



The Human Rights Advisory Panel

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DECISION

Date of adoption: 17 February 2012

Cases Nos. 27/10, Dragan STOJANOVIĆ; 41/10, Bosiljka PETROVIĆ; 44/10, Lj.M.; 46/10, S.N.;

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 complaints, 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 Dragan Stojanović (case no. 27/10) was introduced and registered on 29 March 2010; the complaint of Mrs Bosiljka Petrović (case no. 41/10) was introduced and registered on 30 March 2010, and the complaints of Mrs Lj.M. (case no. 44/10) and Mrs S.N. (case no. 46/10) were introduced on 31 March 2010 and registered on 1 April 2010.

II. THE FACTS

2. The complainants are former residents of Kosovo currently living in Serbia, with the exception of Mr Stojanović who remains a resident of Kosovo. The complainants all state that they were employed by various socially-owned enterprises in Kosovo until June 1999; specifically, Mr Stojanović was employed with “D.P. Milan Zecar” in Ferizaj/Uroševac, Mrs Petrović was employed with “Kosovotex” in Prishtinë/Priština, and Mmes Lj.M. and S.N. were employed with “17 Novembar” in Ferizaj/Uroševac. The complainants allege that in June 1999 they were forced to leave their places of employment for security reasons.
3. Upon learning that their respective socially-owned enterprises were being privatised, 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 a share of 20% of the privatisation proceeds. In 2010 and 2011, the PAK published its final lists of workers eligible for receiving 20% of the privatisation proceeds regarding these enterprises, but none of the complainants were included in the respective lists.
4. For each of the above-mentioned socially-owned enterprises, the decision of the PAK concerning the workers included in the final list has been appealed to the Special Chamber of the Supreme Court of Kosovo on the Kosovo Trust Agency Related Matters (Special Chamber). These appeals have been registered, and proceedings before the Special Chamber have commenced regarding the enterprises where the complainants were formerly employed.

III. THE COMPLAINTS

5. The complainants each complain about the fact that they have not been included in the 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 four complaints.

IV. THE LAW

7. Before considering a 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 the PAK, an institution set up by the Kosovo authorities. The 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 decisions regarding this issue have been taken by the 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 above-mentioned socially-owned enterprises is not yet complete as proceedings are still ongoing at 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, whatever decision the Special Chamber renders concerning these appeals from the decisions 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).
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