



INADMISSIBILITY DECISION

Date of adoption: 27 June 2016

Case No. 2015-07

Dobrivoje Radovanović

Against

EULEX

The Human Rights Review Panel sitting on 27 June 2016 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaël METTRAUX, Member
Ms Elka FILCHEVA - ERMENKOVA, Substitute Member

Assisted by
Mr John J. RYAN, Senior Legal Officer
Ms Joanna MARSZALIK, Legal Officer
Mr Paul LANDERS, 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 11 June 2015. Due to the resignation of Ms Katja Dominik as a Panel Member, she was replaced in the deliberations by Ms Elka Filcheva–Ermenkova, the

Substitute Member of the Panel, in accordance with Rule 14 par. 2 of the Rules of Procedure.

II. THE FACTS

2. On an unspecified date in March 2015, the complainant bought a cow and a calf from a certain G.R. On his way home, he was stopped by the Kosovo Police, who seized the animals on suspicion that they had been smuggled to Kosovo as they did not have the required ear tags.
3. On 5 March 2015, the Regional Office of the Kosovo Customs in Pejë/Peč issued a decision and confiscated the cow and the calf as the complainant had no proper documentation for their purchase. He was also ordered to pay a customs fee and a fine in a total amount of approximately one thousand and one hundred euros (1,100 euro).
4. On 19 May 2015, the Kosovo Customs in Pristina upheld that decision.
5. It is not clear whether the complainant has appealed against that decision.

III. COMPLAINTS

6. Without invoking any particular provisions of the international documents for the protection of human rights, the complainant submits that he was unfairly punished, in his absence and without being heard.

IV. THE LAW

7. 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.
8. 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.
9. 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.


10. 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. The decisions he complained about were given by the Kosovo customs authorities.
11. 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 (compare *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

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,


John J. RYAN
Senior Legal Officer




Magda MIERZEWSKA
Presiding Member