



The Human Rights Advisory Panel

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DECISION

Date of adoption: 13 April 2011

Case No. 268/09

Slavica NEDELJKOVIĆ

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 10 April 2009 and registered on 30 April 2009.
2. On 27 December 2010, the Human Rights Advisory Panel communicated the case to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility of the case. On 1 March 2011, UNMIK provided its response.

II. THE FACTS

3. The complainant states that on 20 August 1999 her husband, Mr Zoran Nedeljković left his home in Prishtinë/Priština to go to work. He never returned.
4. The complainant attaches a certificate from the International Committee of the Red Cross indicating that it opened a tracing request for Mr Nedeljković in September 1999.
5. According to a death certificate produced by the UNMIK Office on Missing Persons and Forensics (OMPF), the mortal remains of Mr Nedeljković were located on 29 April 2003 in the village of Grashticë/Graštica in Prishtinë/Priština Municipality. On 17 December 2003, UNMIK OMPF conducted an autopsy on the mortal remains and determined that the cause of death was gunshot injuries to the head.
6. By 22 October 2004, the mortal remains were positively identified as belonging to Mr Zoran Nedeljković. On 21 December 2004, UNMIK OMPF returned the body of Mr Nedeljković to the complainant.
7. 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

8. The complainant complains about UNMIK's alleged failure to properly investigate the disappearance and murder of her husband and about the mental pain and suffering allegedly caused by this situation.
9. 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

10. 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.
11. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.
12. 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.

13. 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