



**DECISION ON THE IMPLEMENTATION OF THE
RECOMMENDATIONS OF THE HUMAN RIGHTS REVIEW PANEL**

Date of adoption: 10 January 2017

Case No. 2014-37

Y.B.

Against

EULEX Kosovo

The Human Rights Review Panel, sitting 10 January 2017, with the following members present:

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

Assisted by
Mr John J. 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 of 9 June 2010,

Having deliberated, decides as follows:

I. DECISION OF THE PANEL OF 19 October 2016

1. On 19 October 2016 the Panel took the following decision on the complaint made by Y.B. 29 September 2014:

The Panel, unanimously:

1. Declares the complaints under Articles 6, 10 and 11 of the Convention inadmissible as being manifestly ill-founded;
2. Finds a violation of Article 8 of the European Convention on the Protection of Human Rights and Fundamental Freedoms;

and

Declares

that in the light of its above findings of fact and law the Panel finds it appropriate to make recommendations to the HoM, and

RECOMMENDS THE FOLLOWING REMEDIAL ACTION

- The HoM should make a declaration acknowledging that the circumstances of the case amounted to a breach of the complainant's rights attributable to the acts attributable to EULEX in the performance of its executive mandate;
- The HoM should provide copy of the present Decision to the EULEX Prosecutors through the relevant channels. This should serve to inform the EULEX Prosecutors of the general nature of an obligation to make it their priority to protect rights and freedoms of not only suspects and the accused but other persons involved in cases they investigate.

II. INFORMATION FROM THE HOM EULEX

2. On 28 November 2016, the HoM stated that with regard to the second recommendation of the Panel, she has ensured that a copy of the Panel's decision has been provided to the EULEX Prosecutors.

III. INFORMATION FROM THE COMPLAINANT

3. The Complainant was provided, on 8 December 2016, with a copy of the letter from the HoM which was dated 28 November 2016 on the action taken by the HoM in the implementation of the recommendations of the Panel. The Complainant did not respond to this letter nor did he comment on the actions taken by the HoM.

IV. EVALUATION BY THE PANEL

4. The Panel takes note of the steps taken by the HoM to follow its recommendations.
5. However, the Panel further notes that the HoM made no declaration, in any form, to acknowledge that the circumstances of the case amounted to a breach of the rights of complainant that were attributable to the acts of EULEX Kosovo.
6. Having examined the information provided by the HoM with regard to the implementation of the recommendations,

THE PANEL UNANIMOUSLY

Declares that the HoM has implemented its recommendations in this case in part only.

Decides to close the examination of this case.

For the Panel,


John RYAN
Senior Legal Officer




Magda MIERZEWSKA
Presiding Member