

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

**ASC-10-0005**

In the case SCEL-06-021 "SOE [REDACTED]"

[REDACTED]

*Complainant No.4/Appellant*

[REDACTED]

Ferizaj/Uroševac

vs

**Kosovo Trust Agency**

*Respondent*

Represented by UNMIK, 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, on the appeal of Complainant No.4 against the decision of the Trial Panel of the SCSC dating 27 October 2009, SCEL-06-021, after deliberation held on this 17 August 2010, delivers the following:

### **DECISION**

**The appeal is dismissed as inadmissible.**

#### **Procedural and factual background:**

On 27 October 2009 the Trial Panel of the SCSC issued a decision in the case SCEL-06-021 rejecting the complaint of the Complainant as inadmissible,

## II

pursuant to Section 10.6 of UNMIK Regulation 2003/13. The Trial Panel stated that the Complainant has requested the inclusion in the list of eligible employees in connection with the provisional list of eligible employees published by the Respondent regarding the Socially Owned Enterprise Drita/Sutjeska in Ferizaj/Uroševac. Further the Trial Panel stated that the final date to file a complaint at the SCSC was 26 September 2006, while the Complainant filed his complaint on 10 October 2009. The decision was served on the Complainant/Appellant on 29 October 2009.

On 12 January 2010 the SCSC received by fax, from the Supreme Court of Kosovo, the appeal of the Complainant/Appellant, which was filed with the Supreme Court of Kosovo on 2 December 2009.

On 18 March 2010 the Appellate Panel ordered the Complainant/Appellant to clarify why the appeal was not filed within the time limit as foreseen by Section 9.5 of UNMIK Regulation 2008/4, as the challenged decision was served on the Complainant/Appellant on 29 October 2009 and the time limit for filing an appeal expired on 28 November 2009. The Complainant/Appellant was also advised regarding Section 117 of the Law on Contested Procedure (Official Gazette of SFRY 4/77, as amended).

On 26 March 2010 the Complainant/Appellant responded to the order and submitted the copy of the post certificate dated 9 October 2009, which is not related to the appeal but to the complaint. In its submission the Complainant/Appellant did not clarify why the appeal against the challenged decision was filed after the expiring of the time limit. He did not request to grant him restoration to the previous position.

### **Legal reasoning:**

The appeal is untimely and thus had to be dismissed as inadmissible.

Pursuant to Section 9.5 of UNMIK Regulation 2008/4 an appeal against a decision of the SCSC can be submitted in writing to the Appellate Panel of the Special Chamber within 30 (thirty) days from the receipt of the decision.

### III

The decision was served on the Complainant/Appellant on 29 October 2009, therefore, according to Section 20 of UNMIK AD 2008/6, the time limit to file an appeal against the decision ended on 28 November 2009. The Complainant/Appellant has not indicated any, especially no justified reasons for his failure to file the appeal timely.

Even if the appeal would be admissible, it would be ungrounded.

According to Section 10.6 of UNMIK Regulation 2003/13 upon application by an aggrieved individual [...] the list of eligible employees shall be subject to review by the SCSC; the complaint has to be filed with the SCSC within 20 days after the final publication in the media. The final date to file a complaint at the SCSC was 26 September 2006 and the Complainant filed his complaint on 10 October 2009. Thus, the Trial Panel had to reject the complaint as inadmissible pursuant to Section 28.3 of UNMIK AD 2008/6 as read in conjunction with Sections 28.2 (d) and 67.1 of UNMIK AD 2008/6 and Section 10.6 of UNMIK Regulation 2003/13.

#### *Court fees:*

Pursuant to the Special Chamber's Additional Procedural Rules regarding the Court Fees as in force from 10 March 2010 (based on Section 57.2 of UNMIK AD 2008/6) proceedings in cases concerning the List of Eligible Employees (Section 67 of UNMIK AD 2008/6 and the respective appeals proceedings) are free of charge. Thus, a decision on court fees was not to be taken.

Richard Winkelhofer, EULEX Presiding Judge	signed
Torsten Frank Koschinka, EULEX Judge	signed
Eija-Liisa Helin, EULEX Judge	signed
Tobias Lapke, EULEX Registrar	signed