

Judge Malcolm Simmons, former President of EULEX Judges gives statement to Kosovo Parliament

A Fascinating Tale of Lies and Conspiracies at the Heart of EU Rule of Law

LONDON, LONDON, UK, July 14, 2021 /EINPresswire.com/ -- When [Judge Malcolm Simmons](#) gave evidence before the Kosovo Parliament on 12 July 2021, he referred to interference by mission management in judicial decisions and judges being accused of corruption if they made decision unpopular with mission management.

In 2016 a fellow judge employed in the mission hacked into Judge Simmons' private emails. He gave copies of those emails to senior staff of the EU in Brussels. Those emails revealed Judge Simmons was a whistleblower and that since 2013 he had reported to both the UK Foreign Office and to the EU Anti-Fraud Agency serious misconduct involving senior staff of the EU mission. Following receipt of those emails the EU commenced a disciplinary investigation against Judge Simmons.

The persons in charge of those disciplinary proceedings were persons who were in receipt of his private emails and the persons Judge Simmons had accused of serious misconduct. The investigators, including a former Judge of the European Court of Justice, were also in possession of his private emails.

Judge Simmons demanded an independent investigation into the hacking of his private emails. That request was refused by the European External Action Service in Brussels, the equivalent of the US Department of State. Instead, an investigation was conducted by EULEX. When Judge Simmons insisted that the former judge of the European Court of Justice who was investigating the allegations against him be interviewed, he was informed by EULEX that the investigation into the hacking of his private emails had been "closed". He was given no explanation. Judge Simmons demanded to see the investigation file to see what steps the investigators had taken and who had been interviewed. When Judge Simmons was eventually given access to the investigation file, it contained only one document and that was the notification to him informing him the investigation had been closed.

Despite repeated requests of the UK Foreign Office, the EEAS failed to initiate an independent investigation into the hacking of his private emails.

The investigation against Judge [Malcolm Simmons](#) was led by the very people he had accused of serious misconduct. They referred the case to a disciplinary Board. The board comprised three members. Only one member of the Board was a judge. The other two members included a Logistics Officer who was subordinate to the very persons Judge Simmons had accused of serious misconduct!

In its judgments, the European Court of Human Rights has been very clear: disciplinary boards in proceedings against judges should comprise a majority of judges. In the case of Judge Simmons, only one member was a judge.

That was not the only abuse of the disciplinary process. The Board ignored important exculpatory evidence, including three statements of very important witnesses, including senior judges. In addition, Judge Simmons was not permitted to be present when other, important, witnesses were examined by the Board. Instead, he was sent what the Board referred to as a “resume” of their evidence. Judge Simmons had no opportunity to challenge their evidence or ask the witnesses questions.

Judge Malcolm Simmons filed an appeal that was heard by an appeals board comprising three EU judges. That appeal was heard in May 2019.

The Appeals board ignored judgments of the European Court of Human Rights and ignored International Conventions and Charters that state that, in disciplinary proceedings against a judge, at least a majority of the panel should be judges.

Of greater concern was the fact the Appeals Board ignored Article 6 of the European Convention on Human Rights that provides Judge Simmons was entitled to be tried “...by an independent and impartial tribunal established by law.” In his case, a member of the Board was subordinate to a person Judge Simmons had accused of serious misconduct. Clearly, this was not an impartial tribunal.

Therefore, not only did the Board in his case not comprise a majority of judges in clear contravention of international law and practice, the Board was also not impartial.

The request of Judge Simmons that his case be referred to an independent court was refused by the EU.

In his statement, Judge Simmons said he would call evidence of interference in other investigations.

The Kosovo Parliament will decide whether to open a full enquiry.

Edward Montague

Edward Montague Associates

+44 7881962265

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