



The Human Rights Advisory Panel

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DECISION

Date of adoption: 16 March 2012

Case No. 87/10

Slavica DIMIĆ

against

UNMIK

The Human Rights Advisory Panel, on 16 March 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 29 March 2010 and registered on 8 April 2010.
2. On 23 December 2011, the Panel requested further clarification from the complainant, which was provided on 26 January and 1 February 2012.

II. THE FACTS

3. The complainant is a former resident of Kosovo, currently residing in Serbia. She states that some time in 1999, after the entry of the international civilian and military presence into Kosovo, she had to leave Kosovo for security reasons.

Facts related to the privatisation of the socially-owned enterprise “17 November”

4. Following the complainant’s departure, she was no longer able to continue working at the socially-owned enterprise “17 November” in Ferizaj/Uroševac, where she reportedly had been employed since 1975.
5. On 28 December 2006, the Kosovo Trust Agency (KTA) announced a beginning of privatisation of the “17 November” enterprise’s assets.
6. On an unspecified date, the complainant filed a claim with the KTA seeking to be included in the list of workers considered to be eligible for receiving a share of the privatisation proceeds and seeking unpaid wages.
7. On 29 December 2010, the Privatisation Agency of Kosovo (PAK), the successor-in-interest to the KTA, published its preliminary list of workers eligible for receiving a share of 20% of the privatisation proceeds of the above-mentioned enterprise. The complainant was not included in that list.
8. On an unspecified date, the complainant appealed the published list to the PAK, requesting reconsideration of the decision not to have her name included in the list. In the final list of workers eligible for receiving a share of 20% of the privatisation proceeds, which was published by the PAK on 27 October 2011, the complainant’s name is mentioned among those whose requests for reconsideration were rejected by the PAK as ungrounded.
9. The Special Chamber of the Supreme Court of Kosovo on the Kosovo Trust Agency Related Matters (Special Chamber) informed the Panel that the complainant has timely filed an appeal against the final list published by the PAK, as required by the applicable law. The procedure for consideration of all appeals filed against the list is still ongoing before the Special Chamber.

Facts related to the complaint’s immovable property

10. The complainant also states that she is the owner of an apartment in Ferizaj/Uroševac, which was illegally occupied after her departure in 1999. Following her claim lodged with the Housing and Property Directorate (HPD), her ownership rights over the apartment were confirmed by the Housing and Property Claims Commission.
11. Upon her request, the Kosovo Property Agency (KPA), the successor-in-interest to the HPD, placed the apartment under its administration, and rented it out. The complainant states that she has only received rental payments on an irregular basis.

III. THE COMPLAINT

12. The complainant complains about the fact that she 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 she has worked.
13. In addition, she complains that by not receiving the full rent for her flat under the KPA rental scheme, her right to property has been violated.

IV. THE LAW

14. 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.

A. Complaint relating to the privatisation of the socially-owned enterprise “17 November”

15. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
16. 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).
17. 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 (see Human Rights Advisory Panel (HRAP), *Bojković*, no. 42/10, decision of 17 February 2012, § 11).
18. It follows that the complaint falls outside the jurisdiction *ratione personae* of the Panel.

B. Complaint relating to the complainant’s property

19. The complainant also complains about a violation of her right to enjoyment of property as a result of incomplete payment of the rent for her flat under the KPA rental scheme.
20. With regard to this aspect of the complaint, it is to be noted that the KPA does not guarantee that any income from the property will be realised, nor does it guarantee that a rent-paying tenant will be found to reside at the property. A payment can be disbursed to the owner only

if the tenant pays rents to the KPA (see HRAP, *Trajković*, no. 35/08, decision of 17 April 2009, § 20; HRAP, *Sokoli*, no. 14/08, decision of 17 March 2011, § 26).

21. The complaint and the subsequent information obtained contain no evidence that support the conclusion that the complainant's right to protection of property was violated because of the failure of the KPA to pay any rental amounts due to the complainant (see *Sokoli*, cited in § 20 above, § 27).
22. Therefore, the Panel is of the view that this part of the complaint is not substantiated, and thus manifestly ill-founded.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member