



The Human Rights Advisory Panel

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DECISION

Date of adoption: 26 September 2012

Case No. 29/09

Nadica VOJINOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 26 September 2012
with the following members present:

Mr Marek NOWICKI, Presiding Member
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 4 February 2009 and registered on 5 February 2009.
2. The complainant is represented by Mr Gazmend Nushi and Mr Ahmet Hasolli.
3. On 4 May 2009 and 4 June 2009, the Panel sought additional information from the complainant's legal representatives. No response was received.
4. On 6 December 2010, the Panel requested information from the Kosovo Property Agency (KPA). The KPA responded on 10 December 2010.
5. On 25 July 2012, the Panel again asked the representatives of the complainant to submit additional information. No response was received.

II. THE FACTS

6. The complainant is a former resident of Kosovo, currently residing in Serbia proper.
7. The complainant informs the Panel that she is the owner of an apartment 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 occupied by another person. As a consequence the complainant filed a claim with the Housing and Property Directorate (HPD) on 1 September 2000.
9. On 13 December 2002, the claim was dismissed by the Housing and Property Claims Commission (HPCC) of the HPD on the grounds that the complainant had failed to prove any property right.
10. On 22 October 2004 the complainant submitted a request for reconsideration of the HPCC decision. The request for reconsideration was rejected by the HPCC on 9 December 2004 on the grounds that she had not presented any new evidence for consideration.
11. The KPA, the successor-in-interest to the HPD, informs the Panel that the complainant was notified of this decision around 14 February 2005, and that it was binding and enforceable. A request for reconsideration of this decision from the complainant was received by their office on 17 February 2005.
12. The KPA further informs the Panel that the complainant was notified on 20 March 2007 that this request could not be processed. On 20 February 2007 the complainant submitted a signed request to close the decided HPCC case. Nevertheless through her legal representative she submitted two further requests for reconsideration.
13. However, the complainant asserts that she did not receive notification of the original decision on her request for reconsideration until 3 February 2009 upon the request of her representative.

III. THE COMPLAINT

14. The complainant claims that the unfavourable decisions of the HPCC in her case have interfered with her right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights.

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 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”.
17. The Panel notes that the final decision in the complainant’s case, the binding and enforceable decision on the reconsideration request of 22 October 2004, was made by the HPCC on 9 December 2004. Although it is not clear from the complainant’s submission when she received the HPCC certificate with respect to this decision, it was certainly prior to 17 February 2005, which is the date she filed another reconsideration request. The Panel also notes that the complainant took further actions with respect to her case after 2005 (see §12 above) but these are not relevant to its consideration (see Human Rights Advisory Panel *Zrnzević*, no. 12/08, decision of 15 July 2008). The final decision of the HPCC and its notification to the complainant took place before 23 April 2005.
18. It follows that the complaint lies outside the Panel’s jurisdiction *ratione temporis*.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member