



The Human Rights Advisory Panel

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DECISION

Date of adoption: 31 January 2013

Case No. 164/09

Gavrilo MILOSAVLJEVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 31 January 2013,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Ms Christine CHINKIN
Ms Françoise TULKENS

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 8 April 2009 and registered on 30 April 2009.
2. On 10 June 2009 and 25 July 2011, the Panel requested further information from the complainant. The complainant's response was received on 23 September 2009.
3. On 30 September 2011, the Panel submitted a request for information in relation to the complaint to the Court Liaison Office (CLO) of the Kosovo Ministry of Justice. The CLO's response was received on 20 November 2011.
4. On 5 November 2012, the Panel submitted a request for information in relation to the complaint to the Municipal Court of Istog/Istok. The Municipal Court's response was received on 3 December 2012.

II. FACTS

5. The complainant is a former Kosovo resident currently living in Serbia proper. The complainant states that his mother, Mrs Ljubomirka Đurić, was the owner of a property in Istog/Istok. He submits that on or after 24 March 1999 they had to leave Kosovo for security reasons. The complainant states that the property was subsequently usurped and damaged.
6. On 6 April 2006, the complainant filed a claim for compensation with the Municipal Court of Istog/Istok against the Provisional Institutions of Self-Government (PISG) of Kosovo, UNMIK and KFOR seeking compensation for the damage caused to the property, in the amount of 50,000 euros.
7. On 1 November 2012, the Municipal Court of Istog/Istok found that UNMIK and KFOR enjoyed immunity from local jurisdiction, and declared the claim against them as ungrounded.

III. THE COMPLAINT

8. The complainant in substance alleges that the Municipal Court of Istog/Istok had denied him a decision within a reasonable time, in violation of Article 6 § 1 of the ECHR, and as a result has delayed him from realising his property rights in violation of Article 1 of Protocol 1 of the ECHR.

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 of 23 March 2006 on the Establishment of the Human Rights Advisory Panel.
10. The complainant complains, in substance, that the Municipal Court of Istog/Istok has denied him a decision within a reasonable time, and has delayed him from recognising his property rights. The complainant filed his claim with the Court on 6 April 2006 and a decision was reached on 1 November 2012, more than six years later. As such, the complainant argues that the delay in this process resulted in a violation of the reasonable time requirement laid down in Article 6 § 1 of the ECHR, and delayed him from recognising his property rights in violation of Article 1 of Protocol 1 of the ECHR.
11. The Panel notes that on 9 December 2008, UNMIK's responsibility with regard to the judiciary in Kosovo ended with the European Union Rule of Law Mission in Kosovo (EULEX) assuming full operational control in the area of the rule of law, following the Statement made by the President of the United Nations Security Council on 26 November 2008 (S/PRST/2008/44), welcoming the continued engagement of the European Union in Kosovo.
12. It follows, that from 9 December 2008, UNMIK can no longer be held responsible for acts or omissions of the Courts of Kosovo.
13. Out of the total duration of the Municipal Court process of more than six years and seven months, between April 2006 and December 2008 represents approximately two years and

eight months that falls within the Panel's jurisdiction for examination. The Panel does not consider that during that period there was a delay of such a length that it was unreasonable.

14. The Panel therefore holds the complaint to be manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
15. Insofar as the period after 31 December 2008 is concerned, the complaint falls outside the jurisdiction *ratione personae* of the Panel.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member