



The Human Rights Advisory Panel

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OPINION

Date of adoption: 10 May 2012

Case No. 36/08

Jahja MORINA

against

UNMIK

The Human Rights Advisory Panel, sitting on 10 May 2012,
with the following members present:

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, makes the following findings and recommendations:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was introduced by the complainant on 11 August 2008 and registered on 20 August 2008. The complainant died on 19 November 2008. On 10 December 2008, Messrs Menditon Morina and Besnik Morina, the complainant's sons, informed the Panel of their intention to pursue the complaint. For practical reasons, the Panel will continue to name Mr Jahja Morina as the complainant, even though that capacity should now be attributed to Messrs Menditon Morina and

Besnik Morina. In the proceedings before the Panel, the complainant and his heirs were represented by Mr Zeqirja Morina.

2. The complainant provided additional information on 6 October 2008.
3. On 22 October 2008, the Panel communicated the complaint to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility and the merits of the case. On 28 November 2008, the SRSG provided a first response.
4. On 15 December 2008, the Panel re-communicated the case to the SRSG, following receipt of further information from the complainant.
5. On 19 January 2009, the SRSG provided UNMIK's second comments on the admissibility of the complaint.
6. On 23 April 2009, the Panel requested that UNMIK clarify some elements of its response. On 2 July 2009, the SRSG provided further comments on the case.
7. On 9 September 2009, the Panel forwarded the SRSG's comments to the complainant's successors.
8. The complainant's successors provided their response to the SRSG's comments in a letter dated 25 September 2009. On 22 October 2009, they submitted additional information to the Panel.
9. On 8 December 2009 and 26 February 2010, the Panel forwarded the complainant's successors' response and the additional information to the SRSG for information.
10. On 16 December 2010, the Panel declared the complaint admissible.
11. On 20 December 2010, the Panel informed the SRSG of the decision and requested UNMIK's comments on the merits of the case. On 18 January 2011, the SRSG provided UNMIK's response.
12. On 13 April 2011, the Panel forwarded the SRSG's comments to the successors of the complainant and invited them to submit further comments if they so wished. On 22 April 2011, the Panel received their comments.

II. THE FACTS

13. The complainant, now deceased, was the owner of the private company "Sh.P.T. Top Gun", located in Gjilan/Gnjilane. His business commenced operations on 2 May 2001. UNMIK issued a certificate of provisional business registration on 12 August 2001.
14. For the purpose of the provisional registration of the business, the complainant declared that the economic activities of his business would be "retail trade of

products in specialised shops”, “mediation in the trade of specialised products” and “mediation in the trade of miscellaneous products”.

15. The complainant states that in September 2001 he requested from the KFOR Commander in Gjilan/Gnjilane information on how to obtain a licence to trade in ammunition for hunting rifles, as KFOR had issued him a weapon authorisation for the possession of a private rifle on 28 January 2001. KFOR reportedly referred the complainant to UNMIK Police. The complainant alleges that an UNMIK Police Regional Commander told him that UNMIK Police was not the competent authority to issue a licence for trading in hunting ammunition and suggested that the complainant address UNMIK Administration.
16. On 4 October 2001 the UNMIK Municipal Administrator of the Gjilan/Gnjilane Municipality sent a certificate to KFOR, UNMIK Police and the Customs Service, indicating that the complainant was the proprietor of “Top Gun” and that the business was registered. The certificate stated:

“It is confirmed that the business is approved and authorised to deal in the supply of equipments for sporting and hunting activities. Consequently it is permitted to buy and sell such hunting items as bullets, crossbows, arrows, traps, knives, fishing goods and other requisites associated with hunting and shooting.

The activities of the business will require that he imports appropriate items of equipment.”
17. On 16 October 2001, the complainant filed a notice of modification of his business, indicating that he had changed the structure of the company and renamed it “N.P.T. Top Gun”. He was issued a new registration certificate on 18 December 2001.
18. On 25 July 2002, the UNMIK Municipal Administrator of the Gjilan/Gnjilane Municipality sent an additional certificate to KFOR, UNMIK Police and the Customs Service, confirming the information above, clarifying that the permit was issued for “an unlimited period until (*sic*) the gentleman will run his business”.
19. The complainant states that from the time he commenced commercial activities, he relied on the certificates issued by the UNMIK Municipal Administrator of the Gjilan/Gnjilane Municipality and that, when paying his customs fees for ammunition imported from Albania, Italy and Serbia, he informed UNMIK Police at headquarters and in Gjilan/Gnjilane about it.
20. Upon a request of the International Prosecutor of the District Prosecutor’s Office of Gjilan/Gnjilane, on 24 October 2002, an International Investigating Judge of the District Court of Gjilan/Gnjilane issued a search order against the complainant. According to the search order, the complainant was suspected of unauthorised possession and use of weapons, in violation of UNMIK Regulation No. 2001/07 of 21 February 2001 on the Authorisation of Possession of Weapons in Kosovo. The International Judge authorised a search for weapons, ammunition, and/or flammable substances at the complainant’s home, business and vehicles, or in

vehicles or premises near the properties cited in the order. The order also provided authorisation to search for certain documents, computer disks, etc., covering the period from 4 October 2001 until the date of the search. The order authorised UNMIK Police to confiscate any item of importance to the investigation found during the search.

