



The Human Rights Advisory Panel

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DECISION

Date of adoption: 22 May 2012

Case No. 56/09

Stana POPOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 22 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, 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 24 April 2009 and registered on the same day.
2. On 24 July 2009, the complaint was communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on admissibility and merits. In response, by letter dated 3 August 2009, the SRSG advised the Panel that UNMIK could not provide comments because of lack of facts presented by the complainant.
3. On 9 December 2009, the Panel requested the complainant to provide additional information. The complainant has not responded to these requests.

4. On 2 February 2012, the complaint was re-communicated to the SRSG, for UNMIK's comments on its admissibility. On 26 April 2012, the Panel received UNMIK's response.

II. THE FACTS

5. The complainant is the wife of Mr Predrag Popović.
6. The complainant states that Mr Popović was abducted on 10 August 1999 in Bërnice e Poshtme/Donja Brnjica, Prishtinë/Priština municipality. Since that time his whereabouts have remained unknown.
7. The complainant states that the abduction was reported to the United Nations Human Rights Committee, the European Court of Human Rights, the OSCE, and other unidentified organisations, but provides no evidence of such reporting. A tracing request of the International Committee of the Red Cross (ICRC) for Mr Predrag Popović remains open. Likewise, his name appears in a list of missing persons, communicated by the ICRC to UNMIK Police on 12 October 2001, and in the database compiled by the UNMIK Office on Missing Persons and Forensics.
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 of her husband. The complainant in essence also complains about the fear, pain and anguish that she suffered because of this situation.
10. The Panel considers that the complainant may be deemed to invoke, respectively, a violation of the right to life of Mr Predrag Popović, 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 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. The complainant alleges the lack of an adequate criminal investigation into the abduction of her husband and mental pain and suffering caused to her by the situation surrounding his abduction.
13. In his comments, the SRSG raises no objection to the admissibility of the complaint.

14. The Panel considers that the complaint 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.

15. 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