Date of adoption: 13 June 2017

Case No. 2015-02

Ramadan Hamza

Against

EULEX

The Human Rights Review Panel, sitting on 13 June 2017 with the following members present:

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

Assisted by
Mr John RYAN, Senior Legal Officer
Ms Noora AARNIO, 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 4 March 2015.

II. THE FACTS

2. The facts of the case as submitted by the complainant may be summarized as follows:
    * At an unspecified time in 1986 the complainant bought property from D. X. The seller's sons also agreed to the sale. D.X. died on an unspecified later date.
    * The complainant attempted to have the property registered under his name but was unable to do so because the sons of the seller refused to sign the necessary documents.
    * The complainant brought his case before the Kosovo courts.
    * On 8 December 2011, the Municipal Court of Rahovec/Orahovac issued a judgment in favour of the claimant.
    * The opposing party appealed.
    * On 1 December 2014, the Court of Appeal of Kosovo issued a judgment in this matter. It quashed the first-instance judgment and remitted the case back for reconsideration.
    * The case is currently pending before the Rahovec/Orahovac Municipal Court.

III. COMPLAINT

3. The complainant claims that his right to the peaceful enjoyment of his property guaranteed by Article 1 of Protocol No. 1 to the European Convention on the Protection of Human Rights and Fundamental Freedoms has been violated. He alleges that one of the opposing parties has exerted undue influence on the courts and that the proceedings have lasted for an unreasonably long time. He requests the Panel to help him in obtaining a decision on the merits of the case.

IV. THE LAW

4. 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 minimum standards for the protection of human rights to be guaranteed by public authorities in all democratic legal systems.

5. Before considering the complaint on its merits, the Panel has to decide whether to proceed with the complaints, taking into account the admissibility criteria set out in Rule 29, in conjunction with Rule 25, of its Rules of Procedure.

6. According to Rule 25, paragraph 1, the Panel can only examine complaints relating to the human rights violations committed by EULEX Kosovo in the conduct of its executive mandate. This provision further stipulates that the Panel is not competent to review judicial proceedings before the courts of Kosovo.

7. As the present complaint concerns a case which is currently pending before the Kosovo court, the Panel concludes that the complaint does not fall within the Panel's jurisdiction as formulated in Rule 25, paragraph 1, of its Rules of Procedure and the OPLAN of EULEX Kosovo.

8. The complainant has not established any other basis on which the alleged violations of his fundamental rights could be attributed to EULEX so that the case could be declared admissible.

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 RYAN   Magda MIERZEWSKA
Senior Legal Officer   Presiding Member