



Date: 19 March 2009

HUMAN RIGHTS ADVISORY PANEL

Press release issued by the Secretariat

HEARING IN THE BALAJ CASE ADJOURNED

The Human Rights Advisory Panel has held a hearing today, in the case of Balaj and others v. UNMIK (complaint No. 04/07).

The case concerns an application brought by Kadri Balaj, Shaban Xheladini, Zenel Zeneli and Mustafa Nerjovaj, who reside in Kosovo.

Summary of the facts

Lëvizja Vetëvendosje organized a demonstration in Pristina on 10 February 2007. At a given moment the police used tear gas and rubber bullets. Injuries were sustained by the protesters and the police. Mon Balaj and Arben Xheladini were killed, Zenel Zeneli and Mustafa Nerjovaj were injured.

Complaint

The complainants allege that the killing and serious injury of the victims as well as the lack of an effective investigation constitute violations of the following human rights guaranteed by a number of international human rights treaties: right to life, prohibition of torture and inhuman treatment, right to peaceful assembly, right to a fair trial and right to an effective remedy.

Procedure

The complaint was lodged with the Human Rights Advisory Panel on 11 October 2007 and declared admissible on 6 June 2008.

The Panel initially decided to hold a public hearing in order to clarify the facts and the legal issues at stake.¹ After having received notice from UNMIK on 17 March 2009 that for security reasons the authorisation to hold a public hearing in the Cinema Hall of the former UNMIK HQ on 19 March 2009 was revoked, the Panel decided to proceed with a hearing closed to the public.²

Representatives of the parties

The hearing was attended by the following representatives of the parties:

- On behalf of the Special Representative of the Secretary-General (SRSG):
 - Mr. Ernst Tschoepke, Acting Director of the Office of the Legal Adviser,
 - Mr. Carl Campeau, legal officer in the Office of the Legal Adviser,
- On behalf of the complainants:
 - Mr. Paul Troop, barrister, Tooks Chambers, London,
 - Mr. Jude Bunting, barrister, Tooks Chambers, London,
 - Mr. Halim Sylejmani, attorney, Pristina,
 - Ms. Alexandra Channer, assistant to Mr Sylejmani, Pristina.

The complainants Kadri Balaj (father of Mon Balaj), Shaban Xheladini (father of Arben Xheladini), Zenel Zeneli and Mustafa Nerjovaj also were present.

Request for adjournment of the hearing

The Panel received a request from the complainants for an adjournment of the hearing, so that it could be held in public at a later date. The complainants argued that they had a right to a public hearing, and that it was not established that there were sufficient reasons for holding a closed hearing.

The representative of the SRSG stated that he was not opposed to a public hearing. He recalled that UNMIK had itself advised to postpone the public hearing *sine die*,

¹ See Press Release of 13 March 2009.

² See Press Release of 18 March 2009.

until a suitable venue could be found. He confirmed that UNMIK would assist the Panel in finding such a venue.

Having considered the arguments of the complainants and the statement made by the representative of the SRSG, the Panel has accepted to adjourn the hearing.

After consultation of the parties, the date for a new hearing, to be held in public, has been set on Thursday, 4 June 2009.

The Panel takes note of the offer of the representative of the SRSG to assist it in finding a venue that will meet the needs of conducting a public hearing in this case.

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