



DECISION

Date of adoption: 13 April 2011

Case No. 45/10

N.G.

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 lodged with the Panel on 26 March 2010 and registered on 1 April 2010.

II. THE FACTS

2. The complainant is a resident of Kosovo. He complains that his rights as a disabled person have been denied by the Ministry of Labour and Social Welfare of Kosovo while it was operating under UNMIK.

3. On 20 July 2007 the complainant submitted a claim for a disability pension to that Ministry. On 27 August 2008 the Department of Pension Administration found that the complainant met all the conditions set by Law No. 2003/23 of 6 November 2003 on Disability Pensions in Kosovo, promulgated by UNMIK Regulation No. 2003/40 of 17 December 2003. It therefore approved his claim as of 20 July 2007.
4. On 11 March 2009, the complainant's claim underwent reconsideration by a Medical Panel in Mitrovicë/Mitrovica. On 19 March 2009, the Department granted the complainant the right to the continuation of the disability pension as of 20 July 2008.
5. On an unspecified date in 2009, the complainant received another decision from the Department, whereby the continuation of his disability pension was denied.
6. The complainant appealed against this decision to the Appeals Board of the Department of Pension Administration. By a decision dated 17 December 2009, the Appeals Board rejected the appeal, on the ground that the complainant did not show that he met the eligibility criteria set forth in the Law on Disability Pensions in Kosovo.
7. The decision also stated that the complainant could initiate an administrative suit before the Supreme Court of Kosovo, within the legally prescribed time of 15 days. The complainant does not indicate that he filed such an appeal.

III. THE COMPLAINT

8. The complainant complains that by taking a decision denying the continuation of his disability pension, his rights as a disabled person were violated by the Ministry of Labour and Social Welfare of Kosovo while it was operating under UNMIK.

IV. THE LAW

9. Before considering the case on its merits the Panel must first decide whether to accept the case, taking into consideration the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
10. 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.
11. In the present case the complainant complains about the denial of the continuation of his disability pension, decided by the Department of Pension Administration on an unspecified date in 2009, and upheld on appeal by the Appeals Board on 17 December 2009.
12. The Panel notes that, following the entry into force of the Kosovo Constitution on 15 June 2008, UNMIK was no longer able to perform effectively the vast majority of its tasks as an interim administration, and the SRSG was unable to enforce the executive authority that is still formally vested upon him under Security Council resolution 1244 (1999) (see, *e.g.*, Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 12 June 2008, S/2008/354, §§ 7 and 17; Report of the Secretary-General on the United Nations Interim Administration Mission in

Kosovo, 15 July 2008, S/2008/458, §§ 3-4 and 29; Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 24 November 2008, S/2008/692, § 21).

13. The Panel has already considered that, from 15 June 2008 at the latest, UNMIK can in principle no longer be held responsible for acts or omissions imputable to the Kosovo authorities, merely on the basis of the continuing existence of Security Council resolution 1244 (1999) (Human Rights Advisory Panel, *Krasniqi*, no. 48/08, decision of 13 March 2010, § 13). There are no special circumstances that lead to a different conclusion in the present case.
14. The object of the present complaint is a decision that is exclusively imputable to the Kosovo authorities. There is no indication of any concrete involvement of UNMIK in the adoption of that position. There are also no special circumstances that would warrant a derogation from the principle set out above. The conclusion therefore is that the matter complained of does not engage the responsibility of UNMIK.
15. It follows that the complaint falls outside the jurisdiction *ratione personae* of the Panel.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Anila PREMTI
Acting Executive Officer

Marek NOWICKI
Presiding Member