



Human Rights Review Panel

Newsletter No 19 – 01 January 2019 to 31 December 2019

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Introduction

The Human Rights Review Panel (“Panel”), established by the European Union in 2009, is an independent accountability body with the mandate to review alleged human rights violations by EULEX Kosovo in the exercise of its executive mandate. The Panel issues a newsletter periodically, in English, Albanian and Serbian, as part of its outreach to the people in Kosovo, civil society, and the international community.

The Panel has received two hundred and one (201) cases since it commenced its operation in June 2010. It held that EULEX Kosovo committed rights violations in twenty nine (29) cases. It has additionally found that there were no human rights violations in twenty five (25) other cases which it had deemed admissible. Two (2) complaints have been filed with the Panel since 1 January 2019 and there are currently twenty five (25) cases pending before the Panel.

Case statistics - December 2019



The cases before the Panel have related to a range of substantive and procedural human rights considerations, including, on substance, the rights to life, to the respect for private and family life, and the right to an effective remedy. The full body of case law is available at: <https://hrrp.eu/cases.php>.

Reconfiguration of the Human Rights Review Panel

The Panel is composed of three international experts in human rights law. Two experts are external, and one expert is a member of the Monitoring Pillar of EULEX who is familiar with the mission and the legal system of Kosovo. Due to the reconfiguration of 15 June 2018 of the European Union Rule of Law Mission in Kosovo, the EULEX members of the Human Rights Review Panel needed to be replaced. On 19 December 2018, Ms. Anna Bednarek was appointed as EULEX Member to the Panel, and Mr. Petko Petkov was appointed as EULEX Substitute-Member to the Panel.

On 13 December 2018, one of the external members of the Panel resigned. Following an international recruitment procedure, on 12 July 2019, Ms. Anna Autio was appointed to the Panel as second external member.

At the 42nd session of the Human Rights Review Panel on 10-12 September 2019, Mr. Guénaël Mettraux was formally elected Presiding Member of the Panel.

Further detail on the Panel composition can be found at: <https://hrrp.eu/member-of-panel.php>.

Revised Rules of Procedure

In order to comply with the reconfiguration of the European Union Rule of Law Mission in Kosovo, on 15 January 2019, the Human Rights Review Panel adopted its revised Rules of Procedure to reflect the changes in the mandate of EULEX.

On 11 December 2019, the Panel amended its Rules to ensure that all parties to a complaint may benefit equally from the right to request a revision of the Panel's Findings should new facts become known that could not have been known before.

The revised and amended Rules of Procedure are published on the website of the Panel in the English, Albanian and Serbian languages: <https://hrrp.eu/reference-documents.php>.

Sessions of the Human Rights Review Panel

During 2019, the Human Rights Review Panel held five sessions, on

- 39th Session: 14, 15 and 16 January 2019;
- 40th Session: 27, 28 and 29 March 2019;
- 41st Session: 19 and 20 June 2019;
- 42nd Session: 10, 11 and 12 September 2019; and
- 43rd session: 11, 12 and 13 December 2019.

Decisions of the Human Rights Review Panel

In the course of the year, the Panel declared three cases inadmissible and ten cases admissible.

In addition, in four Decisions on the merit, the Panel found that the European Union Rule of Law Mission in Kosovo had violated its human rights obligations in respect of the complainants and the Panel formulated recommendations to the Head of Mission.

In three cases where the Panel had previously found a violation, the Panel issued follow-up decisions to review the implementation of its recommendations to the Head of Mission of EULEX, and to make further recommendations in two of the cases.

Inadmissibility Decisions

- [Case 2018-02 D.W. against EULEX](#). The complaint related to allegations against the Kosovo Intelligence Agency. The Panel declared this complaint inadmissible, because the events complained of were not attributable to EULEX in the conduct of its executive mandate, and therefore did not come within the scope of the Panel's jurisdiction.
- [Case 2018-04 Afrim Islami against EULEX](#). The complaint concerned a request that EULEX monitor the criminal prosecution against the complainant. The Panel declared this complaint inadmissible as manifestly ill-founded.
- [Case 2018-03 E.V. against EULEX](#). The complaint concerned the recovery of family property following the conflict in Kosovo. The Panel declared this complaint inadmissible because it fell outside the scope of jurisdiction of the Panel and was manifestly ill-founded.

