



The Human Rights Advisory Panel

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DECISION

Date of adoption: 17 February 2012

Case No. 23/10

Nenad MILENTIJEVIĆ

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 12 March 2010 and registered on 24 March 2010.

II. THE FACTS

2. The complainant is a former resident of Kosovo currently living in Serbia. He alleges that both he and his mother were employed by the socially-owned enterprise “HTP Sloga” in Prishtinë/Priština until June 1999 when they were forced to leave for security reasons.
3. Upon learning that HTP Sloga was privatised, the complainant filed claims with the Kosovo Trust Agency (KTA) on behalf of himself and his mother, who had since died, to be included among the workers considered to be eligible for receiving a share of 20% of the privatisation proceeds. On 6 August 2009, the Privatization Agency of Kosovo (PAK), the successor-in-interest to the KTA, published its final list of workers eligible for receiving a share of 20% of the privatisation proceeds. Neither the complainant nor his mother were included in the list.
4. In 2009, the complainant appealed the PAK’s decisions to the Special Chamber of the Supreme Court of Kosovo on the Kosovo Trust Agency Related Matters (Special Chamber). The Special Chamber has not yet issued a final judgment in this case.

III. THE COMPLAINT

5. The complainant complains about the fact that he and his mother have not been included in the list of workers eligible for receiving a part of the proceeds of the privatisation of the enterprise for which they have worked.

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. 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).
9. Therefore, the relevant decision regarding this issue has been taken by the PAK, an institution set up by the Kosovo authorities.
10. Further, the process of compiling the list of workers considered to be eligible for receiving a part of the privatisation proceeds of the socially-owned enterprise HTP Sloga is not yet complete as the Special Chamber has not yet issued its final judgment. 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.

11. It follows that, whatever decisions the Special Chamber renders concerning this appeal from the decision of the PAK, 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, *Jovanović and Others*, no. 28/10, decision of 20 January 2012, § 12).
12. The complaint therefore is outside of the Panel's jurisdiction *ratione personae*.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member