



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: 6 December 2012

Case No. 18/10

Katarina ARSIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 6 December 2012,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Ms Christine CHINKIN
Ms Françoise TULKENS

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 15 March 2010 and registered on 18 March 2010.
2. On 25 June 2012 and 28 November 2012, the Panel requested that the complainant provide additional information. On both occasions the complainant provided additional information the same day that she was requested.

II. THE FACTS

3. The complainant is a former resident of Kosovo currently residing in Serbia proper. She states that she was employed by the socially-owned enterprise “Metohija” in Pejë/Peć until 1999. The complainant alleges that after UNMIK deployed in June 1999 she was forced to leave her place of employment for security reasons.
4. Upon learning that “Metohija” was being privatised, the complainant filed a claim with the Kosovo Trust Agency (KTA) to be included among the workers considered to be eligible for receiving a share of 20% of the privatisation proceeds. When the KTA published its final list of workers eligible for receiving 20% of the privatisation proceeds regarding the enterprise “Metohija”, the complainant was not included in the final list of workers.
5. On 1 June 2008, the KTA ceased functioning and its functions were taken over by its successor-in-interest, the Privatization Agency of Kosovo (PAK).
6. The complainant appealed the decision of the KTA to the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (the Special Chamber). On 6 February 2009, the Special Chamber issued a judgment that did not include the complainant in its decision, neither granting her request for inclusion in the list of eligible workers, nor rejecting her inclusion in the list.
7. The complainant states that, on 12 May 2009, she wrote to the judge that was presiding over her case, but received no response. She also states that she filed an appeal with the Special Chamber, but this appeal has apparently never taken place.

III. THE COMPLAINT

8. 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 had worked, and that the Special Chamber did not include her in its judgment regarding the socially-owned enterprise where she had formerly worked.

IV. THE LAW

9. 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.
10. According to Section 1.2 of the Regulation, the Panel has jurisdiction over complaints relating to alleged violations of human rights by UNMIK.
11. 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 (see § 5, above). The PAK took over the functions previously exercised by the KTA (see report of the United Nations Secretary-General on the United Nations Interim Administration Mission in Kosovo, 24 November 2008, S/2008/692, § 20).
12. Further, the Special Chamber has the sole jurisdiction for the adjudication of decisions concerning whether a claimant should have 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. 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.

13. It follows that, even if the complainant's appeal against the judgment of the Special Chamber of 6 February 2009 is still viable, 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, *Islami*, no. 13/10, decision of 16 September 2011, § 20).

14. 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