



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: 9 June 2011

Cases Nos. 23/09 & 278/09

Slavica CAMOVIĆ and Olivera ČUPIĆ

against

UNMIK

The Human Rights Advisory Panel sitting on 9 June 2011
with the following members taking part:

Mr Marek NOWICKI, Presiding Member
Mr Paul LEMMENS
Ms Christine CHINKIN

Assisted by
Ms Anila PREMTI, Acting 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 complaint of Mrs Slavica Camović (case no. 23/09) was introduced on 22 December 2008 and registered on 21 January 2009. The complaint of Mrs Olivera Čupić (case no. 278/09) was introduced on 2 April 2009 and registered on 30 April 2009.
2. On 21 April 2009 the Panel requested additional information from the complainant in case no. 23/09. On 21 December 2009, the Panel requested additional information from the complainant in case no. 278/09. The complainant in case no. 23/09 responded on 22 May 2009.

3. On 9 June 2009, the Panel communicated case no. 23/09 to the SRSG for UNMIK's comments on admissibility. On 16 October 2009, UNMIK provided its response. On 18 November 2009, UNMIK's response was forwarded to the complainant.
4. On 9 September 2010, the Panel decided to join cases nos. 23/09 and 278/09 pursuant to Rule 20 of the Panel's Rules of Procedure. The Panel also decided to re-communicate case no. 23/09 and to communicate case no. 278/09, following its decision to join the cases as well as the receipt of further information from the complainant in case no. 23/09. On 18 March 2011 UNMIK provided its response.

II. THE FACTS

5. The first complainant (case no. 23/09) is the sister of Mr Branko Čupić. The second complainant (case no. 278/09) is the wife of Mr Branko Čupić.
6. According to the complainants, Mr Čupić was a driving instructor. At about 23.30 hours on 24 June 1999, Mr Čupić was allegedly abducted from his apartment in Pejë/Peć municipality by a group of KLA members wearing black uniforms and armed with pistols. The group intimidated Mr Čupić to go with them for interrogation. The complainants have not seen or heard from Mr Čupić since that date.
7. The complainants indicate that they immediately reported the abduction to the KFOR, UNMIK, International Committee of the Red Cross, Red Cross of Serbia, Ministry of Internal Affairs of the Republic of Serbia, and OSCE. The first complainant states that names of several witnesses were provided in the reports.
8. The first complainant states that Mr Čupić's relatives did not receive any feed-back on the status of the investigation by the institutions addressed. On 24 August 2004, a death certificate was issued by the Republic of Serbia and Montenegro, indicating the date of Mr Čupić's abduction as date of his decease. However, the mortal remains of Mr Čupić were never found and his whereabouts remain unknown to date.
9. From information received by the SRSG, it appears that a missing person and investigation file regarding the disappearance of Mr Čupić was opened by UNMIK in 1999. Enclosed to the file is also the report made to the OSCE by the second complainant on 13 July 1999. The OSCE report contains a list of 28 people, including Mr. Čupić, allegedly abducted in Pejë/Peć in June 1999 and kept by the KLA in the Vrellë/Vrela village in Istog/Istok municipality. In April 2004 UNMIK investigation activities resumed, with unsuccessful attempts by the UNMIK Police to trace one potential witness but on 9 September 2004 they were informed that the person was deceased. Due to the lack of other witnesses or leads, the investigation was left "pending".
10. 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 COMPLAINTS

11. Each complainant complains about UNMIK's alleged failure to properly investigate the disappearance of Branko Čupić and about the mental pain and suffering allegedly caused by this situation.
12. The Panel considers that the complainants may be deemed to invoke, respectively, a violation of the right to life of Branko Čupić, 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 the 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. In his comments, the SRSG does not raise any objection to the admissibility of the complaints.
15. The Panel considers that the complaints under Articles 2 and 3 of the ECHR raise serious issues of fact and law, the determination of which should depend on an examination of the merits. The Panel concludes therefore that these complaints are not manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.
16. The Panel does not see any other ground for declaring the complaints inadmissible.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS ADMISSIBLE.

Anila PREMTI
Acting Executive Officer

Marek NOWICKI
Presiding Member