



INADMISSIBILITY DECISION

Date of adoption: 17 October 2017

Case No. 2016-05

Axhemi Zyhdi

Against

EULEX

The Human Rights Review Panel sitting on 17 October 2017 with the following members present:

Ms Magda MIERZEWSKA, Presiding member
Mr Guénaël METTRAUX, Member
Ms Elka ERMENKOVA, Member

Assisted by
Mr John J. RYAN, Senior 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. PROCEDURE

1. The complaint was registered with the Human Rights Review Panel (Panel) on 22 March 2016. The Panel gave notice of the complaint to the Head of Mission (HoM), EULEX Kosovo, on 23 March 2016.

II. THE FACTS

2. The facts of the case as submitted by the Complainant may be summarized as follows:
3. The Complainant published an English–Albanian–Serbian Dictionary – Glossary of customs in late 2005 – beginning of 2006.
4. The Customs Component of UNMIK (Pillar IV) funded the printing of 850 copies of the said dictionary based on a “gentleman’s agreement” between the Complainant and UNMIK. In accordance with this

agreement, the Complainant retained 250 copies and handed over the balance of 600 copies to UNMIK.

5. The Complainant submits that he did not, thereafter, give his approval, or enter into any contractual relationship with any entity, for any further publication of his work in any form, electronic or otherwise.
6. However, the dictionary was published on the official EULEX website sometime in 2009 (www.eulex-kosovo.eu).
7. On 26 January 2011, the Complainant wrote to EULEX in order to claim monetary compensation in the amount of Euros 10,000 from EULEX for the publication and use of the dictionary on the EULEX website.
8. EULEX replied on 11 March 2011 that the matter had been referred to the EULEX Desk, European Commission, Brussels, for a review of his claim for compensation.
9. Later in time, EULEX informed the Complainant that the European Commission had decided that EULEX did not gain any economic benefit from the temporary inclusion of the dictionary on its website nor did the Complainant provide any evidence to EULEX that he had suffered any pecuniary damage as a result of the publication. EULEX further stated that there was no clear evidence that EULEX had “employed the work (dictionary) in the course of its daily activity” and noted that the dictionary had been immediately removed from the website by EULEX once it became aware of the matter. In conclusion, EULEX stated that “while not wishing to dismiss any legitimate claim put forth by you, the Commission finds no reason for payment to be made at this time”.
10. There was no further communication between the Complainant and EULEX from the time when he received the letter from EULEX on 11 March 2011.

III. COMPLAINT

11. The Complainant alleged that EULEX failed to pay to him monetary compensation in the amount of Euros 10,000 in respect of his claim lodged with EULEX on 26 January 2011 concerning the publication, in 2009, of a dictionary on its website by EULEX. Whilst he does not specifically identify any particular fundamental rights said to have been violated, it would appear from the tenor of his complaint that this would pertain to the peaceful enjoyment of his possessions protected, *inter alia*, under Article 1 of Protocol No. 1 to the European Convention of Human Rights.

IV. THE LAW

12. 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 the human rights to be guaranteed by public authorities in all democratic legal systems.

13. 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.
14. According to Rule 25, paragraph 1, of the Rules of Procedure, the Panel can examine complaints relating to alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate in the justice, police and customs sectors. Under Rule 25 (3) of the Panel's Rules of Procedure a complaint must be submitted to the Panel within six months from the date of the alleged violation.
15. The present complaint relates to a claim for compensation from EULEX by the Complainant. The Complainant submitted his claim for compensation to EULEX on 26 January 2011. EULEX replied to the Complainant on 11 March 2011, refusing to pay compensation. The Complainant did not submit any evidence of any further communication between himself and EULEX after that date. His complaint was filed with the Panel on 22 March 2016, more than five years after the refusal of compensation.
16. The Panel notes that the conduct complained of by the Complainant therefore falls outside of the six month time-limit within which a complaint must be filed with the Panel (Rule 25(3) of the Rules of Procedure of the Panel).

FOR THESE REASONS,

The Panel, unanimously, holds that the complaint must be rejected in accordance with Rule 29 (c), as it was introduced out of time and therefore

DECLARES THE COMPLAINT INADMISSIBLE.

For the Panel,

John J Ryan
Senior Legal Officer

Magda MIERZEWSKA
Presiding Member