

DHOMA E POSAÇME E GJYKATËS SUPREME TË KOSOVËS PËR ÇËSHITJE 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 ODNOSE NA KOSOVSKU AGENCIJU ZA PRIVATIZACIJU
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SCEL – 11 – 0003

Complainants

Employees of SOE “XX”, XX

C1. A.D., XX

C2. B.G., XX

C3. L.K., XX

C4. A.R. and M.D., Representatives of XX Trade Union, Prishtinë/
Priština

C5. A.S., XX

C6. H.M., F.B., K.B., S.D., M.D., R.H., B.O., F.P., X.P. and L.S.
represented by XX

C7. A.M., XX

C8. L.G., XX

C9. B.R., S.I., P.R., A.F., S.B., V.M., S.B., S.P., B.H. and N.U. all
represented by attorney at law XX

C10. R.S., B.Č., S.A.Ž., O.P., V.S., S.R., T.M., B.T., S.D. and R.G. all
represented by attorney at law XX

C11. M.V., XX

Vs.

Respondent

Privatization Agency of Kosovo, Ilir Konushevci Str.8, Prishtinë/
Priština

The Specialised Panel 1 of the Special Chamber of the Supreme Court of Kosovo on Kosovo Privatization Agency Related Matters composed of the Presiding Judge Alfred Graf von Keyserlingk, Judge Shkelzen Sylaj and Judge Ćerim Fazliji, after deliberation held on 27 March 2013, issues the following

DECISION

- 1. The complaint of A.R. and M.D. (complainant C4) is dismissed as inadmissible.**

2. Regarding the other complainants the court shall decide later.

Factual and Procedural background

On 11 January 2011 A.R. and M.D. in their function as representatives of the Trade Union of the employees of the SOE XX (the SOE) filed with the Special Chamber a “collective complaint” against the inclusion of five persons on the employees’ list (**complainant C4**).

In written observations submitted to the court on 31 January 2011 the Respondent states that the complaint should be rejected as ungrounded because the complainants did not submit evidence to support their complaint against the inclusion of five persons on the employees’ list.

Legal Reasoning

The decision is issued without having held a hearing because the facts and legal arguments are submitted sufficiently clear. The panel does not expect further relevant information and arguments in a hearing, Art 68.11 Annex Special Chamber Law 04/L-033 - SCL).

The complaint is inadmissible because the SOE Trade Union cannot be a complainant in terms of Section 10 of UNMIK Regulation 2003/13, which states:

“10.4 For the purpose of this section an employee shall be considered as eligible, if such employee is registered as an employee with the Socially-owned Enterprise at the time of privatisation and is established to have been on the payroll of the enterprise for not less than three years. This requirement shall not preclude employees, who claim that they would have been so registered and employed, had they not been subjected to discrimination, from submitting a complaint to the Special Chamber pursuant to subsection 10.6.”

Further, the SOE Trade Union is not allowed to represent employees before the Special Chamber.

Article 24 in conjunction with Article 68.1 Annex SCL stipulates that before the Special Chamber every claimant and respondent, except for natural persons, must be represented by a lawyer, member of a bar association or a chamber of advocates. The exception provided for natural

persons means that employees that are not satisfied with the employees' list published by the Agency are allowed to represent themselves before the Special Chamber or to authorise a registered lawyer. The Trade Union representatives did not allege that they fulfil those requirements.

Court fees

The court does not assign costs to the Complainants as the courts presidium till now did not issue a written schedule which is approved by the Kosovo Judicial Council (Art.57 Paragraph 2 Special Chamber Law). This means that till now there is no sufficient legal base to impose costs.

Legal Remedy

An appeal may be filed against this Decision within 21 days with the Appellate Panel of the Special Chamber. The Appeal should be served also to the other parties and to the Trial Panel by the Appellant within 21 days. The Appellant should submit to the Appellate Panel evidence that the Appeal was served to the other parties.

The foreseen time limit begins at the midnight of the same day the Appellant has been served with the written Decision.

The Appellate Panel rejects the appeal as inadmissible if the Appellant fails to submit it within the foreseen time limit.

The Respondent may file a response to the Appellate Panel within 21 days from the date he was served with the appeal, serving the response to the Appellant and to the other parties.

The Appellant then has 21 days after being served with the response to his appeal, to submit his response to the Appellate Panel and the other party. The other party then has 21 days after being served with the response of the Appellant, to serve his rejoinder to the Appellant and the Appellate Panel.

Alfred Graf von Keyserlingk
Presiding Judge

[signed]