



78th HRAP session

The 78th regular session of the [Human Rights Advisory Panel](#) (the Panel) was held in from 9 to 14 December 2014. The Panel adopted 7 opinions concerning 15 complaints. There are still 88 complaints pending before the Panel. The complete statistics available here in [English](#), [Albanian](#) and [Serbian](#).

Lela Nikolić et al v. UNMIK (cases nos 72/09, 73/09, 74/09, 75/09, 76/09, 78/09, 95/09 and 96/09)

The complaints of **Ms Lela Nikolić** concern her close relatives: stepmother, **Mrs Darinka Šutaković** (case no. 72/09), father, **Mr Nedeljko Šutaković** (case no. 75/09), and their three sons: **Radovan Šutaković**, 10 years old (case no. 73/09), **Đorđe Šutaković**, 16 years old (case no. 74/09) and **Aleksandar Šutaković**, 18 years old (case no. 76/09); The complaint of **Ms Rosanda Kabaš** concerns her brother, **Mr Milenko Kabaš**; the complaints of **Mr Milan Petrović** concern his parents, **Mr Mića Petrović** and **Mrs Radmila Petrović** (cases nos 95/09 and 96/09). The complainants' relatives lived in the same apartment building in Gjakovë/Đakovica. Around the same time, in June 1999, they were all abducted by members of the Kosovo Liberation Army (KLA). Since that time their whereabouts have remained unknown.

The Panel concluded that UNMIK failed to carry out an effective investigation into the abduction and disappearance of the above named persons, thus violating the complainant's rights under Article 2 (procedural) and that UNMIK's behaviour contributed to the complainant's mental suffering (violation of ECHR, Article 3 substantive). The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Gavrilo Milosavljević v. UNMIK (case no. 163/09)

The complainant is the son of **Mrs Ljubomirka Đurić**, who was reportedly abducted from her flat in Istog/Istok at some time between 2 June and 5 July 1999. Her whereabouts are unknown to date.

The Panel concluded that UNMIK did not conduct an effective investigation into the case of Mrs Ljubomirka Đurić (violation of ECHR, Article 2 procedural) and that UNMIK's behaviour contributed to the complainant's mental suffering (violation of ECHR, Article 3 substantive). The Panel also noted that the investigative file with respect to Mr M.P. and Mrs S.P., two persons who were also disappeared from Istog/Istok around the same time as Mrs Ljubomirka Đurić, shows, even within the constraints raised by the SRSg, how thorough an investigation by UNMIK Police could be. The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Vinogorka Jovanović v. UNMIK (case no. 222/09)

The complaint was lodged by Mrs Vinogorka Jovanović, the daughter of **Mr Svetislav Jakšić**, who on 5 July 1999, was reportedly abducted from his vehicle by a group of young men while he was waiting at a set of traffic lights in Prishtinë/Priština. He was not seen alive again.

The Panel concluded that UNMIK had not properly investigated the alleged crime, thus violating the complainant's rights under Article 2 (procedural) of the European Convention on Human Rights. The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Draginja Vujačić v. UNMIK (case no. 226/09)

The complaint was lodged by Mrs Draginja Vujačić, the wife of **Mr Slobodan Vujačić**, sister of **Mr Luka Petrušić** and sister-in-law of **Mrs Radmila Petrušić** who on 17 June 1999, were reportedly abducted from their family home in Banja e Pejes/Pečka Banja village, Istog/Istok municipality by KLA members. Since that time, the whereabouts of all three persons have remained unknown. The complainant alleged that UNMIK failed to properly investigate the abduction and probable killing of her family members, which also caused her mental pain and suffering.

The Panel concluded that UNMIK had not properly investigated the alleged crime, thus violating the complainant's rights under Article 2 (procedural) and Article 3 (substantive) of the European Convention on Human Rights. The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Z.B. v. UNMIK (case no. 229/09)

The complaint was lodged by the wife of **Mr Lj. B.**, an ethnic Serbian who was reportedly kidnapped on 9 June 1998, by KLA members and then reportedly transferred and detained in KFOR Camp Bondsteel, his fate is unknown to date.

The Panel concluded that UNMIK had not properly investigated the alleged crime, thus violating the complainant's rights under Article 2 (procedural) and that UNMIK's behaviour contributed to the complainant's mental suffering (violation of the European Convention of Human Rights, Article 3 substantive). The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Bogoljub Šmigić v. UNMIK (cases nos 264/09 & 265/09)

The complaint was lodged by a the son of **Mr Milosav Šmigić** and **Mrs Sultana Šmigić**, ethnic Serbians who were reportedly kidnapped on 9 June 1998, together with the other Kosovo Serbian residents remaining in the village of Leçinë/Leočina, by KLA members with their fate unknown to date.

