



DECISION

Date of adoption: 6 June 2008

Case No. 06/08

Teki BOKSHI and Others

against

UNMIK

The Human Rights Advisory Panel sitting on 6 June 2008
with the following members present:

Mr. Marek NOWICKI, Presiding member

Mr. Paul LEMMENS

Ms. Snezhana BOTUSHAROVA-DOICHEVA

Mr. John RYAN, 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. THE FACTS

1. The complainants, Mrs Teki Bokshi, Jusuf Jusufi, Avdi Rizvanolli, Rexhep Gjikolli, Gëzim Pozhegu, Xhevdet Këndusi, Bardh Maksuti, Hasan Shala, Agim Haraçia, Sokol Dobruna and Rexhep Grubi are lawyers practising in Gjakova.

2. The complainants submit that they have been representing parties to various cases pending before the Special Chamber on Kosovo Trust Agency Related matters of the Supreme Court of Kosovo. Under applicable regulation, in these proceedings

pleadings and supporting documents submitted to the Special Chamber in Albanian or Serbian should be submitted with their English translation.

II. COMPLAINTS

3. The complainants submit that the obligation for the parties to provide the Special Chamber with the English translation of their pleadings and documents relating to the case is in breach of the parties' right to a fair hearing within the meaning of Article 6 of the European Convention on the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as ECHR).

4. They further argue that this obligation amounts to discrimination against the parties in the enjoyment of their right to a fair hearing, in breach of Article 14 of the ECHR guaranteeing that the rights it recognizes should be ensured without any difference regardless of, inter alia, ethnic background of the persons concerned.

III. RELEVANT LAWS

5. Section 22.7 of UNMIK Administrative Direction 2003/13 of 11 June 2003 on Implementing UNMIK Regulation 2002/13 on Establishment of the Special Chamber of the Supreme Court on Kosovo Trust Agency Related Matters reads:

“Pleadings and supporting documents may be submitted in Albanian, Serbian or English. However, if submitted in Albanian or Serbian, an English translation of all pleadings and supporting documents shall be provided together with the pleadings. Such translation shall be performed at the party's expense.”

6. Article 6 of the ECHR, in so far as relevant, reads:

“In the determination of his civil rights and obligations ... , everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

7. Article 14 of the ECHR reads:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

IV. THE LAW

8. The complainants submit that the parties' obligation to provide the Special Chamber with the English translation of their pleadings and documents relating to the case examined by the Chamber is in breach of the parties' right to a fair hearing and amounts to discrimination.

9. The Panel notes that Article 6 of the ECHR guarantees a right to a fair hearing to persons involved in the proceedings concerning “the determination of [their] civil rights and obligations”.

10. In the present case the complainants were not parties to the civil proceedings conducted before the Special Chamber. They only represented their clients, who were parties thereto. The Panel also notes that ultimately the expense for the translation of the parties’ pleadings and documents submitted to the Chamber were to be borne by the parties themselves.

10. The complainants cannot therefore claim to be victims of a breach of their right to a fair hearing or of a violation of the prohibition of discrimination stipulated by Article 14 of the ECHR. It follows that the complaint is incompatible *ratione personae* with the rights set forth in the ECHR.

It must therefore be rejected, pursuant to Section 3.3 of the UNMIK Regulation No. 2006/12 of 23 March 2006.

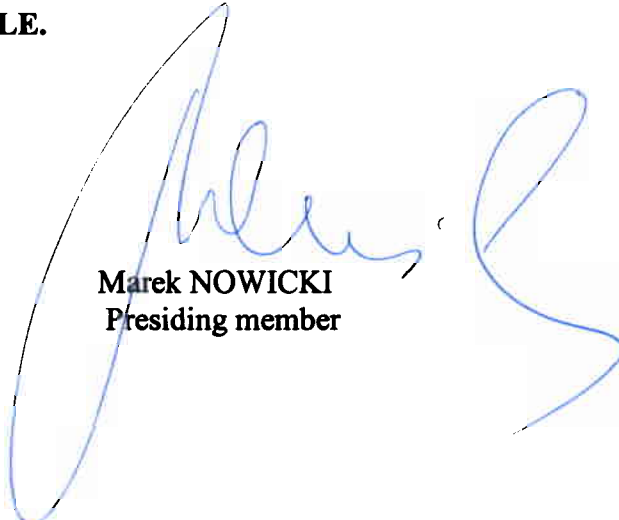
FOR THESE REASONS,

The Panel, unanimously,

DECLARES THE COMPLAINT INADMISSIBLE.



John J. RYAN
Executive Officer



Marek NOWICKI
Presiding member