



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/1/2007/CORR/1  
DECISION DATE: 12/07/2007  
DATE OF CORRECTON: 17/09/2007

## ORDER

*(1) In each of the 498 (four hundred and ninety-eight) claims identified in part A of the attached Schedule, the Commission*

*decides that*

*(a) The claimant or the property right holder, as the case may be, has established ownership over the claimed property; and*

*orders that*

*(b) The claimant or the property right holder, as the case may be, be given possession of the claimed property;*

*(c) The respondent and any other person occupying the property vacate the same within 30 (thirty) days of the delivery of this order; and*

*(d) Should the respondent or any other person occupying the property fail to comply with the order to vacate within the time stated, they be evicted from the property.*

*(2) In each of the 78 (seventy eight) claims identified in part B of the attached Schedule, the Commission additionally decides that the claims be dismissed insofar as the claimants seek compensation for physical damage to the claimed property.*

## REASONS FOR THE DECISION

1. A claimant 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 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.)

2. Where the claimant makes an ownership claim pursuant to section 3.1(a) of UNMIK/REG/2006/50, the Commission must resolve the issue of ownership and, if ownership is proven to the satisfaction of the Commission, make an order for repossession in favour of the claimant. (See section 3.1 of UNMIK/REG/2006/50, read together with section 9 of Annex III of Administrative Direction No. 2007/5.)

3. The Commission held its first session on 4-8 June 2007 in Prishtina/Pristina. A total of 955 (nine hundred and fifty-five) claims were submitted by the Executive Secretariat of the Kosovo Property Agency (the “Executive Secretariat” and “KPA,” respectively) to the Commission at its first session, together with the supporting documentation, claims processing reports, verification reports and other relevant information.

4. At the Commission’s session, the Executive Secretariat presented the claims to the Commission and reported on the collection, registration, notification and processing of the claims, as well as on the public information campaign conducted by the Executive Secretariat to inform the general public of the KPA process. At the Commission’s request, the Executive Secretariat provided additional explanations and performed additional legal research and verification both during and after the session. The Commission reviewed all of this information and appointed one of its Members to perform additional review and verification of certain claims, in particular in order to confirm that the claims involve circumstances that directly related to or resulted from the armed conflict that occurred in Kosovo between 27 February 1998 and 20 June 1999.

#### *A. Ownership claims*

5. Based on the information provided and the additional research and verification conducted by both the Executive Secretariat and the Commission, a total of 457 (four hundred and fifty-seven) claims were referred by the Commission back to the Executive Secretariat for additional review and verification, or were withdrawn by the Executive Secretariat. These claims, which are listed in part C of the attached Schedule, will be considered by the Commission in due course. The present decision applies therefore to the remaining 498 (four hundred and ninety-eight) claims, which are listed in part A of the attached Schedule. In all of these claims the claimants seek the resolution of an ownership claim, and all of them relate to agricultural properties, including agricultural land, pasture and forests.

6. The Commission notes that all of the claims listed in part A of the attached Schedule 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 no party has contested the validity of the claim within the 30-day period prescribed in section 10.2 of UNMIK/REG/2006/50. Based on the information provided by the Executive Secretariat, including the additional information provided during the session at the Commission's request, 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, and that accordingly these claims must be considered uncontested.

7. The Commission notes that the claimants or the property right holders, as the case may be, have submitted various types of documents in support of their ownership claims, including possession lists, purchase contracts, contracts on gifts, inheritance decisions, contracts on division of property, and court decisions recognizing ownership. The Commission is satisfied that these documents indeed constitute proof of ownership. Many claimants have also submitted additional supporting documents, including tax decisions, witness statements, copies of plan and cadastral decisions. All of these documents have been verified as being valid by the Executive Secretariat. These documents are listed in part D of the attached Schedule.

8. In view of the foregoing, the Commission is satisfied, based on the evidence and information before it, that:

- (a) the claimant in each case has shown on the basis of the evidence presented that the claimant or the property right holder, as the case may be, had an ownership right in respect of the claimed property;
- (b) each claim is uncontested in that no person has contested the validity of the claim;
- (c) the claimant in each case is not now able to exercise his or her ownership right; and
- (d) the claimant in each case has shown that his or her claim involves circumstances directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999.

9. The above decision reflects the views of the majority of the Commission. One Member of the Commission is of the view that the Commission should limit its decision to making an eviction order and not decide that the claimants have established ownership over the claimed properties.

#### *B. Claims for compensation*

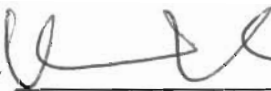
10. In the 78 (seventy-eight) claims identified in part B of the attached Schedule, the claimants also seek, in addition to ownership, compensation for physical damage

caused to the claimed property. Under UNMIK/REG/2006/50 the Commission has no jurisdiction over such claims. Accordingly these claims must be dismissed.

*C. Concluding remarks*

11. In view of the foregoing, the Commission finds that the claims listed in part A of the attached Schedule succeed and an order be made in respect of each claim as set out above. The Commission notes that in cases where there is more than one owner, the order does not affect the rights of co-owners.

12. Section 8.8 of Annex III of Administrative Direction No. 2007/5 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.

  
Chairperson



**APPEALS**

UNMIK/REG/2006/50 provides 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.

**\* 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.**