



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: 26 September 2012

Case No. 90/10

Dušanka DODIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 26 September 2012,
with the following members present:

Mr Marek NOWICKI, Presiding Member
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 26 March 2010 and registered on the same day.
2. On 26 May 2010, the Panel requested further information from the complainant. On 28 June 2010, the complainant provided her response.
3. On 11 November 2010 and 25 June 2012, the Panel requested additional information from Mr Živojin Jokanović the complainant's legal representative in regard to the subject matter of the complaint. On 25 June 2012, Mr Živojin Jokanović provided his response.
4. On 25 June 2012, the Panel requested additional information from both the District Court of Gjilan/Gnjilane and the District Court of Prishtinë/Priština. On 27 June 2012, the District Court of Prishtinë/Priština responded and on 5 July 2012, the District Court of Gjilan/Gnjilane also did so.

II. THE FACTS

5. The complainant is the mother of Mr Aleksandar Dodić.
6. The complainant states that on 30 April 2001 her son was shot and killed in the town of Viti/Vitina.
7. Two men were tried for the murder at the District Court in Gjilan/Gnjilane. One was convicted for the murder whilst the other was eventually acquitted on appeal.
8. The complainant states that after the conclusion of the trial she instructed her representative in the case, Mr Živojin Jokanović, to file a claim for compensation for the loss of her son. The complainant states that she never received any response from the Gjilan/Gnjilane District Court in this regard. Both the Gjilan/Gnjilane and Prishtinë/Priština District Courts confirmed that they had not received any claim for compensation from the complainant.
9. On 9 December 2008, UNMIK's responsibility with regard to police and justice in Kosovo ended with 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

10. The complainant alleges that UNMIK is responsible for the killing of her son as UNMIK failed to provide him with adequate protection. In this regard, the Panel considers that the complainant may be deemed to invoke a violation of the substantive obligation under Article 2 of the European Convention on Human Rights (ECHR).
11. The complainant also alleges that the claim for compensation has not been decided within a reasonable time, in violation of her right to a judicial determination within a reasonable time, guaranteed by Article 6 § 1 of the ECHR, and her right to an effective remedy, guaranteed by Article 13 of the 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.

Alleged violation of Article 2 of the ECHR

13. The complainant states that at the time when her son was killed, UNMIK was responsible for maintaining peace and security in Kosovo. The complainant therefore regards UNMIK as ultimately responsible for not safeguarding her son's life.
14. The Panel recalls that, according to Section 2 of UNMIK Regulation No. 2006/12, it has jurisdiction only over "complaints relating to alleged violations of human rights that had

occurred not earlier than 23 April 2005 or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights”.

15. The Panel notes that the killing of Mr Aleksandar Dodić took place on 30 April 2001. The Panel also considers the death of Mr Aleksandar Dodić as an instantaneous event which does not create a continuing situation (see European Court of Human Rights (ECtHR), *Çakir and Others v. Cyprus*, no. 7864/06, decision of 29 April 2010; see also ECtHR, *Aloyan and Nadryan v. Russia*, no. 11680/03, decision of 11 October 2011). Accordingly, having acknowledged the events which regrettably led to death of Mr Aleksandar Dodić, the Panel has to consider that the applicant’s complaint under Article 2 falls outside of the Panel’s jurisdiction *ratione temporis*.

16. The Panel therefore declares this part of the complaint inadmissible.

Alleged violation of Article 6 § 1 and 13 of the ECHR

17. Pursuant to Section 3.3 of the Regulation the Panel shall declare inadmissible any complaint which it considers incompatible with the human rights set out in the human rights instruments within the Panel’s jurisdiction, or which it considers manifestly ill-founded.

18. The complainant in her complaint refers to a claim for compensation which she states was filed at the District Court in Gjilan/Gnjilane. However, the Panel can find no evidence that such a claim was ever submitted by either the complainant or her representative.

19. In these circumstances, the Panel holds this part of the complaint to be unsubstantiated and therefore manifestly ill-founded.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member