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

DECISION

Date of adoption: 15 July 2008

Case No. 12/08

Srecko ZRNZEVIĆ

against

UNMIK

The Human Rights Advisory Panel sitting on 15 July 2008
with the following members present:

Mr. Marek NOWICKI, Presiding Member
Mr. Paul LEMMENS
Ms. Snezhana BOTUSHAROVA-DOICHEVA

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

A. The circumstances of the case

1. The complainant owned an apartment in Prizren. On 14 June 1999 Mr. F. entered the apartment by force, moved in and has been living there ever since.

2. On 1 January 2002 the applicant submitted a request to the Housing and Property Claims Commission (HPCC) for his property to be restored to him. The applicant submits that this request remained unanswered.

   However, as the occupant had submitted a counter claim to the HPCC, on 27 September 2005 the HPCC gave a decision on the requests in relation to the apartment of both the complainant and the occupant. The Commission decided that the complainant was to be granted compensation, in the event that the occupant decided to exercise his right to purchase the apartment, and repossession if the occupant chose not to exercise this right.

3. On 19 January 2007 the case was re-examined at the complainant's request and the decision was upheld. The decision on the reconsideration request was certified by the Registrar on 19 March 2007. The decision was upheld, as the HPCC Panel found that the occupant had been evicted on the basis of proceedings conducted before a court which had no jurisdiction to deal with the case and the occupant could therefore be seen as having been a victim of discrimination.

   The complainant's ownership of the apartment was thereby confirmed by the final and binding reconsideration decision of the HPCC. He was offered compensation in the amount of the price which he had paid for it.

4. On 20 November 2007 the complainant requested that the case be re-examined again, and that the possession of the apartment be restored to him. He has not received any response to this request.

II. COMPLAINTS

5. The complainant wants to re-possess the apartment and complains that the decisions of the HPCC have violated his property rights.

   The Panel considers that the complainant is invoking a violation of the substantive aspect of his right to the peaceful enjoyment of his property as guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR).

III. PROCEEDINGS BEFORE THE PANEL

6. The complaint was introduced on 28 May 2008 and registered on the same date.

IV. THE LAW

7. 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.

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.

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 19 January 2007, and the certified decision on the reconsideration request was certified by the Registrar on 19 March 2007. The complainant was certainly notified of the decision prior to 20 November 2007, which is the date he filed another reconsideration request in response to the HPCC's decision of 19 January 2007.

As the period between 20 November 2007 and the date on which the complainant submitted the complaint to the Panel, 28 May 2008, is longer than six months, the complaint falls outside the time limit set by Section 3 of the Regulation.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

John J. RYAN Executive Officer	Marek NOWICKI Presiding member