The Human Rights Advisory Panel
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DECISION

Date of adoption: 23 August 2012

Cases Nos 144/09, 158/09, 209/09 and 210/09

Ljiljana MITROVIĆ, Danijela KRSTIĆ and Slobodanka KRSTIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 23 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 complaints, 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 complaints of Mrs Ljiljana Mitrović (case no. 144/09), Mrs Slobodanka Krstić (cases nos 209/09 and 210/09) were introduced on 7 April 2009 and registered on 30 April 2009. The complaint of Mrs Danijela Krstić (case no. 158/09) was introduced 13 April 2009 and registered on 30 April 2009.

2. On 23 December 2009 and 6 October 2010, the Panel requested further information from Mrs Slobodanka Krstić regarding cases nos 209/09 and 210/09. No response was received.

3. On 13 January 2010, the Panel requested additional information from Mrs Slobodanka Krstić and Mrs Ljiljana Mitrović in cases nos 144/09 and 159/09. No response was received.

4. On 9 September 2010, the Panel decided to join all the cases pursuant to Rule 20 of the Panel's Rules of Procedure.

5. On 19 April 2012, the complaints were communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on the admissibility of the complaints. The SRSG provided UNMIK's response on 28 May 2012.

II. THE FACTS

6. Mrs Ljiljana Mitrović is the husband of Mr Slobodan Mitrović. Mrs Danijela Krstić is the wife of Mr Milovan Krstić. Mrs Slobodanka Krstić is the mother of Mr Milovan Krstić and Mr Miodrag Krstić.

7. The complainants state that Mr Slobodan Mitrović, Mr Milovan Krstić and Mr Miodrag Krstić were abducted on 24 June 1999 by members of the Kosovo Liberation Army. According to Mrs Ljiljana Mitrović and Mrs Slobodanka Krstić the abduction took place on the road between the municipality of Shtime/Štimlje and the village of Duhël/Dulje, municipality of Suharekë/Suva Reka. According to Mrs Danijela Krstić the abduction took place in the village of Carralevë/Crnoljevo, municipality of Shtime/Štimlje.

8. Mrs Ljiljana Mitrović and Mrs Slobodanka Krstić state that the abductions were reported to the International Committee of the Red Cross (ICRC), the Yugoslav Red Cross, the Serbian Ministry of Internal Affairs, KFOR, UNMIK, the OSCE, the International Criminal Tribunal for the former Yugoslavia and the European Union Rule of Law Mission in Kosovo (EULEX). Mrs Danijela Krstić gave no reference as to reporting of the event.

9. ICRC tracing requests for Mr Slobodan Mitrović, Mr Milovan Krstić and Mr Miodrag Krstić remain open. In addition, the name of Mr Slobodan Mitrović 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.

10. 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.

III. THE COMPLAINTS

11. The complainants complain about UNMIK's alleged failure to properly investigate the abduction of their immediate relatives. The complainants also complain about the fear, pain and anguish suffered by themselves because of this situation.

12. The Panel considers that the complainants may be deemed to invoke respectively, a violation of the right to life of Mr Slobodan Mitrović, Mr Milovan Krstić and Mr Miodrag Krstić, 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

13. 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.

14. The complainants allege the lack of an adequate criminal investigation into the abduction of their immediate relatives and the mental pain and suffering caused to themselves by the situation surrounding their abduction.

15. In his comments, the SRSG raises no objection to the admissibility of the complaints.

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 complaints are not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.

17. No other ground for declaring the complaints inadmissible has been established.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS ADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member