



The Human Rights Advisory Panel

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DECISION

Date of adoption: 6 August 2010

Case No. 12/09

G. R.

against

UNMIK

The Human Rights Advisory Panel sitting on 6 August 2010,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Mr Paul LEMMENS
Ms Christine CHINKIN

Assisted by

Mr Rajesh TALWAR, 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 21 January 2009 and registered on the same date.
2. The Panel communicated the case to the Special Representative of the Secretary-General (SRSG) on 4 May 2009 requesting his comments on behalf of UNMIK on the admissibility and merits of the complaint. The SRSG provided comments by letter dated 12 October 2009.
3. The complainant responded by a letter received on 4 December 2009.

II. THE FACTS

4. The complainant states that her son, D.R., was abducted while driving a passenger car on the Fushë Kosovë/Kosovo Polje road on 22 June 1999 and that he is still missing.
5. According to an UNMIK Police report dated 26 February 2005, Mr R. was last seen by a neighbour, who saw him in a car on the said road, accompanied by an unidentified man. This report also states that, following information from the complainant's family that Mr R. was detained in a certain school, KFOR conducted the relevant check but found no traces of his presence.
6. An UNMIK Police Missing Persons Unit report of 30 September 2002 mentions that, upon discovery of a certain dead body, an attempt to identify this body as Mr R.'s was unsuccessful as his fiancée was unable to identify it.
7. The complainant states that she reported the abduction to "all relevant bodies", including the Association for Kidnapped and Missing Persons, the International Committee of the Red Cross and the Red Cross of Serbia. She also states that she gave a statement on the abduction to two UNMIK "inspectors". Finally, she states that she lodged a criminal complaint with the Public Prosecutor's Office in Prishtinë/Priština in 2004.
8. In 2005, the UNMIK Police War Crimes Unit resumed the investigation, but was unable to contact any potential witnesses and gather any leads as to the whereabouts of Mr R. Another 2005 report concludes that the case remains open but is inactive.

III. COMPLAINT

9. The complainant complains about UNMIK's alleged failure to properly investigate the kidnapping and murder of her son. She also complains about the mental pain and suffering allegedly caused by this situation.
10. The Panel considers that the complainant may be deemed to invoke, respectively, a violation of her son's right to life, guaranteed by Article 2 of the European Convention on Human Rights (ECHR) and a violation of her right to be free from inhuman or degrading treatment, guaranteed by Article 3 of the ECHR.

IV. THE LAW

11. 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.
12. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.
13. The Panel considers that the complaints under Articles 2 and 3 of the ECHR raise serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that this complaint is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
14. The Panel does not see any other ground for declaring it inadmissible.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT ADMISSIBLE.

Rajesh TALWAR
Executive Officer

Marek NOWICKI
Presiding Member