



The Human Rights Advisory Panel

Building D, UNMIK HQ Prishtinë/Priština, Kosovo | E-mail: hrap-unmik@un.org | Tel: +381 (0)38 504-604, ext. 5182

DECISION

Date of adoption: 16 March 2012

Case No. 135/09

Milisav GOGIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 16 March 2012,
with the following members present:

Mr Marek NOWICKI
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 8 April 2009 and registered on 30 April 2009.
2. On 9 December 2009, the Panel requested the complainant to submit additional information and repeated its request on 20 April 2011. No response was received from the complainant.
3. On 29 December 2011, the complaint was communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on admissibility. On 13 February 2012, the Panel received UNMIK's response.

II. THE FACTS

4. The complainant is the son of Mr Đoko Gogić.
5. The complainant states that on 20 June 1998 Mr Đoko Gogić was kidnapped by members of the Kosovo Liberation Army from his house in Banja village, Suharekë/Suva Reka municipality. The mortal remains of Mr Đoko Gogić were later located in a mass grave in Kosovo, and returned to the complainant on 13 October 2006.
6. The complainant states that he reported his father's abduction to the International Committee of the Red Cross (ICRC), the Serbian Red Cross and the Serbian Ministry of Internal Affairs. Mr Đoko Gogić is also listed as a missing person in an ICRC communication to UNMIK Police on 12 October 2001, and in the database maintained by the UNMIK Office of Missing Persons and Forensics.
7. 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

8. The complainant complains about UNMIK's alleged failure to properly investigate the disappearance and murder of his father.
9. The Panel considers that the complainant may be deemed to invoke, respectively, a violation of the right to life of Mr Đoko Gogić, guaranteed by Article 2 of the European Convention on Human Rights (hereinafter ECHR).

IV. THE LAW

10. Before considering the case on its merits, the Panel must first decide whether to accept the case, considering the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
11. The complainant alleges in substance the lack of an adequate criminal investigation into the disappearance and murder of Mr Đoko Gogić.
12. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.
13. The Panel considers that the complaint raises 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 complaint is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
14. No other ground for declaring the complaint inadmissible has been established.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT ADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member