



DECISION

Date of adoption: 17 October 2008

Case No. 39/08

Dejan JOVANOVIĆ

against

UNMIK

The Human Rights Advisory Panel sitting on 17 October 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's father was employed by the Organisation for Security and Cooperation in Europe (OSCE) as an electrician from 1999 until his death on 11

- May 2006. The complainant is a 10 year old child represented by his mother in this matter.
2. During his employment with the OSCE, the complainant's father contributed a portion of his salary into a provident fund to be paid out to beneficiaries nominated by him in the event of his death. It appears that the complainant's father nominated his sister as beneficiary. Consequently a dispute arose between the parties concerning the use of the funds. The complainant is currently involved in civil proceedings for which he requires a confirmation from the OSCE that the funds were paid to his father's sister.
 3. By letter dated 28 July 2008 the Head of Mission of the OSCE Mission in Kosovo advised the mother of the complainant that the OSCE is unable to provide this information to the complainant, as internal rules require that this information be communicated only to the nominated beneficiary.

II. COMPLAINTS

4. The complainant asks the Panel to order the OSCE Mission to make an exception to their standard operating rules on provision of information, on the grounds that the rules are unfair in his case and will result in financial hardship to him, especially as a child. No specific human rights violation is referred to in the complaint.

III. PROCEEDINGS BEFORE THE PANEL

5. The complaint was registered on 20 August 2008.

IV. THE LAW

6. 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.
7. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
8. The OSCE is an inter-governmental organisation, different from the United Nations and from UNMIK. It is true that the OSCE Mission in Kosovo is included in the activities of UNMIK as the organisation leading the Pillar III activities, dealing with democratisation and institution building. However, the present dispute does not concern any of the functions for which UNMIK bears final responsibility under resolution 1244 of the Security Council of 10 June 1999. It only concerns a matter related to the private employment contract between the complainant's father and the OSCE and the application of OSCE internal rules. The facts complained of are not attributable to UNMIK.
9. For these reasons the Panel considers that the complaint is outside its jurisdiction.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

John J. RYAN
Executive Officer

Marek NOWICKI
Presiding Member