



The Human Rights Advisory Panel

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DECISION

Date of adoption: 18 March 2011

Cases Nos. 237/09 and 238/09

Ljiljana ŠLJIVIĆ-ĆERANIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 18 March 2011,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Mr Paul LEMMENS
Ms Christine CHINKIN

Assisted by
Ms Anila PREMTI, Acting 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 complaints were lodged with the Panel on 30 April 2009 and registered on the same date.
2. The Panel requested clarification, further information and documents regarding the complaints, by letters dated 23 December 2009 and 6 October 2010.
3. On 9 September 2010 the Panel decided to join the cases pursuant to Rule 20 of the Panel's Rules of Procedure.
4. On 27 October 2010 the complainant sent a response.

5. On 30 November 2010, the Panel communicated the cases to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility of the complaints.
6. The SRSG responded by a letter dated 23 February 2011.

II. THE FACTS

7. The complainant is a resident of Kosovo currently living in Serbia.
8. She complains about the killing of her parents, Mr Milan Šljivić (case no. 237/09) and Ms Olga Šljivić (case no. 238/09), in their home in Prizren, on 30 September 1999.
9. The complainant states that an investigation was conducted by KFOR. Her parents' bodies were allegedly buried in an unmarked plot at Prizren's cemetery without the knowledge of the family. The case was reported to the International Committee of the Red Cross (ICRC) and to UNMIK.
10. The complainant asserts that since 2001, she constantly contacted UNMIK requesting information on any action initiated against the perpetrators of her parents' killing, and on any site investigation reports that could have been made upon inspection of the scene of the killings in 1999, but no response was ever received.
11. From UNMIK's comments, it appears that missing person files regarding Mr and Mrs Šljivić were opened by UNMIK in 2003. UNMIK Office of Missing Persons and Forensics, accompanied by UNMIK Police and others, exhumed bodies from a cemetery in the village of Tusos, Prizren, in May 2007 pursuant to an order issued by the District Court of Prizren on 28 March 2007. The human remains of Mr and Mrs Šljivić were handed over to the family on 30 May 2008 and death certificates were also provided by UNMIK OMPF. The ICRC informed the complainant's family on 7 July 2008 that the tracing request was then closed.
12. On 9 December 2008, UNMIK's responsibility with regard to police and justice 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. Between 9 December 2008 and 30 March 2009, all criminal case files held by the UNMIK Department of Justice and UNMIK Police were handed over to their EULEX counterparts.

III. THE COMPLAINT

13. The complainant complains about UNMIK's alleged failure to properly investigate the murder of her parents. She also complains about the mental pain and suffering allegedly caused by this situation.
14. The Panel considers that the complainant may be deemed to invoke, respectively, a violation of the right to life of her parents, guaranteed by Article 2 of the European

Convention on Human Rights (ECHR), and a violation of her own right to be free from inhuman or degrading treatment, guaranteed by Article 3 of the ECHR.

IV. THE LAW

15. Before considering the cases on their merits the Panel must first decide whether to accept the cases, taking into consideration the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.

Alleged violation of Article 2 of the ECHR

16. The complainant alleges in substance the lack of an adequate criminal investigation into the killing of her parents.
17. In his comments, the SRSG does not raise any objections to the admissibility of this part of the complaints.
18. The Panel considers that the complaints under Article 2 of the ECHR raise serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that this part of the complaints is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
19. No other ground for declaring this part of the complaints inadmissible has been established.

Alleged violation of Article 3 of the ECHR

20. The complainant alleges mental pain and suffering allegedly caused by the situation surrounding the killing of her parents.
21. In his comments, the SRSG argues that regarding issues under Article 3 of the ECHR the complaints are overly vague, and for this reason should be declared inadmissible.
22. The Panel considers that, based on the information available, the complainant sets forth relevant facts upon which the alleged violation of Article 3 of the ECHR is based. It therefore dismisses the objection based on the vagueness of this part of the complaints.
23. The Panel considers, moreover, that the complaints under Article 3 of the ECHR raise serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that this part of the complaints is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
24. No other ground for declaring this part of the complaints inadmissible has been established.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS ADMISSIBLE.

Anila PREMTI
Acting Executive Officer

Marek NOWICKI
Presiding Member