



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: 13 April 2011

Case No. 94/09

Svetlana MARINKOVIĆ

against

UNMIK

The Human Rights Advisory Panel on 13 April 2011
with the following members taking part:

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

Assisted by
Ms Anila PREMTI, Acting 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, including through electronic means, in accordance with Rule 13 § 2 of its Rules of Procedure, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was introduced on 6 April 2009 and registered on 30 April 2009.
2. On 9 December 2009, the Human Rights Advisory Panel requested further information from the complainant. On 11 January 2010, the complainant provided her response.
3. On 3 March 2010, the Panel communicated the case to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility and the merits of the case. On 25 May 2010, UNMIK provided its response.

4. The Panel forwarded UNMIK's response to the complainant for her comments on 9 June 2010. The complainant provided her comments on 29 July 2010.

II. THE FACTS

5. The complainant states that her husband, Mr Zvonko Marinković, had been on a business trip in Belgrade in June of 1998 with another colleague, Mr J.P. While returning home from the trip on 24 June 1998, they went missing while on the road between Shtime/Štimlje and Suharekë/Suva Reka, near a place called Carralevë/Crnoljevo.
6. The complainant states that the disappearance was reported to the Kosovo Verification Mission of the Organisation for Security and Cooperation in Europe, the International Committee of the Red Cross, the Red Cross of Serbia, the Ministry of Internal Affairs (former Yugoslavia), and the Association of Families of Missing and Kidnapped Persons.
7. From the death certificates issued by the UNMIK Office on Missing Persons and Forensics (OMPF), it appears that the mortal remains of Mr Marinković were discovered on 28 May 2003, in Rancë/Rance village in Shtime/Štimlje. On 23 July 2003, UNMIK OMPF conducted an autopsy, but it could not definitively ascertain the cause of death. UNMIK OMPF later identified the remains and handed them over to the complainant on 10 December 2004.
8. 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 COMPLAINT

9. The complainant complains about UNMIK's alleged failure to properly investigate the abduction and murder of her husband. 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 the right to life of her husband, 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

11. Before considering the case on the 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 these complaints are 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 the complaint inadmissible.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT ADMISSIBLE.

Anila PREMTI
Acting Executive Officer

Marek NOWICKI
Presiding Member