The Panel concluded that UNMIK failed to carry out an effective investigation into the abduction and disappearance of Mr Milosav Šmigić and Mrs Sultana Šmigić, thus violating the complainant's rights under Article 2 (procedural) and that UNMIK's behaviour contributed to the complainant's mental suffering (violation of the European Convention of Human Rights, Article 3 substantive). The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Marija Stevanović v. UNMIK (case no. 289/09)

The complainant is the mother of **Mr Dragan Stevanović**, an ethnic Serbian who was abducted on 19 August 1999, together with Mr Ivan Majstorović (who was only 17 years old), by KLA members, while they were travelling in Mr Dragan Stevanović's vehicle. Since that time their whereabouts have remained unknown. The complainant complains about UNMIK's alleged failure to properly investigate the abduction and disappearance of her son and about the mental pain and suffering allegedly caused to herself and her family by this situation.

In relation to the closure of this investigation, the Panel, in particular, noted with concern that the file was closed following a general policy by established in 2003 by UNMIK Department of Justice and UNMIK Police aimed primarily at preserving the limited resources and concentrating only on the investigations "with a strong likelihood of suspect identification". In the Panel's view, this policy has seriously affected this, and probably many other investigations of similar nature. The Panel considered this as an "indicator of a serious systemic failure in the functioning of the police and justice system established by UNMIK", in "a clear disconnect between the situation on the ground and the way it was presented to the major stakeholders".

The Panel concluded that UNMIK failed to carry out an effective investigation into the abduction and disappearance of Mr Dragan Stevanović and that there has been a violation of Article 2, procedural limb, of the European Convention of Human Rights and that by its behaviour, UNMIK contributed to the complainant's distress and mental suffering in violation of Article 3 of the ECHR. The text of the Opinion will be published on the Panel's webpage in approximately a months' time.

Earlier Opinions Now Published

The Panel has now published on its website the following opinions, which had been adopted by the Panel during its **76th session, in October 2014**:

Dobriła Antić-Živković v. UNMIK (Case no. 147/09)

The complainant is the mother of **Mr Zlatko Antić** who was reportedly kidnapped while visiting a neighbour along with another person by KLA members in Prizren on 28 July 1999. He was not seen alive again. The name of Mr Zlatko Antić is mentioned in a document dating back to October 2003 prepared by the UNMIK Department of Justice for the ICTY, about suspected trafficking in human beings by the KLA, for the purposes of forced prostitution and organ harvesting.

The Panel concluded that UNMIK had not properly investigated the alleged crime, thus violating the complainant's rights under Article 2 (procedural) and by its behaviour, UNMIK contributed to the complainant's distress and mental suffering in violation of Article 3 of the European Convention on Human Rights. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Bosiljka Radovanović v. UNMIK (case no. 177/09)

The complainant is the wife of **Mr Radovan Račić** who went missing 11 June 1999. He was reportedly shot by a group of unidentified armed Albanians in front of his flat, in the presence of an unnamed eye-witness. After the killing, his body was taken away to an unknown location. The mortal remains were later located near Ramoc, a village in the Gjakovë/Đakovica municipality. The mortal remains were handed over to the complainant on 25 June 2007.

The Panel concluded that UNMIK had not properly investigated the alleged crime, thus violating the complainant's rights under Article 2 (procedural) of the European Convention on Human Rights. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Olivera Budimir v. UNMIK (case no. 219/09)

The complainant is the widow of **Mr Rade Budimir** who states that on 2 August 1999, Mr Rade Budimir was abducted from his mother's apartment in Prishtinë/Priština. He was not seen alive again. The complainant also states that on 5 August 1999, four suspects were arrested in Mr Rade Budimir's flat by KFOR, but apparently no criminal proceedings were initiated against them. The mortal remains of Mr Rade Budimir were eventually located and returned to his family on 13 September 2002.

The Panel concluded that UNMIK failed to carry out an effective investigation into the abduction and killing of Mr Rade Budimir, thus violating the complainant's rights under Article 2 (procedural) of the European Convention on Human Rights. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Angelina Biševac v. UNMIK (case no. 223/09)

The complainant is the daughter of **Mr Radota Gojković**, who was reportedly kidnapped by KLA members in Pejë/Peć in June 1999. His mortal remains were later located and identified and returned to his family on 18 February 2003.

