



The Human Rights Advisory Panel

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DECISION

Date of adoption: 22 August 2012

Case No. 19/10

Čedomila RADOVIĆ and Aleksandar RADOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 22 August 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 12 March 2010 and registered on 18 March 2010.
2. On 7 March 2011, the Panel requested the Kosovo Property Agency (KPA) to provide information in relation to the complaint. The KPA responded on 18 March 2011.
3. On 27 April 2011, the Panel forwarded the KPA's response to the complainants, inviting them to provide additional information and comments, if they wished to do so. The complainants' response was received on 7 June 2011.

II. THE FACTS

4. The complainants are former residents of Kosovo currently living in Serbia proper. Due to the security situation, they departed from Kosovo on 11 June 1999, leaving behind a fully furnished apartment in Gjakovë/Đakovica.
5. The complainants state that after they left, their apartment was illegally occupied by a third person, claiming to have received it from the Kosovo Liberation Army and the president of Gjakovë/Đakovica municipality. The complainants state that the occupant promised he would purchase this apartment but that he never did.
6. On an unspecified date, Mr Radović filed a claim with the Housing and Property Directorate (HPD) in relation to the apartment. On 27 June 2003, the Housing and Property Claims Commission (HPCC) of the HPD rendered a decision in his favour.
7. On 12 January 2007, the apartment was taken under the administration of the KPA as the successor to the HPD, and included in the KPA voluntary rental scheme.
8. The complainants maintain that, since that time they have received only few rental payments from the KPA.
9. According to information received from the KPA, three rental agreements have been concluded with the occupant, in September 2007, September 2008 and December 2010. Concerning the September 2007 contract, the KPA received and transferred to the complainants the rent for October 2007 and a deposit kept *in lieu* of the rent for unpaid rental payments. Concerning the September 2008 contract, the KPA likewise received and transferred to the complainants the rent for October 2008 and a deposit kept *in lieu* of the rent for unpaid rental payments. Concerning the December 2010 contract (still active at the time of the KPA's response), the KPA received and transferred to the complainants rents for December 2010, January 2011, and February 2011. Furthermore, the complainants may request at any time termination of the administration and repossession of the property if they so choose.

III. THE COMPLAINT

10. The complainants complain about the fact that by not receiving all the rental payments for the apartment under the administration of the KPA, their right to property guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR) has been violated.

IV. THE LAW

11. 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.

12. The complainants complain about a violation of their right to property as a result of the non-payment of all rents due to them with respect to their apartment under the KPA rental scheme.
13. In this regard, the Panel notes that the KPA, when taking a property under its administration, does not guarantee that any income from the property will be realised, nor does it guarantee that a rent-paying tenant will be found to reside at the property. A payment can be disbursed to the owner only if the tenant pays rent to the KPA (see Human Rights Advisory Panel (HRAP), *Trajković*, no. 35/08, decision of 17 April 2009, § 20; HRAP, *Sokoli*, no. 14/08, decision of 17 March 2011, § 26).
14. The Panel also notes that the complaint and subsequent information obtained contain no evidence to support the conclusion that the complainants' right to protection of property was violated because of the failure of the KPA to pay all rental amounts due to the complainants.
15. Therefore, the Panel is of the view that the complaint must 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