



# *The Human Rights Advisory Panel*

Building D, UNMIK HQ Prishtinë/Priština, Kosovo | E-mail: [hrap-unmik@un.org](mailto:hrap-unmik@un.org) | Tel: +381 (0)38 504-604, ext. 5182

## **DECISION**

**Date of adoption: 26 October 2011**

**Case No. 62/10**

**Miodrag JANKOVIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, on 26 October 2011,  
with the following members taking part:

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, 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 29 March 2010 and registered with the Panel on 1 April 2010.

## **II. THE FACTS**

2. The complainant is a resident of Kosovo, currently residing in Serbia.
3. He states that his father owned property in Malishevë/Mališevo, in the village of Banjë/Banja, which included fields of 17 and 30 hectares. He states that during the World War 1941-45, his family was forced to leave Banjë/Banja. On 6 March 1945, the National Committee for the Liberation of Yugoslavia issued a prohibition on the return of colonists to their former places of residence. As a result, his father and his family were unable to return to their property. The complainant states that the fields belonging to his father were subsequently seized, in order to be transformed into vineyards.
4. The complainant further states that his father's brother initiated court proceedings, seeking to obtain repossession of all properties seized. The Municipal Court of Rahovec/Orahovac and the District Court of Prizren rejected the claims, respectively on 10 May 1956 and 8 June 1960. On 15 March 1962 the Supreme Court of the Republic of Serbia referred the matter for a retrial to the District Court of Prizren. The complainant does not mention the final outcome of these proceedings. He mentions, however, that in 1963 a request for restitution or compensation was brought before the Executive Council of Yugoslavia. This request was rejected on 23 April 1963.
5. Throughout the decades, the disputed fields changed hands many times, until they vested, in 1995, with an agricultural farm operating the vineyards as part of a larger property, under the name "Metohija-vino" company.
6. The complainant asserts that the agricultural farm was privatised after 1999, and that his late father's property was thus sold to third persons, without the property being offered to him and without compensation for him.

## **III. THE COMPLAINT**

7. The complainant complains that at some unspecified time after June 1999, UNMIK gave its approval to the privatisation and the sale of his father's property, without any payment of a just compensation to the complainant. He invokes a violation of his right to property, guaranteed by Article 17 of the Universal Declaration of Human Rights, Article 1 of Protocol No. 1 to the European Convention on Human Rights

## **IV. THE LAW**

8. 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.
9. Insofar as the complaint concerns the privatisation of the vineyards operated by the agricultural farm "Metohija-vino" company, the complainant fails to show that he was the owner of the fields in question. To the contrary, he admits that his father's

brother had been unsuccessful in his attempts to obtain the annulment of the expropriation and the restitution of the properties in question.

10. In the absence of *prima facie* evidence that the complainant had a title of ownership over the properties at issue, the Panel cannot but note that the complaint is manifestly ill-founded (compare, in the same sense, European Court of Human Rights, *Lordos and Others v. Turkey*, no. 15973/90, judgment of 2 November 2010, § 50).

**FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT INADMISSIBLE.**

Andrey ANTONOV  
Executive Officer

Marek NOWICKI  
Presiding Member