21. On 29 October 2002, UNMIK Police conducted a search of the relevant premises in the presence of the complainant. It presented to him a copy of the 24 October 2002 search order. During the search, UNMIK Police also provided the complainant with a letter, dated 25 October 2002 and signed by the UNMIK Municipal Administrator of the Gjilan/Gnjilane Municipality, referring to a document signed by him on 27 May 2002 (*sic*) and stating that he “had no right to issue such a licence or authorisation” (to sell ammunition and other hunting equipment) and that the complainant “should consider this permit as void”. UNMIK Police confiscated all the ammunition and business documents that the complainant kept in his shop and provided him with a list of confiscated items, confirming that more than 50,000 rounds of ammunition as well as a number of documents and business records were confiscated. According to the complainant, they also found his hunting rifle, but since he had a valid UNMIK weapon authorisation for it, they did not confiscate it. UNMIK Police questioned the complainant and requested that he terminate any further orders for ammunition and inform the police of the arrival of any pending shipments. The complainant indicated that he was indeed expecting a new contingent of ammunition, ordered from a company in Serbia.
22. On 30 October 2002, the complainant ordered his four stores outside of Gjilan/Gnjilane to cease the sale of ammunition.
23. On 1 November 2002, the complainant sent a letter to UNMIK Police requesting a new licence to sell hunting ammunition. No action seems to have been taken on that request. The complainant states that he was informed that an administrative direction was being prepared by the SRSG, which would concern the supply and the sale of hunting ammunition.
24. On 5 November 2002, the complainant showed up at UNMIK Police and indicated that the shipment of ammunition, ordered prior to the search of his premises, would arrive in Kosovo on 6 November 2002. When the shipment of 182,250 bullets arrived at the border, actually on 7 November 2002, UNMIK Police confiscated the ammunition. According to the complainant, the confiscated ammunition was taken to the American KFOR base (“Camp Bondsteel”) for temporary custody. UNMIK Police issued a list of confiscated items. It appears from that list that 182,250 hunting bullets were confiscated, weighing 7,290 kg in total.
25. Also in the beginning of November 2002, the complainant informed UNMIK Police that, following its suggestion, all the remaining stock of hunting ammunition in his shops outside Gjilan/Gnjilane had been collected and placed in the Gjilan/Gnjilane store. On 12 November 2002, UNMIK Police confiscated the 4,072 bullets that had been returned and again provided the complainant with a list of confiscated items.

26. On 28 December 2002, an International Investigating Judge of the District Court in Prishtinë/Priština issued another search order for the complainant's home and vehicles. On 22 and 27 January 2003, this order was executed. On these occasions, 841 and 230 additional bullets were confiscated.
27. On 10 April 2003, the complainant's lawyers wrote to the President of the District Court of Gjilan/Gnjilane, seeking the return of the confiscated goods. In that letter, they stated that the International Public Prosecutor had told the complainant that she did not plan to initiate any criminal proceedings against the complainant since there were no grounds for so doing. The lawyers claimed that, since the prosecutor had failed to find any evidence of criminal wrongdoing, Article 209 of the Law on Criminal Proceedings (LCP) of the Socialist Federative Republic of Yugoslavia (SFRY) (*SFRY Official Gazette No. 26/86*), in force at the time by virtue of UNMIK Regulation No. 1999/24 of 12 December 1999 on the Law Applicable in Kosovo, required that the seized property be returned immediately.
28. Also on 10 April 2003, the complainant's lawyers wrote to the International Prosecutor who had requested the search order and asked that the ammunition be returned to the complainant, noting that the latter would comply with the relevant provisions of UNMIK Administrative Direction No. 2003/1 of 17 January 2003 implementing UNMIK Regulation No. 2001/7 on the Authorisation of Possession of Weapons in Kosovo, regarding the storage of such ammunition. The complainant's lawyers referred to the conversation they had had with the International Prosecutor regarding the lack of legal grounds for criminal prosecution of the complainant. They noted that destruction of the ammunition would cause irrevocable damage to the complainant. A similar letter was sent on the same day to the International Investigating Judge who had ordered the search.
29. On 6 June 2003, the complainant wrote to UNMIK Police and the Kosovo Police Service, detailing the events above, and again requesting a licence to sell hunting ammunition. The complainant noted that during an earlier conversation with the UNMIK International Public Prosecutor in charge of the criminal investigation, on 26 March 2003, he was informed by her that the ammunition would eventually be destroyed.
30. On 20 June 2003, UNMIK Police in Gjilan/Gnjilane responded to the complainant, indicating that "the Regulation for legalising stores (for) the sale of ammunition and other hunting equipment is in process".
31. On 10 February 2004, a non-governmental organisation (NGO) wrote on behalf of the complainant to the UNMIK Office of Legal Affairs, informing it of the difficult financial situation of the complainant, who had to pay a bank for the credit it had provided for the purchase of the ammunition confiscated on 7 November 2002. The NGO noted that the complainant had purchased the ammunition after having obtained the authorisation from the UNMIK Municipal Administrator, and that UNMIK Regulation No. 2000/47 of 18 August 2000 on the Status, Privileges and Immunities of KFOR and UNMIK and Their Personnel in Kosovo precluded any legal remedy against UNMIK or its Municipal Administrator. The NGO asked UNMIK to take steps to resolve the situation, and

in particular to allow the release of the ammunition held in Camp Bondsteel, so that the complainant could sell it. The Panel does not know whether there has been a reply to this letter.

32. On 29 April 2004, the international Ombudsperson indicated to the Deputy SRSG for Police and Justice that he could not find any legal regulation prohibiting the sale of ammunition and hunting equipment. He invited the Deputy SRSG to indicate the legal provision UNMIK had relied upon to refuse the complainant the right to conduct his trade. In a letter dated 16 December 2004, the Principal Deputy SRSG responded as follows:

“[Ownership], control, possession and use of weapons in Kosovo for *any* purposes, including trade, are subject to stringent requirements and restrictions introduced by UNMIK in its legislation pursuant to its mandate.

This is essentially a matter of security and must be treated accordingly.

Pending the ongoing development and finalisation of a comprehensive legislative framework governing hunting, and subject to an authoritative determination that the necessary security conditions are in place, hunting activities in Kosovo are in effect suspended.

If and when all the requirements for allowing hunting activities in Kosovo are fulfilled and the security environment permits, an UNMIK Regulation could be used to govern trade and importation of hunting weapons, including ammunition and equipment” (emphasis in the original).

