

DECISION

Date of adoption: 17 February 2012

Case No. 52/10

Nebojša KOŠANIN

against

UNMIK

The Human Rights Advisory Panel, sitting on 17 February 2012,
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 31 March 2010 and registered on 8 April 2010.
2. On 9 November 2011, the Panel requested the complainant to submit additional information. On 22 November 2011, the Panel received the requested documentation.

II. THE FACTS

3. The complainant is a former resident of Kosovo, currently residing in Serbia. He states that in June 1999, he was forced to leave his place of employment, the publicly-owned enterprise “Airport Pristina” for security reasons. The complainant also alleges that part of an apartment owned by him was usurped by Airport Pristina and rented out to a United Nations staff member from February 2000 until February 2002, for which he was not compensated.
4. On 2 February 2006, the complainant submitted a claim to the Kosovo Trust Agency, requesting compensation for unpaid salaries and compensation for the money allegedly collected by Airport Pristina by renting out his property.
5. On 5 June 2006, and allegedly on several previous occasions, the complainant submitted a request to Airport Pristina asking to be allowed to return to work. On 12 September 2006, the managing director of Airport Pristina denied the complainant’s request.

III. THE COMPLAINT

6. The complainant complains about the fact that since his dismissal he has not been allowed to return to work, nor has he received any financial or other type of compensation. He also complains that he has not been compensated for the usurpation and subsequent rental of his property.

IV. THE LAW

7. 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.

Dismissal from work

8. The Panel recalls that, according to Section 2 of UNMIK Regulation No. 2006/12, it has jurisdiction only over “complaints relating to alleged violations of human rights that had occurred not earlier than 23 April 2005 or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights”.
9. The Panel considers that the dismissal from work was an instantaneous act, which does not give rise to any possible continuous situation (see Human Rights Advisory Panel, *Novokmet*, no. 51/10, decision of 13 April 2011 § 6).
10. The Panel notes that the complainant’s dismissal allegedly occurred in June 1999.

11. It follows that this part of the complaint lies outside the Panel's jurisdiction *ratione temporis*.

Property issues

12. Concerning the claim relating to property issues, the Panel notes that the complainant has failed to demonstrate that he previously addressed the matter to the relevant courts, or to any other body which may have competence over such matters.

13. Therefore, the Panel considers that concerning this alleged violation, the complainant did not exhaust the available avenues for review, as is required by Section 3.1 of UNMIK Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member