

# Can We Trust the EU to Fairly and Impartially Investigate Itself?

*Significant failings by the EEAS in dealing with investigations, have led many to question whether it is appropriate for the EU to investigate itself.*

CITY OF LONDON, LONDON, UNITED KINGDOM, July 18, 2021 /EINPresswire.com/ -- When [Judge](#)



Protecting the integrity of the EU is the primary goal of its constituent parts. Internal investigations are premised on controlling process and outcome.”

*Simon Mortimer*

[Malcolm Simmons](#) gave evidence before the Kosovo Assembly, he described serious failures by the EU and its institutions to investigate claims of serious misconduct committed by staff of EULEX, the EU rule of law mission in Kosovo. He also claimed that senior staff of the European External Action Service (the EU equivalent of the State Department) in Brussels had committed misconduct, including the manipulation of investigations.

In 2016 a judge employed by EULEX hacked into the private emails of Judge Simmons. These emails revealed Judge Simmons was a whistle blower. Copies of Judge Simmons’ private emails were given to senior staff of the EU in Brussels. After it had received his private emails, the EU commenced an investigation against Judge Simmons. That investigation was led by a former Judge of the European Court of Justice.

In written responses to lawyers instructed by Judge Simmons, the European External Action Service (‘EEAS’) has consistently denied it received copies of Judge Simmons’ private emails.

Judge Simmons demanded an independent investigation into the hacking of his private emails. That request was refused by the EEAS. 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. His request was initially refused. When he was eventually given access to the file, it contained only one document and that was the notification informing him the investigation had been closed.

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

Persons Judge Simmons accused of serious misconduct who were in receipt of his private emails, led the investigation against Judge Simmons. The investigators were also in possession of his private emails. After a seriously flawed investigation, allegations of misconduct against Judge Simmons were referred to a disciplinary board. The board comprised three members. Only one member of the Board was a judge. The other 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: in disciplinary proceedings against judges, the board should comprise a majority of judges. In the case of Judge Simmons, the majority were not judges.

That was not the only abuse of the process. The board refused to interview witnesses proposed by lawyers instructed by Judge Simmons. Further, Judge Simmons was not permitted to be present when other, important, witnesses were examined by the board. He was given no opportunity to cross-examine witnesses or to ask questions. Instead, he was sent what the board referred to as a “resume” of their evidence.

Judge Malcolm Simmons filed an appeal that was heard by an appeals board comprising three judges working within the EU system. The appeals board dismissed the appeal. In so doing, it ignored judgments of the European Court of Human Rights and ignored International Conventions and Charters regarding the composition of the panel and ignored Judge Simmons' rights under Article 6 of the ECHR to be tried “...by an independent and impartial tribunal established by law.” Further, Judge Simmons was denied the opportunity to challenge the evidence brought against him.

Judge Simmons' request that the case be referred to an independent court for review was refused by the EEAS. It was refused for one very obvious reason: it could not control the outcome. It was obvious a independent, impartial court would find the disciplinary process was unfair and that Judge Simmons had been denied his right to a hearing before a fair and impartial board.

It does not stop there.

This was not the first time senior staff of the EEAS had been accused of serious misconduct in connection with disciplinary investigations. Similar allegations were made by senior staff of the EUPOL COPPS Mission. The allegations in that case were very similar to the allegations in the case of Judge Simmons. The senior staff members complained to the EEAS and to Members States about the manipulation of the investigation. Judge Simmons will give evidence about that investigation.

It is further alleged that in another investigation into allegations of serious misconduct, including the commission of criminal offences by judges of the EU rule of law mission in Kosovo, a senior member of staff of the EEAS tried to frustrate that investigation. In due course, Judge Simmons

and other witnesses will give evidence about that investigation.

In email correspondence recently disclosed by the UK Foreign & Commonwealth Office under a UK Freedom of Information Act request, it is clear that EU Member States had concerns about the management of the department about which Judge Simmons complained but chose not to take action in order to preserve the integrity of the institution.

The question I therefore ask you is: having read this, would you have confidence in the EU to conduct a fair and impartial investigation into allegations of misconduct?

Simon Mortimer

Animus

+44 7881 564387

[email us here](#)

Visit us on social media:

[Twitter](#)

---

This press release can be viewed online at: <https://www.einpresswire.com/article/546534220>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2021 IPD Group, Inc. All Right Reserved.