33. For a number of years, there were no further developments. On 18 June 2008, the complainant wrote to the Presidents of the District Courts of Gjilan/Gnjilane and Prishtinë/Priština, as well as to the International Public Prosecutors and District Public Prosecutors of Gjilan/Gnjilane and Prishtinë/Priština. He summarised the facts of his case and asked them whether there was any legal procedure pending against him in the respective courts or prosecutor’s offices, relating to the confiscated hunting ammunition.
34. The President of the District Court of Gjilan/Gnjilane responded on 23 June 2008 that no criminal case against the complainant had been filed with the Court. By letter dated 24 June 2008, the District Public Prosecutor of Gjilan/Gnjilane likewise stated that the complainant’s case had not passed through his office. The Public Prosecutor added, however, that the case could have been taken over by international prosecutors, and that therefore the complainant’s letters addressed to the District International Public Prosecutor had been forwarded to the UNMIK Department of Justice in Prishtinë/Priština, which oversaw the work of the international prosecutors.

35. On 22 July 2008, the District Public Prosecutor of Prishtinë/Priština sent the complainant a “summons for the pre-trial investigation” in the criminal case against him, as an “accused” person. The complainant was summoned to appear on 30 July 2008. On that date, the complainant and his lawyer had a meeting with a Public Prosecutor of the Special Prosecution Office of Kosovo (hereafter: the “Special Prosecutor”) and another UNMIK international staff member. Both officials confirmed that there were no criminal charges against the complainant. They also promised that the complainant would receive official communication in relation to the confiscated ammunition, which according to them might have been destroyed.
36. On 8 August 2008, the Special Prosecutor adopted a ruling by which the criminal report against the complainant was dismissed, on the basis that there were no grounds for suspicion that the complainant had committed any offence. The Special Prosecutor indicated that the investigation against the complainant had been started by UNMIK Police upon the basis of a criminal report received from the Ministry of Interior of the Republic of Serbia, dated 3 May 2002, which questioned the validity of the licence granted to the complainant. The Special Prosecutor concluded, taking into account the fact that the complainant acted under a licence to carry out the business activity of supplying and selling hunting equipment, that “at the time he exercised his business he had a valid licence and his activity cannot be considered as illegal”. On 12 September 2008, this ruling was notified to the complainant.
37. On 22 September 2008, the complainant sent a complaint about the ruling to the Special Prosecutor, requesting an explanation as to why the case was in the prosecutor’s office for six years before being dismissed. The complainant further alleged that a number of violations of the (new) Provisional Criminal Procedure Code of Kosovo (PCPCK), promulgated by UNMIK Regulation No. 2003/26 of 6 July 2003, had occurred. He requested that the documents and the ammunition seized be returned to him. If the confiscated goods, moved to the American KFOR contingent’s headquarters at “Camp Bondsteel”, had been destroyed, as was indicated during the meeting of 22 July 2008, he requested detailed information concerning the legal basis for such destruction. According to the complainant, he did not receive an answer to his letter.
38. On 19 November 2008, the complainant died.
39. On 9 December 2008, UNMIK’s responsibility with regard to the judiciary in Kosovo ended with the European Union Rule of Law Mission in Kosovo (EULEX) assuming full operational control in the area of the rule of law, following the Statement made by the President of the United Nations Security Council on 26 November 2008 (S/PRST/2008/44), welcoming the continued engagement of the European Union in Kosovo.
40. On 4 February 2009, the representative of the heirs of the complainant wrote to the EULEX Prosecutors working in the Special Prosecution Office of Kosovo, requesting a comment on the issues raised in the complainant’s letter of 22 September 2008. The EULEX Prosecutor heading the Office replied on 22 June 2009 that the Office was not competent with regard to the alleged destruction of

the seized goods by KFOR at “Camp Bondsteel”. At the same time, the attention of the complainant was drawn to the fact that, if he considered that his personal or property rights had been violated, he could claim compensation from the competent authorities.

41. The heirs’ representative responded by sending a further letter to the Chief EULEX Prosecutor and the Head and Deputy Head of the EULEX Justice Component on 25 July 2009, arguing that the Special Prosecution Office of Kosovo operating under EULEX should possess all the documents previously held by the office when it was under UNMIK, and therefore should be able to respond to the request of 22 September 2008. The representative insisted in particular on a response to the question what had happened to the confiscated ammunition, and requested that the ammunition and the accounting books be returned.
42. The Chief EULEX Prosecutor replied on 8 September 2009 that the complainant’s case was considered closed at the time of the handover of cases from UNMIK to EULEX. He went on to state that EULEX had been able to locate one binder “in the UNMIK buildings” which contained the list of seized items and financial books, but that they had no record of what happened to such items after 2002. He also indicated that EULEX could not find any decision or records concerning the destruction of the items by KFOR and that it would probably require a direct inquiry to the American KFOR contingent, allegedly responsible, to obtain such records.
43. The heirs stated to the Panel in their comments of 25 September 2009 that, in the meantime, they had contacted the American KFOR contingent regarding the order to destroy any evidence in the complainant’s case. The American KFOR contingent in turn told them to directly contact the institution involved, namely UNMIK.
44. As an attachment to the 25 September 2009 statement, the heirs’ representative submitted two signed statements from Kosovar hunting associations indicating that, as of September 2009, there was no way of obtaining through legal means in Kosovo ammunition for hunting or sport purposes. The only way to obtain such ammunition was through the black market.

III. THE COMPLAINT

45. In its decision of 16 December 2010 on the admissibility of the complaint, the Panel indicated that the complainant made the following complaints, insofar as they related to violations of his human rights:

“38. The complainant specifically complains that UNMIK violated the right to enjoyment of rights provided for in the Universal Declaration of Human Rights (UDHR) regardless of the international status of the territory in which a person resides (Article 2 of the UDHR), the right to freedom from discrimination and equal protection before the law (Article 7 of the UDHR), the right to an effective remedy before a national tribunal (Article 8 of the UDHR),

and the right to be free from the arbitrary deprivation of property (Article 17 of the UDHR).

39. In addition, the complainant argues that UNMIK is responsible for a violation of the right to a fair and public hearing within a reasonable time and the right of access to a court, guaranteed by Article 6 § 1 of the European Convention on Human Rights (ECHR), the right to an effective remedy guaranteed by Article 13 of the ECHR and the right to be free from discrimination in the enjoyment of his rights guaranteed by Article 14 of the ECHR.”