The Panel concluded that UNMIK failed to carry out an effective investigation into the disappearance and death of Mr Radota Gojković, thus violating the complainant's rights under Article 2 (procedural) of the ECHR. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Slađana Remištar v. UNMIK (case no. 245/09)

The complainant is the wife of **Mr Nenad Remištar**, who worked as a traffic police officer at the Gjakovë/Đakovica police station. She reports he was abducted on 13 June 1998 by KLA members, while driving his car, taken to a KLA detention facility in Jabllanicë/Jablanica village, Gjakovë/Đakovica municipality, and later executed. His mortal remains have never been located.

The abduction and probable killing of Mr Nenad Remištar was investigated by the ICTY, as a part of the proceedings in the case *Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj* ([IT-04-84](#)).

Having expressed regrets that the investigation and the judicial proceedings at the ICTY, as well as those conducted by UNMIK, have not to date been able to identify the persons responsible for the abduction and probable killing of Mr Nenad Remištar and bring them to justice, the Panel concluded that, as far as this investigation is attributable to the UNMIK authorities, there has been no violation of Article 2,

procedural limb, of the ECHR. Given the particular circumstances of the case and having found no procedural violation of Article 2 by UNMIK, the Panel also considered that there has not been a violation of Article 3 on the part of UNMIK.

Nevertheless, in the Panel's view, as neither the mortal remains of the victim have been located, nor those responsible for his abduction and probable killing have been brought to justice, the procedural obligation under Article 2 of the ECHR was not discharged and should have been continued, although a long time had passed from the alleged crimes. So, after the end of the ICTY proceedings, in accordance with the continuous obligation to investigate, the competence to do so should have been transferred back to EULEX, which on 9 December 2008 assumed full operational control in the area of the rule of law in Kosovo. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Cica Janković v. UNMIK (case no. 249/09)

The complainant is the mother of **Mr Marjan Melonaši**, a journalist of the Serbian Language Editorial Service of the Radio and Television of Kosovo (RTK). According to the complainant, on 6 September 2000 at around 14:10, her son left the RTK premises, apparently heading home. Since that time his whereabouts have remained unknown.

The Panel concluded that UNMIK failed to carry out an effective investigation into the disappearance of Mr Marjan Melonaši, thus violating the complainant's rights under Article 2 (procedural) and that UNMIK's behaviour contributed to the complainant's mental suffering thus violating Article 3 (substantive) of the ECHR. The full Opinion of the Panel can be accessed here in English, Albanian and Serbian.

In particular, the Panel also expressed its concern that inaction of the authorities indicates certain reluctance on the part of UNMIK Police to pursue the investigation, in particular when there were indications of politically motivated violence pointing towards persons associated with the KLA. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Verica Patronović v. UNMIK (case no. 252/09)

The complainant is the wife of **Mr Mlađan Mavrić**. She states that her husband was wounded during the NATO bombing. After the arrival of KFOR in Kosovo they stayed in the village of Hoçë e Madhe/Velika Hoča, municipality of Rahovec/Orahovac, until 12 October 1999, when Mr Mlađan Mavrić was kidnapped by unknown persons. In November 2003, she was informed that the mortal remains of her husband had been located on 22 November 2002 in the village of Brestovc/Brestovac and that the process of his identification had lasted for one year. Mr Mlađan Mavrić was buried on 30 November 2003 in Hoçë e Madhe/Velika Hoča.

The Panel concluded that UNMIK failed to carry out an effective investigation into the abduction and killing of Mr Mlađan Mavrić and that has accordingly been a violation of Article 2, procedural limb, of the European Convention on Human Rights. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).

Milorad Andrejević v. UNMIK (case no. 282/09)

The complainant is the brother of **Mr Dušan Andrejević**, an ethnic Serbian from Kosovo. He states that on 11 June 1999, Mr Dušan Andrejević and other persons were travelling through Lipjan/Lipljan municipality when he stopped to assist his cousins with their broken tractor. He went missing from the group he was travelling with and since that time his whereabouts have remained unknown.

The Panel concluded that UNMIK failed to carry out an effective investigation into the disappearance of Mr Dušan Andrejević. There has accordingly been a violation of Article 2, procedural limb and that by its behaviour, UNMIK contributed to the complainant's distress and mental suffering in violation of Article 3 of the European Convention of Human Rights. The full Opinion of the Panel can be accessed here in [English](#), [Albanian](#) and [Serbian](#).
