



The Human Rights Advisory Panel

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DECISION

Date of adoption: 14 March 2013

Case No. 257/09

Snežana SIMONOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 14 March 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 30 April 2009 and registered on the same day.
2. On 10 June 2009, the Panel requested additional information from the complainant. No response to this request was received.
3. On 30 September 2011, the Panel requested additional information from the Court Liaison Office (CLO), Ministry of Justice of Kosovo. The CLO responded on 30 November 2011.

4. On 12 February 2013, the Panel again requested additional information from the complainant. The complainant's response was received on 20 February 2013.
5. On 20 February 2013, the Panel requested information about the case from the Kosovo Property Agency (KPA). The KPA provided its response on 22 February 2013.

II. THE FACTS

6. The complainant is a former resident of Kosovo, currently living in Serbia proper.
7. The complainant informs the Panel that she is the owner of a property located in Prishtinë/Priština and that she used to live there until 1999 when she left for security reasons.
8. The complainant was subsequently notified that her property was being occupied by another person. As a consequence the complainant submitted a claim for repossession of the property to the Housing and Property Claims Commission (HPCC) of the Housing and Property Directorate (HPD).
9. On 18 June 2005, the HPCC issued a decision in favour of the complainant.
10. The HPCC decision was appealed by a third party, who submitted a request for reconsideration. This request for reconsideration was rejected.
11. On 4 September 2007, an eviction warrant was issued in favour of the complainant by the Kosovo Property Agency (KPA) as the successor-in-interest to the HPD. Prior to the enforcement action being carried out, however, the occupant of the property voluntarily vacated the premises. According to the information provided by the KPA, on 11 September 2007, the complainant collected the keys to the property through an authorised representative.
12. Subsequently, the complainant requested the property to be placed under KPA administration. The property was taken under administration and placed under the voluntary rental scheme. However, on 12 May 2008, during an inspection carried out by the KPA, it was discovered that the property had in fact been destroyed.
13. On 29 October 2008, the KPA informed the complainant that it was unable to maintain the property under its administration, as the property had been destroyed. The KPA then proceeded to close the case.

III. THE COMPLAINT

14. The Panel deems that the complainant complains about the destruction of the property which was under KPA administration and that no compensation has been paid.

IV. THE LAW

15. 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.
16. The Panel notes that the administration of properties by the HPD and KPA is governed by Section 12.9 of UNMIK Regulation No. 2000/60, which reads as follows: “The Directorate shall make reasonable efforts to minimize the risk of damage to any property under its administration. The Directorate shall bear no responsibility for any damage to property under administration or loss of or damage to its contents.”
17. The Panel also notes that the complainant would have signed an agreement with the KPA accepting, in accordance with the relevant Regulation, that the KPA is not liable for any damage to property under its administration. Accordingly, there is no basis for finding that the complainant’s rights have been violated as a result of a failure by UNMIK to compensate her for damages inflicted to her property in this case (see Human Rights Advisory Panel, *Trajković*, no. 35/08, decision of 17 April 2009, §§ 24-25) .
18. 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 the complaint must therefore be rejected as being manifestly ill-founded within the meaning of Section 3.3 of Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member