46. It results from the initial complaint, as well as from the complainant’s later comments, that the complainant in substance raises three issues.
47. The complainant argues in the first place that after the initial search and seizure on 29 October 2002 no investigation was carried out for a long period, and that no decision on the charges was taken until 8 August 2008, when the criminal report against him was dismissed. In this respect, the complainant can be deemed to invoke a violation of the right of access to a court and the right to obtain a decision within a reasonable time, guaranteed by Article 6 § 1 of the ECHR.
48. The complainant further argues that the confiscation of his possessions (hunting ammunition and accounting books) was not based on any law and that he did not have any remedies to put an end to the confiscation or to obtain compensation. In this respect, the complainant can be deemed to invoke a violation of his right to property, guaranteed by Article 17 of the UDHR and Article 1 of Protocol No. 1 to the ECHR, and of the right to an effective remedy, guaranteed by Article 8 of the UDHR and Article 13 of the ECHR.
49. Finally, the complainant argues that UNMIK acted in a discriminatory manner against himself and his family, in violation of Article 7 of the UDHR and Article 14 of the ECHR.
50. The Panel considers that the articles of the UDHR referred to have substantially the same meaning as the corresponding articles of the ECHR. In what follows, the Panel will examine the complaint in the light of the relevant provisions of the ECHR.

IV. THE LAW

A. Preliminary observations

51. Before turning to an examination of the complaint, the Panel would like to clarify the scope of its review.
52. Section 2 of UNMIK Regulation No. 2006/12 of 23 March 2006 on the Establishment of the Human Rights Advisory Panel provides that the Panel shall have jurisdiction over complaints relating to alleged violations of human rights

“that had 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”. It follows that events that took place before 23 April 2005 generally fall outside the jurisdiction *ratione temporis* of the Panel. To the extent that such events gave rise to a continuing situation, the Panel has jurisdiction to examine complaints relating to that situation, but only insofar as the situation continued after 23 April 2005.

53. Section 1.2 of UNMIK Regulation No. 2006/12 provides that the Panel “shall examine complaints from any person or group of individuals claiming to be the victim of a violation by UNMIK of (their) human rights”. It follows that only acts of omissions attributable to UNMIK fall within the jurisdiction *ratione personae* of the Panel. In this respect it should be noted that on 9 December 2008, UNMIK’s responsibility with regard to the judiciary in Kosovo ended with the European Union Rule of Law Mission in Kosovo (EULEX) assuming full operational control in the area of the rule of law, following the Statement made by the President of the United Nations Security Council on 26 November 2008 (S/PRST/2008/44), welcoming the continued engagement of the European Union in Kosovo. It follows that after 9 December 2008 UNMIK was no longer exercising executive authority over the Kosovo judiciary and had no responsibility for any violation of human rights allegedly committed by them. Insofar as the complainant complains about acts that occurred after that date, they fall outside the jurisdiction *ratione personae* of the Panel.
54. Finally, the Panel should stress that it follows from Section 1.2 of UNMIK Regulation No. 2006/12 that it can only examine complaints relating to an alleged violation of human rights. This means that it can only “review” acts or omissions complained of, in the sense that it can examine their compatibility with certain international human rights standards. It is not the Panel’s role to deal with the interpretation and the application by judicial authorities of other legal rules, such as rules of criminal law or criminal procedural law. The Panel is *a fortiori* not competent to rule on the substance of any claim brought by the complainant before a judicial or other organ. This applies also to claims for compensation: the Panel has no jurisdiction to decide upon such claims, although it can refer to compensation as a form of reparation, in its recommendations.

B. Admissibility of the complaint

55. In his comments on the admissibility of the complaint, the SRSG argued that the complaint was inadmissible because of lack of exhaustion of available remedies. He argued in the first place that the complainant had requested the Special Prosecutor to return the property and business records to him. Since that request was pending, the complainant had to await the outcome of it before complaining to the Panel. The SRSG argued in the second place that, depending on the response by the Special Prosecutor, the complainant might need to approach the Municipality of Gjilan/Gnjilane and/or KFOR, “through their administrative procedures”, in order to obtain compensation.

56. According to Section 3.1 of UNMIK Regulation No. 2006/12, the Panel “may only deal with a matter after it determines that all other available avenues for review of the alleged violations have been pursued”.
57. In its admissibility decision of 16 December 2010, the Panel noted that the remedies suggested by the SRSG “do not appear to have any basis in law, or at least no basis which UNMIK is able to identify” (§ 45). The Panel found that the question of exhaustion of remedies was closely linked to the merits of the complainant’s complaint and therefore joined the admissibility issue to the merits, pursuant to Rule 31*bis* of the Panel’s Rules of Procedure (§ 46).
58. With respect to the complaint to the Special Prosecutor, the Panel notes that this is a complaint to the instance that was allegedly responsible for the investigation and the confiscation. The Panel does not see how such a complaint could offer adequate standards for an independent and impartial review of the complainant’s complaints, essentially directed against acts and omissions by the prosecuting authorities (compare European Court of Human Rights (ECtHR), *Benyaminson v. Ukraine*, no. 31585/02, judgment of 26 July 2007, § 117). In any event, the complaint to the Special Prosecutor is unable to offer redress with respect to the duration of the proceedings, and has also proven to be unable to offer redress with respect to the confiscation of the goods belonging to the complainant.
59. With respect to the claims to the Municipality of Gjilan/Gnjilane and/or KFOR, the SRSG has not indicated the legal basis for any of such claims. Nor does the Panel see such a legal basis. It follows that the effectiveness of such remedies is not established.
60. The objection of the SRSG is therefore dismissed, and the complaint is declared admissible.

C. Merits of the complaint

1. The criminal proceedings: alleged violation of the right of access to a court and the right to a decision within a reasonable time (Article 6 § 1 of the ECHR)

a) Submission of the parties

61. The complainant states that he was severely affected by the proceedings. On 29 October 2002, his property was confiscated adversely and his licence to supply hunting ammunition withdrawn. Also his reputation was compromised due to this situation. He complains that no investigations were carried out and, until 8 August 2008, no decision was taken. During that time he did not have access to a court to decide on his case, as prescribed by Article 6 § 1 of the ECHR.
62. The complainant also argues that the almost six-year period between the start of the proceedings on 29 October 2002 and the dismissal of the charges on 10 August 2008 amounts to a violation of the reasonable time requirement imposed by Article 6 § 1 of the ECHR.

