



The Human Rights Advisory Panel

Building D, UNMIK HQ Prishtinë/Priština, Kosovo | E-mail: hrap-unmik@un.org | Tel: +381 (0)38 504-604, ext. 5182

DECISION

Date of adoption: 26 September 2012

Case No. 262/09

Biljana KUZMANOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 26 September 2012,
with the following members present:

Mr Marek NOWICKI, Presiding Member
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 6 April 2009 and registered on 30 April 2009.
2. On 23 December 2009, the Panel requested further information from the complainant. No response was received.
3. On 24 November 2010, the Panel repeated its request for further information to the complainant. However, no response was received.
4. On 23 September 2011, the Panel communicated the case to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility of the complaint.
5. On 28 September 2011, the Panel again requested further information from the complainant.

6. On 8 November 2011, the SRSG provided UNMIK's response.
7. On 20 December 2011, additional information was received from the complainant.

II. THE FACTS

8. The complainant is the wife of Mr Đorđe Kuzmanović.
9. The complainant states that on 21 June 1999 her husband, along with a neighbour, was abducted by members of the Kosovo Liberation Army from their house in Gjakovë/Đakovica and taken to a building housing a driving school where they were subject to mistreatments and torture. Since that time, Mr Đorđe Kuzmanović has not been seen alive again.
10. According to the complainant, the abduction, which occurred in the presence of KFOR soldiers, was promptly reported to the same KFOR, the Yugoslav Red Cross, UNMIK Police and the International Prosecutor's Office in Prishtinë/Priština. The name of Mr Đorđe Kuzmanović appears in two lists of missing persons communicated by the International Committee of the Red Cross to the UNMIK Police on 12 October 2001 and on 11 February 2002 respectively, as well as on the database compiled by the UNMIK Office on Missing Persons and Forensics (OMPF).
11. The complainant states that the mortal remains of her husband were handed over by UNMIK to the family on 23 May 2003. According to a death certificate issued by the OMPF, the death of Mr Đorđe Kuzmanović was caused by "ballistic injuries to the spine".
12. 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. COMPLAINT

13. The complainant complains about UNMIK's alleged failure to properly investigate the abduction and killing of her husband.
14. 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

15. 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.

16. The complainant alleges in substance the lack of an adequate criminal investigation into the abduction and killing of her husband.
17. In his comments, the SRSG raises no objection to the admissibility of the complaint.
18. The Panel considers that the complaint 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.
19. 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