



The Human Rights Advisory Panel

Building D, UNMIK HQ Prishtinë/Priština, Kosovo | E-mail: hrap-unmik@un.org | Tel: +381 (0)38 504-604, ext. 5182

DECISION

Date of adoption: 11 May 2012

Cases Nos 79/10 and 80/10

Zorica BOJKOVIĆ and Dejan BOJKOVIĆ

against

UNMIK

The Human Rights Advisory Panel, on 11 May 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 complaints of Ms Zorica Bojković (case no. 79/10) and Mr Dejan Bojković (case no. 80/10) were introduced on 31 March 2010 and registered on 1 April 2010.

II. THE FACTS

2. The complainants are former residents of Kosovo, currently residing in Serbia. They state that on 24 June 1999 they had to leave Kosovo for security reasons. Following their departure, they were no longer able to continue working at the socially-owned enterprise “AMK Mladost” in Podujevë/Podujevo (AMK Mladost), where they had been employed. They also state that since that time they have not received any compensation from the enterprise.
3. On 27 February 2006, both complainants 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. The claim of Mrs Bojković was registered by the KTA Legal Department on 19 September 2007, and the claim of Mr Bojković on 4 July 2007. The complainants allege that they have not received any answer from the KTA on this matter.
4. In a letter dated 4 May 2012, the Privatization Agency of Kosovo (PAK), the successor-in-interest to the KTA, informed the Panel that AMK Mladost had not yet been privatised and that the list of eligible workers had not been finalised.

III. THE COMPLAINTS

5. The complainants complain about the fact that they have been *de facto* dismissed from their workplace, and since then they have been left without any income. In addition, they complain about the lack of action of the KTA with regard to their claim for a share of the proceeds of the privatisation of the AMK Mladost enterprise.
6. They generally invoke the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The Panel considers that the complainants may be deemed to invoke a violation of their right to property as guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR).

IV. JOINDER OF THE COMPLAINTS

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

V. THE LAW

8. Before considering the cases on their merits, the Panel has to decide whether to accept the cases, taking into account the admissibility criteria set out in Sections 1, 2 and 3 of UNMIK Regulation No. 2006/12.

A. Complaints with regard to the *de facto* dismissal from the workplaces and loss of income

9. The Panel recalls that, according to Section 2 of UNMIK Regulation No. 2006/12, it has jurisdiction only over “complaints relating to alleged violations of human rights that had occurred not earlier than 23 April 2005 or arising from facts which occurred prior to this date where these facts give rise to a continuing violation of human rights”.
10. The Panel considers that the complainants’ dismissal from their workplaces was an instantaneous act which does not give rise to any possible continuous situations (see European Court of Human Rights, *Jovanović*, no. 59109/00, decision of 28 February 2002; Human Rights Advisory Panel, *Novokmet*, no. 51/10, decision of 13 April 2011, §§ 5-8).
11. The Panel notes that the *de facto* dismissals occurred in 1999. It follows that this part of the complaints lies outside the Panel’s jurisdiction *ratione temporis*.

B. Complaints with regard to the shares of the proceeds of privatisation

12. As far as the complaints over the shares of the proceeds of privatisation of the AMK Mladost enterprise are concerned, the Panel notes that the privatisation of the enterprise and the formation of a list of workers eligible to receive shares of privatisation is still being handled by the PAK.
13. The Panel considers that, as the privatisation process is still ongoing, the complainants have not been denied their alleged right to property, as guaranteed by Article 1 of Protocol No. 1 to the ECHR.
14. The Panel concludes therefore that this part of the complaints is manifestly ill-founded within the meaning of Section 3.3 of UNMIK Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member