



The Human Rights Advisory Panel

UNMIK HQ, East Wing, 10000 Pristina, Kosovo

DECISION

Date of adoption: 9 May 2008

Case No. 01/06

Mohammad Naeem TARIQ

against

UNMIK

The Human Rights Advisory Panel sitting on 9 May 2008

with the following members present:

Mr. Marek NOWICKI, Presiding Member

Mr. Paul LEMMENS

Ms. Snezhana BOTUSHAROVA-DOICHEVA

Mr. John RYAN, Executive officer

Having considered the request for revision of the decision of 6 February 2008, introduced pursuant to Rule 46 of the Rules of Procedure,

Having deliberated, decides as follows:

I. THE FACTS

1. On 2 May 2006, the complainant filed a complaint with the Panel, alleging a violation of his right not to be discriminated against in recruitment to a professional level post by UNMIK. The case was registered under No. 01/06.

The Panel refers to its decision of 6 February 2008 for a further description of the relevant facts.

2. By the said decision the Panel declared the complaint inadmissible, on the ground that the decisions not to recruit the complainant were instantaneous and all happened before 23 April 2005, and that the complaint therefore fell outside the Panel's competence *ratione temporis*.

The complainant was notified of the decision by letter dated 12 February 2008. An e-mail informing the complainant of the decision was sent to him on the same date.

II. REQUEST

3. The complainant requests the revision of the said decision of 6 February 2008.

III. PROCEEDINGS BEFORE THE PANEL

4. The request was sent on 13 February 2008.

5. By letter of 13 March 2008 the Executive Officer of the Panel acknowledged receipt of the request, and drew the attention of the complainant to Rule 46 of the Panel's Rules of Procedure. He invited the complainant to explain to what extent he considered that his request for revision fulfilled the conditions set out in that rule.

By e-mail of 9 April 2008 the complainant replied to the said letter.

By letter of 10 April 2008 the Executive Officer of the Panel drew again the attention of the complainant to Rule 46 of the Rules of Procedure. He indicated that, as the facts alleged in the complainant's e-mail of 9 April 2008 did not reveal any facts that could not reasonably have been known to him at the time that the decision was delivered, the Panel would be unable to review the decision.

By letter of 12 April 2008 and e-mail of 21 April 2008 the complainant submitted additional information to the Panel, and urged the Panel not to succumb to technicalities.

IV. THE LAW

6. According to Rule 46 § 1 of the Rules of Procedure, "a party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when the decision or the opinion was delivered, was unknown to the Panel and could not reasonably have been known to that party, request the Panel ... to revise that decision or opinion".

7. In his request dated 13 February 2008, the complainant argued that, unlike what the Panel had decided in its decision on the admissibility of his complaint, the alleged violation still continued and he therefore had a valid cause of action.

Asked to explain how he considered that his request fulfilled the conditions set out in Rule 46 § 1, the applicant first reiterated, in his e-mail of 9 April 2008, that he was the victim of discrimination, "not once but four times", and that his case was a "clear cut case of (...) violation of human rights". He concluded that e-mail by referring to the fact that the Panel could "use its inherent powers under Rule 47 to decide the case on (the) merits". In his letter of 12 April 2008 he made the same statements. He ended his letter by arguing that his "clear cut case of (...) violation of the human rights may not succumb to the technicalities as this would be defeating the very purpose of the promulgation of UNMIK Regulation (No. 2006/12 of 23 March 2006 on the establishment of the Human Rights Advisory Panel)". In his e-mail of 21 April 2008 he argued that his case "had been thrown out on mere technicalities" and that "throwing (his) case in the dustbin under the cover of the technicalities is not the answer".

8. The complainant does not refer to any new fact, *i.e.* a fact that was unknown to the Panel at the moment of its decision and which, moreover, could not reasonably have been known by the complainant himself. The latter therefore does not show that his request fulfills one of the conditions set out in Rule 46, § 1, of the Rules of Procedure.

9. The complainant also refers to Rule 47. That rule is limited to rectifications of errors and editorial revisions. The complainant's request does not fit in any of these categories.

10. The Panel considers that there is no reason to reconsider its decision of 6 February 2008.

FOR THESE REASONS,

The Panel, unanimously,

REFUSES THE REQUEST FOR REVISION.

John RYAN
Executive Officer

Marek NOWICKI
Presiding member