



The Human Rights Advisory Panel

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DECISION

Date of adoption: .12 May 2011

Case No. 294/09

Olga PATRNOGIĆ¹

against

UNMIK

The Human Rights Advisory Panel on 12 May 2011,
with the following members present:

Mr Marek NOWICKI, Presiding Member

Mr Paul LEMMENS

Ms Christine CHINKIN

Assisted by

Ms Anila PREMTI, Acting Executive Officer

Having considered the request for revision of the decision of 21 January 2011, introduced pursuant to Rule 46 of the Rules of Procedure,

Having deliberated, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. On 18 May 2009 the complainant filed a complaint with the Panel. The complaint was registered on the same date as being filed by Mr Božidar Jovanović.
2. On 21 January 2011 the Panel declared the complaint inadmissible.
3. Mr. Jovanović was notified of the decision by letter dated 9 February 2011.

¹ The case was originally registered under the name of Božidar Jovanović (see below, §§ 6-8).

4. On 28 February 2011, Mr Dragoljub Vasiljević, acting as a representative for Ms Olga Patrnogić, requested the revision of the Panel's decision on admissibility.

II. THE FACTS

5. The Panel refers to its decision of 21 January 2011 for a description of the relevant facts. The case relates to damage caused to the complainant's house and moveable property.

III. IDENTIFICATION OF THE COMPLAINANT

6. Initially the Panel considered that the complaint was filed by Mr Jovanović. However, it results from a letter of Mr Jovanović of 8 June 2010 (which the Panel did not receive at that time, but which was sent again on 17 January 2011) and from a letter of Mr Vasiljević of 17 January 2011 (which was received after the adoption of the decision on admissibility) that Mr Jovanović was in fact only a representative, and that he acted more specifically as a representative for Ms Olga Patrnogić.
7. Ms Olga Patrnogić was mentioned in the complaint form as a victim, together with Mr Tihomir Patrnogić (who disappeared in 1999, see case no. 293/09), and it appears that both were the co-owners of the property that was the object of the complaint in the present case.
8. The real complainant in the present case is therefore not Mr Jovanović, but Ms Olga Patrnogić. The case is renamed accordingly.

IV. EXAMINATION OF THE REQUEST FOR REVISION

9. 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 the decision or opinion".
10. In its decision of 21 January 2011 the Panel found that the complainant's property was destroyed some time in 2000, while the Panel's jurisdiction relates only to facts that have occurred after 23 April 2005, except in cases of continuing violations that started prior to that date and continued after that date. The Panel found that the destruction of property was an instantaneous act, and that the complaint therefore did not relate to a continuing violation. It concluded that the complaint was inadmissible as being outside its jurisdiction *ratione temporis*.
11. In his request dated 28 February 2011 the complainant's representative argues that the complainant's house was destroyed at a moment when UNMIK's mandate in Kosovo was fully established. He also argues that contrary to Panel's decision on admissibility, the alleged violation still continues and the complainant therefore has a valid cause of action.
12. 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 herself. The latter therefore does not show that her request fulfils one of the conditions set out in Rule 46 § 1 of the Rules of Procedure (compare

Human Rights Advisory Panel, *Tariq*, no. 01/06, decision on a request for revision, 9 May 2008).

13. The Panel considers that there is no reason to reconsider its decision of 21 January 2011.

FOR THESE REASONS,

The Panel, unanimously,

REJECTS THE REQUEST FOR REVISION.

Anila PREMTI
Acting Executive Officer

Marek NOWICKI
Presiding Member