



Kosovo Property Claims Commission
Komisioni i Kërkesave Pronësore të Kosovës
Komisija Kosovske Agencije za Imovinu

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DECISION

PANEL NO:1

DECISION NO.: KPCC/D/A/113/2011
DECISION DATE: 22/06/2011

Commissioners Heiskanen (Chairperson),
Vokshi and Wühler

ORDER

- (1) In each of the thirty eight (38) claims identified in part A of the attached Schedule, the Commission decides that the claim be dismissed.*
- (2) In each of the eleven (11) claims identified in part B of the attached Schedule, the Commission decides that the claims be refused.*
- (3) In Claim Nos. 51793, 51794 and 51798, referred to in part C of the attached Schedule, the Commission decides that the property right holder has established ownership over the claimed property as specified in the respective individual decision.*
- (4) In Claim Nos. 51793, 51794 and 51798, the Commission*
orders that
 - (a) The claimant or the property right holder, as the case may be, be given possession of the claimed property;*
 - (b) Any person occupying the property vacate the same within 30 (thirty) days of the delivery of this order; and*
 - (c) Should any person occupying the property fail to comply with the order to vacate within the time stated, they be evicted from the property.*

LEGAL FRAMEWORK

1. On 13 June 2008, Law No. 03/L-079 adopting and amending UNMIK Regulation 2006/50 (“UNMIK/REG/2006/50”) on the resolution of claims relating to private immovable property, including agricultural and commercial property entered into force in Kosovo. The Law included an annex (“Annex I”) adopting and amending UNMIK Administrative Direction No. 2007/5 (“UNMIK/ADM/DIR/2007/5”), which implements UNMIK/REG/2006/50. Law No. 03/L-079 and Annex I established the Kosovo Property Agency (“KPA”) as an independent agency and amended certain provisions of UNMIK/REG/2006/50 and UNMIK/ADM/DIR/2007/5 as necessary to effect the change in the applicable legal framework. In accordance with their terms, Law No. 03/L-079 and Annex I entered into force upon their publication in the Official Gazette.

2. Pursuant to section 22 of UNMIK/REG/2006/50 the Regulation ceased to be in force after 31 December 2008. Accordingly, Law No. 03/L-079 is presently the sole source of the Commission’s statutory authority. The provisions of UNMIK/REG/2006/50 remain relevant to the extent that they have been incorporated by reference to Law No. 03/L-079.

REASONS FOR THE DECISION

3. A claimant or the property right holder, as the case may be, is entitled to an order from the Commission for repossession of the property, if the claimant proves:

- (a) ownership of private immovable property, including agricultural and commercial property; or
- (b) a use right in respect of private immovable property, including agricultural and commercial property,

where the claimant or the property right holder, as the case may be, is not now able to exercise such property rights, and where the claim involves circumstances directly related to or resulting from the armed conflict that occurred in Kosovo between 27 February 1998 and 20 June 1999. (See section 3.1 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079.)

4. Where the claimant makes an ownership claim pursuant to section 3.1(a) of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, the Commission must resolve the issue of ownership and, if ownership is proven to the satisfaction of the Commission and the claimant does not indicate otherwise, make an order for repossession in favour of the claimant or the property right holder, as the case may be. Where the claimant makes a claim for a property use right pursuant to section 3.1(b) of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, the Commission may consider the claim in a summary procedure and make an order for recovery of possession. (See section 3.1 of UNMIK/REG/2006/50 read together with section 9 of Annex III of UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079.)¹

¹ There appears to be a technical error in Annex I. While Annex I clearly appears to be intended to replace UNMIK/ADM/DIR/2007/5 in its entirety, including its all three annexes, Article 26 of Annex I provides that the title of Annex III of UNMIK/ADM/DIR/2007/5 shall be replaced by a title referring to Annex II. However, there is neither specific provision nor any other indication in Law 03/L-079 or its Annexes that the intention of this particular amendment was to delete Annex I or Annex II of UNMIK/ADM/DIR/2007/5. Accordingly the Commission considers that all three Annexes of UNMIK/ADM/DIR/2007/5 are included in the legislative package and will be referred to by the Commission in this decision as Sub-Annexes I, II and III, respectively.

