



## PRESS RELEASE No 129/25

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Order of the General Court in Case T-771/20 RENV | KS and KD v Council and Others

### **Eulex Kosovo mission: the General Court dismisses the action for damages brought against EU institutions and an EU body**

In 2008, the European Union created the Eulex Kosovo Rule of Law civilian mission, which was tasked, inter alia, with carrying out investigations into serious offences committed in Kosovo in 1999 during the conflict in that country and into the people who disappeared or were killed there at that time. In 2009, a Human Rights Review Panel was established by the European Union, tasked with examining complaints of human rights violations committed by Eulex Kosovo in the implementation of its mandate. Where that panel finds such a violation, it may make non-binding recommendations with a view to remedial action being taken by the Head of Mission.

Following complaints lodged by KS and KD, who are relatives of people who either are missing or had been killed, the review panel concluded, in November 2015 and October 2016, that several fundamental rights had been infringed. In March 2017, it closed the cases, albeit while finding that the Head of Eulex Kosovo had only implemented in part the recommendations it had made to him.

KS and KD then brought an action before the General Court of the European Union against the Council of the European Union, the European Commission and the European External Action Service (EEAS) on the basis of non-contractual liability. They wish to obtain compensation for the damage which they claim to have suffered as a result of various acts and omissions relating to the investigations carried out by the Eulex Kosovo mission concerning the disappearance and killing of their family members.

By order of 10 November 2021, <sup>1</sup> the General Court declared that it manifestly lacked jurisdiction, taking the view that the action fell within the scope of Common Foreign and Security Policy (CFSP), a field in which the Courts of the European Union do not, in principle, have jurisdiction.

Hearing an appeal brought by KS and KD, the Court of Justice <sup>2</sup> held that **the Courts of the European Union do have jurisdiction to hold EU institutions and bodies liable for acts or omissions falling within the scope of the CFSP which are not directly related to political or strategic choices**. That is the case, in particular, for decisions taken by Eulex Kosovo as to the choice of personnel or the establishment of review measures or remedies. On the other hand, the Court stated that the definition of the means made available to the mission and the revocation of its executive mandate come within the scope of such political or strategic choices, with the result that the General Court did not err in declaring that it lacked jurisdiction to rule on those points.

The Court of Justice therefore annulled the decision of the General Court in part and referred the case back to it.

In its order, **the General Court dismisses the action** brought by KS and KD.

First of all, the General Court recalls that, starting from 15 June 2014, **the Eulex Kosovo mission became responsible**, in principle, **for all the obligations linked to the implementation of its mandate**, including those which arose before that date. Accordingly, it took the place of those previously responsible for the implementation of its mandate, including in ongoing judicial proceedings.

Next, as regards the alleged absence of investigations into the disappearance of the applicants' relatives due to a **lack of appropriate personnel within the Eulex Kosovo mission**, the General Court finds that the failures relied upon **come within the exclusive responsibility of that mission** as part of its day-to-day management, and cannot be attributed to the Council, the Commission or the EEAS.

The General Court also finds that, even though the review panel does not have enforceable powers and does not offer interested parties either the benefit of legal aid or a remedy once it reaches a finding that infringements have occurred, **the judicial remedies available before the Courts of the European Union allow those parties to benefit from all the guarantees required** to ensure compliance with the right to an effective remedy.

Lastly, the General Court also rejects the applicants' other arguments, including those alleging that the Council had a power to issue instructions through the mission's Civilian Operation Commander and that the Council and the EEAS had misused or abused executive power.

**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The [full text](#) of the order is published on the CURIA website.

Press contact: Jacques René Zammit ☎(+352) 4303 3355.

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<sup>1</sup> Order of 10 November 2021, *KS and KD v Council and Others* ([T-771/20](#)).

<sup>2</sup> Judgment of the Court of Justice of 10 September 2024, *KS and KD v Council and Others* ([C-29/22 P](#)) (see also Press Release [No 134/24](#)).