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. 212/09

Radojka ŠĆEKIĆ

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 22 April 2009 and registered on 30 April 2009.

2. On 29 December 2011, the Panel communicated the case to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility of the case. On 10 January 2012, UNMIK provided its response.

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II. THE FACTS

3. The complainant's parents, Mr Milan Staletović and Mrs Marica Staletović, went missing from their home in Gjakovë/Đakovica on 24 July 1999 and never returned. The complainant alleges that members of the Kosovo Liberation Army abducted and subsequently killed her parents.

4. On 28 December 2001, the International Committee of the Red Cross issued tracing requests for Mr Milan Staletović and Mrs Marica Staletović.

5. The mortal remains of the victims were located and exhumed from the Brekovac Cemetery in the Gjakovë/Đakovica area by UNMIK Police in October 2002. Autopsies were completed on 8 December 2002 by the UNMIK Office of Missing Persons and Forensics (OMPF). The cause of death of Mrs Staletović was determined by autopsy as gunshot wound to the back. The cause of death of Mr Staletović was determined by autopsy as gunshot wounds to the chest. The mortal remains of Mr Staletović were found with a pair of handcuffs attached around the right forearm at the time of exhumation. The dates of death could not be accurately determined and were therefore listed as being prior to 8 December 2002.

6. On 11 April 2003, the International Commission on Missing Persons positively identified the mortal remains of the victims though DNA analysis. On 5 May 2003, OMPF issued death certificates for Mr and Mrs Staletović. On 23 May 2003, the mortal remains of the victims were returned to their relatives.

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 abduction and killing of her parents.

9. The Panel considers that the complainant may be deemed to invoke a violation of the right to life of her parents, guaranteed by Article 2 of the European Convention on Human Rights (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.

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11. The complainant alleges in substance the lack of an adequate criminal investigation into the abduction and killing of her parents.

12. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.

13. The Panel considers that the complaint under Article 2 of the ECHR raises serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that 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

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