5. The Commission held its twenty-third session from 20 to 22 June 2011 in Prishtinë/Pristina. A total of 2,548 agricultural property claims were submitted by the Executive Secretariat of the KPA (the "Executive Secretariat") to the Commission at its twenty-third session, together with supporting documentation, claims processing reports, verification reports, legal memoranda and other relevant information. Five agricultural property claims which had been presented to the Commission by the Executive Secretariat were referred by the Commission back to the Executive Secretariat for further verification and three claims were withdrawn by the Executive Secretariat during the session. The Commission suspended the consideration of one claim pending the holding of an oral hearing. In sum, a total of 2,539 agricultural property claims were resolved by the Commission during the session.

6. At the Commission's session, the Executive Secretariat presented the claims to the Commission and reported on the processing of and the legal and evidentiary issues raised by the claims. At the Commission's request, the Executive Secretariat provided additional information and explanations, as required.

A. Claims covered by the present decision

7. In the claims covered by the present decision the claimants seek the resolution of an ownership claim, and the claims relate to agricultural property, including agricultural land, pasture and forests.

8. The present decision covers a total of 52 claims, as identified in the attached Schedule. The remaining 2,496 claims for agricultural property dealt with by the Commission during the session are covered by two other decisions, namely decisions KPCC/D/A/112/2011 and KPCC/D/A/114/2011.

9. A total of 51 of the 52 claims covered by the present decision had not previously been considered by the Commission, while one claim (Claim No. 41160) was the subject of an earlier Commission decision. However the earlier decision in this claim was overturned by the Commission on account of an incorrect notification of the claimed property during claims processing by the Executive Secretariat. This claim consequently stands to be re-determined following correct notification of the claimed property. No respondent to the claim or current occupants of the property has come forward in the claim. The Executive Secretariat has written to the claimant advising him of the notification error and informing him that the claim will be re-determined following correct notification of the claimed property. The claimant, as well as the relevant cadastral authority, has been advised that the previous Commission decisions are invalid and cannot be used for the purposes of any legal transaction.

10. In order to satisfy the requirements for a valid claim, the claimant or the property right holder, as the case may be, must show that he or she had an ownership or use right in respect of the claimed property, and that he or she is not now able to exercise his or her property right due to the circumstances directly relating to or resulting from the armed conflict that occurred in Kosovo between 27 February 1998 and 20 June 1999.

11. The 38 claims listed in Part A of the attached Schedule to this decision are contested in the sense that the party occupying the claimed properties, or a party that has expressed a legal interest in such properties (the "Respondent"), has contested the validity of the claim within the 30-day period prescribed in section 10.2 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, or at a later stage during the proceedings, pursuant to section 10.3 of

UNMIK/REG/2006/50 as adopted by Law No. 03/L-079. Pursuant to section 10 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, each of the Respondents has been provided with a copy of the claim submitted by the respective Claimant. In accordance with section 3.5 of Annex II to UNMIK/AD/2007/5 as adopted by Law No. 03/L-079, the Claimants have been provided with a copy of the documents submitted by the respective Respondent in response to the claim. Both parties in each case have thus been given an opportunity to comment on the information provided by the other party, and any such comment or information has been taken into account during claim processing and adjudication. The Commission notes that that the First Respondent to the claims covered in parts D and E of the attached Schedule to this decision refused to accept a copy of the documents from the First and Second Claimants to these claims.

12. In the 11 claims listed in Part B of the attached Schedule to the decision are uncontested in the sense that at the time the claimed properties were notified there was no evidence of illegal occupation, use or cultivation of these properties by any person or, even if there was such evidence, no party has contested the validity of the claim within the 30-day period prescribed in section 10.2 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, or at any later stage during the proceedings, pursuant to section 10.3 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079. The Executive Secretariat has notified claims in a variety of ways including through the physical notification of the property and/or through notification of the property via publication in gazette and newspapers, through local municipal authorities, municipal courts, local village leaders and through other relevant institutions in Kosovo and Serbia. Based on the information provided by the Executive Secretariat, the Commission is satisfied that the Executive Secretariat has made reasonable efforts to notify the claimed properties, the persons who may be currently occupying the properties, and any other persons who may have a legal interest in such properties, as required by section 10.1 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079. Accordingly these claims must be considered uncontested.

B. Claims dismissed

13. Pursuant to section 11.4 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, the Commission shall dismiss the whole or part of a claim where:

- (a) The claimant has failed to file a complete claim in accordance with the procedures set out in the Regulation;
- (b) The claim is not within the scope of jurisdiction of the KPA; and
- (c) The claim has previously been considered and decided in a final administrative or judicial decision.

14. Section 8.6 of Annex III of UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079/50 provides the Commission with the power to dismiss or refuse a claim on any ground, including those set down in section 11.4 of UNMIK Regulation 2006/50.

