



The Human Rights Advisory Panel

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DECISION

Date of adoption: 9 June 2012

Cases Nos 221/09, 273/09 and 336/09

Slobodanka SPASIĆ, Jagodinka ĐOKIĆ and Cveta NEDELJKOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 9 June 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 of Mrs Slobodanka Spasić (case no. 221/09) was introduced on 8 April 2009; the complaint of Mrs Jagodinka Đokić (case no. 273/09) was introduced on 3 April 2009; the complaint of Mrs Cveta Nedeljković (case no. 336/09) was introduced on an unspecified date in April 2009. All complaints were registered on 30 April 2009.
2. On 23 December 2009, the Panel requested Mrs Spasić and Mrs Đokić to provide additional information. Mrs Đokić replied by a letter dated 20 January 2010, while Mrs Spasić did not respond.

3. On 29 April 2010, the complaint of Mrs Spasić was communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on admissibility and merits. The SRSG submitted UNMIK's response on 31 May 2010.
4. On 9 September 2010 the Panel decided to join all mentioned cases pursuant to Rule 20 of the Panel's Rules of Procedure.
5. On 10 November 2010, the Panel requested Mrs Nedeljković to provide additional information. She did not respond.
6. On 14 March 2012, all complaints were communicated to the SRSG, for UNMIK's comments on their admissibility. The SRSG submitted UNMIK's response on 16 April 2012.

II. THE FACTS

7. Mrs Slobodanka Spasić is the wife and Mrs. Sveta Nedeljković the sister of Mr Veljko Spasić; Mrs Jagodinka Đokić is the wife of Mr Vladimir Đokić.
8. The complaints state that Messrs Veljko Spasić and Vladimir Đokić were abducted by members of the Kosovo Liberation Army on 18 June 1999 while travelling together in Mr. Spasić's vehicle from Obiliq/Obilić to Prishtinë/Priština after work. Their whereabouts have remained unknown since that time.
9. Mrs Spasić and Mrs Đokić state that they reported the abduction of their husbands to KFOR, the International Committee of the Red Cross (ICRC), the Yugoslav Red Cross, and an UNMIK International Public Prosecutor in Prishtinë/Priština. The kidnapping of Mr Đokić was also reported to the Serbian Ministry of Internal Affairs (MUP), which is confirmed by a certificate issued on 19 August 2004 by an MUP office for Prishtinë/Priština district, currently displaced in Niška Banja, Serbia proper.
10. The ICRC tracing requests for both victims remain open. Likewise, their names appear 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.
11. 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 COMPLAINTS

12. The complainants complain about UNMIK's alleged failure to properly investigate the abduction of Messrs Veljko Spasić and Vladimir Đokić. The complainants in essence also complain about the fear, pain and anguish that they suffered because of this situation.

13. The Panel considers that the complainants may be deemed to invoke, respectively, a violation of the right to life of Messrs Veljko Spasić and Vladimir Đokić, guaranteed by Article 2 of the European Convention on Human Rights (ECHR), and a violation of their own right to be free from inhuman or degrading treatment, guaranteed by Article 3 of the ECHR.

IV. THE LAW

14. Before considering the cases on their merits, the Panel must first decide whether to accept the cases, considering the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.
15. The Panel notes that in the comments related to the complaint of Mrs Spasić, dated 31 May 2010, the SRSG objected to the admissibility of the complaint. However, in the comments dated 16 April 2012 related to all three complaints the SRSG no longer raises any objection to their admissibility.
16. The Panel considers that the complaints raise 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 COMPLAINTS ADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member