



## DECISION

**Date of adoption: 12 August 2011**

**Case No. 03/10**

**Slavica MANDIĆ**

**Against**

**UNMIK**

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

Mr Marek NOWICKI, Presiding Member  
Mr Paul LEMMENS  
Ms Christine CHINKIN

Assisted by  
Mr Andrey ANTONOV, 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. PROCEEDINGS BEFORE THE PANEL**

1. The complaint was introduced on 16 February 2010 and registered on 18 February 2010. The complainant sent a follow-up letter on 29 March 2010.

## **II. THE FACTS**

2. The complainant is the widow of Mr Petar Jovanović, who was employed by the Organisation for Security and Cooperation in Europe (OSCE) from 1999 until his death on 11 May 2006. They had a child, Dejan Jovanović.
3. During his employment with the OSCE, Mr Petar Jovanović contributed a portion of his salary into a provident fund to be paid out to beneficiaries nominated by him in the event of his death.
4. After Mr Petar Jovanović's death the complainant brought proceedings before the Municipal Court of Leskovac in Serbia, in order to realise the alleged rights of Mr Dejan Jovanović relating to the provident fund. The court requested UNMIK, through the Serbian Ministry of Justice, to provide evidence of the money deposited in the provident fund. UNMIK requested the OSCE to provide it with the necessary information. It results, however, from a letter from the UNMIK Department of Justice to the Serbian Ministry of Justice, dated 5 June 2008, that according to a letter of the Head of the OSCE Mission in Kosovo dated 17 April 2008, the internal rules and regulations of the OSCE did not allow providing information related to the provident fund to anyone but the named beneficiaries of an OSCE staff member. The complainant states that she received a copy of UNMIK's response on 24 February 2009.
5. It appears that in the meantime that the complainant received information from the OSCE that the payment of the money from the provident fund was made to a beneficiary named by Mr Petar Jovanović, who was not his son Dejan Jovanović.
6. According to the complainant, the payment was made to another person, in allegedly suspicious circumstances. In 2009 the complainant filed a claim against that person in the Municipal Court of Leskovac for unjustified enrichment. According to the complainant, the recipient admitted that she took the money from the provident fund, but stated that she was entitled to that money on the basis of the authority given to her by the deceased. During the proceedings, the complainant was asked by the court to provide a copy of the power of attorney given by Mr Petar Jovanović.
7. The case against the recipient seems to be pending before the Municipal Court of Leskovac.

## **III. THE COMPLAINT**

8. The complainant asks the Panel to assist her in obtaining from the OSCE the document requested by the Municipal Court of Leskovac.

#### IV. THE LAW

9. Before considering the case on the merits, the Panel must first decide whether to accept the case, considering the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
10. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
11. The Panel notes that in the context of the dispute relating to the funds deposited by the late Mr Petar Jovanović in a provident fund of the OSCE, his son, Mr Dejan Jovanović, already filed a complaint with the Panel in 2008 (case no. 39/08). That complaint concerned the impossibility of obtaining from the OSCE information relating to the amount of funds deposited.
12. In its decision of 17 October 2008 the Panel declared the complaint inadmissible as being outside the jurisdiction *ratione personae* of the Panel, for the following reasons:

“The OSCE is an inter-governmental organisation, different from the United Nations and from UNMIK. It is true that the OSCE Mission in Kosovo is included in the activities of UNMIK as the organisation leading the Pillar III activities, dealing with democratisation and institution building. However, the present dispute does not concern any of the functions for which UNMIK bears final responsibility under resolution 1244 of the Security Council of 10 June 1999. It only concerns a matter related to the private employment contract between [Mr Petar Jovanović] and the OSCE and the application of OSCE internal rules. The facts complained of are not attributable to UNMIK” (§ 8).
13. The Panel sees no reason to depart from its opinion in case no. 39/08. Although the present complaint concerns a request for access to information that is not exactly the same as in 2008, the complaint still concerns a matter related to the private employment contract between Mr Petar Jovanović and the OSCE and the application of OSCE internal rules. UNMIK has nothing to do with the legal relationship between the complainant and the OSCE.
14. The Panel therefore concludes that the present complaint is, like the complaint brought by Mr Dejan Jovanović in case no. 39/08, outside its jurisdiction *ratione personae*.
15. This reason is sufficient to declare the complaint inadmissible.

**FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT INADMISSIBLE.**

Andrey ANTONOV  
Executive Officer

Marek NOWICKI  
Presiding Member