15. Claims which are dismissed as falling outside the Commission's jurisdiction or for procedural reasons and not on account of the merits of the claim may be capable of resolution through the local courts, subject to the applicable law. In such claims the Commission's decision does not constitute a *res judicata*. Section 3.2 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079 confirms the claimants' right to pursue before courts of competent jurisdiction claims that do not fall within the mandate of the Commission, as set out in section 3.1 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079. (See also section 8.1 of Annex III of UNMIK/ADM/DIR/2007/5 concerning the Commission's authority to refer

issues arising in connection with a claim which are not within its jurisdiction, to a competent local court or administrative board or tribunal.)

16. Pursuant to section 3.1 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, the jurisdiction of the Commission is limited to property claims that are conflict-related in the sense that they involve circumstances directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999, where the claimant is not now able to exercise such property rights. In order to establish whether or not a claim falls within its jurisdiction, the Commission must determine whether the claimant or the property right holder, as the case may be, has been displaced from the claimed property, or has lost possession or control over such property, as a consequence of the conflict. The Commission must also establish whether the claimant or the property right holder, as the case may be, is now able to exercise his or her rights over the claimed property.

17. While the Commission has taken the view that a loss of possession that occurred outside the period 27 February 1998 and 20 June 1999 may nonetheless be considered to be directly related to or result from the conflict, depending on the circumstances of the case, it must be satisfied that there is some evidence indicating that the property loss involved circumstances surrounding the conflict.

1. Claim Nos. 38043, 38044, 38045, 38046 and 38047

18. Claim Nos. 38043, 38044, 38045, 38046 and 38047, referred to in part A of the attached Schedule to this decision, were lodged by the authorized representative of the property right holder.

19. The Respondent, who is currently occupying the claimed properties, claims that he had purchased the property from the Claimant in October 2000 and submitted the contract on sale in support of his allegation. The Claimant confirms the sale of the claimed property. However, he claims that the Respondent failed to pay two instalments of the agreed purchase price and after a court settlement of the payment of the purchase price in 2005 by the Municipal Court of Rahovac/Orahovac, the Claimant and Respondent failed to agree on the remaining amount of interest to be paid from the Respondent to the Claimant.

20. Based on the uncontested statements by both Claimant and Respondent regarding their mutual sales agreement, the Commission finds that the Claimant did not lose possession of the claimed property as a direct result of the armed conflict in Kosovo during 1998-1999, but through a sale which took place in 2000. Consequently the claims stand to be dismissed pursuant to section 11.4(b) of UNMIK/REG/2006/50, as adopted by Law No. 03/L-079.

2. Claim Nos. 44015, 44021, 44026 and 44031

21. Claim Nos. 44105, 44021, 44026 and 44031, referred to in part A of the attached Schedule, are filed by the Claimant in her capacity as a family household member of the property right holder, namely her father.

22. The Executive Secretariat has physically notified the claimed properties. During the process of notification of the properties, Mr Rexhep Gijkolli (the "Respondent"), who is the authorized representative of the current users of the claimed properties, challenged the Claimant's title and claimed his clients' legal rights to the respective properties. He asserts that the property right holder sold the properties to the families of his clients, Gazmend Lleshdedaj (Claim Nos. 44015 and 44026), Tome Krhani (Claim No. 44031) and Dake Radi

(Claim No. 44021) between 1968 and 1970, respectively. In support of his assertion the Respondent submitted contracts on sale for the alleged transfers, all uncertified, and witness statements.

23. The Claimant originally claimed that her family lost the properties as a result of the 1998-1999 conflict, however the Claimant later advised the Executive Secretariat that her family did not have possession of the claimed properties from 1970 onwards. She also confirmed that she was neither in possession nor using the claimed properties at the time of the 1998-99 conflict in Kosovo. In these circumstances the Commission concludes that the alleged loss of property rights cannot be said to be related to the conflict. Consequently, the Claimant's claims fall outside the jurisdiction of the Commission and stand to be dismissed.

3. *Claim No. 00437*

24. In Claim No. 00437, the Claimant submitted the claim in his capacity as property right holder. The Claimant asserts that there is a dispute over the precise property limits between the property that he bought in 1988 and the neighbouring property, owned by the Respondent.

25. The Executive Secretariat contacted the Claimant to clarify whether the Claimant's claim involved in any way the circumstances surrounding the conflict, as it was initially claimed that possession of the properties was lost in 1999. The Claimant confirmed that there had been no loss of possession as a result of the 1998-99 conflict, and that the claim involves a property dispute over the property limits to the neighbouring property. Accordingly, the claim stands to be dismissed as falling outside the jurisdiction of the Commission.

