



INADMISSIBILITY DECISION

Date of adoption: 15 January 2019

Case No. 2018-02

D.W.

Against

EULEX

The Human Rights Review Panel sitting on 15 January 2019 with the following members present:

Mr Guénaël METTRAUX, Presiding Member
Ms Anna BEDNAREK, Member

Assisted by
Mr Ronald HOOGHIEMSTRA, 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 2019,

Having deliberated, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered on 19 June 2018.
2. The complainant asked the Panel to withhold details about his identity. In light of the circumstances of the case, the Panel has granted the request.

3. Following the recent resignation of one of its permanent members, the Panel will sit in this matter with only two members in accordance with Rules 11 and 14 of the Panel's Rules of Procedure.

II. THE FACTS

4. The facts of the case as submitted by the complainant may be summarised as follows.
5. For a period of two years, the complainant worked with the Kosovo Police as a civilian staff member.
6. In 2012, the complainant was dismissed from his job. The complainant alleges that the Kosovo Police dismissed him in order to kill him.
7. In 2016, the Kosovo Intelligence Agency (KIA) allegedly put poison on the spout of the teapot from which the complainant was drinking tea. The complainant alleges that the KIA has issued death threats against him by telephone hundreds of times, and continues to do so.
8. The complainant has sent letters requesting assistance from the judicial authorities against these death threats, *inter alia*, to the President of the Republic of Kosovo and to the Chief State Prosecutor of the Republic of Kosovo.
9. On an unspecified date, the complainant allegedly reported his case to EULEX via email, but EULEX is said to have failed to adopt any measure in response.

III. COMPLAINTS

10. Without invoking any particular provisions of the international instruments for the protection of human rights, the complainant alleges that he has received death threats from the Kosovo Intelligence Agency and the Kosovo Police. The complainant wishes that EULEX would ensure his freedom from these threats. It is apparent from the tenor of the complaint that it pertains to alleged violations of the complainant's rights as guaranteed, *inter alia*, by Articles 2, 3 and 8 of the European Convention on the Protection of Human Rights and Fundamental Freedoms.

IV. THE LAW

11. 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.

12. Before considering the complaint on its merits, the Panel must decide whether to accept the complaint, taking into account the admissibility criteria set out in Rule 29 of its Rules of Procedure.
13. According to Rule 25, paragraph 1, of the Rules of Procedure, the Panel can examine complaints relating to alleged violations of human rights committed by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.
14. In the present case, 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 complainant does not appear to have sought the assistance or involvement of any relevant branch of EULEX. Nor has the complainant established that the Mission culpably failed to take action in this matter.
15. While the Panel acknowledges that the issues raised by the complainant raise concerns, they do not fall within the ambit of the executive mandate of EULEX Kosovo and appear to be within the exclusive responsibility of the local, Kosovo, authorities. Consequently, they fall outside of the Panel's competence, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo (see *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 (1) (d) of its Rules of Procedure, and

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,


Guénael METTRAUX
Presiding Member




Anna BEDNAREK
Member