



The Human Rights Advisory Panel

UNMIK Administrative HQ, Container D, 10000 Pristina, Kosovo

HRAP/PR/14

Date: 21 November 2008

HUMAN RIGHTS ADVISORY PANEL

In an opinion adopted on 12 November 2008 during its eleventh session in Prishtinë /Priština from 10 to 14 October 2008, the Human Rights Advisory Panel (the Advisory Panel) found that UNMIK had violated the procedural aspect of the right to life, contained in Article 2 of the European Convention on Human Rights in the complaint of Mr Shaip Canhasi. This is the first finding on the merits of a complaint by the Advisory Panel since its inception in November 2007.

The complaint relates to the death of the complainant's wife, Mrs Remzije Canhasi, who was murdered in her apartment in Northern Mitrovicë /Mitrovica on the night of 3 February 2000 by individuals who forcibly entered the apartment. The complainant alleged that UNMIK did not take appropriate measures to investigate his wife's murder.

In its findings the Advisory Panel set out the relevant human rights standards that authorities must adhere to in order to discharge their positive obligation to adequately investigate cases of murder and thus protect the right to life, including by reference to jurisprudence of the European Court of Human Rights. This obligation requires that there should be some form of effective official investigation when there is reason to believe that an individual has suffered life-threatening injuries in suspicious circumstances, even in the absence of any direct State responsibility for the death. The investigation must be capable of establishing the cause of the injuries and the identification of those responsible with a view to their punishment. Where there is a plausible or credible allegation or piece of evidence, or item relevant to the identification and eventual prosecution or punishment of the perpetrator of an unlawful killing, authorities are under an obligation to take certain investigative measures, including taking evidence from eyewitnesses and other key witnesses.

In relation to Mr Canhasi's case, the Advisory Panel concluded that, despite the apparent identification of a number of individuals alleged to have been involved in the

murder of Mrs Canhasi, there was no indication that statements had been taken from all relevant witnesses, including those individuals identified. There was no further evidence available to indicate that reasonable efforts had been made to identify the perpetrators or to demonstrate that any efforts had been made to continue the investigation into the murder since September 2000. A further deficiency identified by the Advisory Panel was the failure of authorities to keep the complainant involved in and informed about the investigative process in relation to the murder of his wife.

The Advisory Panel recommended that UNMIK should, with due diligence, undertake effective measures to identify the perpetrators, including by taking reasonable steps to ensure statements are taken from relevant witnesses and by conducting a comprehensive review of the investigation to see what further steps could be taken to identify the perpetrators and bring them to justice. The Advisory Panel further recommended to the Special Representative of the Secretary General (SRSG) that he should award adequate compensation to the complainant for his suffering in relation to the inadequate investigation into his wife's murder.

The full text of the Advisory Panel's findings and recommendations are available on the Advisory Panel's website at http://www.unmikonline.org/human_rights/index.htm.

For further information, please contact Mr. John J. Ryan, Executive Officer of the Secretariat of the Human Rights Advisory Panel, Tel: + 381 (0) 38 504 604 Ext 5847, Email: ryanj@un.org. Interested persons are also referred to the website of the Advisory Panel, at http://www.unmikonline.org/human_rights/index.htm.