4. *Claim Nos. 08235, 08239, 30841, 30842, 30843, 30844, 30845, 30846, 30847, 30848, 30849 and 30850*

26. Claim Nos. 08235 and 08239, referred to in Part A of the attached Schedule, are filed by Slavko Kalajdjic (the "First Claimant") in his capacity of property right holder of an ideal part of 1/3 of the respective properties. Claim Nos. 30841, 30842, 30843, 30844, 30845, 30846, 30847, 30848, 30849 and 30850 are submitted by the niece (the "Second Claimant") of the First Claimant as an authorized representative of the property right holder. Claim Nos. 08235 and 30841 relate to the same property, as do Claim Nos. 08239 and 30845, respectively. In Claim Nos. 08235 and 08239 the First Claimant claims the ideal part of 1/3, and in Claim Nos. 30841 and 30845 the Second Claimant claims for the ideal part of 1/6 of the claimed property.

27. All the properties claimed by the First and Second Claimant have been physically notified by the Executive Secretariat. During the process of notification, six individuals, Sabit and Islam Tusha, Xhelal Kosumi, Hajriz Azizi, Hasim Salihu and Gege Zefi who are currently using the claimed properties, except the property subject of Claim No. 30848, responded to the notification and claim legal rights to the respective properties.

28. In Claim No. 30848 the claimed property is currently occupied by KFOR, which under UNMIK/REG/2000/47 enjoys immunity from legal process.

29. Both the First and the Second Claimant acknowledge that the property right holders and their family did not have possession of the claimed properties from 1961 onwards when the properties were sold and possession transferred to Ajdin Tusha. After the death of the property right holder Petrusha Kalajdjic, an inheritance decision regarding the properties was issued in 1992 disregarding the previous sale in 1961. Both Claimants confirmed that they were neither

in possession nor using the claimed properties at the time of the 1998-99 conflict in Kosovo. In these circumstances the Commission concludes that the alleged loss of property rights cannot be said to be related to the conflict. Consequently, the Claimants' claims fall outside the jurisdiction of the Commission and stand to be dismissed.

5. *Claims dismissed on account of the absence of a power of attorney*

30. In Claim Nos. 36541, 36542, 36543 and 36544, the person filing the claims is the son-in-law of the property right holder.

31. In Claim Nos. 13629 and 13634 the person filing the claim is the daughter-in-law of the alleged property right holder.

32. Claim Nos. 01449, 01450 and 01453 have been lodged by the nephew of the alleged property right holder.

33. Pursuant to section 5.2 of UNMIK/ADM/DIR/2007/5, as adopted by Law No. 03/L-079, claims may be made by either the property right holder or a family household member of the property right holder. A claimant may be represented by an authorized natural person with a valid and duly executed power of attorney. In exceptional cases where the provision of a power of attorney is problematic, the Executive Secretariat may certify an alternative document authorizing representation of a claimant.

34. Section 1 of the UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079 defines "Member of Family Household" to include "the spouse, children (born in and out of wedlock or adopted) and other persons whom the property right holder is obliged to support in accordance with the applicable law, or the persons who are obliged to support the property right holder in accordance with the applicable law, regardless of whether or not that person resided in the property together with the property right holder." The Commission has determined that, under the applicable law, this definition covers, in addition to spouses and children, parents, brothers, sisters, grandparents and grandchildren of the property right holder. However, by implication the definition does not cover in-laws, uncles, aunts, nephews, nieces or cousins, or other more distant relatives who must provide a power of attorney authorizing their representation on behalf of the property right holder or a family household member of the property right holder. Individuals who do not fall within the definition of a household member cannot be considered claimants, but are persons purporting to represent the claimant.

35. Claims in which the person filing the claim is not a family household member and requires a power of attorney cannot be considered complete claims in accordance with section 5.2 of UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079, since an essential procedural requirement is not satisfied, namely authorization from the property right holder or a family household member of the property right holder.

36. As the Claimants in Claim Nos. 36541, 36542, 36543, 36544, 13629, 13634, 01449, 01450 and 01453 did not provide a power of attorney from a family household member of the property right holder, the Executive Secretariat contacted the Claimants several times requesting them to submit the missing power of attorney. However, the Claimants have failed to provide a power of attorney. In Claim Nos. 01449, 01450 and 01453 the Claimant stated that he will neither provide a power of attorney nor will he withdraw his claim and that he is not interested in pursuing his claim any further. In these circumstances these claims stand to be dismissed on account of the failure by the Claimants to provide authorization of their capacity to file the claim on behalf of the property right holder.

