



DECISION

Date of adoption: 17 August 2012

Case No. 243/09

Božidarka BUHA

against

UNMIK

The Human Rights Advisory Panel, sitting on 17 August 2012,
with the following members present:

Mr Marek NOWICKI, Presiding Member

Mr Paul LEMMENS

Ms Christine CHINKIN

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 22 April 2009 and registered on 30 April 2009.
2. On 8 June 2009, the Panel requested the complainant to submit additional information. On 21 September 2009 the Panel received additional documentation from the complainant. A further request for information was sought by the Panel on 21 December 2010. No response to this request was received.
3. On 15 May 2012, the Panel requested information from the Kosovo Property Agency (KPA). The KPA responded on 16 May 2012.
4. On 16 May 2012, the Panel contacted the complainant by telephone and obtained further information from her.

II. THE FACTS

5. The complainant is a former resident of Kosovo, currently residing in Serbia proper. She claims that her now missing husband was the owner of an immovable property in the Ulpijana suburb of Prishtinë/Prištana. The complainant lived in the property until 22 March 1999, when she left Kosovo.
6. The complainant states that subsequently the apartment has been unlawfully occupied and that no rent has been paid by the occupant.
7. The complainant also states that she sold the apartment on an unspecified date.

III. THE COMPLAINT

8. The complainant claims that she has not received any rental income for the property. She claims that, as a result, her right to protection of property under Article 1 of Protocol No. 1 to the European Convention on Human Rights has been violated.

IV. THE LAW

9. 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.
10. According to Section 3.1 of UNMIK Regulation No. 2006/12, the Panel may only deal with a matter “after it determines that all other available avenues for review of the alleged violations have been pursued”.
11. The Panel notes that no application was ever made to either the Housing and Property Directorate or its successor, the KPA, with respect to this specific property. Neither does the complainant indicate that she ever filed a claim with a court against the allegedly illegal occupants of the apartment. Indeed the complainant has failed to give any indication as to what steps she has undertaken to formally claim return of the property or payment of a rent, in the period before she sold her property.
12. The Panel therefore considers that the complainant did not exhaust the available avenues for review, as is required by Section 3.1 of UNMIK Regulation No. 2006/12 (see for a similar case, Human Rights Advisory Panel, *Lajović*, no. 09/08, decision of 19 February 2012, §§ 31-35).

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member