



DECISION

Date of adoption: 19 April 2010

Case No. 313/09

S.M.

against

UNMIK

The Human Rights Advisory Panel on 19 April 2010,
with the following members present:

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. THE FACTS

1. The complainant is the wife of Mr D.M and the mother of Mr A.M.
2. Mr D.M. and Mr A.M. were allegedly abducted on 16 June 1999 on the road between Obiliq/Obilić and Mazgit/Mazgit Village. Mr A.M. was 15 years old at the time of the abduction.

3. The mortal remains of Mr D.M. and Mr A.M. were found in June 1999, autopsied in 2000, and finally identified and returned to the family in 2004. The autopsies revealed that Mr D.M. died from gunshot wounds to the head and chest and Mr A.M. died from gunshot wounds to the head.
4. The investigation into the deaths of Mr D.M. and Mr A.M. is allegedly ongoing.

II. COMPLAINTS

5. The complainant claims that UNMIK's failure to properly investigate the kidnapping and murder of her son, Mr A.M., constitutes a violation of the right to life, protected by Article 2 of the European Convention on Human Rights (ECHR) and that the mental pain and suffering caused by this situation resulted in a violation of Article 3 of the ECHR, the right to be free from inhuman or degrading treatment.

III. PROCEEDINGS BEFORE THE PANEL

6. The complaint was introduced on 22 September 2009 and registered on 23 September 2009.
7. At that time, the complainant had already introduced two other complaints concerning the disappearance and deaths of Mr A.M., registered under Case no. 168/09, and Mr D.M., registered under Case no. 169/09. Those complaints were both introduced on 9 April 2009 and registered on 30 April 2009.
8. A separate complainant introduced a complaint concerning the disappearance and death of Mr D.M. on 21 September 2009 which was registered on 23 September 2009.
9. On 23 November 2009, the Panel decided to join cases 312/09 and 313/09 pursuant to Rule 20 of the Panel's Rules of Procedure.
10. Due to ongoing problems with translation of documents, the complaints introduced in September 2009 were translated before the complaints submitted in April 2009. In January 2010, the Panel finally received translations of Case no. 168/09 and Case no. 169/09.

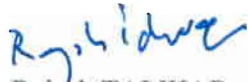
IV. THE LAW

11. During the course of examining the admissibility of the complaint, the Panel determined that Case no. 168/09 and Case no. 313/09 were filed by the same complainant and concerned the same incident and the same victim, Mr A.M.
12. In the given circumstances the Panel considers that the complaint in Case no. 313/09 is the same as Case no. 168/09.
13. As such, in accordance with Rule 29 of the Panel's Rules of Procedure, it is appropriate to strike Case no. 313/09 out of the list.

FOR THESE REASONS,

The Panel, unanimously,

DECIDES TO STRIKE THE COMPLAINT OUT OF ITS LIST OF CASES.



Rajesh TALWAR
Executive Officer



Marek NOWICKI
Presiding Member