



DECISION ON THE IMPLEMENTATION OF THE RECOMMENDATIONS

Date of adoption: 23 November 2011

Case No. 2010-07

Mr. Blerim Rudi

Against

EULEX

The Human Rights Review Panel, sitting on 23 November 2011, with the following members present:

Mr. Antonio BALSAMO, Presiding Member
Ms. Magda MIERZEWSKA, Member
Ms. Anna BEDNAREK, Member

Assisted by
Mr. John J. RYAN, Senior Legal Officer
Ms. Leena LEIKAS, Legal Officer
Ms. Stephanie SELG, 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 ON 8 JUNE 2011

1. On 8 June 2011 the Panel took the following decision on the complaint made by Mr. Rudi on 8 September 2010:

The Panel, by majority:

Declares the complaint with regard Article 1 of Protocol No. 1 to the Convention admissible and the rest of the complaints inadmissible;

Holds that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

Finds it appropriate, in the light of its above findings of fact and law, to make recommendations to the HoM; and

Recommends the following actions to be taken by the HOM:

- A declaration should be made acknowledging that the circumstances of the case amounted to a breach of the complainant's rights attributable to the EULEX acts in the performance of its executive mandate; and
- An examination of specific measures which the HOM could take in order to put an end to a violation found in the case should be undertaken.

The HOM is invited to inform the Panel of the measures he intends to undertake with regard to this decision by 8 August 2011.

Furthermore, the HOM is invited to inform the Panel and the complainant of the measures which have been taken, and about the results they have produced, by 31 November 2011.

II. INFORMATION FROM THE HOM EULEX

2. On 30 June 2011 the HOM informed the Panel that the findings are being studied and the recommendations analyzed.
3. On 3 August 2011 the HOM informed the Panel that he had, on 1 July 2011 requested the International Director of the Financial Intelligence Centre (hereafter the FIC and the Director) to take steps to reinstate Mr. Rudi and to ensure that he was reimbursed any outstanding salary. He had also encouraged the Director to consider withdrawal of the pending case against Mr. Rudi before Prishtinë/Priština Municipal Court (in reality, the pending case against the Independent Oversight Board (hereafter IOB), see paragraph 9 below).
4. Furthermore, the HOM stated, that on 6 July 2011 the Director had formally requested that the pending lawsuit against Mr. Rudi be withdrawn from the Municipal Court. By a written decision of 13 July 2011 Mr. Rudi was reinstated in his former position until his contract expires on 31 August 2011. In addition, the arrears of salary due to him was formally requested from the Ministry of Finance.

III. INFORMATION FROM MR. RUDI

5. On the Panel's request Mr. Rudi informed the Panel on 8 September 2011 that he had received a decision of the FIC, dated 13 July 2011 stating that:
 - He was reinstated from 25 July 2011, with retroactive effect from 28 January 2010,

- He was to receive all the salary owed to him from 28 January 2010 onwards. This was to be organised by the Ministry of Finance and the Ministry of Public Administration,
 - He was to use all his accumulated annual leave until the end of his contract on 31 August 2011,
 - His employment contract, valid until 31 August 2011, was not renewed as the position of Deputy Director of the FIC no longer was foreseen in the new structure of the FIC.
6. On 26 August 2011 the Director of the FIC issued a new decision stating that the contract of Mr. Rudi will not be renewed after 31 August 2011, due to the non-existence of the position of Deputy Director of the FIC and that he will be reimbursed for the annual leave not used by that date.
 7. The justification for this decision was that there was no equivalent position in the unit. Reference was made to the Law No. 03/L-149 on the Civil Service of the Republic of Kosovo, Article 32 on the "Mobility upon Staff Redundancy", and Article 9 of the Regulation No. 01/2011 on "Termination, Suspension and Ending of Employment in Civil Service". As a remedy against this decision, the decision could be referred to the Government or the Ministry of Public Administration.
 8. Mr. Rudi informed the Panel that on 31 October 2011 he had been paid a certain amount of money as arrears of salary. Furthermore, he had not been informed of any changes in the status of the case pending before the Prishtinë/Priština Municipal Court.

IV. ADDITIONAL INFORMATION

9. According to the information received from the Prishtinë/Priština Municipal Court, the pending case against the IOB and its decision to annul the original decision by the FIC to terminate the employment contract of Mr. Rudi (see, decision 2010-07, *Blerim Rudi v. EULEX*, paragraphs 30-32) was withdrawn by the FIC on 6 July 2011. The case was closed by a municipal court judge decision on 21 July 2011. To the Panel's knowledge, no case remains pending before any court concerning Mr. Rudi.

V. EVALUATION BY THE PANEL

10. The Panel notes that HOM has implemented the essence of the Panel's recommendations.
11. In particular the Panel observes that HOM requested the Director of the FIC to take steps which led to the reinstatement of the complainant and the payment of the arrears of salary (see paragraphs

3 and 4 above). By doing so HOM implicitly acknowledged the breach of the complainant's rights, as recommended by the Panel.

12. The Panel considers that the measures taken in the complainant's case should go a considerable way towards the restoration of the complainant's professional reputation.
13. Having examined the information provided by the parties with regard to the implementation of the recommendations of the Panel,

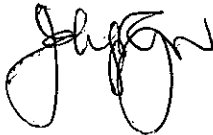
THE PANEL UNANIMOUSLY

Declares that HOM has exercised his functions as appropriate in this case and,

Decides to close the examination of this case.

For the Panel,

John J. RYAN
Senior Legal Officer



Antonio Balsamo
Presiding Member

