



The Human Rights Advisory Panel

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DECISION

Date of adoption: 26 November 2011

Case No. 09/10

Faton SEFA

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
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, including through electronic means, in accordance with Rule 13 § 2 of its Rules of Procedure, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint was introduced on 5 March 2010 and registered on the same day.

II. THE FACTS

2. The complainant is a resident of Gjakovë/Đakovica. On 9 December 2003 he was hired as General Technical Manager by the regional water company “Hidrosistemi Radoniqi”. The complainant’s employment contract was terminated by notice from the company’s manager dated 18 August 2006, effective 30 September 2006, for alleged failure to properly perform his duties.
3. Having exhausted the avenues for administrative review, the complainant filed a lawsuit against the company with the Municipal Court of Gjakovë/Đakovica, where he requested annulment of the decision on termination and reinstatement to his previous position. On 8 January 2008 the said court delivered a judgment in favour of the complainant, having found a number of serious violations of the applicable labour law by the company’s management.
4. The company filed an appeal against the decision of the Municipal Court to the District Court of Pejë/Peć. On 9 February 2010, the District Court upheld the appeal and reversed the decision of the first-instance court, rejecting the initial claim of the complainant for annulment of the termination decision and reinstatement at his previous workplace.

III. THE COMPLAINT

5. The complainant complains that his dismissal was in violation of the law.

IV. THE LAW

6. 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.
7. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
8. 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.
9. Thus, when the judgment of the District Court of Pejë/Peć, which is disputed by the complainant, was handed down on 9 February 2010, 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 (Human Rights Advisory Panel, *Islami*, no. 13/10, decision of 16 September 2011, § 20).

10. The Panel finds no special circumstances that would warrant derogation from the principle set out above.
11. 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