

Kosovo Property Agency

Annual Report

2006



JOINT ANNUAL REPORT 2006

THE HOUSING AND PROPERTY DIRECTORATE

&

THE KOSOVO PROPERTY AGENCY

2006 IN REVIEW

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TABLE OF ABBREVIATIONS

CCPU	Central Case Processing Unit, HPD
DCA	Department of Civil Administration, UNMIK
EAR	European Agency for Reconstruction
EU	European Union
FYROM	former Yugoslav Republic of Macedonia
HPD	Housing and Property Directorate
HPCC	Housing and Property Claims Commission
IDP	Internally Displaced Person
KCA	Kosovo Cadastre Agency, PISG
KCB	Kosovo Consolidated Budget
KFOR	Kosovo Force, NATO
KPA	Kosovo Property Agency
KPCC	Kosovo Property Claims Commission, KPA
KPS	Kosovo Police Service, UNMIK
KTA	Kosovo Trust Agency, UNMIK
NGO	Non-Governmental Organization
OLA	Office of the Legal Advisor, UNMIK
OSCE	Organization for Security and Cooperation in Europe
PISG	Provisional Institutions of Self Government
SRSG	Special Representative of the Secretary General of the United Nations
UNDP	United Nations Development Programme
UNOPS	United Nations Office for Project Services
UN-Habitat	United Nations Human Settlement Programme
UNHCR	United Nations High Commissioner for Refugees

UNMIK

United Nations Interim Administration Mission in Kosovo

UNOB

United Nations Office in Belgrade

FOREWORD

By Mr. Knut Rosandhaug

*Executive Director of the Housing and Property Directorate
Director of the Executive Secretariat of the Kosovo Property Agency*

For the former Housing and Property Directorate (the “HPD”), and its successor, the Kosovo Property Agency (the “KPA”), 2006 was a year of substantive delivery, visible achievement and new challenges.

Mandated in 1999 by the Special Representative of the Secretary-General (the “SRSG”) under UNMIK Regulation 1999/23 with the lead role in matters relating to the resolution of residential property disputes, I believe that the HPD rose to this challenge. As the curtain draws on 2006, the HPD has expeditiously completed the resolution of some 29,160 residential property claims filed by refugees and internally displaced persons (“IDP’s”). The process has reversed the discriminatory loss of property rights that occurred between 1989 and 1999, regularized informal sales of property, and restored possession of property to persons displaced by the conflict.

Through the implementation of its mandate, the HPD has made a significant contribution to peace building and the protection of property rights in Kosovo. Its positive contribution has been widely recognized in public acknowledgements from UNMIK leadership, UNDP, UNHCR, the OSCE, the EU, the diplomatic offices and many others, all of whom have endorsed its work and achievements and regard it as

having contributed significantly towards fostering a positive trajectory for Kosovo. Further, external evaluation and the frequency by which the experiences and views of HPD/KPA management have been sought on property rights issues by other key actors amply demonstrate the high regard which the HPD enjoyed.

Public recognition of the HPD's contribution is not just limited to its contribution to peace building in Kosovo. The HPD-model has been viewed as a model for resolving property disputes in scenarios as disparate as Iraq, Cyprus, Georgia and Palestine, among others. This in turn led to legislative developments in March 2006 by which UNMIK transformed the HPD as a whole, its personnel and physical assets into a new independent agency, the Kosovo Property Agency (the "KPA") and mandated it to resolve disputes over land and commercial property.¹ This approach ensured that the application of the know-how, methodology and effective procedures formerly utilized by the HPD was applied to the processing of land and commercial property claims. The KPA also assumed responsibility for the implementation of pending HPCC-decisions and the management of properties under its administration. Only some 2.6% of decisions on claims were pending implementation at the end of 2006 and the KPA will implement these in 2007. Pursuant to its authority to take over the management of the administered properties portfolio the KPA managed at the end of 2006 some 5,257 properties. Further, in April 2006 after UNMIK approved a rental scheme for these, and following its subsequent endorsement by the Provisional Institutions of Self Government (the "PISG") in August, the KPA devised and implemented the scheme securing an income source to displaced property right holders who currently do not wish to exercise their right to return to their homes or to sell them.

New and ambitious targets have been set for 2007 for the implementation of the KPA mandate. I believe the new institution will be able to draw on the lessons learned from the HPD process, and the expertise and proven track record of its personnel and management to deal effectively with the challenges which it will inevitably face in implementing its mandate. Further, the KPA will build on the achievements of the HPD in the resolution of property disputes - an issue of crucial importance for Kosovo.