63. The complainant stresses that he actively cooperated with the authorities. On a number of occasions, he addressed the judicial and other authorities to request the speedy resolution of his case, alleging that the situation was causing him irreparable pecuniary and non-pecuniary damage and aggravating a serious health condition. His requests were disregarded. Moreover, the complainant alleges that UNMIK's judges and prosecutors did not respect deadlines imposed by the applicable law.
64. The SRSB does not comment on this part of the complaint.

b) The Panel's assessment

65. Article 6 § 1 of the ECHR states, in relevant part:

“In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law [...].”

1. Applicability of Article 6 § 1 of the ECHR

66. The “criminal” nature of the proceedings involving the complainant cannot be disputed. The search order issued against the complainant on 24 October 2002 states that he was suspected of having violated Sections 8.2 and 8.3 of UNMIK Regulation No. 2001/7 of 21 February 2001 on the Authorisation of Possession of Weapons in Kosovo. These provisions made it a “criminal offence”, respectively, “to own, possess or use a weapon if [the person] is not the holder of a valid [weapon authorisation card] for that weapon” and “to use or brandish any weapon in a threatening, intimidating or otherwise unauthorised manner”. The ruling of the Special Prosecutor of 8 August 2008 states that the complainant was suspected of “unauthorised ownership, control, possession or use of weapons”, a criminal offence provided by Article 328 (2) of the Provisional Criminal Code of Kosovo (UNMIK Regulation No. 2003/25 of 6 July 2003), which in the meantime had replaced a number of UNMIK regulations, including UNMIK Regulation No. 2001/7.
67. The Panel must further determine whether the complainant could be considered a person under “charge” for the purpose of the applicability of Article 6 § 1 of the ECHR. The Panel refers on this point to the case law of the European Court of Human Rights according to which a “charge”, within the meaning of Article 6 § 1, may be defined as “the official notification given to an individual by the competent authority of an allegation that he has committed a criminal offence”, a definition that also corresponds to the test of whether “the situation of the (suspect) has been substantially affected” (ECtHR, *Deweere v. Belgium*, judgment of 27 February 1980, *Publications of the Court*, Series A, no. 35, § 46; ECtHR, *Eckle v. Germany*, judgment of 15 July 1982, *Publications of the Court*, Series A, no. 51, § 73; ECtHR (Grand Chamber), *McFarlane v. Ireland*, no. 31333/06, judgment of 10 September 2010, § 143). In the present case, as indicated above, the search order of 24 October 2002 mentions that the complainant was suspected of having violated Sections 8.2 and 8.3 of UNMIK Regulation No. 2001/7. Moreover, the searches, the confiscation of property and the withdrawal of the complainant's

trading licence all substantially affected his situation. The Panel therefore considers that as of 29 October 2002, when the search and confiscation order of 25 October 2002 was served on the complainant and the first search took place, the complainant was under “charge” for the purpose of Article 6 § 1 of the ECHR. This conclusion is not altered by the fact that the criminal report against the complainant was eventually rejected, nor by the fact that he has never been formally “accused”.

2. Compliance with Article 6 § 1 of the ECHR

a. Access to a court

68. Article 6 § 1 of the ECHR includes the right of the accused to have charges against him determined by an independent and impartial tribunal established by law. The Panel notes, however, that this right is not absolute, but may be subject to limitations. On this point the Panel recalls in particular the case law of the European Court of Human Rights, according to which there is no right under Article 6 of the ECHR to a particular outcome of criminal proceedings or, therefore, to a formal conviction or acquittal following the laying of criminal charges (ECtHR, *Withey v. United Kingdom*, no. 59493/00, decision of 26 August 2003, *ECHR*, 2003-X; ECtHR (Grand Chamber), *Kart v. Turkey*, no. 8917/05, judgment of 3 December 2009, § 68). The European Court has thus recognised that proceedings can terminate through a unilateral decision taken in favour of the person charged with an offence, including when the prosecution formally decides not to prosecute (see, e.g., ECtHR, *Deweere v. Belgium*, cited in § 67 above, at § 49).
69. It follows that, insofar as the complainant complains about a lack of access to a court for the determination of the charges laid against him, there has been no violation of Article 6 § 1 of the ECHR.

b. Length of the proceedings

70. According to Article 6 § 1 of the ECHR, everyone is entitled to a decision “within a reasonable time” on a criminal charge brought against him.
71. One of the purposes of the right to trial within a reasonable period of time is to protect individuals from “remaining too long in a state of uncertainty about their fate” (see ECtHR, *Stögmüller v. Austria*, judgment of 10 November 1969, *Publications of the Court*, Series A, no. 9, § 5; ECtHR, *Withey v. United Kingdom*, cited in § 68 above).

Period to be taken into consideration

72. In criminal matters, the “reasonable time” referred to in Article 6 § 1 begins to run as soon as a person is “charged”. Accordingly, criminal proceedings are said to have begun with “the official notification given to an individual by the competent authority of an allegation that he has committed a criminal offence”, a definition that also corresponds to the test of whether “the situation of the (suspect) has been substantially affected” (see § 67 above, with further references).