37. The Commission notes that the decision to dismiss the claims shall not bear any prejudice to the legal assessment of the potential user rights of the current occupants of the claimed properties.

6. *Claim Nos. 11649 and 11653*

38. In Claim Nos. 11649 and 11653 the Claimant submitted his claims in his capacity of family household member of his father Serif Kurtisaj. The Claimant alleges that the claimed properties belonged to his grandfather until 1938 when the ownership was awarded to the Nikolic family by decision of the Supreme Court of Skopje. The Claimant also contends that during 1990 the Nikolic family forced the family of the Claimant to purchase the property back, however, the Claimant failed to produce any evidence in support of the alleged transaction. It is apparent that his alleged loss is unrelated to the 1998-99 conflict; indeed the Claimant himself states that his grandfather lost possession in 1938. Accordingly the Claimant's claims fall outside the jurisdiction of the Commission and stand to be dismissed.

7. *Claim No. 00732*

39. In Claim No. 00732 the Claimant submitted the claim in his capacity as property right holder. During a telephone conversation with the Executive Secretariat the Claimant stated that he had entered into a sales agreement with the Respondent and current occupant Azem Gashi. The Claimant asserted that the Respondent had not paid the entire purchase price and indicated that he would submit a written statement with further details. The Respondent denies the Claimant's assertion and contends that the purchase price has been fully paid. The Executive Secretariat has verified the certified purchase contract, submitted by the Respondent, between the parties dated 7 September 2007 as being valid.

40. The Executive Secretariat subsequently attempted to reach the Claimant numerous times through the contact details provided by the Claimant, however, no contact could be established. In the circumstances, and given that the Claimant does not deny that a voluntary transaction has taken place, it cannot be said that there has been loss of possession because of the 1998-99 conflict. Consequently, the claim falls outside the jurisdiction of the Commission and stands to be dismissed.

C. *Claims refused*

41. Pursuant to section 8.6 of Annex III of UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-07907/50, the Commission may refuse or dismiss a claim on any grounds. Claims may be refused by the Commission if the claimant or the property right holder, as the case may be, has been unable to prove their ownership or use right interest over the claimed property.

42. Pursuant to section 3.1 of UNMIK/REG/2006/50 as adopted by Law No. 03/L-079, the Commission has jurisdiction to determine ownership or use right claims over private immovable property. In reaching its decisions, the Commission may consider any reliable evidence which it considers relevant to a claim, including evidence presented by the Executive Secretariat concerning the reliability of any public record (section 6.2 of Annex III to UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079). The Commission may also require that the Executive Secretariat obtain more information from a party or conduct additional investigations in relation to any claim (section 6.3 of Annex III to UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079). In making its determinations, the Commission may be guided but is not bound by the rules of evidence applied in the local

courts in Kosovo (section 6.1 of Annex III to UNMIK/ADM/DIR/2007/5, as adopted by Law No. 03/L-079).

1. *Claim Nos. 24201, 24204, 24214, 24216, 24220, 24222, 24225, 24227, 24228 and 24229*

43. In Claim Nos. 24201, 24204, 24214, 24216, 24220, 24222, 24225, 24227, 24228 and 24229 the Claimant filed the claim in his capacity of a family household member of the property right holder, namely his deceased grandfather. The Claimant states that he is the only living heir of his deceased mother. He states that there was no inheritance procedure initiated after the death of his grandfather, however, his mother sold some of the properties to a third party in 1974. The Claimant states that he is not aware which properties were sold and which ones were not. He initially asserted that to his knowledge the purchase price was only partially paid by the buyer at the time, however, when contacted by the Executive Secretariat again he admitted that the entire purchase price was paid.

44. The Executive Secretariat has physically notified the claimed properties. During the process of notification of the properties the current occupant (the "Respondent") responded to the claim notification. The Respondent alleges that his uncle bought the properties from the Claimant's mother in 1974 and that his family has been in undisturbed use of the properties ever since.

45. The Claimant has not specified which properties he is claiming and has failed to furnish any evidence to establish ownership of any of the claimed properties. Consequently, the claims stand to be refused for lack of evidence.

2. *Claim No. 23497*

46. In Claim No. 23497 the Claimant filed the claim in his capacity as property right holder and submitted a possession list which was positively verified by the Executive Secretariat.