Admissibility Decisions

- [Case 2016-09 Milorad Trifunović against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2016-10 Dragiša Kostić against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2016-11 Anđelija Brakus against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2016-12 U.F. against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.

- [Case 2016-13 Miomir Krivokapić against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2016-14 Milan Ađančić against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2016-15 Dragan Janačković against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- Case 2016-17 Milijana Avramović against EULEX. The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2016-28 S.H. against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.
- [Case 2017-02 Zufe Miladinović against EULEX](#). The complaint concerned the disappearance of a family member of the complainant and the investigation into this disappearance. The Panel declared the complaints admissible and invited the Parties to make submissions on the merits of the complaints.

Decisions on the merit

- Case 2016-09 Milorad Trifunović against EULEX. On 11 December 2019, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasise with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.

- **Case 2016-14 Milan Ađančić against EULEX.** On 11 December 2019, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasise with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.
- **[Case 2016-28 S.H. against EULEX.](#)** On 11 September 2019, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to inquire with the authorities what steps are being taken to investigate this case, and to emphasise with authorities the importance of victim's rights to the truth and to be informed of the general course of the investigation.
- **[Case 2017-02 Zufe Miladinović against EULEX.](#)** On 19 June 2019, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission of EULEX, including to urge competent authorities to ensure that the criminal investigation into the disappearance of the complainant's family member is continued in compliance with Articles 2 and 3 of the European Convention on Human rights.

Follow-Up Decisions

- **[Case 2011-20 X. and 115 Others against EULEX.](#)** By Decision of 22 April 2015, the Panel determined that EULEX was responsible for violating the rights of the complainants to an effective remedy, as guaranteed by Article 13 of the European Convention on Human Rights. The Panel made several recommendations to the Head of Mission. On 11 November 2015, and again on 10 January 2017, the Panel followed-up on the implementation of its recommendations.

On 27 March 2019, the Panel adopted its [Third Decision](#) on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that the complainants have yet to be provided with an adequate remedy and reparation for the violation of their rights, and invited EULEX to continue performing its mandate with a view to ensuring that the complainants' rights are fully vindicated.

On 11 December 2019, the Panel adopted its Fourth Decision on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that the complainants have yet to be provided with an adequate remedy and reparation for the violation of their rights, and invited EULEX to conduct a full review of the means available to the Mission to remedy the violation of the complainants' rights in an effective manner and to report to the Panel on the measures which it proposes to adopt to do so. The Panel also invited the Mission to consider approaching Member States through the European External Action Service regarding the possibility of reparation or compensation for the violation of the complainants' rights attributed to the Mission by the Panel.

- [Case 2011-27 F. and Others against EULEX](#). By Decision of 5 December 2017, the Panel determined that EULEX was not responsible for a violation of the complainants' right to life in its substantive limb, but held that the Mission was responsible for a violation of the complainants' rights under the procedural limb of the right to life, as guaranteed by Article 2 of the European Convention on Human Rights. In addition, the Panel determined that EULEX was responsible for a violation of the complainants' right to freedom from torture, inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights. The Panel made two recommendations to the Head of Mission of EULEX.

On 19 June 2019, the Panel adopted a [Follow-Up Decision](#) on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that the Head of Mission had fully implemented the Panel's first recommendation. Regarding its second recommendation, the Panel noted that although the Head of Mission had not formally acknowledged the Mission's responsibility for the violation of the complainants' rights, the Head of Mission had taken the valuable step of expressing her deepest sympathy to the complainants on behalf of the Mission. The Panel decided to close the further examination of this case.

