



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

Cases Nos 56/10 and 60/10

Slavica DIMIĆ and Ivan ĐOŠIĆ

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 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 Slavica Dimić (case no. 56/10) and Mr Ivan Đošić (case no. 60/10) were introduced on 30 March 2010 by their legal representative and registered on 1 April 2010.
2. On 13 May 2011, the Panel decided to join the cases pursuant to Rule 20 of the Panel's Rules of Procedure.
3. On 18 January 2012 and 25 September 2012, the Panel requested the complainants' legal representative to provide additional information. No response was received.

II. THE FACTS

4. The complainants are both residents of Kosovo. They state that they were employed by the socially-owned enterprise (SOE) “Silosi” in Prizren until 1999. The complainants allege that after UNMIK deployed in June 1999 they were forced to leave for security reasons.
5. Upon learning that their socially-owned enterprise was being privatised, both complainants, through their legal representative, filed claims with the Kosovo Trust Agency (KTA) requesting 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 “Silosi”, neither complainant was included in the list.
6. The complainants appealed the KTA’s decision to the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (the Special Chamber). On 24 October 2006, the Special Chamber issued a judgment accepting the complainants’ appeals as being grounded, as they had established facts showing that their dismissals from the SoE where they had formerly worked had been for discriminatory reasons, and thus that they were eligible to obtain a share in the privatisation proceeds.
7. On 14 June 2007 and 19 May 2008, the complainants’ representative submitted requests to the KTA for it to distribute their share of the 20% of the privatisation proceeds to his clients, in accordance with the judgment of the Special Chamber. As of March 2010, the complainants had apparently not received payment. The complainants’ representative claims that the Independent Trade Union of Kosovo was obliged to pay the privatisation proceeds to the complainants after receipt of the Special Chamber judgment, which as of March 2010, apparently had not taken place.

III. THE COMPLAINTS

8. The complainants complain about the fact that the Independent Trade Union of Kosovo did not execute the judgment of the Special Chamber, which allotted to them a portion of the proceeds of the former SOE where they had been employed.

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. Pursuant to Section 3.1 of UNMIK Regulation No. 2006/12, the Panel may only deal with a matter after it determines that all other available avenues for review of the alleged violation have been pursued.
11. Despite various enquiries by the Panel, the complainants have not shown that they have availed themselves of all available domestic remedies. For example, the complainants have not provided evidence that they lodged a claim with a competent court in Kosovo for the execution of the afore-mentioned Special Chamber judgment. Likewise, the complainants have not provided evidence that they lodged a claim with a competent court

in Kosovo against the Independent Trade Union of Kosovo for non-payment of the proceeds from the privatisation of the SOE where they were formerly employed.

12. As such, the complainants have not shown that they have exhausted all other available avenues prior to filing a complaint with the Panel, as required by section 3.1 of UNMIK Regulation No. 2006/12.
13. Accordingly, the complaints must be dismissed for non-exhaustion of remedies, pursuant to Section 3.1 of UNMIK Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINTS INADMISSIBLE.

Andrey ANTONOV
Executive Officer

Marek NOWICKI
Presiding Member