73. The Panel considers that the proceedings against the complainant began on 29 October 2002, when he was notified of the first search and confiscation order based on the allegation that he had committed a criminal offence. The complainant's situation was then affected to a degree amounting to a "charge". However, the period to be considered starts from the date of the Panel's temporal jurisdiction, which is 23 April 2005 (see § 52 above). In assessing the reasonableness of the time that elapsed after 23 April 2005, the Panel will nevertheless take into account the state of the proceedings at that moment (ECtHR, *Foti and Others v. Italy*, judgment of 10 December 1982, *Publications of the Court*, Series A, no. 56, p. 15, § 53; ECtHR, *Styranowski v. Poland*, judgment of 30 October 1998, *Reports of judgments and decisions*, 1998-VIII, p. 3376, § 46; see also Human Rights Advisory Panel (HRAP), no. 06/07, *Mitrović*, opinion of 17 December 2010, § 82).
74. Criminal proceedings generally terminate with an official notification to the accused that he or she is no longer to be pursued on those charges such as to allow the conclusion that the situation of that person could no longer be considered to be substantially affected. This termination is generally brought about by an acquittal or a conviction. However, proceedings can also end through a unilateral decision taken in favour of the accused, including when the prosecution informs the accused that it had discontinued the proceedings against him (see ECtHR, *Slezevicius v. Lithuania*, no. 55479/00, judgment of 13 November 2001, § 27; ECtHR, *R. v. United Kingdom*, decision of 4 January 2007, no. 33506/05; ECtHR, *Niedermeier v. Germany*, no. 37972/05, decision of 3 February 2009). In the present case, the Panel considers that the proceedings ended on 12 September 2008, when the complainant was notified of the ruling of the Special Prosecutor dismissing the criminal report against him.
75. The total duration of the proceedings was thus five years, ten months and fourteen days, of which three years, four month and twenty days fall to be examined by the Panel.

Reasonableness of the length of the proceedings

76. The Panel recalls that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the complainant and the relevant authorities and what was at stake for the complainant in the dispute (see, among many other authorities, ECtHR (Grand Chamber), *Frydlender v. France* no. 30979/96, judgment of 27 June 2000, § 43, *ECHR*, 2000-VII; see also HRAP, no. 17/08, *Emini*, opinion of 18 June 2010, § 21).
77. The Panel considers that the case was not particularly complex, notwithstanding the uncertainty about some of the legal issues involved.
78. The Panel further notes that the complainant did not contribute in any way to the duration of the proceedings, and indeed regularly made inquiries about the state of them.

79. With respect to the conduct of the authorities, the Panel notes that there was a considerable delay between the execution of the search and confiscation orders (on 29 October 2002, 7 and 12 November 2002, 22 and 27 January 2003) and the ruling dismissing the criminal report against the complainant (8 August 2008). In particular, there is no indication of any activity at all by the public prosecutor between 20 June 2003 and 22 July 2008. Approximately half of this period falls within the temporal jurisdiction of the Panel. The Panel also notes that the discontinuance decision of 8 August 2008 does not indicate that it was taken in light of any further information gathered during the investigation.
80. Finally, the Panel considers that the complainant's interests at stake in the proceedings, namely the considerable economic value of the confiscated items, the effects on the possibility to continue his business and the possible damage to his reputation, were such that a diligent and expeditious conduct of the investigation was required.
81. Regard being had to the above, and in particular to what was at stake for the complainant, the Panel concludes that the length of the proceedings after 23 April 2005 was excessive and failed to meet the "reasonable-time" requirement.
82. Accordingly, the Panel is of the opinion that there has been a violation of Article 6 § 1 of the ECHR.

2. The confiscation measures

a. Alleged violation of the right to property (Article 1 of Protocol No. 1 to the ECHR)

1. Submission of the parties

83. The complainant alleges in the first place that UNMIK unlawfully confiscated his property. He argues that the criminal proceedings against him were not legally grounded. He stresses that he had purchased the confiscated ammunition relying on the licence issued by an UNMIK administrator, which was at that time "legal and valid", as also acknowledged by the ruling of the Special Prosecutor of 8 August 2008. The complainant further argues that criminal provisions of UNMIK Regulation No. 2001/07 of 21 February 2001 on the Authorisation of Possession of Weapons in Kosovo were mistakenly applied by the investigating authorities to his case. According to the complainant, the scope of that Regulation was limited to (personal) ownership, possession and control of weapons, which was to be authorised by the police, and did not extend to the trading of ammunition for recreational activities. In the complainant's view, for this purpose he had complied with the regulatory framework pre-existing to UNMIK (Law on Arms and Ammunition, *Official Gazette of the Republic of Serbia*, No. 9/92; Law on Acquisition, Possession and Carrying of Arms and Ammunition, *Official Gazette of the Socialist Autonomous Province of Kosovo*, No. 40/80; Law on Hunting, *Official Gazette of the Socialist Autonomous Province of Kosovo*, No. 37/79) and applicable by virtue of UNMIK Regulation No. 1999/24 of 12 December 1999 on the Law Applicable in Kosovo.

84. The complainant complains in the second place that, upon dismissal of the charges against him, UNMIK authorities did not return the goods confiscated during the investigation, as prescribed by the law. He states that his possessions remain confiscated to date. Verbally he has been informed by the authorities that the confiscated goods might have been destroyed by KFOR.

85. The SRSB does not comment on the merits of this part of the complaint.

2. The Panel's assessment

86. Article 1 of Protocol No. 1 to the ECHR reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

87. The confiscation of the hunting ammunition and the accounting books of the complainant amounted to an interference with his right to protection of property. Article 1 of Protocol No. 1 to the ECHR is therefore applicable.

88. As to the identification of the applicable rule, the Panel recalls the case law of the European Court of Human Rights:

“... Article 1 of Protocol No. 1 comprises three distinct rules: the first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the use of property in accordance with the general interest. The three rules are not, however, distinct in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule” (see, *e.g.*, ECtHR (Grand Chamber), *Perdigao v. Portugal*, no. 24768/06, judgment of 16 November 2010, § 57).

89. The Panel further refers to the case law of the European Court of Human Rights according to which the temporary confiscation (or seizure) of property, to be kept as evidence in a criminal case, even though it involves a deprivation of possessions, nevertheless constitutes control of the use of property, within the meaning of the second paragraph of Article 1 of Protocol No. 1 (see ECtHR,

AGOSI v. United Kingdom, judgment of 24 October 1986, *Publications of the Court*, Series A, no. 108, § 51; ECtHR, *Raimondo v. Italy*, judgment of 22 February 1994, *Publications of the Court*, Series A, no. 281-A, § 27).

