

DHOMA E POSAÇME E GJYKATËS SUPREME TË KOSOVËS PËR ÇËSHTJE QË LIDHEN ME AGJENCINË KOSOVARE TË PRIVATIZIMIT	SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON PRIVATIZATION AGENCY OF KOSOVO RELATED MATTERS	POSEBNA KOMORA VRHOVNOG SUDA KOSOVA ZA PITANJA KOJA SE ODNOSJE NA KOSOVSKU AGENCIJU ZA PRIVATIZACIJU
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17 May 2012

SCC-10-0200

Claimants

- 1. H.S.**
- 2. A.S.**
- 3. R.S.**
- 4. S.S.**
- 5. Sh.S.**
- 6. A.S.**
- 7. N.S.**

Represented by attorney-at-law J.R.

Vs.

Respondent

Privatization Agency of Kosovo, 8 Ilir Konushevci Street, Prishtinë/Priština

The Specialised Panel composed by Alfred Graf von Keyserlingk, Presiding Judge, Shkelzen Sylaj and Ilmi Bajrami, Judges, issues the following

J U D G M E N T

- 1. The claim is rejected as ungrounded.**
- 2. The claimants are obliged conjointly to pay court fees in the amount of 15 Euros.**

Procedural and factual background

On 9 August 2010, the Claimants filed a claim with the Special Chamber seeking monetary compensation from the Respondent for the death of A.S., employee of the SOE X. The late A.S. was the husband of the Claimant 1 and father of the Claimants 2 to 7. He was killed on 6 January 2004 at his working place when he tried to protect the leader of the production from an attack of a dismissed working colleague. The Claimants have the opinion that according Article 122 of the Kosovo Law on Working Relations (Kosovo Gazette 14.4. 1989) the Respondent is liable for the damage and request by their submission of 9 August 2010 1000 Euro Compensation. They further request to have an expert estimate the further material and non-material damages which should be compensated.

The Respondent has the opinion that the claim should be rejected as inadmissible or alternatively as ungrounded. It argues that pursuant to Article 18.2 of the Law on the Privatization Agency of Kosovo it shall not be liable for any debt, action or inaction attributable to an Enterprise.

The Claimants argue that the Respondent carried out the privatization of the SOE, where A.S. worked and that it has taken over the assets and liabilities of the Enterprise. Therefore according to UNMIK Regulation 2005/48 the Liquidation Committee appointed by the Respondent should be responsible for the compensation of damages.

The Special Chamber held a hearing on 19 April 2012.

Reasons at law

The claim is not grounded.

It may remain open whether at the time when A.S. was killed at his working place there was valid law which held the employer - the Legal entity owning the X (SOE) responsible for his death. Even if this would have been the case although the employer was not acting with fault the Respondent would not be liable. Art. 18.2 of the Kosovo Law No.03/L-067 on the Privatization Agency of Kosovo determines

The Agency shall not be liable for any debt, action or inaction attributable to an Enterprise and no Enterprise shall be liable for any debt, action or inaction attributable to the agency. The Agency shall not be liable for any action or inaction of directors, managers or other controlpersons of the Enterprise regardless of whether or not such directors, managers or other control persons have been appointed by the agency.

Also UNMIK Regulation NO 2005/48 does not make the respondent responsible.

Therefore the claim had to be dismissed as ungrounded.

Costs

Pursuant to Section 12 Special Chamber Law and in accordance with the Special Chamber's Additional Procedural Rules regarding Court Fees as in force from 13 December 2010, Chamber's fees are on the basis of Section 10 of Kosovo Judicial Council Administrative Direction No. 2008/02 as follows:

For claims with a value up to 1.000 Euro (Article 10.1): € 15

For the issuance of the Judgment (Article 10.12): is the same as mentioned above.

The costs of the proceedings shall be borne by the unsuccessful party, here the Claimants.

The Claimants have already paid the sum of 15 €, thus the Claimants shall pay the Special Chamber an additional the sum of €15.

The Respondent did not present any request for reimbursement of its own costs of the proceedings and since the Respondent is represented by its own lawyer the Respondent is not entitled to receive reimbursement for reasonable attorney's fees.

Legal Advice

Against this decision within 21 days an Appeal can be submitted to the Appellate Panel of the Special Chamber. The Appeal shall also be served to the other party and submitted to the Trial Panel **by the Appellant**, all within 21 days. The Appellant shall submit to the Appeals Panel a proof that he has served the Appeal also to the other party.

The prescribed time limit begins at midnight of the day, when the Appellant has been served with the decision in writing.

The Appellate Panel shall reject the Appeal as inadmissible if the Appellant has failed to file it within the prescribed period.

The Respondent may file a response with the Appellate panel within 21 days from the date he was served with the appeal, submitting the response also to the appellant and the other party.

The appellant then has 21 days after being served with the response to its appeal, to submit to the Appellate panel and to serve the other party its own response. The other party then has 21 days after being served with the appellant's response to submit to the Appellant and to the Appellate panel its counter-response.

Alfred Graf von Keyserlingk, Presiding Judge

[signed]