



INADMISSIBILITY DECISION

Date of adoption: 23 November 2011

Case No. 2011-12

Mr. Novica Trajkovic

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. PROCEEDINGS BEFORE THE PANEL

1. The complaint was registered on 21 April 2011.

II. THE FACTS

2. The facts of the case, as submitted by the complainant, and as apparent from documents available to the Panel, may be summarized as follows.

3. Around 6 am on 23 September, 2009 EULEX Police Officers, without prior notification, broke the doors of the complainant's house and conducted a house search. The complainant submits that everything was tumbled and various items in the house and the surrounding area were damaged.
4. During the house search the complainant was allegedly pushed to the floor, handcuffed and physically mistreated even though he told the police that he was feeling unwell and that he had undergone brain surgery some three months earlier. The EULEX ambulance team, upon their later arrival, allegedly ascertained that he had high blood pressure. Only then did the police removed the handcuffs.
5. The complainant submits that the police officers pointed their weapons at his family members, including the two children, and that he and his son were physically assaulted by the EULEX Police. His son was allegedly kicked in the chest and stomach, handcuffed and kept tied up on the floor for some half an hour while his head was being pressed down. In addition, the police did not provide an inventory of the items taken away from the premises.
6. In connection with the house search, the complainant's son was arrested and brought to a police station in Prishtinë/Priština. He was released one (1) day later, on 24 September 2009.
7. The complainant's wife, who was at that time already under treatment for mental health reasons, and the two daughters of his son, were terrified and traumatized by the events. At least one of the children was allegedly physically assaulted by the EULEX police officers.
8. The complainant was hospitalized in Laplje Selo due to his declining health condition. The two granddaughters were sent to a doctor on 30 September 2009. The doctor advised to take them to the hospital in Vranje, Republic of Serbia, in order for their trauma to be treated. Their condition has not stabilized since then and they are still afraid to be alone in the house or separated from their parents.

III. COMPLAINTS

9. The complainant alleges that the EULEX police officers committed serious crimes and violated his human rights during the search of his home and the arrest of his son. The events on 23 September 2009 created a lot of suffering in his family and especially the children are still affected.

IV. THE LAW

10. 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 (ROP).

11. The Panel can only examine complaints relating to human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors, as outlined in Rule 25, paragraph 1 of its Rules of Procedure.
12. The Panel notes that the actions taken by the EULEX Police during the arrest of the complainant's son and the subsequent house search on 23 September 2009 might have been deemed by the Panel as falling within the executive mandate of EULEX.
13. However, in accordance with Rule 25, paragraph 3 of the Rules of Procedure¹, complaints must be submitted within three months from the date the Panel may receive complaints (9 June 2010), or within six months from the date of the alleged violation, whichever is more favourable to the Complainant.
14. The complaint was filed approximately nineteen (19) months later, on 21 April 2011. It should have been filed latest on 9 September 2010. The complaint therefore does not meet with the admissibility criteria set out in Rule 29 of its ROP.

FOR THESE REASONS, THE PANEL UNANIMOUSLY

holds that the complaint has been lodged with the Panel outside the time-limit laid down by its Rules of Procedure, and

finds the complaint manifestly ill-founded within the meaning of Article 29 (c) and (d) of its Rules of Procedure, and

DECLARES THE COMPLAINT INADMISSIBLE.

John J. RYAN
Senior Legal Officer

Antonio BALSAMO
Presiding Member

¹ As formulated in the version of 9 June 2010, in force at the time of lodging the current complaint.