



DECISION

Date of adoption: 10 April 2008

Case No. 03/08

**Brahim SAHITI
against
UNMIK**

The Human Rights Advisory Panel sitting on 10 April 2008
with the following members present:

Mr. Marek NOWICKI, Presiding member
Mr. Paul LEMMENS

Mr. John 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

1. The facts, as presented by the applicant are as follows.

In the evening of 17 June 2007 a wedding party was going on in the Henc village, in the neighbourhood of the applicant. After shots were heard, KFOR was apparently called in. A group of Finnish members of KFOR arrived, and went to the applicant's home. They entered the home and searched the place, looking for weapons inside the house. Then they went outside and started to search the fields of wheat, but could not find anything. During the search of the field, they caused a lot of damage over some 60 acres, thus destroying some 1.500 kg of wheat cereal.

II. COMPLAINTS

2. The complainant alleges a violation of his right to property by KFOR, because of the damage caused to his property.

III. PROCEEDINGS BEFORE THE PANEL

3. The complaint was introduced on 6 April 2008 and registered on 8 April 2008.

IV. THE LAW

4. 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.

5. According to Section 1.2 of the Regulation the Advisory Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.

As results clearly from operational points 5 to 11 of resolution 1244 (1999) of the Security Council, a distinction is to be made between the international civil presence and the international security presence in Kosovo. UNMIK is established as the civil presence, KFOR as the security presence. The reference to UNMIK in Section 1.2 of the Regulation therefore cannot be interpreted so as to include KFOR.

6. The present complaint concerns acts allegedly committed by members of KFOR.

7. The Panel considers that the complaint is outside its jurisdiction.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

John RYAN
Executive Officer

Marek NOWICKI
Presiding member