



DECISION

Date of adoption: 17 August 2012

Case No. 24/10

D. V.

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 23 March 2010 and registered on 24 March 2010.
2. On 7 December 2011, the Panel requested the complainant to submit additional information. On 9 and 28 December 2011, the Panel received the requested documentation.
3. On 27 February 2012, the Panel requested information from the Kosovo Property Agency (KPA). The KPA responded by letter dated 29 February 2012.

II. THE FACTS

4. The complainant is a former resident of Kosovo, currently residing in Serbia proper.

5. The complainant states that he started to work with the socially owned enterprise “JPPK Belačevac EPS” in 1998, and that he lost his job in September 1999. He did not receive any compensation for his loss of salary.
6. He further states that he is the owner of immovable property located in the municipality of Lipjan/Lipljan. The complainant retained use of the property until August 1999 when due to security reasons he left Kosovo with his family.
7. The complainant subsequently became aware of the fact that an unidentified person occupied the property between August 1999 and April 2004.
8. The complainant filed a claim with the Housing and Property Directorate (HPD). On 27 June 2003, the Housing and Property Claims Commission of the HPD ordered that he be given possession of the claimed property. In September 2008, the complainant requested that his property be taken under the administrative authority of the successor to the HPD, the Kosovo Property Agency (KPA). The property was effectively taken under KPA administration on 17 November 2008.
9. It appears from information obtained from the KPA that the complainant has not signed and submitted to the KPA a consent form in order for his property to be included into the voluntary rental scheme.

III. THE COMPLAINT

10. The complainant complains about the fact that he lost his job and that he has not received any salary since September 1999. In this respect he invokes a violation of his rights guaranteed under the International Covenant on Economic, Social and Cultural Rights.
11. He further complains about the fact that he did not receive any rental income for his property. In this respect he can be deemed to invoke a violation of his right to enjoyment of his possessions, guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights.

IV. THE LAW

12. 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.

Complaint with regard to the *de facto* dismissal from the workplace and loss of income

13. 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”.
14. The Panel considers that the complainant’s dismissal from his workplace was an instantaneous act which does not give rise to any possible continuous situation

(see European Court of Human Rights, *Jovanović*, no. 59109/00, decision of 28 February 2002; Human Rights Advisory Panel, *Novokmet*, no. 51/10, decision of 13 April 2011, §§ 5-8).

15. The Panel notes that the dismissal occurred in 1999. There were no further proceedings in relation to it.
16. It follows that this part of the complaint lies outside the Panel's jurisdiction *ratione temporis*.

Complaint relating to the absence of payment of any rent

17. The complainant also complains about a violation of his right to enjoyment of property as a result of the absence of payment of any rent for his flat.
18. With regard to this part of the complaint, it is to be noted that an owner can obtain rent from a rent-paying tenant, through the KPA, where his property is placed under the administration of the KPA and where the owner has consented to the property being included in the voluntary rental scheme.
19. In the present case, it results from the information received by the KPA that the complainant's property has been placed under the administration of the KPA, but that the complainant has not signed up to the voluntary KPA rental scheme. As a result, the property remains vacant and does not generate any income.
20. The complaint and the subsequent information obtained contain no evidence, therefore, that may support the conclusion that the complainant's right to protection of property was violated because of the failure of the KPA to rent the property and to pay any rental amounts due to the complainant.
21. The Panel concludes that the complaint does not disclose any appearance of a violation of the right invoked by the complainant. It is of the view that this part of the complaint must therefore be rejected as being manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member