

<p style="text-align: center;">DHOMA E POSAÇME E GJYKATËS SUPREME TË KOSOVËS PËR ÇËSHTJE QË LIDHEN ME AGJENCINË KOSOVARE TË MIRËBESIMIT</p>	<p style="text-align: center;">SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON KOSOVO TRUST AGENCY RELATED MATTERS</p>	<p style="text-align: center;">POSEBNA KOMORA VRHOVNOG SUDA KOSOVA ZA PITANJA KOJA SE ODNOSE NA KOSOVSKU POVERENIÇKU AGENCIJU</p>
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ASC-10-0002

In the lawsuit of

████████████████████

Complainant/Appellant

████████████████████, 18000 Niš/Nish

vs

Kosovo Trust Agency

Respondent

represented by UNMIK Legal Office

TSS Compound, Prishtinë/Priština

the Appellate Panel of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (SCSC), composed of Richard Winkelhofer, President of the SCSC, as Presiding Judge, Torsten Frank Koschinka and Eija-Liisa Helin, Judges, after deliberation held on 8 March 2010, delivers the following

DECISION

The appeal is rejected as ungrounded and the decision of the Trial Panel of the SCSC in the case SCEL-06-020 dated 24 November 2009 is upheld.

Procedural and factual background:

On 24 November 2009 the Trial Panel of the SCSC issued a decision in the case SCEL-06-020 "dismissing" the complaint of the Complainant/Appellant. The Trial Panel stated that the Complainant has requested the inclusion in the list of the eligible employees of the Socially Owned Enterprise "████████████████████" in Ferizaj/Uroševac. The Complainant had already filed the same

complaint on 4 August 2006 with the SCSC concerning the same subject matter and the SCSC had already on 31 January 2007 issued a final decision rejecting that complaint. Pursuant to Section 70.3 of UNMIK Administrative Direction (AD) 2008/6 and Paragraph 2 of Section 333 of the Law on Contested Procedure the Trial Panel of the SCSC "dismissed" the complaint "since it is res judicata".

On 6 January 2010 the Complainant filed an appeal against the mentioned decision requesting the Appellate Panel of the SCSC to amend the decision and to oblige the Privatisation Agency of Kosovo to pay him his 20 per cent share from the privatisation proceeds of the SOE "[REDACTED]" with "the interest from the day of the privatisation until the day of payment". The Complainant/Appellant states that he has been employed with the fore mentioned SOE from 10 February 1960 until 16 June 1999, when he was forced to leave his work and residence. On 31 January 2007, at the time of the privatisation of the SOE, he had already passed the age limit of 65 years for receiving pension, but he did not know why that fact has any significance for his inclusion or non inclusion in the list of eligible employees.

Legal Reasoning:

The appeal is admissible, but ungrounded. Based on Section 63.2 of UNMIK AD 2008/6 the Appellate Panel decided to dispense with the oral part of the proceedings.

As the Trial Panel of the SCSC stated the Complainant's complaint regards the same subject matter and seeks the same relief: to be included in the list of eligible employees of the SOE "[REDACTED]", who are entitled to have 20 per cent share of the privatisation proceeds of the SOE, has already been decided by the SCSC with the final judgment dated 31 January 2007. This has to be taken into consideration by the court ex officio. Pursuant to Paragraph 2 of Section 333 of the Code of Civil Procedure, Official Gazette 4/77-1478 et al of the SFRY ("Law on Contested Procedure") the Complainant's complaint in the same subject matter shall be dismissed as inadmissible. The conclusion of the Trial Panel is correct.

III

Therefore it is decided as in the enacting clause.

Richard Winkelhofer signature
EULEX Presiding Judge

Torsten Koschinka signature
EULEX Judge

Eija-Liisa Helin signature
EULEX Judge

Tobias Lapke signature
EULEX Registrar