



The Human Rights Advisory Panel

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DECISION

Date of adoption: 20 January 2012

Case No. 10/10

Dane TRBOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 20 January 2012,
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, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was lodged with the Panel on 3 March 2010 and registered on 11 March 2010.
2. By letters dated 13 July 2011 and 9 November 2011, the Panel requested additional information from the complainant. The Panel received the complainant's response on 23 November 2011.

II. THE FACTS

3. The complainant is a former resident of Kosovo, currently residing in Serbia. According to the complainant, he and a former relative by marriage are co-owners of a house located in the Municipality of Prizren/Prizren. The complainant and his family used the house as a vacation home; otherwise it was left vacant.
4. The complainant alleges that from 2001 the house has been illegally occupied by various persons.
5. On 28 December 2001, the complainant submitted a claim with the Housing and Property Directorate (HPD), for an order of repossession in respect of the aforementioned property. On 27 August 2004, the Housing and Property Claims Commission (HPCC) issued a decision finding that the complainant satisfied the requirements for an order of repossession of the property. However, P.D., another interested party connected to the property's co-owner, filed a reconsideration request with the HPD.
6. On 11 December 2006, the HPCC overturned its decision of 27 August 2004 and issued a new decision which determined that P.D. had been authorised by the property's co-owner to reside in the house. On 7 May 2008, the HPCC issued a certificate confirming that all proceedings concerning this property were final and that the limitations period for submitting further appeals had expired.

III. THE COMPLAINT

7. The complainant generally complains about the fact that his property has been usurped and illegally occupied.

IV. THE LAW

8. Before considering the case on its merits the Panel has to 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 on the Establishment of the Human Rights Advisory Panel.
9. Pursuant to Section 3.1 of UNMIK Regulation No. 2006/12, the Panel may only deal with a matter within six months from the date on which the final decision was taken. The purpose of the six-month rule is to promote legal certainty and to ensure that cases raising issues under UNMIK Regulation No. 2006/12 are dealt with within a reasonable time (see, for example, European Court of Human Rights (ECtHR), *Opuz v. Turkey*, no. 33401/02, judgment of 9 June 2009, § 110).
10. Where a complainant or his representative has been served with a written copy of the final decision, the object and purpose of the six-month requirement is best achieved by counting the six-month period as running from the date of service of that written decision (ECtHR, *Worm v. Austria*, judgment of 29 August 1997, *Reports of Judgments and Decisions*, 1997-V, p. 1547, § 33).

11. Although it is not clear from the complainant's submissions to the Panel when he or his representative was served with a written copy of the HPCC certificate issued on 7 May 2008, it is reasonable to conclude that he received it around this date. Based on the documents that the complainant submitted to the Panel, he was regularly corresponding with HPD concerning this matter.
12. The Panel notes that the complaint was introduced on 3 March 2010, approximately twenty-two months after the HPCC issued its certificate of 7 May 2008.
13. Accordingly, the complaint falls outside the six-month time limit set by Section 3.1 of the UNMIK Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member