



# *The Human Rights Advisory Panel*

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

## **DECISION**

**Date of adoption: 12 May 2011**

**Case No. 116/09**

**Zvezdan VITOŠEVIĆ**

**against**

**UNMIK**

The Human Rights Advisory Panel, sitting on 12 May 2011  
with the following members present:

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

Assisted by  
Ms Anila PREMTI, Acting 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 30 April 2009 and registered on the same date.
2. On 23 December 2009, the Panel requested further information from the complainant.
3. On 30 November 2010, the Panel communicated the case to the Special Representative of the Secretary-General (SRSG) for UNMIK's comments on the admissibility of the case.
4. On 8 April 2011, UNMIK provided its response.

## **II. THE FACTS**

5. The complainant states that on 16 June 1999 his father Mr Marko Vitošević was abducted from his house in Rahovec/Orahovac by several armed persons in KLA uniforms. He was allegedly taken to the third floor of the Fire Station at “Tsar Dušan” street where he was interrogated and tortured for several hours. He was later allegedly taken to a place called “Brestovačke Padine”, and since then the family has no information on his fate.
6. The complainant states that the disappearance of Mr Vitošević was reported to KFOR and UNMIK, and that a criminal complaint was lodged with the District Public Prosecutor in Prizren on 31 August 1999, but so far he has not received any response.

## **III. THE COMPLAINT**

7. The complainant complains about UNMIK’s alleged failure to properly investigate the abduction of his father and about the mental pain and suffering allegedly caused by this situation.
8. The Panel considers that the complainant may be deemed to invoke, respectively, a violation of the right to life of his father, guaranteed by Article 2 of the European Convention on Human Rights (ECHR), and a violation of his own right to be free from inhuman or degrading treatment, guaranteed by Article 3 of the ECHR.

## **IV. THE LAW**

9. Before considering the case on the 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.
10. In his comments, the SRSG does not raise any objection to the admissibility of the complaint.
11. 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.
12. The Panel does not see any other ground for declaring the complaint inadmissible.

## **FOR THESE REASONS,**

The Panel, unanimously,

**DECLARES THE COMPLAINT ADMISSIBLE.**

Anila PREMTI  
Acting Executive Officer

Marek NOWICKI  
Presiding Member