- [Case 2017-02 Zufe Miladinović against EULEX](#). By Decision of 19 June 2019, the Panel determined that EULEX had failed to conduct an effective investigation into the disappearance of the complainant's family member and had failed to keep the complainant informed. As a result, the Panel determined that the Mission was responsible for a violation under the procedural limb of the complainant's right to life as guaranteed by Article 2 of the European Convention on Human Rights, and for a violation of the complainant's right to freedom from inhuman or degrading treatment, as guaranteed by Article 3 of the European Convention on Human Rights.

On 11 December 2019, The Panel adopted a Follow-Up Decision on the implementation of the recommendations of the Human Rights Review Panel. In its Decision, the Panel noted that that the rights of the complainant in the present case are still being violated as the case of her missing relative remains un-investigated. The Panel considered that the steps thus far taken or proposed by the Mission in order to address the Panel's findings and recommendations do not provide an adequate or effective response to the violation of the rights of the complainant. As a consequence, the Panel considered that the Mission has yet to explore fully what possibilities exist to ensure that the violation of the rights of complainant is remedied and that their

violation comes to an end. The Panel invited the Mission to give careful consideration to what possibilities exist for the Mission to contribute to that end in a meaningful and effective manner, and to inform the Panel of the result of those considerations and what measures the Mission proposes to adopt to achieve that goal. The Panel decided to keep the present case open for possible further follow-up.

Publication of the Human Rights Review Panel Annual Report 2018

The Annual Report of the Human Rights Review Panel for the period 1 January 2018 to 31 December 2018 was published on 15 May 2019. The Report may be accessed at: <http://www.hrrp.eu/annual-report.php>.

Publication of decisions

The decisions of the Panel are published on the website of the Panel in the English, Albanian and Serbian languages and may be accessed at: www.hrrp.eu.

Visit Panel website: www.hrrp.eu



HOW TO FILE A COMPLAINT WITH HRRP

(Rules 25 and 26 of the Rules of Procedure of the HRRP)

Who?

Any person who does not work for EULEX Kosovo and who claims to be a victim of a human rights violation by EULEX Kosovo in the performance of its executive mandate.

The complainant (the person making the complaint) can be represented by a lawyer or another representative of his or her choice. In that case a letter of authority must be filled in.

What?

The Panel will only examine complaints concerning alleged human rights violations that happened after 9 December 2008 in Kosovo. The violation must be caused by EULEX Kosovo in the performance of its executive mandate.

The Panel will not review judicial proceedings before the courts in Kosovo.

When?

The complaint must be submitted to the Panel within six months from the date of the alleged violation.

How?

The complaint must be submitted in writing. No complaints may be made by phone. The complainant can use either the English, Albanian or Serbian language.

The complaint should normally be made on the complaint form and be accompanied by relevant documents and decisions (if any), as instructed in the form.

If a complaint is introduced in a letter, such letter must set out, at least in summary form, the subject matter of the complaint in order for the matter to be examined further.

Where?

The complaint may be filed at:



Human Rights Review Panel - Secretariat
Rrustem Statovci Street no. 29 – 10000 Pristina – Kosovo
Tel: +383 (0) 38 28 2207

A complaint can also be sent by email to office@hrrp.eu

www.hrrp.eu

If the complaint is e-mailed, the signed original complaint must be delivered within four weeks from the date of the original e-mail.

Completion of the Complaint Form

The complaint should be written legibly and, preferably, typed.

The form should contain all contact details of the complainant.

If the complainant provides documentary evidence, legible copies should be submitted. **Do not send original documents.**

The documents should be listed in date-order, numbered consecutively and with a short description (e.g. letter, order, judgment, appeal, etc.).

The complaint will be assigned a file number upon registration. The file number must be referenced in all subsequent correspondence. If the complainant has an earlier complaint pending before the Panel, he or she must inform the Panel of the file number. If the complainant for some reason does not wish his or her identity to be disclosed, he or she should fill in the appropriate section of the complaint form.