



DECISION

Date of adoption: 16 March 2012

Case No. 86/10

Zurap IBRAHIMI

against

UNMIK

The Human Rights Advisory Panel, sitting on 16 March 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, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was introduced on 31 March 2010 and registered on 1 April 2010.

II. THE FACTS

2. The complainant is a resident of Kosovo. He claims that he is the owner of commercial premises in a commercial-residential building in Mitrovicë/Mitrovica. He alleges that he purchased the property from the Public Company for Housing Services in Mitrovicë/Mitrovica in June 1998.
3. The complainant states that on 26 May 2008 he applied to the Department of Urbanism, Planning, Cadastre, Property and Ambience of the Municipality of Mitrovicë/Mitrovica for the issuance of a use permit for his property. On 22 July 2008, the above-mentioned Department issued a decision denying the complainant's request and disputing his ownership of the property. The complainant subsequently appealed this decision. He received no response to his appeal and thereafter submitted written inquiries to the relevant Department officials and the President of the Municipality of Mitrovicë/Mitrovica. No reply was received.
4. The complainant alleges that in February 2010, the Municipality of Mitrovicë/Mitrovica rented out his property to a third party. In response, the complainant addressed the President of the Municipality of Mitrovicë/Mitrovica but did not succeed in eliciting a response.

III. THE COMPLAINT

5. The complainant complains about the decision of the municipal authorities of Mitrovicë/Mitrovica refusing to issue him a use permit for his property. He complains also about the fact that his property has been usurped and illegally occupied by the same authorities.
6. The Panel considers that the complainant may be deemed to invoke a violation of his right to property as guaranteed by Article 1 of the Protocol No.1 to the European Convention on Human Rights.

IV. THE LAW

7. 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.
8. According to Section 1.2 of UNMIK Regulation No. 2006/12, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
9. The complainant complains about the decision of the Department of Urbanism, Planning, Cadastre, Property and Ambience of the Municipality of Mitrovicë/Mitrovica, dated 22 July 2008, refusing to issue him a use permit for his property.

10. The Panel notes that, following the entry into force of the Kosovo Constitution on 15 June 2008, UNMIK has no longer been able to perform effectively the vast majority of its tasks as an interim administration, and the SRSG has been unable to enforce the executive authority that is still formally vested upon him under Security Council resolution 1244 (1999) (see, e.g., Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 12 June 2008, S/2008/354, §§ 7 and 17; Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 15 July 2008, S/2008/458, §§ 3-4 and 29; Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 24 November 2008, S/2008/692, § 21).
11. The Panel has already considered that, from 15 June 2008 at the latest, UNMIK can in principle no longer be held responsible for acts or omissions imputable to the Kosovo authorities, merely on the basis of the continuing existence of Security Council resolution 1244 (1999). The Panel does not exclude, however, that there may be special circumstances that could lead to a different conclusion in a particular case. (Human Rights Advisory Panel, *Krasniqi*, no. 48/08, decision of 13 March 2010, § 13).
12. The object of the present complaint is a decision that is exclusively imputable to the Kosovo authorities. There is no indication of any concrete involvement of UNMIK in the adoption of that position. There are also no special circumstances that would warrant a derogation from the principle set out above. The conclusion therefore is that the matter complained of does not engage the responsibility of UNMIK.
13. It follows that the complaint falls outside the jurisdiction *ratione personae* of the Panel.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member