



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. 47/09

Stana PAVIĆ

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 3 April 2009 and registered on 17 April 2009.
2. On 16 June 2009, the Human Rights Advisory 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 3 July 2009, UNMIK provided its response.
3. On 9 December 2009, the Panel requested further information from the complainant.

4. On 18 December 2009, the Panel requested information from the European Union Rule of Law Mission in Kosovo (EULEX). EULEX provided a response on 23 March 2010.
5. On 19 September 2010, the complainant provided a response to the Panel's letter of 9 December 2009.
6. On 2 November 2010, the Panel re-communicated the case to the SRSG for UNMIK's comments on the admissibility of the case in light of the additional comments from the complainant. On 2 March 2011, UNMIK provided its response.

II. THE FACTS

7. The complainant is the wife of Mr Živojin Pavić. She states that he disappeared on 19 June 1999 along with Messrs G.M. and P.M.
8. According to information from the complainant, the three persons were transporting furniture from Slivovë/Slivovo village in Prishtinë/Priština Municipality through Gjilan/Gnjilane on their way to central Serbia on 19 June 1999. When they reached Llabjan/Labljane village in Novobërdë/Novo Brdo Municipality, they were allegedly stopped by unknown men in Kosovo Liberation Army uniforms and taken in an unknown direction.
9. The complainant states that the disappearances were reported to UNMIK Police and to KFOR. She claims that an investigation was conducted, but that the family has no concrete information regarding the investigation. The complainant further states that members of UNMIK Police visited the family a number of times regarding the investigation. They allegedly explained that the lack of progress on the investigation was due to the fact that the police changed every six months to one year and the new police officers had to re-start the investigation after each rotation of staff. The complainant also states that every time the police changed, she had to repeat her statements to the new arrivals.
10. The complainant specifically mentions one event involving a British KFOR officer who allegedly informed the complainant's son that he would bring the missing person to the family in two days time. According to the complainant, a few days after this statement, the same officer informed the complainant that he had to return to the United Kingdom. He did not provide any explanation regarding his earlier promise or his sudden repatriation. The complainant speculates that the officer discovered some information regarding the three missing persons but was prevented from sharing it with the complainant's son.
11. The whereabouts of Mr Pavić remain unknown to date.
12. On 9 December 2008, UNMIK's responsibility with regard to police and justice in Kosovo ended with 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.
13. Information obtained from EULEX indicates that the case remains open with the EULEX Office on Missing Persons and Forensics.

III. THE COMPLAINT

14. The complainant complains about UNMIK's alleged failure to properly investigate the abduction of her husband and about the mental pain and suffering allegedly caused by this situation.
15. 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

16. 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.
17. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.
18. 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.
19. 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