



## **INADMISSIBILITY DECISION**

**Date of adoption: 8 April 2013**

**Case No. 2012-13**

**Bejtush Gashi**

**Against**

**EULEX**

The Human Rights Review Panel sitting on 8 April 2013 with the following members present:

Ms. Magda MIERZEWSKA, Presiding Member  
Mr. Guénaël METTRAUX, Member  
Ms. Katja DOMINIK, Member

Assisted by  
Mr. John J. RYAN, Senior Legal Officer  
Ms. Joanna MARSZALIK, Legal Officer  
Mr. Florian RAZESBERGER, 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 2013,

Having deliberated, decides as follows:

### **I. PROCEEDINGS BEFORE THE PANEL**

1. The complaint was registered on 23 October 2012.

## **II. THE FACTS**

2. The complainant and his wife E.G. had three children, born, respectively, in 1993, 1995 and 2000.
3. On 12 April 2002, the District Court in Pristina dissolved the complainant's marriage. In the divorce judgment the court awarded sole custody of all three children to the complainant.
4. On 8 October 2009, the Municipal Court of Pristina granted the custody of the children to the complainant's former wife and ordered him to pay child maintenance. Moreover, at E.G.'s request, the court issued a protection order banning the complainant from harassing, disturbing or contacting her or the children.
5. On 16 December 2009, the District Court of Pristina dismissed the complainant's appeal against that judgment.
6. The complainant was remanded in detention on 29 July 2010. On 12 April 2012, he was found guilty of two murders, an attempted murder, all offences committed in July 2010 and he was also found guilty of the illegal possession and use of firearms. He was sentenced to thirty-three years' imprisonment. It appears that one of the murder victims was his former wife, E.G. It is not clear who has had the custody over the complainant's children since E.G.'s death and his subsequent arrest.

## **III. COMPLAINTS**

7. The complainant submits in vague terms that the custody of his three children was unjustly given to his former wife and that the children were "set against him" by E.G., her lawyers and social workers. He does not invoke any provisions of international instruments for human rights protection.

## **IV. THE LAW**

8. 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.
9. In accordance with Rule 25, paragraph 3 of the Rules of Procedure, complaints must be submitted within six months from the date of the alleged violation.
10. The Panel notes that the complainant's grievance concerns, in essence, the outcome of the divorce and custody proceedings. The final decision in those proceedings was given on 16 December 2009,

when the District Court of Pristina dismissed the complainant's appeal against the first-instance judgment. The complainant filed his complaint with the Panel on 23 October 2012. However, in accordance with Rule 25, paragraph 3 of the Rules of Procedures the complaint should have been lodged within six months from the decision grounding the alleged violation, on 16 May 2010 at the latest. The complaint does not therefore satisfy the admissibility criteria set out in Rule 29 of the Panel's Rules of Procedure.

**FOR THESE REASONS,**

The Panel, unanimously, holds that it lacks competence to examine the complaint, finds the complaint manifestly ill-founded within the meaning of Article 29 (d) of its Rules of Procedure, and

**DECLARES THE COMPLAINT INADMISSIBLE.**

For the Panel,

John J. RYAN  
Senior Legal Officer

Magda MIERZEWSKA  
Presiding Member