The Human Rights Advisory Panel
UNMIK HQ, East Wing, 10000 Pristina, Kosovo

**DECISION**

**Date of adoption: 4 June 2008**

**Case No. 10/07**

**Radmila VULIĆEVIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel sitting on 4 June 2008
with the following members present:
Mr. Marek NOWICKI, President
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 was the occupancy right holder over an apartment located in Pristina, Kosovo, which she purchased on 12 February 1993. She has been living in Niš, Serbia, as an internally displaced person since she left during the conflict in Kosovo. She learned that following her move to Niš, her apartment was occupied by Mr. Halil Fejzullahu. On 26 May 1975, during the course of his employment, Mr. Fejzullahu had obtained the right to use the same apartment for official purposes, but this right was formally terminated on 1 November 1989 by the competent Housing

Commission in view of his retirement in 1986. Since 23 February 1966, Mr. Fejzullah had also been the occupancy right holder of an apartment in Belgrade, Serbia. He purchased this apartment in Belgrade on 1 December 1992. He died in early 2007.

2. The complainant initiated proceedings to repossess her property before the Housing and Property Directorate (HPD)/Housing and Property Claims Commission (HPCC) in June 2002. Mr. Fejzullahu also submitted a claim on the ground that he suffered past discrimination in the process of the allocation of rights related to the apartment.

The HPCC issued a decision on 18 June 2005 confirming the complainant's claim and dismissing Mr. Fejzullahu's claim.

3. Mr. Fejzullahu filed a reconsideration request against this decision.

On 18 February 2006 the HPCC issued a decision on the reconsideration request affirming both claims and restoring Mr. Fejzullahu's property right over the apartment on the condition that he pay the sum determined by the HPD. The decision ordered that in the event that Mr. Fejzullahu paid the sum, that the complainant be compensated for the amount she paid for the purchase of the property, or in the event that Mr. Fejzullahu did not pay the sum, that she be entitled to possession of the property.

The complainant claims she was notified of this decision in April 2006.

4. The complainant filed a request for reconsideration of the decision on 24 April 2006, providing new arguments and new evidence. The HPCC notified the complainant by letter on 7 May 2007 that the decision of the HPCC of 18 February 2006 was binding and enforceable and not subject to review by any other judicial or administrative authority in Kosovo, and therefore her special request could not be granted.

## II. COMPLAINTS

5. The complainant claims that the procedure and the unfavourable decisions of the HPD/HPCC in her case have interfered with her right to fair hearing under Article 6 § 1 of the European Convention on Human Rights (ECHR), violated her right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the ECHR, her right to respect for home and private life under Article 8 and her right to an effective remedy under Article 13.

## III. PROCEEDINGS BEFORE THE PANEL

6. The complaint was introduced on 15 September 2007 and registered on 18 October 2007.

## IV. THE LAW

7. 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.

8. According to Section 3 of the Regulation, the Advisory Panel may only deal with a matter within a period of six months from the date on which the final decision was taken.

9. The Panel notes that the final decision in the complainant's case, the binding and enforceable decision on the reconsideration request, was taken by the HPCC on 18 February 2006, and the complainant claims she was notified of this decision in April 2006. The complainant was certainly notified of the decision prior to 24 April 2006, which is the date she filed another reconsideration request in response to the HPCC's decision of 18 February 2006.

10. As the period between 24 April 2006 and the date that the complainant submitted the complaint to the Panel, 15 September 2007, is longer than six months, the complaint therefore falls outside the time limit set by Section 3 of the Regulation.

**FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT INADMISSIBLE.**

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| John RYAN | Marek NOWICKI |
| Executive Officer | Presiding member |