



The Human Rights Advisory Panel

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DECISION

Date of adoption: 26 September 2012

Case No. 245/09

Sladana REMIŠTAR

against

UNMIK

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

Mr Marek NOWICKI
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 13 April 2009 and registered on 30 April 2009.
2. On 23 December 2009, the Panel requested the complainant to provide additional information. No response to this request was received.
3. On 10 November 2010, the Panel reiterated its request for information. The Panel received the complainant's response on 14 September 2011.
4. On 9 May 2012, the complaint was communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on admissibility. The SRSG provided UNMIK's response on 1 June 2012.

II. THE FACTS

5. The complainant is the wife of Mr Nenad Remištar.
6. The complainant states that Mr Remištar, who worked as a traffic police officer at the Gjakovë/Đakovica police station, was abducted on 13 June 1998 by members of the Kosovo Liberation Army (KLA), while driving his car between Klinë/Klina and Gjakovë/Đakovica. She additionally informs the Panel that an article published in the Serbian daily “Novosti” on 18 August 2011 tells that after abduction her husband was brought to a KLA detention facility in Jabllanicë/Jablanica village, Gjakovë/Đakovica municipality, where he was later executed.
7. The complainant indicates that she reported her husband’s abduction to the Serbian Red Cross, Serbian Ministry of Internal Affairs (MUP). A certificate dated 9 April 2009 issued by the MUP Headquarters for Pejë/Peć Region located in Kragujevac, Serbia proper, corroborates the details of Mr Remištar’s abduction, as given by the complainant.
8. A tracing request of the International Committee of the Red Cross (ICRC) with regard to Mr Remištar remains open. His name also appears in the list of missing persons communicated ICRC to UNMIK Police on 12 October 2001, 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 and probable killing of her husband. The complainant also complains about the 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 Nenad Remištar, 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 and probable killing 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