



The Human Rights Advisory Panel

UNMIK HQ, East Wing, 10000 Pristina, Kosovo

DECISION

Date of adoption 12 November 2008:

Case No. 37/08

Svetlana NIKOLIĆ

against

UNMIK

The Human Rights Advisory Panel sitting on 12 November 2008,
with the following members present:

Mr. Marek NOWICKI, Presiding Member
Mr. Paul LEMMENS
Ms Snezhana BOTUSHAROVA

Mr. John J. RYAN, 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. THE FACTS

1. The complainant lived in her apartment in Pristina until 20 July 1999 when she fled Kosovo in the context of the civil conflict.
2. In August 2000 the complainant returned to Kosovo and visited her apartment but was unable to take possession of it as it was apparently occupied.

3. In November 2000 the complainant submitted a claim to the Housing and Property Directorate (HPD) requesting restitution of her property. Following lodgment of her claim the applicant began to receive calls from prospective buyers of her apartment, but concluded that they were not serious and intended to defraud her. The complainant then discovered that RJ had moved into her apartment.
4. In 2003 the complainant was able to evict RJ from the apartment with the assistance of HPD. However after being provided with the keys to her apartment by the HPD, the complainant was advised that her moveable property inside the apartment had been taken and that the apartment was ruined.
5. The complainant continued to search for prospective purchasers of her apartment but believes they were intimidated and threatened by RJ. She subsequently lodged a civil claim in the Municipal Court of Pristina against RJ, as well as against the Municipality of Pristina and the Provisional Institutions of Self-Government of Kosovo (PISG). The complainant claimed compensation for loss or and destruction of property and loss of rental income.

II. COMPLAINTS

6. In her claim to the Municipal Court of Pristina, the complainant alleges breaches of violations of the following provisions of the European Convention on Human Rights (ECHR), namely Article 6.1 concerning her right to a fair trial and Article 1 of Protocol 1 in relation to her right to the use and enjoyment of her property. The complainant claims that HPD and UNMIK staff members colluded with RJ with the intent of depriving her of her property.

III. PROCEEDINGS BEFORE THE PANEL

7. The complaint was introduced on 6 September 2008 and registered on 10 September 2008.
8. By letter dated 29 October 2008 the Panel wrote to the complainant seeking further clarification of aspects of her complaint.
9. By email received on 9 November 2008 the complainant responded to the Panel.

IV. THE LAW

10. Before considering the complaint on its merits the Panel has to decide whether to accept the complaint, taking into account the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12 (the Regulation).
11. Pursuant to Section 3.3 of the Regulation the Panel shall declare inadmissible any complaint which it considers incompatible with the human rights set out in the human rights instruments within the Panel's jurisdiction, or which it considers manifestly ill-founded.
12. In the present case, it appears that the complainant's primary grievance is against RJ, a private individual, whom she alleges has taken and destroyed her property and who is said to be liable to her for the payment of rental income for

- use of her apartment. The complainant has lodged a civil claim against RJ in the courts. The actions of RJ cannot be attributed to UNMIK.
13. Whilst the complainant alleges human rights violations perpetrated by the HPD, the Panel notes that the HPD has in fact assisted the complainant reclaim formal possession of her property, pursuant to their statutory mandate contained in UNMIK Regulation 1999/23 'On the Establishment of the Housing and Property Directorate and the Housing the Property Claims Commission' and successive UNMIK property legislation.
 14. The allegations made against HPD and UNMIK staff concerning their alleged collusion with RJ are unsubstantiated and lack specific details or information which would allow the Panel to conclude that a human rights violation may have occurred.
 15. In these circumstances the Panel holds the claim to be manifestly ill - founded.

FOR THESE REASONS,

The Panel, unanimously,

- DECLARES THE COMPLAINT INADMISSIBLE

John J. RYAN
Executive Officer

Marek NOWICKI
Presiding Member