



The Human Rights Advisory Panel

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DECISION

Date of adoption: 13 April 2011

Case No. 20/10

Dragica JEVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 13 April 2011,
with the following members taking part:

Mr Marek NOWICKI, Presiding Member

Mr Paul LEMMENS

Ms Christine CHINKIN

Assisted by

Ms Anila PREMTI, Acting 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, including through electronic means, in accordance with Rule 13 § 2 of its Rules of Procedure, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was introduced on 22 March 2010 and registered on the same date.

II. THE FACTS

2. The complainant is a resident of Lipjan/Lipljan. She claims she has been reporting to the UNMIK Police, UNMIK, and the Lipjan/Lipljan Municipality on various incidents concerning her property from 1999 till 2010, but has never received any response in that regard.

3. A list containing the dates and case numbers for various incidents reported by the complainant during the period 2000-2002, was provided, which was extracted from the database of the Investigation Unit of UNMIK Police on 17 December 2002. Incidents reported included burglary, grenade/mine/explosion, criminal damage, theft and assault to her property.
4. The complainant states that more incidents for the period 2002-2010 were registered with the police station in Lipjan/Lipljan. However the only evidence provided by her was a report from the Kosovo Police, dated 7 December 2009, on damage to a protective wall of the complainant's house.
5. On 9 December 2008, UNMIK's responsibility with regard to police and justice in Kosovo ended with the European Union Rule of Law Mission in Kosovo (EULEX) assuming full operational control in the area of the rule of law, following the Statement made by the President of the United Nations Security Council on 26 November 2008 (S/PRST/2008/44), welcoming the continued engagement of the European Union in Kosovo. Between 9 December 2008 and 30 March 2009, all criminal case files held by the UNMIK Department of Justice and UNMIK Police were handed over to their EULEX counterparts.

III. THE COMPLAINT

6. The complainant does not specifically invoke any right. It results from the complaint, however, that she complains about failure of UNMIK Police, UNMIK and Lipjan/Lipljan Municipality to respond to the various reported incidents concerning her property during the period 2000-2010.

IV. THE LAW

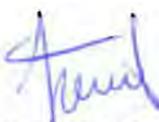
7. Before considering the case on its merits the Panel has to decide whether to accept the case, taking into account the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12 on the Establishment of the Human Rights Advisory Panel.
8. According to Section 1.2 of UNMIK Regulation No. 2006/12, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK. Furthermore, according to Section 2 of the Regulation, the Panel has jurisdiction over "complaints related to alleged violations of human rights that had 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."
9. The Panel considers that the damaging or the destruction of property are instantaneous acts, which do not give rise to a continuing violation (see Human Rights Advisory Panel, *Lajović*, no. 09/08, decision of 16 July 2008, § 7).
10. The Panel notes that the reported incidents contained in the list provided by UNMIK Police on 17 December 2002 and presented by the complainant, occurred during the period 2000-2002.
11. It follows that this part of the complaint lies outside of the Panel's jurisdiction *ratione temporis*.

12. The complainant has provided no evidence on incidents that may have occurred after 23 April 2005, except for a report from the Kosovo Police, dated 7 December 2009, on damage to a protective wall of the complainant's house.
13. However, on 9 December 2008, UNMIK's responsibility with regard to police and justice in Kosovo ended with the European Union Rule of Law Mission in Kosovo (EULEX) assuming full operational control in the area of the rule of law.
14. Thus, at the moment when the incident involving the protective wall of the complainant's house was reported to the Kosovo Police, in December 2009, UNMIK was no longer exercising executive authority over the Kosovo Police.
15. For this reason the Panel considers that this part of the complaint is outside its jurisdiction *ratione personae*.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.


Anila PREMTI
Acting Executive Officer


Marek NOWICKI
Presiding Member