



The Human Rights Advisory Panel

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DECISION

Date of adoption: 21 January 2011

Case No. 04/10

Bogoljub STOJANOVIĆ

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 23 February 2010 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 is the owner of a house located in Prizren/Prizren. According to the complainant, after he left Kosovo, fearing hostilities, the family of Mr M.K. moved into the house, where they lived until the HPD evicted them on 18 April 2006. On 12 October 2007 an

unidentified person set fire to the house. The house was looted and remained in such condition until September 2009, when another person, Mr Xh.D., made the house inhabitable and moved in with his family.

3. The complainant alleges that by using a false power of attorney issued in the name of the complainant's deceased father, to another person, Ms N.Sh., Mr Xh.D. managed to obtain all necessary documentation for the purchase of the immovable property of the deceased. Later on, in March 2009, Mr Xh.D. concluded a purchase contract at the Municipal Court in Prizren with Ms N.Sh., and then registered the property in his name at the Cadastral Agency in Prizren.
4. The complainant, on 5 October 2009, lodged a criminal complaint with the Municipal Public Prosecutor's Office in Prizren/Prizren against Mr Xh.D. and his accomplices. On the same date, he also lodged a claim with the Municipal Court in Prizren/Prizren, seeking the annulment of the purchase/sale contract, and the imposition of interim measures. However, as no proceedings were initiated, on 24 November 2009, the complainant sent letters asking EULEX to take appropriate action in his case, within its scope of authority. According to the complainant, still no response was received.

III. THE COMPLAINT

5. The complainant alleges that by a lack of diligence of the Municipal Public Prosecutor's Office in Prizren/Prizren and the Municipal Court of Prizren/Prizren in dealing with his cases, 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 lodged both his complaint with the Municipal Public Prosecutor's Office in Prizren/Prizren and his claim with the Municipal Court in Prizren/Prizren in October 2009.
8. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
9. 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.
10. Thus, at the moment when the complainant's complaint and claim were lodged, in October 2009, UNMIK clearly was no longer responsible for the functioning of the Kosovo judiciary.

11. For this reason the Panel considers that the complaint is outside its jurisdiction.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Rajesh TALWAR
Executive Officer

Marek NOWICKI
Presiding Member