The Human Rights Advisory Panel
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DECISION

Date of adoption: 6 December 2012

Case No. 339/09

Zlatana MILANOVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 6 December 2012,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Ms Christine CHINKIN
Ms Françoise TULKENS

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 18 August 2009 and registered on 4 December 2009.

2. On 23 August 2011, the complaint was communicated to the Special Representative of the Secretary-General (SRSG), for UNMIK's comments on its admissibility. In response, on 16 September 2011, UNMIK informed the Panel that it could not provide comments because of the non-availability of investigative files.

3. On 19 July 2012, the Panel addressed UNMIK Police, with a request to locate the investigative files. UNMIK Police provided a response on 25 July 2012.

4. On 30 July 2012, the Panel requested information on the status of the investigation from the Prishtinë/Priština District Public Prosecutor's Office (DPPO). The Prishtinë/Priština DPPO responded on 22 August 2012.

5. On 30 August 2012, the complaint was re-communicated to the SRSG for UNMIK's comments on admissibility. On 19 November 2012, the Panel received UNMIK's response.

II. THE FACTS

6. The complainant is the widow of Mr Krsto Milanović.

7. The complainant states that on 25 June 2000, her husband was shot while in a car by an unidentified "Albanian" in Fushë Kosovë/Kosovo Polje. Shortly thereafter he died in a hospital because of the injuries he sustained.

8. The complainant also informs the Panel that the matter was investigated by UNMIK Police, and that it was also reported to the Serbian Ministry of Internal Affairs. However, to date the complainant has not been informed about the outcome of the investigation.

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 killing of Mr Milanović. The Panel considers that the complainant may be deemed to invoke a violation of her husband's right to life guaranteed by Article 2 of the European Convention on Human Rights.

IV. THE LAW

11. 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.

12. The complainant alleges in substance the lack of an adequate criminal investigation into the killing of her husband.

13. In his comments, the SRSG raises no objection to the admissibility of the complaint.

14. 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 this part of the complaint is not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.

15. No other ground for declaring this part of the complaint inadmissible has been established.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT ADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member