



The Human Rights Advisory Panel

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DECISION

Date of adoption: 20 January 2012

Cases Nos. 28/10, Novica JOVANOVIĆ; 70/10, Stale STEVANOVIĆ; 73/10, Predrag STANOJKOVIĆ; 76/10, Ljubiša STAMENKOVIĆ; 77/10, Arsenije PEŠIĆ

against

UNMIK

The Human Rights Advisory Panel, on 20 January 2012,
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, decides as follows:

I. PROCEEDINGS BEFORE THE PANEL

1. The complaint of Mr Novica Jovanović (case no. 28/10) was introduced and registered on 29 March 2010; the complaints of Mr Stale Stevanović (case no. 70/10), Mr Ljubiša Stamenković (case no. 76/10), and Mr Arsenije Pešić (case no. 77/10) were introduced on 27 March 2010 and registered on 15 April 2010; and the complaint of Mr Predrag Stanojković (case no. 73/10) was introduced on 29 March 2010 and registered on 15 April 2010.

II. THE FACTS

2. The complainants are all residents of Kosovo with the exception of Mr Stevanović who is a former resident of Kosovo currently living in Serbia. The complainants all state that they were employed by the socially-owned enterprise “IMK Pipe Factory/Fabrika Šavnih Cevi” in Ferizaj/Uroševac, until June 1999 when they were forced to leave due to the hostilities in Kosovo.
3. Upon learning that the IMK Pipe Factory was privatised in 2007, the complainants filed claims with the Kosovo Trust Agency (KTA) and its successor, the Privatisation Agency of Kosovo (PAK), to be included among the workers considered to be eligible for receiving 20% of the privatisation proceeds. On 15 December 2011, PAK published its final list of workers eligible for receiving 20% of the privatisation proceeds, but none of the complainants were included in the list.
4. The decision of PAK concerning the workers included in the final list may be appealed to the Special Chamber of the Supreme Court of Kosovo on the Kosovo Trust Agency Related Matters (Special Chamber). The deadline for submitting appeals has not passed and proceedings before the Special Chamber are still pending regarding this enterprise.

III. THE COMPLAINTS

5. The complainants complain about the fact that they have not been included in the final list of workers eligible for receiving a part of the proceeds of the privatisation of the company for which they had worked.

IV. JOINDER OF THE COMPLAINTS

6. The Panel decides, pursuant to Rule 20 of its Rules of Procedure, to join the five complaints.

IV. THE LAW

7. 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.
8. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
9. The Panel notes that the list of workers considered to be eligible for receiving a part of the privatisation proceeds was adopted by PAK, an institution set up by the Kosovo authorities. PAK took over the functions previously exercised by the Kosovo Trust Agency (see report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 24 November 2008, S/2008/692, § 20).

10. Therefore, the relevant decision regarding this issue has been taken by PAK, an institution set up by the Kosovo authorities.
11. Further, the process of compiling the list of workers considered to be eligible for receiving a part of the privatisation proceeds of the IMK Pipe Factory is not yet complete as proceedings are still pending before the Special Chamber. In this respect it should be noted that 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.
12. It follows that, even if the complainants appeal PAK's decision to the Special Chamber, UNMIK is no longer exercising authority over the Kosovo judiciary and has no responsibility for any violation of human rights allegedly committed by them (see Human Rights Advisory Panel, *Islami*, no. 13/10, decision of 16 September 2011, § 20).
13. The complaints therefore are outside of the Panel's jurisdiction *ratione personae*.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member