



# *The Human Rights Advisory Panel*

UNMIK HQ, East Wing, 10000 Pristina, Kosovo

## **DECISION**

**Date of adoption: 8 May 2008**

**Case No. 05/07**

**Slavko VULIC**

**against**

**UNMIK**

The Human Rights Advisory Panel sitting on 8 May 2008 with the following members present:  
Mr. Marek NOWICKI, Presiding member  
Mr. Paul LEMMENS

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 owns a house in the village of Rudice, but has been living as an internally displaced person in Belgrade since fleeing Kosovo during the conflict. He learned that his house is currently occupied by the Agani family. He initiated proceedings to repossess his property before the Housing and Property Directorate (HPD)/Housing and Property Claims Commission (HPCC) in 2002. The HPCC issued a decision on 29 April 2005 stating that the property had been destroyed.

2. He filed a reconsideration request against this decision on 7 July 2005. On 16 November 2006 the HPCC found that the house had not been destroyed and stated that the occupants had no right to occupy it. It therefore ordered the occupants to vacate the house and, if they failed to do so, to be evicted from it.

3. The complainant filed a request for repossession of the house on 11 January 2007. The Kosovo Property Agency (KPA), the successor agency to the HPD that is competent to implement these decisions pursuant to section 17 of UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, attempted three evictions but was unsuccessful. The complainant was then told that there would be no further scheduling of evictions because the house had been illegally constructed on somebody else's land.

4. To this date, the complainant has been unable to repossess his property.

## **II. COMPLAINTS**

5. According to the complainant, the failure of the KPA to implement the decision of the HPCC has prevented him from repossessing his home and constitutes violations of the European Convention on Human Rights (ECHR), specifically the right to a fair trial under Article 6 § 1, the right to respect for private and family life under Article 8, the right to an effective remedy under Article 13, and the right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the ECHR.

## **III. PROCEEDINGS BEFORE THE PANEL**

6. The complaint was introduced on 18 October 2007 and registered on the same date.

7. The Panel communicated the case to the SRSG on 7 February 2008 giving him the opportunity to provide comments on behalf of UNMIK on the admissibility and merits pursuant to Section 11.3 of UNMIK Regulation No. 2006/12 and Rule 30 of the Panel's Rules of Procedure. The SRSG did not avail himself of this opportunity.

## **IV. THE LAW**

8. 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.

9. As to the complaint under Article 6 § 1 of the ECHR, the Panel notes that it concerns the impossibility to obtain an execution of the decision of the HPCC. The guarantees of the said provision apply only to proceedings before a "tribunal", in the sense of Article 6 § 1 of the ECHR, and to the execution of decisions of such a tribunal. The question therefore arises whether the HPCC can be considered a "tribunal" to which the guarantees of Article 6 § 1 apply. Only if the answer to this question is a positive one, will the complaint have to be further examined.

10. The complaint under Article 6 § 1 thus raises issues of law and of fact the determination of which should depend on an examination of the merits of the complaint.

11. The complaints under Articles 8 and 13 of the ECHR and Article 1 of Protocol No. 1 equally raise issues of law and of fact the determination of which should depend on an examination of the merits of the complaints.

12. The Panel therefore concludes that the complaint is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12. The Panel does not see any other ground for declaring it inadmissible.

**FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT ADMISSIBLE.**

John RYAN  
Executive Officer

Marek NOWICKI  
Presiding member