



DECISION

Date of adoption: 15 July 2008

Case No. 05/08

V.P.

against

UNMIK

The Human Rights Advisory Panel sitting on 15 July 2008
with the following members present:

Mr. Marek NOWICKI, Presiding Member
Mr. Paul LEMMENS
Ms. Snezhana BOTUSHAROVA-DOICHEVA

Mr. John J RYAN, Executive Officer

Having considered the aforementioned complaint, introduced pursuant to Section 1.2
of UNMIK Regulation No. 2006/12 of 23 March 2006 on the establishment of the
Human Rights Advisory Panel,

Having deliberated, decides as follows:

I. THE FACTS

1. The complainant has lived in Pristina since 1972. On 19 September 1978 he was allocated an apartment in Pristina as an employee of the military facility "Morava". In 1992 he exchanged this apartment against another, which was occupied by another officer, and submits that he acquired the ownership of that apartment via a regular procedure and lived there until 2003.

In 2003 unknown persons destroyed his apartment by making a hole in the roof, causing its flooding. Furthermore, during his absence, some other persons broke in and stole many objects and furniture. The applicant alleges that he subsequently was tricked into agreeing to sell the apartment to a certain Mr. Z.

2. Both the complainant and another person, M.S., submitted an ownership claim to the Housing and Property Claims Commission (HPCC) in respect of the property. In a decision dated 13 December 2005, the HPCC held that the complainant satisfied the requirements to show that he had a valid category C claim, but that his rights were to be superseded by the category A claimant's claims for restoration of his property rights over the claimed property. Furthermore, as the complainant had never enjoyed a right of ownership of the property concerned, the HPCC found that he was precluded from receiving any form of compensation.

By a decision of 27 April 2007, served on the complainant on 22 May 2007, the HPCC dismissed the complainant's request to have the case re-examined as it considered that the documents submitted by the complainant as new evidence did not change the outcome of the original decision of the HPCC.

II. COMPLAINTS

3. The complainant claims that the unfavourable decisions of the HPCC in his case have interfered with his right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the ECHR. He further complains about the judicial proceedings in which he is involved and about their length.

III. PROCEEDINGS BEFORE THE PANEL

4. The complaint was introduced on 16 April 2008 and registered on the same date.

In a letter dated 11 June 2008, the Panel requested that the complainant provide a copy of the delivery receipt verifying the date on which the HPCC decision of 27 April 2007 was served, and give more information about the judicial proceedings to which he referred to in his complaint.

The complainant provided a copy of the delivery receipt to the Panel on 23 June 2008 and sent a note dated 4 July 2008 in which he explains that he has not actually commenced any further judicial proceedings in relation to this matter.

IV. THE LAW

5. Before considering the case on its merits the Panel has to decide whether to accept the case, taking into account the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
6. According to Section 3 of the Regulation, the Advisory Panel may only deal with a matter within a period of six months from the date on which the final decision was taken.

The Panel notes that the final decision in the complainant's case, the binding and enforceable decision on the reconsideration request, was taken by the HPCC on 27 April 2007. The delivery receipt he provided indicated that the complainant was served this decision on 22 May 2007.

As the period between 22 May 2007 and the date on which the complainant submitted the complaint to the Panel, 16 April 2008, is longer than six months, the complaint falls outside the time limit set by Section 3 of the Regulation.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

John J. RYAN
Executive Officer

Marek NOWICKI
Presiding Member