



DECISION

Date of adoption: 13 November 2008

Case No. 16/08

B.T

against

UNMIK

The Human Rights Advisory Panel sitting on 13 November 2008 with the following members present:

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

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. On 11 April 2002, the complainant suffered a serious injury to his hand as a result of an occupational accident while working as car mechanic at the UNMIK Transport Workshop. He received medical treatment at the UNMIK Clinic. He was also referred to an orthopaedic surgeon and, as he reported experiencing continuing pain, to a neurologist, as shown by copies of his medical records that he submitted with his complaint.

2. On 2 August 2002 the complainant filled out a claim for compensation under Appendix D to the Staff Rules applying to UNMIK employees. He claims that he never received any response to this request.
3. On an unspecified date in April 2006, the complainant received a letter from UNMIK informing him that his contract would not be extended beyond 30 June 2006.
4. On 22 June 2006 the complainant was involved in a car accident in a private car and outside office hours. After that accident, he was also referred to the German Field KFOR Hospital. The medical findings did not confirm the complainant's allegation that he had become a permanent invalid.
5. In a memorandum to the Chief Civilian Personnel Officer dated 26 July 2006, the complainant requested compensation for the injuries he sustained in the second accident on 22 June 2006. He claims that UNMIK personnel staff refused to offer him a compensation claim form, saying that he was not entitled to compensation.
6. Following the complainants' numerous complaints about the alleged lack of proper assistance from UNMIK, on 3 August 2007 the Director of Administration recounted the facts relating to the applicant's complaints, including the medical treatment afforded to the complainant. He expressed the view that there were no indications that the complainant had in any way been discriminated against or ill treated. It was further noted that the applicant refused to cooperate with UNMIK Personnel officers who were keen to assist him in the compensation claims procedure and that he seemed to have "erroneously entertained a belief that suffering an injury while employed by UNMIK should be a guarantee for perpetual employment".

II. COMPLAINTS

7. The complainant claims that his human rights have been violated, explaining in vague terms that after his accidents UNMIK failed to give him necessary assistance, and that he still suffers from the consequences of his first accident.

III. PROCEEDINGS BEFORE THE PANEL

8. The complaint was introduced on 17 June 2008 and registered on the same date.

IV. THE LAW

9. Before considering the complaint on its merits the Panel has to decide whether to accept the complaint, taking into account the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
10. According to Section 2 of the Regulation the Panel has jurisdiction over complaints relating to alleged violations of human rights that have occurred not earlier than 23 April 2005 or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights.

11. In relation to the first accident that occurred in 2002, the Panel considers that the decisions in relation to the medical treatment and compensation of the complainant were instantaneous and happened before 23 April 2005, and that the complaint therefore lies outside its competence *ratione temporis*.
12. According to Section 3 of the Regulation, the Panel may only deal with a matter within a period of six months from the date on which the final decision was taken.
13. In relation to the second accident that occurred in 2006, the Panel notes that the complainant was told by UNMIK when he tried to communicate with them on 26 July 2006 that he was not entitled to any compensation. There is no evidence to suggest that the complainant attempted to pursue the matter further.
14. As the period between 26 July 2006 and the date on which the complainant submitted the complaint to the Panel, 17 June 2008, is longer than six months, the complaint falls outside the time limit set by Section 3 of the Regulation.
15. In any event, the allegations lack precision and do not allow the Panel to conclude that a human rights violation may have occurred. Consequently the application is also manifestly ill-founded.

FOR THESE REASONS,

The Panel, unanimously,

- **DECLARES THE COMPLAINT INADMISSIBLE.**

John J. RYAN
Executive Officer

Marek NOWICKI
Presiding member