



The Human Rights Advisory Panel

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DECISION

Date of adoption: 17 August 2012

Cases No. 216/09

Gordana JANICEVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 17 August 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 30 April 2009 and registered on the same date.
2. On 23 December 2009, the Panel requested additional information from the complainant. The complainant's response was received on 14 January 2010.
3. On 6 April 2011, the Panel requested further information from the complainant. The Panel received the complainant's response on 20 April 2011.

4. On 20 June 2012, the complaint was communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on admissibility. The SRSG submitted UNMIK's response on 3 August 2012.

II. THE FACTS

5. The complainant is the wife of Mr Stanomir Janićević.
6. The complainant states that Mr Janićević was abducted on 17 June 1999 from his house in Prizren. Since that time his whereabouts have remained unknown.
7. The complainant states that the abduction was reported to the judicial authorities in Serbia, to the International Committee of the Red Cross (ICRC), and to UNMIK through the Association of Families of Kidnapped and Missing Persons.
8. An ICRC tracing request for Mr Janićević remains open. Likewise, his name appears in two lists of missing persons communicated by the ICRC to UNMIK Police, on 12 October 2001 and on 11 February 2002 respectively, and in the database compiled by the UNMIK Office on Missing Persons and Forensics.
9. 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

10. 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 suffered by her because of this situation.
11. The Panel considers that the complainant may be deemed to invoke, respectively, a violation of the right to life of Mr Stanomir Janićević, 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

12. 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.
13. 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.

14. In his comments, the SRSG raises no objection to the admissibility of the complaint.
15. 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.
16. 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