



# *The Human Rights Advisory Panel*

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## **DECISION**

**Date of adoption: 21 January 2011**

**Case No. 294/09**

**Božidar JOVANOVIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel on 21 January 2011,  
with the following members taking part:

Mr Marek NOWICKI, Presiding Member  
Mr Paul LEMMENS

Assisted by  
Mr Rajesh TALWAR, 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. PROCEEDINGS BEFORE THE PANEL**

1. The complaint was lodged with the Panel on 18 May 2009 and registered on the same date.

### **II. THE FACTS**

2. The complainant is a resident of Kosovo currently living as a displaced person in Serbia. He was the owner of a house and moveable property located in Prizren/Prizren. The complainant lived there until December 1999, when he was evicted from his house by UNMIK officials.

3. On 3 December 1999 UNMIK granted a temporary permit to use his house to another family, on humanitarian grounds. The permit, initially valid until 11 May 2000, stated that it would not affect in any way the legal title to the house as would be determined by competent bodies established by the Special Representative of the Secretary-General. Later on, the complainant became aware that his house and moveable property were completely destroyed before the end of the first extension (with another six months) of the validity of the permit.
4. The complainant submitted a claim with the Housing and Property Directorate, for an order of repossession. On 27 August 2004 the Housing and Property Claims Commission held that as of the date of the destruction of the property, the complainant fulfilled the conditions to obtain repossession of his property.

### **III. THE COMPLAINT**

5. The complainant in substance alleges that by the damage caused to his house and moveable property, his right to property (Article 1 of Protocol No.1 to the ECHR) has been violated.

### **IV. THE LAW**

6. Before considering the case on its merits the Panel has to decide whether to accept the case, taking into consideration the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12 on the Establishment of the Human Rights Advisory Panel.
7. The complainant complains about a violation of his right to property (Article 1 of Protocol No.1). He complains about the fact that his property was destroyed after he left Kosovo in 1999, at some time between the end of 1999 and the beginning of May 2000.
8. The Panel recalls that, according to Section 2 of UNMIK Regulation No. 2006/12, it has jurisdiction only 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”.
9. The complainant’s property was destroyed at some time in 2000. The destruction of property is an instantaneous act, which does not give rise to a continuing violation (see HRAP, *Lajović*, no. 09/08, decision of 16 July 2008, § 7). It follows that the complaint lies outside the Panel’s jurisdiction *ratione temporis*.

**FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT INADMISSIBLE.**

Rajesh TALWAR  
Executive Officer

Marek NOWICKI  
Presiding Member