



The Human Rights Advisory Panel

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PRESS RELEASE

The Human Rights Advisory Panel finds a violation of Article 6 § 1 of the European Convention on Human Rights (ECHR) and Article 1 of Protocol 1 to the ECHR in the case of Nadica Kušić, Case No. 08/07

On 15 May 2010, the Human Rights Advisory Panel adopted its opinion in the case of Nadica Kušić. The complaint concerned the non-execution of a decision of the Housing and Property Claims Commission (HPCC) which recognized the complainant's ownership right to a particular flat, but awarded another person the right to occupy the apartment in question pending the finalization of the scheme for compensation by the Housing and Property Directorate (HPD), the forerunner of the Kosovo Property Agency (KPA). However, the formula to determine the amounts actually payable had not yet been devised by the time UNMIK Regulation No. 2006/50 expired on 31 December 2008 and UNMIK ceased to exercise authority over the KPA. The result is that the complainant is left with a decision granting her either the right to repossess the property or compensation, which on 31 December 2008 had already not been executed for one year and nine months. When on that day UNMIK's responsibility for the KPA lapsed, the complainant still could not foresee when the decision would be executed.

The Panel found that the failure of UNMIK to finalize the scheme for compensation resulted in an unreasonably long delay in the execution of the decision of the HPCC, resulting in a violation of Article 6 § 1 of the ECHR, the right to a fair trial, and Article 1 of Protocol 1 to the ECHR, the right to peaceful enjoyment of property.

The Panel has recommended that UNMIK take the following measures:

- a. Urge the competent authorities in Kosovo to take all possible steps in order to ensure that the administrative measures necessary for the execution of such HPCC decisions will be adopted without delay
- b. Award adequate compensation to each of the complainants for non-pecuniary damage;

c. Take immediate and effective measures to implement the recommendations of the Panel and inform the complainant and the Panel about further developments in this case.

Pursuant to Section 17.3 of UNMIK Regulation No. 2006/12 on the Establishment of the Human Rights Advisory Panel, the Special Representative of the Secretary General (SRSG) has exclusive authority and discretion to decide whether to act on the findings of the Panel. Pursuant to Section 17.4 of the same Regulation, the decisions of the SRSG shall be published promptly in a manner that ensures broad dissemination and accessibility.