



The Human Rights Advisory Panel

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DECISION

Date of adoption: 26 November 2011

Case No. 36/10

Zvezdana DIMITRIJEVIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 26 November 2011,
with the following members present:

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

Assisted by
Ms 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 30 March 2010 and registered on the same date.

II. THE FACTS

2. The complainant states that she was employed by the socially-owned enterprise “Ramiz Sadiku KNI”, Prishtinë/Priština, from 1972 to 1990.
3. On 10 January 2007, after learning that the enterprise was being privatised, the complainant filed a claim with the Kosovo Trust Agency (KTA) requesting her inclusion in the list of eligible employees entitled to a share of 20% of the proceeds from the privatisation of the enterprise. However, her claim was rejected and her name was not included in the final list of eligible employees published on 4 March 2009 by the Privatisation Agency of Kosovo (PAK).
4. On 23 March 2009, the complainant filed a claim with the Special Chamber of the Supreme Court of Kosovo for Kosovo Trust Agency Related Matters (the Special Chamber) against the PAK as the successor to the KTA, in which she requested to be included in the list of eligible employees.
5. On 5 May 2009, the PAK made its submission to the Special Chamber stating that the complainant did not meet the eligibility criteria set out in Section 10.4 of UNMIK Regulation No. 2003/13 on the Transformation of the Right of Use to Socially-Owned Immovable Property. PAK submitted that the complainant was not registered as an employee with the enterprise at the time of the privatisation and that there was no statement on discrimination.
6. On 22 April 2010, the Special Chamber held a hearing on the matter. During the hearing, the complainant stated that her employment with the enterprise terminated in 1990 due to the bankruptcy of the enterprise and that her dismissal had not been discriminatory.
7. On 10 June 2011, the Special Chamber issued a judgment on the matter, rejecting the complainant’s claim. The Special Chamber stated that the complainant did not fulfil the requirements set forth in Section 10.4 of the aforementioned UNMIK Regulation No. 2003/13.

III. THE COMPLAINT

8. The complainant complains that her exclusion from the list of eligible employees was against the law. She claims that she was on the payroll of “Ramiz Sadiku KNI” for more than 17 years and was therefore entitled to an appropriate share of the proceeds from privatization.

IV. THE LAW

9. Before considering the case on its merits the Panel has to decide whether to accept the case, taking into account the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.

10. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
11. On 9 December 2008, UNMIK's responsibility with regard to the judiciary 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.
12. The Panel notes that at the time when the final decision in the complainant's case, the Special Chamber's judgment of 10 June 2011, was taken, UNMIK was no longer exercising executive authority over the Kosovo judiciary and had no responsibility for any violation of human rights allegedly committed by the courts, as already considered by the Panel in the case *Islami* (Human Rights Advisory Panel, *Islami*, no. 13/10, decision of 16 September 2011, § 20).
13. For this reason, the Panel considers that the complaint is outside of its jurisdiction *ratione personae*, and must therefore be declared inadmissible.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member