



The Human Rights Advisory Panel

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DECISION

Date of adoption: 17 February 2012

Case No. 42/10

Milutin BOJKOVIĆ

against

UNMIK

The Human Rights Advisory Panel, on 17 February 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 was introduced on 30 March 2010 and registered on the same date.
2. On 2 November 2011, the Panel requested the complainant to submit additional information. On 17 November 2011, the Panel received the requested documentation.

II. THE FACTS

3. The complainant is a former resident of Kosovo, currently residing in Serbia. He states that on 26 June 1999 he had to leave Kosovo for security reasons. Following his departure, he was no longer able to continue working at the socially-owned enterprise “Kosovotrans Medjugradski Saobracaj” in Prishtinë/Priština (Kosovotrans Pristina), where he had allegedly been employed for 22 years.
4. On 13 October 2006, the complainant filed claims with the Kosovo Trust Agency (KTA) seeking to be included among the workers considered to be eligible for receiving a share of 20% of the privatisation proceeds and seeking unpaid wages.
5. On 8 September 2010, the Privatization Agency of Kosovo (PAK), the successor-in-interest to the KTA, privatized Kosovotrans Pristina and on 16 December 2011, the PAK published its preliminary list of workers eligible for receiving a share of 20% of the privatisation proceeds. The complainant was not included in that list.
6. It is not clear from the complainant’s submissions to the Panel whether he has filed a complaint against the PAK’s preliminary list, but the PAK has not yet published the final list of workers eligible for receiving a share of 20% of the privatisation proceeds.

III. THE COMPLAINT

7. The complainant complains about the fact that he has not been included in the list of workers eligible for receiving a part of the proceeds of the privatisation of the company for which he has worked.

IV. THE LAW

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

11. The object of the present complaint is a decision that is exclusively imputable to the Kosovo authorities. There is no indication of any concrete involvement of UNMIK in the adoption of that position. There are also no special circumstances that would warrant a derogation from the principle set out above. The conclusion therefore is that the matter complained of does not engage the responsibility of UNMIK.

12. It follows that the complaint falls outside the jurisdiction *ratione personae* of the Panel.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member