



Human Rights Review Panel

## Newsletter # 7 – January to February 2014

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### 19<sup>th</sup> HRRP session

The 19<sup>th</sup> regular [session](#) of the Human Rights Review Panel (the Panel) was held in Pristina from 3 to 5 February 2014. The Panel reviewed seven complaints and rendered decisions in six cases. In one case, the Panel found that EULEX Kosovo violated the right of the complainant to an effective remedy. The Panel also reviewed the implementation of its recommendations by EULEX Kosovo in the *Vidovdan* cases (*A,B,C&D against EULEX*). Three cases were declared inadmissible during the session while one case was struck out.

### The right to an effective remedy

The Panel found that EULEX Kosovo breached a complainant's right to an effective remedy in the case of [Zahiti v. EULEX](#). The complainant stated that she was attacked and injured by an EULEX Police Officer and, as a result, was unable to work for several months.

The Panel held that EULEX as a Rule of Law Mission with a limited executive mandate is expected to provide effective remedies in regard to arguable claims related to the actions of its staff. In the current case, the Panel found that EULEX, from the outset, denied any responsibility in this matter and failed to provide a procedural remedy whereby the complainant could have advanced her claim. The Panel invited the Head of Mission to address specified shortcomings with a series of remedial recommendations.

### Follow up decision in the *Vidovdan* cases

In a [follow-up decision](#) in the cases of *A,B,C&D against EULEX*, the Panel held that the Head of Mission EULEX implemented the recommendations of the Panel. These cases concerned four complainants who submitted that they were subjected to attacks by non-identified private parties, acts which included, inter alia, the throwing of stones and Molotov cocktails at Serb teenagers travelling on buses during the *Vidovdan* celebrations of 28 June 2012. Another complainant submitted that he

was assaulted by Kosovo Police on the same occasion. The Panel had held that the inadequacy of resources allocated by EULEX Kosovo to its security operation on that day had contributed to the complainants being denied the full and effective enjoyment of their right to respect to private life, their freedom of assembly as well as their right to exercise their religion safely and without unnecessary hindrance. Furthermore, the Panel held that EULEX Kosovo did not show that it had conducted a thorough and adequate investigation into the alleged human rights violations. The Panel submitted a series of remedial recommendations to EULEX Kosovo in order to address the identified shortcomings.

The Panel, in its decision, commended the Head of Mission for his actions in the implementation of its recommendations in relation to operational planning for EULEX Police in the following *Vidovdan* celebrations on 28 June 2013. Those actions included, inter alia, the conduct of a risk assessment, the development of detailed operational plans, close coordination among all stakeholders in the security operation as well as the issuance of clear instructions to EULEX Police on relevant human rights issues that might arise. The Panel also noted that the Head of Mission took the necessary steps to ensure that all alleged instances of human rights violations on the day in question were investigated.

### **Inadmissibility decisions and strike out of case**

[One of the cases](#) that was declared inadmissible by the Panel in its recent session relates to property proceedings that are currently ongoing before a Kosovo court. The Panel held that, based on its accountability concept, it cannot review judicial proceedings before the courts of Kosovo. As in similar previous cases, the Panel found that even though EULEX judges sit in Kosovar courts, such does not detract from the fact that these courts are an integral part of the Kosovo judicial system.

The same reasoning was adopted in another inadmissibility [decision](#) that related to a property claim. A further [case](#) which concerned privatization procedures of a publicly owned enterprise as well as claims related to a disability pension was declared inadmissible on the same grounds. The Panel took a decision in another case to [strike out](#) a complaint, as the complainant's representative had not replied to the Panel's repeated requests for information. The Panel therefore concluded that the complainant had lost interest in the pursuit of his complaint.



[Ms Magda Mierzewska](#) and [Ms Katja Dominik](#) featured in a series of recent interviews on “Women in Rule of Law” on the EULEX website. Ms Mierzewska, the Presiding Member of the Panel is a Registry lawyer with the European Court of Human Rights, Strasbourg and Ms Dominik, the EULEX Member of the Panel, is an international judge in the Basic Court, Mitrovica.

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### **Annual Report 2013**

In February 2014, the Panel issued its fourth annual report, covering its activities throughout 2013. The annual report elaborates on the Panel's case load and jurisprudence, detailing determined human rights violations as well as focusing on different aspects of admissibility.

The annual report also provides statistics and gives an overview on the Panel’s public outreach activities and other relevant issues, including administrative and budgetary matters. Furthermore, the report provides a summary of the extensive international legal and academic commentary which the Panel attracted in 2013. In the context of the ongoing strategic review of EULEX Kosovo, and the forthcoming restructuring of EULEX, the Panel outlined a number of recommendations on how to maintain and improve the effectiveness of human rights executive accountability mechanisms whether in EULEX Kosovo or in similar future EU missions. The report can be accessed in English, Albanian and Serbian on [the Panel’s website](#).

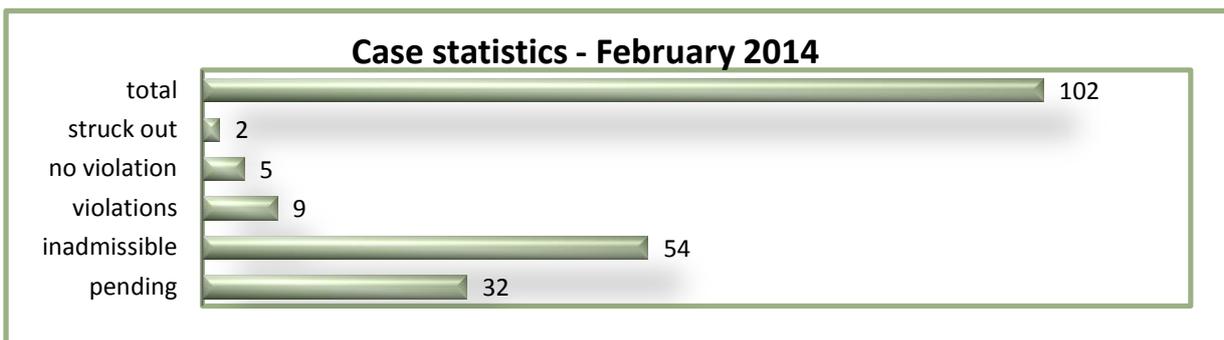
### HRRP briefing for students on Human Rights Master’s programs

On 14 January 2014, over 100 students from the European Master’s Degree in Human Rights and Democratization program (E.MA), Venice as well as the Master’s Degree in Arts in Human Rights, University of Vienna attended a series of presentations organized by the EULEX Public Press & Information Office, (PPIO).

The Human Rights Review Panel was afforded the opportunity to present its mandate, work and procedures to the students. This presentation was followed by a lively question and answer session on the Panel’s decisions, its structure, its independence, its achievements and its impact on human rights generally within EULEX Kosovo. The presentation also dwelt upon the Panel as a potential role model for international organizations in the executive role in the future with regard to accountability for alleged violations of human rights.



Eldita Taranai (PPIO) and Florian Razesberger (Legal Officer, HRRP) in discussion with the students at the EULEX Police HQ



### The Panel on Television

In February 2014, the Panel with the support of EULEX Kosovo broadcast a TV clip on Kosovo TV stations on the required procedure to file a complaint with the Panel.



## FILING OF COMPLAINTS

(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 78 2125

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

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

### 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 form.