



The Human Rights Advisory Panel

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DECISION

Date of adoption: 10 May 2012

Case No. 131/09

Živka ČUNGUROVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 10 May 2012,
with the following members present:

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

Assisted by
Mr Andrey ANTONOV, 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 4 February 2009 and registered on 30 April 2009.
2. On 9 December 2009, the Panel requested additional information from the complainant. No response was received.
3. On 8 December 2010, the Panel reiterated its request for further information to the complainant. The complainant's response was received on 20 February 2011.
4. On 29 November 2011, the Panel communicated the case to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on admissibility.

5. On 10 January 2012, UNMIK provided its response.

II. THE FACTS

6. The complainant is the wife of Mr Stanko Čungurović. According to the complainant, Mr Čungurović was abducted by members of the Kosovo Liberation Army in Ferizaj/Uroševac on 16 June 1999.
7. The complainant states that she reported Mr Čungurović's abduction to the International Committee of the Red Cross (ICRC), the Yugoslav Red Cross, the Ministry of Internal Affairs of the Republic of Serbia and "others".
8. The name of Mr Stanko Čungurović appears in the database compiled by the UNMIK Office on Missing Persons and Forensics (OMPF) as well as in a list of missing persons communicated by the ICRC to UNMIK Police on 11 February 2002.
9. The complainant states that the mortal remains of her husband were located in Sllakoc i Poshtëm/Donje Slakovce, Ferizaj/Uroševac municipality on 12 December 2006, identified in January 2007 and handed over to the family on 23 February 2007. According to the death certificate issued by the OMPF, the cause of death of Mr Stanko Čungurović was "gunshot wound to head."
10. 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

11. The complainant complains about UNMIK's alleged failure to properly investigate the abduction and killing of her husband.
12. The Panel considers that the complainant may be deemed to invoke a violation of the right to life of her husband, guaranteed by Article 2 of the European Convention on Human Rights (ECHR).

IV. THE LAW

13. 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.
14. The complainant alleges in substance the lack of an adequate criminal investigation into the abduction and killing of her husband.
15. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.

16. The Panel considers that the complaint under Article 2 of the ECHR raises serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that the complaint is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
17. No other ground for declaring the complaint inadmissible has been established.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT ADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member