



# The Human Rights Advisory Panel

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## DECISION

**Date of adoption: 05 April 2012**

**Case No. 197/09**

**Ljiljana ŠLJIVIĆ-ĆERANIĆ  
against**

**UNMIK**

The Human Rights Advisory Panel, sitting on 05 April 2012,  
with the following members taking part:

Mr Marek NOWICKI, Presiding Member  
Mr Paul LEMMENS  
Ms Christine CHINKIN

Assisted by  
Mr Andrey ANTONOV, 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, including through electronic means, in accordance with Rule 13 § 2 of its Rules of Procedure, decides as follows:

### **I. PROCEEDINGS BEFORE THE PANEL**

1. The complaint was introduced on 17 April 2009 and registered on 30 April 2009.
2. On 11 June and 17 June 2009, the Panel requested additional information from the complainant. The complainant responded on 4 April 2010.
3. On 23 December 2010, the Panel requested from the Kosovo Property Agency (KPA), successor of the Housing and Property Directorate (HPD), information in relation to the complainant's claim with the HPD. On 29 December 2010 the KPA provided its response.
4. On 23 February 2011, the Panel forwarded the KPA's response to the complainant, inviting her to provide further clarifications. The complainant responded on 27 February 2011.

## II. THE FACTS

5. The complainant is a former resident of Kosovo currently living in Serbia. She states that on 30 September 1999 her parents were killed by members of the Kosovo Liberation Army in their apartment in Prizren. After her parents' death, their apartment was looted and later usurped by a third party.
6. On 5 May 2002, the complainant filed a claim with the Housing and Property Claims Commission (HPCC) of the HPD, seeking repossession of her parents' house. On 18 June 2004, the HPCC issued a decision in her favour ordering the respondent to vacate the apartment.
7. The HPCC decision was appealed by the respondent, who submitted a request for reconsideration on 29 July 2005. The request was rejected by HPCC decision dated 22 October 2005.
8. On 7 February 2006, an eviction warrant was issued in favour of the complainant by the KPA as the successor agency to the HPD. The eviction was carried out on 19 April 2006. According to information provided by the KPA, on 2 May 2006 the complainant collected the keys to the apartment through an authorised person. The complainant's case at the KPA was closed on 14 July 2006.

## III. THE COMPLAINT

9. The complainant complains that UNMIK was not able to protect her parents' property from looting. She also complains about the ineffectiveness of the proceedings at the HPD and the KTA. However, in this regard she does not provide information as to what happened after the eviction carried out by the KTA/as to why she was not able to repossess the apartment.

## IV. THE LAW

10. 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.

### A. *Complaint concerning looting of property*

11. According to Section 2 of UNMIK Regulation No. 2006/12, the Panel has jurisdiction over complaints relating to alleged violations of human rights that occurred not earlier than 23 April 2005, or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights.
12. Insofar as the complainant complains about the looting of her parents' apartment, the Panel notes that the looting allegedly occurred in 1999. Moreover, the Panel considers that the destruction of property is an instantaneous act, which does not give rise to a continuing violation (see Human Rights Advisory Panel, *Lajović*, no. 09/08, decision of 16 July 2008, § 7).

13. It follows that this part of the complaint lies outside the Panel's jurisdiction *ratione temporis*.

*B. Complaint concerning the proceedings before the HPD and the KPA*

14. Pursuant to Section 3.3. of UNMIK Regulation No. 2006/12, the Panel shall declare inadmissible any complaint which it considers incompatible with the human rights set out in the human rights instruments within the Panel's jurisdiction, or which it considers manifestly ill-founded.

15. With regard to the proceedings before the HPA and the KPA, the Panel finds that the complaint lacks specific details or information which would allow the Panel to assess whether a human rights violation by UNMIK may have occurred.

16. In these circumstances, the Panel holds this part of the complaint to be unsubstantiated and therefore manifestly ill-founded.

**FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT INADMISSIBLE.**

Andrey ANTONOV  
Executive Officer

Marek NOWICKI  
Presiding Member