47. The Executive Secretariat has physically notified the claimed property. During the process of notification of the property the current occupant responded to the claim, alleging that he bought the property from the Claimant in 1996. In support of his assertion he submitted an uncertified purchase contract dated 5 June 1996. The Respondent explains that he was not in position to certify the purchase contract at the time and did not initiate the relevant court procedures after the conflict in 1999 because of lack of funds to cover the associated costs.

48. The Executive Secretariat attempted to contact the Claimant to confront him with the Respondent's allegation but could not reach the Claimant. On 19 February 2011 the Executive Secretariat reached the son of the Claimant, Zoran Vasic, who confirmed that his father had sold the property. On 27 March 2011 the Executive Secretariat was eventually able to reach the Claimant but he refused any cooperation and stated that he did not wish to be contacted by the Executive Secretariat.

49. As noted above, the Executive Secretariat has verified the possession list that was submitted by the Claimant in support of his claim. However, the Respondent has presented a purchase contract showing that he has purchased the property, and although the contract is uncertified, the Respondent has provided a plausible and coherent explanation as to why the purchase contract between the Claimant and the Respondent was never formalized. The Claimant failed to respond to the Respondent's evidence and indicated that he did not wish to

cooperate with the Executive Secretariat. In these circumstances, the claim stands to be refused.

D. Claims granted

50. In Claim Nos. 51793, 51794 and 51798, referred to in Part C of the attached Schedule, the Claimant seeks confirmation of ownership of the same property as the Claimant in Claim Nos. 01449, 01450 and 01453 (see paragraph 34 above). In Claim Nos. 51793, 51794 and 51798, the Claimant has submitted the claim in her capacity of family household member, namely daughter, of the property right holder, Ljubomir Dimic. Claim Nos. 01449, 01450 and 01453 are submitted by the nephew of Ljubomir Dimic, and in the absence of a power of attorney these claims stand to be dismissed; see paragraphs 34 and 38 above.

51. The Claimant in Claim Nos. 51793, 51794 and 51798 has submitted a possession list showing that the father of the Claimant, Ljubomir Dimic, is the property right holder of the claimed properties. The Claimant further produced a certificate confirming the death of the property right holder. The possession list and the certificate have been verified by the Executive Secretariat as being valid. The Executive Secretariat has also located and verified a certificate of immovable property rights No. 59 which lists the Claimant's father as the property right holder.

52. Accordingly, as the evidence establishes that the claimed property belongs to Ljubomir Dimic, a decision confirming the property right in favour of the property right holder stands to be granted in Claim Nos. 51793, 51794 and 51798.

E. Claims for compensation

53. In the claims identified in the relevant columns of part C of the attached Schedule, the claimants also seek, in addition to ownership, compensation for physical damage to, or for loss of use of, the claimed property. Under UNMIK/REG/2006/50 as adopted by Law No. 03/L-079 the Commission has no jurisdiction over such claims. Accordingly this aspect of the claims for compensation must be dismissed.

F. Concluding remarks

54. The Commission's decision and order also apply, where appropriate, to any associated property, *i.e.* any buildings or other constructions owned or used by the claimant or the property right holder, as the case may be, which form a unit with the claimed property.

55. Section 8.8 of Annex III of UNMIK/ADM/DIR/2007/5 as adopted by Law No. 03/L-079 allows the Chairperson of the Commission to sign a cover decision approving all individual claims identified in the cover decision, if the number of claims decided in a session is high. The Commission considers that this is appropriate in the present case.

56. The Commission's decision is without prejudice to the right of the claimants or the property right holders, as the case may be, to seek confirmation of their property right over the claimed properties before the competent local authorities, such as the cadastral authorities or local courts, in accordance with the applicable law.



Chairperson

APPEALS

UNMIK/REG/2006/50 and the Law No. 03/L-79 provide that:

12.1 Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the Commission on a claim, a party may submit through the Executive Secretariat of the Kosovo Property Agency to the Supreme Court of Kosovo an appeal against such decision.

12.3 The appeal may be filed on the grounds that:

- (a) The decision involves a fundamental error or serious misapplication of the applicable material or procedural law; or
- (b) The decision rests upon an erroneous or incomplete determination of the facts.

Information on the appeals procedures is contained in the separate Appeals Information Sheet provided to parties with this decision.

*** The English version is the official of all Property Claims Commission decisions. In case of conflict between the English language version and the Albanian or Serbian language version, then the meaning in the English language shall prevail.**