



The Human Rights Advisory Panel

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DECISION

Date of adoption: 23 August 2012

Cases Nos 167/09, 174/09 and 175/09

Sonja KORICANIN

against

UNMIK

The Human Rights Advisory Panel, sitting on 23 August 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 complainant introduced three complaints on 7 April 2009 and all were registered on 30 April 2009.
2. On 23 December 2009, the Panel requested the complainant to provide additional information. No response was received.
3. On 6 October 2010, the Panel decided to join the cases, pursuant to Rule 20 of the Panel's Rules of Procedure.

4. On 18 April 2012, the complaints were communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on the admissibility of the complaints. On 24 May 2012, the SRSG provided UNMIK's response.

II. THE FACTS

5. The complainant states that her father, Mr Vojislav Lalić, her mother, Mrs Jelena Lalić, and her grandmother, Mrs Milosava Lalić, were abducted by members of the Kosovo Liberation Army on 20 June 1999 in the village of Shtupel/Štupelj, Klinë/Klina municipality. Since then their whereabouts have remained unknown.
6. The complainant states that the abduction was reported to the Serbian Ministry of Internal Affairs, the International Committee of the Red Cross (ICRC) and the International Prosecutor of the District Public Prosecutor's Office of Pejë/Peć. Tracing requests of the ICRC for Mr Vojislav Lalić, Mrs Jelena Lalić and Mrs Milosava Lalić remain open. Likewise, their names appear in a list of missing persons, communicated by the ICRC to UNMIK Police on 11 February 2002 and in the database compiled by the UNMIK Office on 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 COMPLAINTS

8. The complainant complains about UNMIK's alleged failure to properly investigate the abductions of her parents and grandmother. The complainant in essence also complains about the fear, pain and anguish that she suffered because of this situation.
9. The Panel considers that the complainant may be deemed to invoke a violation of the right to life of Mr Vojislav Lalić, Mrs Jelena Lalić and Mrs Milosava Lalić, 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

10. Before considering the cases on their merits, the Panel must first decide whether to accept the cases, considering the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
11. The complainant alleges the lack of an adequate criminal investigation surrounding the abductions of her parents and grandmother, as well as the subsequent mental pain and suffering caused to her by the situation surrounding the abductions.

12. In his comments, the SRSG raises no objection to the admissibility of the complaints.
13. The Panel considers that the complaints raise serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that the complaints are not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
14. No other ground for declaring the complaints inadmissible has been established.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS ADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member