



The Human Rights Advisory Panel

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DECISION

Date of adoption: 13 May 2011

Case No. 22/10

Veslinka DENIĆ

against

UNMIK

The Human Rights Advisory Panel, sitting on 13 May 2011,
with the following members present:

Mr Marek NOWICKI, Presiding Member
Mr Paul LEMMENS
Ms Christine CHINKIN

Assisted by
Ms Anila PREMTI, Acting 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 23 March 2010 and registered on 24 March 2010.
2. A letter for further information was sent to the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (Special Chamber) on 27 April 2007. Further information was received on the same day.

II. THE FACTS

3. The complainant worked in the socially owned enterprise (SOE) Coca Cola Bottling Plant in Lipjan/Lipljan, starting from 27 April 1994. She claims she was dismissed from work in 1999. The date of the termination of her employment is not stated in the workbook submitted by the complainant.
4. Later on, when the company was privatised, the complainant was not included in the list of persons entitled to obtain shares in the proceeds of the privatisation of the company, which was prepared by the Kosovo Trust Agency (KTA).
5. The complainant, together with a group of other persons who had likewise not been included, lodged an appeal with the Special Chamber. In the proceedings held before the Special Chamber the complainant and a group of other employees were represented by a lawyer.
6. By a decision of 14 June 2006, the Special Chamber rejected the appeal of the complainant against the KTA as ill-founded. The complainant was not to be included in the list of employees entitled to participate in the proceeds of the privatisation. No appeal was available in law against that decision at that time.
7. This decision was served on the complainant's representative on 7 July 2006.
8. The complainant states that the decision of the Special Chamber was never served on her officially. She submits that she learnt about it from one of her former colleagues, who had also been a claimant in the proceedings concerned, on an unspecified date in January 2007. This colleague permitted the complainant to make a photocopy of her copy of the decision.

III. THE COMPLAINT

9. The complainant claims that despite the fact that many other employees of the company had been dismissed from work in 1999, only the claims lodged by employees who were ethnic Serbs were rejected by the the KTA and the Special Chamber, and the decisions were therefore discriminatory.
10. According to the complainant, this constitutes a violation of her right to peaceful enjoyment of possessions contrary to Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR), and her right to be free of discrimination in the enjoyment of that right under Article 14 of the ECHR.

IV. THE LAW

11. 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.
12. Pursuant to Section 3.1 of UNMIK Regulation No. 2006/12, the Panel may only deal with a matter within six months from the date on which the final decision was taken. The purpose of the six-month rule is to promote legal certainty and to ensure that cases raising issues under UNMIK Regulation No. 2006/12 are dealt with within a reasonable time (see,

for example, European Court of Human Rights (ECtHR), *Opuz v. Turkey*, no. 33401/02, judgment of 9 June 2009, § 110).

13. Where a complainant or his representative has been served with a written copy of the final decision, the object and purpose of the six-month requirement is best achieved by counting the six-month period as running from the date of service of that written decision (ECtHR, *Worm v. Austria*, judgment of 29 August 1997, *Reports of Judgments and Decisions*, 1997-V, p. 1547, § 33).
14. The complainant submitted that she was never served with a copy of the decision of the Special Chamber. She only became aware of it after her colleague, another claimant in the case, informed her of its contents in 2007.
15. The Panel notes that in cases in which groups of former employees of the SOE are represented before the Special Chamber by one of them, who is usually not a lawyer, the Chamber applies Article 138 of the Law on Contested Procedure. According to this provision, where an agent acts on behalf of a group of persons, the decision can be served on him or her (see, for example, Human Rights Advisory Panel, *Vasić*, no. 02/07, second decision of 6 August 2010, § 19).
16. The lawyer who represented the complainant in the proceedings before the Special Chamber actually received the 14 June 2006 decision of the Special Chamber on 7 July 2006. The case file of the complainant before the Special Chamber contains a “confirmation of receipt” signed by the complainant’s representative on that date.
17. The Panel further recalls that the complaint before it was introduced on 23 March 2010, *i.e.* more than forty-five months later.
18. Accordingly, given that the present complaint was submitted to the Panel more than six months following receipt by the complainant’s representative of the written decision complained of, the complaint falls outside the time limit set by Section 3 of the UNMIK Regulation No. 2006/12.

FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.

Anila PREMTI
Acting Executive Officer

Marek NOWICKI
Presiding Member