



INADMISSIBILITY DECISION

Date of adoption: 10 November 2014

Case No. 2014-19

Fahri Rexhepi

Against

EULEX

The Human Rights Review Panel sitting on 10 November 2014 with the following members present:

Ms Magda MIERZEWSKA, Presiding Member
Mr Guénaél 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 20 March 2014.

II. THE FACTS

2. The complainant's submissions may be summarised as follows.
3. The complainant was an employee of the socially owned enterprise "Ramiz Sadiku". "Ramiz Sadiku" was privatised on 27 June 2006.
4. On 5 March 2010, the complainant filed an appeal with the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (SCSC). He complained that his name had not been included on the list of the "Ramiz Sadiku" former employees, entitled to a 20% share in the proceeds from the sale of the privatised company.
5. The Trial Panel of the SCSC rejected the complainant's appeal on 24 February 2011. The SCSC found that it had been filed outside of time-limit, which had expired on 27 March 2009.
6. On 23 November 2012, the Appellate Panel of the SCSC rejected the complainant's appeal against the Trial Panel decision as ill-founded.
7. On 8 April 2014, the complainant submitted a referral to the Constitutional Court of Kosovo, asking for a constitutional review of the Appellate Panel of the SCSC. His request was declared inadmissible on 3 July 2014, as it had been lodged out of time.

III. COMPLAINTS

8. The complainant submits that, as its former employee, he is entitled to some of the proceeds arising from the sale of "Ramiz Sadiku" and requests that he be paid his share accordingly.

IV. THE LAW

9. 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.
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.

11. According to Rule 25, paragraph 1, of the Rules of Procedure, the Panel can examine complaints relating to the human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors.
12. The Panel notes that the complainant's grievances concern the outcome of judicial proceedings before the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters and the Constitutional Court of Kosovo. According to Rule 25, paragraph 1, the Panel cannot in principle review judicial proceedings before the courts of Kosovo. It has no jurisdiction in respect of either administrative or judicial aspects of the work of Kosovo courts. Moreover, the Panel has held that the fact that EULEX judges sit on the bench of a given court does not detract from the fact that this court forms part of the Kosovo judiciary (see, among many other authorities, *E against EULEX*, 2012-17, 30 August 2013, § 23; *Gani Zeka against EULEX*, 2013-15, 4 February 2014, § 13).
13. It follows from the above that the complaint falls outside of the ambit of the Panel's mandate, as formulated in Rule 25 of its Rules of Procedure and the OPLAN of EULEX Kosovo. The Panel is, therefore, not competent to review the matter complained of.

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 Rule 29 (d) of its Rules of Procedure, and

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,


John J. RYAN
Senior Legal Officer




Magda WIERZEWSKA
Presiding Member