

**DECISION**

**Date of adoption: 23 October 2014**

**Case No. 319/09**

**Nevenka RISTIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, on 23 October 2014,

with the following members taking part:

Marek Nowicki, Presiding Member

Christine Chinkin

Françoise Tulkens

Assisted by

Andrey Antonov, Executive Officer

Having considered a request for revision of the Panel’s opinion of 30 May 2014, introduced pursuant to Rule 46 of the Rules of Procedure,

Having deliberated, including through electronic means, in accordance with Rule 13 § 2 of its Rules of Procedure, decides as follows:

1. **PROCEEDINGS BEFORE THE PANEL**
2. On 30 May 2014, the Panel delivered its opinion on the complaint of Ms Nevenka Ristić, finding violation of Article 6, as well as Article 14 in conjunction with Article 6, of the European Convention on Human Rights.
3. On 3 June 2014, the opinion was forwarded to the Special Representative of the Secretary-General (SRSG).
4. On 25 June 2014, the opinion was forwarded to the complainant and placed on the Panel’s website.
5. On 2 July 2014, the opinion was made public on the Panel’s webpage.
6. By his memorandum to the Panel of 10 September 2014, the SRSG is deemed to have requested the Panel to revise the said opinion.

**II. THE FACTS**

1. The Panel refers to its opinion of 30 May 2014 for a description of the relevant facts (§§ 11 - 18). The case relates to the complaint of a lack of fair trial and discrimination in proceedings before the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related Matters.

**III. THE LAW**

1. Pursuant to Section 17.3 of UNMIK regulation no. 2006/12 *On the Establishment of the Human Rights Advisory Panel*, the SRSG has “exclusive authority and discretion to decide whether to act on the findings of the Advisory Panel”, and that pursuant to Section 17.4 of the same regulation, the decision of the SRSG shall be promptly made public.
2. According to Rule 46 § 1 of the Panel’s Rules of Procedure (RoP), “a party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when the decision or the opinion was delivered, was unknown to the Panel and could not reasonably have been known to that party, request the Panel, within a period of one month after that party acquired knowledge of the fact, to revise the decision or opinion”.

**IV. EXAMINATION OF THE REQUEST FOR REVISION**

1. **The Submission**
2. By the memorandum dated 10 September 2014, addressed to the Executive Officer of the Panel’s Secretariat, the SRSG notified the Panel that the opinion in this case was “returned to the [Panel] for its reconsideration and clarification” with respect to a number of issues.
3. The Panel considers this memorandum as a request for revision, filed pursuant to Rule 46 § 1 of the RoP, and proceeds with its further examination.
4. **The Panel’s Assessment**
5. The Panel recalls that its opinion in this case was submitted to UNMIK on 3 June 2014. The Panel notes that the request for revision is dated 10 September 2004. According to Rule 46 § 1 of the Panel’s RoP, a request for revision must be submitted “within a period of one month after that party acquired knowledge of the fact”. In the instant matter, the request was filed more than three months from the time that UNMIK was informed of the opinion, which is clearly outside the prescribed time limit.
6. The Panel further notes that a request for revision is not equivalent to an appeal. According to Rule 46 § 1 of the RoP, a revision is permitted in very limited circumstances, specifically where a party to a complaint discovers a fact which might, by its very nature, have had a decisive influence, and which was unknown to the Panel and could not have been known by the party at the time the decision in the case was delivered. In the present request, the SRSG does not refer to any decisive and influential new fact that was unknown to the Panel at the moment of its decision.
7. The Panel finds that the SRSG’s request does not fulfil the conditions set out in Rule 46 § 1 of the RoP (see Human Rights Advisory Panel [HRAP], *Tariq*, no. 01/06, decision of 9 May 2008; HRAP, *Patrnogić*, no. 294/09, decision of 12 May 2011).
8. Therefore, the Panel finds that there is no reason to reconsider its decision of 30 May 2014.

**FOR THESE REASONS,**

The Panel, unanimously,

**REJECTS THE REQUEST FOR REVISION.**

Andrey Antonov Marek Nowicki

Executive Officer Presiding Member