



# *The Human Rights Advisory Panel*

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## **DECISION**

**Date of adoption: 10 May 2012**

**Case No. 80/09**

**Nedeljka KLJAIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, sitting on 10 May 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 6 April 2009 and registered on 30 April 2009.
2. On 8 December 2010 and 2 March 2011, the Panel requested further information from the complainant. No response was received.
3. 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.
4. On 17 January 2012, UNMIK submitted its response.

## **II. THE FACTS**

5. The complainant is the sister of Mr Milan Radić.
6. The complainant states that her brother, a refugee from Croatia who was temporarily residing in Prishtinë/Priština, was abducted and killed by members of the Kosovo Liberation Army on 27 June 1999 in the centre of Prishtinë/Priština.
7. The complainant states that the abduction was reported to the International Committee of the Red Cross, KFOR, UNMIK and the International Prosecutor's Office in Prishtinë/Priština.
8. The mortal remains of Mr Radić were discovered by UNMIK on 12 July 2000 in Prishtinë/Priština. They were identified by the UNMIK Office on Missing Persons and Forensics (OMPF) on 21 March 2005. According to the death certificate issued by the OMPF, the cause of death of Mr Radić was "probable strangulation".
9. 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**

10. The complainant complains about UNMIK's alleged failure to properly investigate the abduction and killing of her brother.
11. The Panel considers that the complainant may be deemed to invoke a violation of the right to life of her brother, guaranteed by Article 2 of the European Convention on Human Rights (ECHR).

## **IV. THE LAW**

12. 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.
13. The complainant alleges the lack of an adequate criminal investigation into the abduction and killing of her brother.
14. The SRSG does not raise any objection to the admissibility of the complaint.
15. 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.

16. 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