



DECISION

Date of adoption: 6 February 2008

Case No. 01/06

Mohammad Naeem TARIQ

against

UNMIK

The Human Rights Advisory Panel sitting on 6 February 2008 with the following members present:
Mr. Marek NOWICKI, President
Mr. Paul LEMMENS
Ms Michèle PICARD

Mr. John 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 joined UNMIK as a United Nations Volunteer (UNV) on 14 April 2000 and was appointed as a Municipal Legal Officer in civil administration. Thereafter he was appointed as a Regional Legal Officer.
2. In 2001 he participated in an open competition for the role of Deputy Municipal Administrator, and was selected to perform the role of Deputy Municipal Administrator, which had been advertised as a professional level post. However his employment status remained as a UNV and he did not move to a professional level post on the alleged ground that the UNMIK administration changed its policy for such recruitment of UNVs to professional level posts.
3. He participated in two other competitions in 2004, one for the position of Municipal Representative and the other for the position of Deputy Municipal Representative/legal officer. As a UNV, he could only be considered for these positions as an external candidate. He was unsuccessful in being appointed to either position. After requesting more information on his situation, he was told on 16 June 2005 by a United Nations Human Resources Policy Officer that, for the position of Municipal Representative, he was selected for inclusion on the roster of candidates considered qualified for the several posts performing this role, but he was not successful in being appointed to any of these posts, firstly because UNMIK applied its policy

of giving preference to a woman candidate, secondly because UNMIK applied its policy of giving preference to internal candidates, and ultimately because no further posts in this role were available due to a downsizing policy. For the position of Deputy Municipal Representative/legal officer, he was unanimously recommended for the post against all other candidates, but could not be recruited due to a downsizing policy.

II. COMPLAINTS

4. The complainant alleges a violation of his right not to be discriminated against in recruitment to a professional level post by UNMIK.

III. PROCEEDINGS BEFORE THE PANEL

5. The complaint was introduced on 2 May 2006 and registered on 12 May 2006.

IV. THE LAW

6. 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 2 and 3 of UNMIK Regulation No. 2006/12.

7. According to Section 2 of the Regulation the Advisory Panel has jurisdiction over complaints relating to alleged violations of human rights that have 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.

8. The complainant alleges that these facts give rise to a continuing violation of his rights.

9. The Panel notes that, according to UNMIK's answer to his request relating to the 2004 vacancies, for the first vacancy three candidates were appointed, two internal candidates and an external woman candidate, and the second vacancy was abolished in December 2004.

10. The Panel considers that the decisions not to recruit the complainant were instantaneous and happened before 23 April 2005, and that the complaint therefore lies outside its competence *ratione temporis*.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

John RYAN
Executive Officer

Marek NOWICKI
President