90. The first and most important requirement of Article 1 of Protocol No. 1 to the ECHR is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful. In particular, the second paragraph of Article 1, while recognising that States have the right to control the use of property, subjects their right to the condition that it be exercised by enforcing “laws” (ECtHR (Grand Chamber), *Hutten-Czapska v. Poland*, no. 3501/97, judgment of 19 June 2006, § 163, *ECHR*, 2006-VIII). Furthermore, the interference must pursue a legitimate aim in the “general interest” of the community. Finally, the interference must achieve a “fair balance” between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights: there must be a reasonable relationship of proportionality between the means employed and the aim pursued (ECtHR (Grand Chamber), *Depalle v. France*, no. 34044/02, judgment of 29 March 2010, § 83).
91. The Panel considers that in the present case a distinction must be made between the various stages of the interference complained of: the initial confiscations, the period during which the complainant’s goods remained confiscated, *i.e.* from the first confiscation on 29 October 2002 up to the ruling of the Special Prosecutor of 8 August 2008, and the situation of the confiscated goods after that ruling.
92. With respect, first, to the initial confiscations of goods, the Panel notes that the complainant’s possessions were confiscated on 29 October 2002, 7 and 12 November 2002, and 22 and 27 January 2003 respectively. The Panel recalls that it has jurisdiction over complaints relating to alleged violations of human rights, which occurred not earlier than 23 April 2005 or which arise from facts that occurred prior to this date where these facts give rise to a continuing violation (see § 52 above). The Panel considers that the act of confiscation itself was an instantaneous act which falls outside its jurisdiction *ratione temporis* (see ECtHR, *Karamitrov and Others v. Bulgaria*, no. 53321/99, judgment of 10 April 2008, § 71). The Panel therefore cannot express an opinion on whether the decision to confiscate the complainant’s possession was lawful or whether it pursued a legitimate aim in the general interest.
93. With respect, further, to the continuation of the confiscation from the first confiscation on 29 October 2002 up to the ruling of the Special Prosecutor of 8 August 2008, the Panel considers that this aspect of the interference in the complainant’s property should be assessed mainly from the point of view of the proportionality of the interference.
94. In this regard, account should be taken of the duration of the confiscation measure, its necessity in the light of the development of the criminal proceedings, and the effects of the application thereof on the complainant (see ECtHR, *Petyo Petkov v. Bulgaria*, no. 32130/03, judgment of 7 January 2010, § 105; ECtHR, *Georgi Atanasov v. Bulgaria*, no. 5359/04, judgment of 7 October 2010, § 31).

95. The Panel notes that the period under consideration lasted five years, nine months and nine days, of which three years, three months and fifteen days were within its jurisdiction *ratione temporis*. The Panel has already found that the criminal proceedings in relation to which the confiscation measures were taken did not comply with the “reasonable-time” requirement of Article 6 § 1 of the ECHR (see § 81 above). The duration of the criminal proceedings coincides to a large degree with the duration of the confiscation measures.
96. Further it does not appear that any investigative measures were taken after the confiscation of the goods (see § 79 above). The Panel therefore must consider that it is not established that the confiscation measures were reasonable and suited to achieving the aim being pursued by the judicial authorities.
97. Moreover, the confiscated goods had a considerable commercial value for the complainant (see § 80 above).
98. The Panel concludes that the competent authorities failed to strike a fair balance between any demands of the general interest and the requirement of the protection of the complainant’s right to peaceful enjoyment of his possessions by keeping the confiscation measures in force for more than three years after the start of the period for which the Panel has jurisdiction (compare ECtHR, *Borzonov v. Russia*, no. 18274/04, judgment of 22 January 2009, §§ 60-61).
99. With respect, finally, to the situation after the ruling of the Special Prosecutor of 8 August 2008, the Panel notes that the complainant argues that the authorities have unlawfully held the objects confiscated as of the closing of the investigation to date. The Panel considers that the confiscation beyond the rejection of charges is a continuing situation, which falls within its temporal jurisdiction. However, the responsibility of UNMIK for the conduct of the judicial authorities ended on 8 December 2008 (see § 53 above). The situation after that date falls outside the Panel’s jurisdiction *ratione personae*. It follows that the Panel must limit its review to the period between 8 August 2008 and 8 December 2008.
100. The Panel notes that Article 215 of the Law on Criminal Proceedings (LCP) of the Socialist Federative Republic of Yugoslavia (see § 27 above) prescribed the return of confiscated items at the end of the investigation:
- “Objects temporarily confiscated in the course of criminal proceedings shall be returned to the owner or a person in possession of them if the proceedings are dismissed and there are no longer grounds for their confiscation (Article 500).”
101. It seems that this provision remained applicable to the investigation in the complainant’s case, even after the entry into force (on 6 April 2004) of the (new) Provisional Criminal Procedure Code of Kosovo (PCPCK) (see § 37 above), by virtue of the transitional provision of Article 549 of the PCPCK. In any event, Article 251 of the PCPCK continues to provide for the return of temporarily confiscated objects “to the owner or possessor if the proceedings are suspended or terminated and there are no grounds for them to be confiscated (Article 489 of the present Code)”.

102. The goods temporarily confiscated were not returned to the complainant at the end of the criminal proceedings. The ruling of the Special Prosecutor of 8 August 2008 does not in any way refer to the situation of these goods. Nor is there any separate ruling, on the basis of Article 500 of the LCP or the corresponding Article 489 of the PCPCK, that would order the continued confiscation of the goods, notwithstanding the termination of the criminal proceedings without a verdict declaring the complainant guilty.
103. The Panel must therefore conclude that there was no basis under the applicable law for not returning the temporarily confiscated goods to the complainant. The Panel thus considers that the continued retention of the hunting ammunition and the accounting books after the termination of the criminal proceedings was unlawful (see ECtHR, *Borzonov v. Russia*, cited in § 98 above, at § 62).
104. The finding that the interference in the complainant's right to the peaceful enjoyment of his possessions was not lawful makes it unnecessary to examine other aspects under Article 1 of Protocol No. 1 to the ECHR, including whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.
105. There has therefore been a violation of Article 1 of Protocol No. 1 to the ECHR.

b. Alleged violation of the right to an effective remedy (Article 13 of the ECHR)

1. Submission of the parties

106. The complainant complains about the lack of an effective remedy relating to the confiscation of his goods. He argues that during and after the termination of the investigation, he did not have effective remedies to put a halt to the confiscation. On several occasions he addressed the judicial authorities seeking the return of the confiscated objects; however, no formal decision was ever issued on the merits of his request.
107. The complainant also states that he was prevented from filing a compensation claim due to the immunity granted to UNMIK authorities by UNMIK Regulation No. 2000/47 of 18 August 2000 on the Status, Privileges and Immunities of KFOR and UNMIK and their Personnel in Kosovo.
108. The SRSG does not comment on the merits of this part of the complaint. The Panel recalls, however, that the SRSG raised an objection to the admissibility of the complaint, based on the non-exhaustion of available remedies (see § 55 above).

2. The Panel's assessment

109. Article 13 of the ECHR states:

“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by person acting in an official capacity.”

110. As the European Court of Human Rights holds, “Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured. The effect of that provision is thus to require the provision of a domestic remedy to deal with the substance of an ‘arguable complaint’ under the Convention and to grant appropriate relief” (ECtHR (Grand Chamber), *Hirsi Jamaa and Others v. Italy*, no. 27765/09, judgment of 23 February 2012, § 197).
111. The Panel has already concluded that keeping the confiscation measures in force for more than three years after the start of the period for which the Panel has jurisdiction and not returning the confiscated goods after the termination of the criminal proceedings resulted in a violation of Article 1 of Protocol No. 1 to the ECHR (see §§ 98 and 103 above). The complainant therefore must be considered to have an “arguable” claim for the purposes of Article 13.
112. It does not appear that the Law on Criminal Proceedings (LCP) of the Socialist Federative Republic of Yugoslavia provided the complainant with an effective remedy to obtain the termination of the confiscation measures as long as the criminal proceedings were pending. The SRSG does not refer to any such remedies. For its part, the Panel notes that Article 151 (4) of the LCP provides that a person against whom certain investigative actions have been taken, such as the confiscation of goods during a search, “is entitled to file a complaint with the competent prosecutor within a period of 3 days”. This complaint mechanism obviously is not a remedy available to a person who complains about the continuing confiscation of his goods. Article 181 of the LCP provides that during an investigation “the parties and the injured parties may always file a complaint with the president of the court before which proceedings are being conducted because of the prolongation of the proceedings or other irregularities in the course of the investigation” (§ 1). However, even assuming that the complainant could make use of this possibility, the only thing he could expect was that “the president of the court (would) investigate the allegations in the complaint” and “(would) inform him on what action has been taken” (§ 2). The Panel does not consider that such a remedy offers sufficient guarantees to qualify as an “effective” one. It sees no other remedies that could come into play.
113. Furthermore, with respect to a claim for compensation for the damage caused by the fact that the confiscated goods were not returned to the complainant, the Panel notes that the SRSG, objecting to the admissibility of the complaint, argued that the complainant could approach the Municipality of Gjilan/Gnjilane and/or KFOR, “through their administrative procedures”, in order to obtain compensation (see § 55 above). The Panel has found, however, that the SRSG did not indicate the legal basis for any of such claims, and it could not find itself any legal basis (see § 59 above). It does not see any other mechanism that would allow the complainant to claim compensation for wrongful acts allegedly committed by the judicial authorities.

114. The Panel therefore concludes that there has been a violation of Article 13 of the ECHR in conjunction with Article 1 of Protocol No. 1 to the ECHR.

3. Alleged violation of the right to non-discrimination (Article 14 of the ECHR)

a) Submission of the parties

115. The complainant finally argues that, while discrimination is prohibited in Kosovo by the Anti-Discrimination Law, adopted by the Assembly of Kosovo on 19 February 2004 (Law No. 2004/3) and promulgated by the SRSG on 20 August 2004 (Regulation No. 2004/32), he and his family were the object of a direct discrimination carried out by UNMIK.

116. The SRSG does not comment on the merits of this part of the complaint.

b) The Panel's assessment

117. Article 14 of the ECHR reads in relevant part as follows:

“The enjoyment of rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour language, religion ... national or social origin...”

118. The Panel considers that the complainant does not indicate on which ground he allegedly has been the object of discrimination. He does not indicate any category of persons in comparison with whom he has undergone a difference in treatment.

119. The Panel concludes that there is no evidence of any discrimination. It must therefore conclude that there has been no violation of Article 14 of the ECHR.

V. RECOMMENDATIONS

120. In light of the Panel's findings in this case, the Panel is of the opinion that some form of reparation is necessary.

121. The complainant requests compensation for pecuniary damage, more precisely loss of profits due to the impossibility of selling the confiscated ammunition, estimated at 297,500 euro (including interest calculated up to September 2009), and for non-pecuniary damage, estimated at 100,000 euro.

122. The Panel considers that it is not realistic to expect that the confiscated goods will ever be returned to the complainant. In these circumstances, it is of the opinion that UNMIK should take appropriate steps towards adequate compensation of the complainant for both pecuniary and non-pecuniary damage.

FOR THESE REASONS,

The Panel, unanimously,

- 1. REJECTS THE OBJECTION TO THE ADMISSIBILITY OF THE COMPLAINT, AND DECLARES THE COMPLAINT ADMISSIBLE;**
- 2. FINDS THAT THERE HAS BEEN NO VIOLATION OF ARTICLE 6 § 1 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS ON ACCOUNT OF THE LACK OF ACCESS TO A COURT;**
- 3. FINDS THAT THERE HAS BEEN A VIOLATION OF ARTICLE 6 § 1 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS ON ACCOUNT OF THE LENGTH OF THE PROCEEDINGS;**
- 4. FINDS THAT THERE HAS BEEN A VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**
- 5. FINDS THAT THERE HAS BEEN A VIOLATION OF ARTICLE 13 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**
- 6. FINDS THAT THERE HAS BEEN NO VIOLATION OF ARTICLE 14 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS;**
- 7. RECOMMENDS THAT UNMIK:**
 - a. TAKE APPROPRIATE STEPS TOWARDS ADEQUATE COMPENSATION OF THE COMPLAINANT FOR PECUNIARY AND NON-PECUNIARY DAMAGE;**
 - b. 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.**

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member