¹ See UNMIK Regulation 2006/10 which was promulgated on 4 March 2006.

I would like to pay special tribute to HPD/KPA staff, all of whom worked tremendously hard throughout the HPD-mandate and engaged actively to ensure that the institutions achieved their goals. They worked with dedication and they followed through despite serious uncertainty regarding their own employment and future throughout 2005 and beginning of 2006. I firmly acknowledge and appreciate their initiative and contribution to the work of the HPD and welcome a similar engagement in the KPA process.

I also welcome the increased involvement and support of the PISG in the past for the HPD and call on it to afford a similar and enhanced level of support to the KPA process. Furthermore, I pay gratitude to the fruitful spirit of cordial cooperation which the HPD, and since its establishment, the KPA, have received from the authorities in Belgrade. Both institutions enjoy unhindered access to property records in their possession. Further, the authorities have actively supported the numerous public information campaigns launched throughout the HPD's years of operations, and most recently in November 2006 when the KPA launched its first comprehensive campaign.

I would like to thank all our donors for their invaluable support to the HPD and more recently the KPA – financially as well as substantively. I wish to take this opportunity to appeal to them, to continue their support for the KPA. Support for the process will ensure the return of all private property to lawful property right holders – all of which are vital for reconciliation, sustainable return, economic rebirth and growth.

Any finally at this juncture I find it important to recall and point out that a property restitution mechanism, like the HPD and the KPA, on its own, no matter how effective, cannot alone secure the return of the displaced population. The resolution of property disputes and the restoration of property is only one aspect of return. The process clearly cannot deal with the broad spectrum of related issues that need to be actively addressed in order to ensure sustainable return (i.e. access to services, employment and income generating activities, security, freedom of movement and reconstruction of destroyed homes to mention some of the most essential). I therefore welcome concerted and cross-cutting initiatives aimed at addressing these issues. We

at the KPA are ready to collaborate with the various stakeholders to contribute to such a holistic approach. In the absence of such an approach return will neither be feasible nor sustainable, and there is a danger that the HPD, as well as the KPA, on having completed the implementation of their respective mandates will wrongly be “*blamed*” for the lack of physical and visible return.

With gratitude for your continued support for the KPA,

Knut Rosandhaug

Director

December 2006

EXECUTIVE SUMMARY

The past decade has witnessed significant human rights advancement in protecting the enjoyment of property rights. Property rights violations and restitution for refugees and displaced persons have been afforded increased attention by the international community in the context of post conflict peace building. The right of refugees and internally displaced persons (IDPs) to return to their homes and places of residence in their country or place of origin following a refugee crisis has evolved significantly as a human rights norm. Further, international peace keeping operations consider these issues as central components of peace building efforts, and indispensable to economic rebirth and sustainable return. Legal mechanisms encompassing self contained quasi-judicial bodies mandated to address property issues and disputes have been established in particular national contexts to assist displaced persons to return to their homes and there has emerged an explicit right for the displaced to restoration of property rights. Kosovo is one such region where the UN has engaged extensively in addressing property rights issues.

Within five months of entering Kosovo, the United Nations Interim Administration Mission in Kosovo (“UNMIK”), in placing a high priority on the return of refugees and IDPs, established an independent mechanism which was mandated to ensure the expeditious resolution of residential property disputes; to tackle widespread illegal occupation of property and other issues in the housing sector. Under UNMIK Regulation 1999/23 the Housing and Property Directorate (the “HPD”) and its independent quasi judicial body the Housing and Property Claims Commission (the “HPCC”) were established and mandated to “*achieve an efficient and effective resolution of claims cornering residential property*”.²

The HPD’s core work was to collect and process residential property claims for referral to the HPCC which was established as a quasi-judicial body to adjudicate these disputes. The HPCC adjudicated the remaining 179 claims at first instance at its October 2006 Session, thus completing the adjudication of some 29,160 residential property disputes. Decisions in all 29,160 cases have been issued and delivered to the

² See the Preamble to UNMIK Regulation 1999/23.

parties to the claim. The HPCC has also adjudicated some 2,441 requests for reconsideration of its first instance decisions during 2006 and will adjudicate on the pending 335 requests at its forthcoming 2007 sessions.

As regards the implementation of HPCC decisions, all but 2.5% (721) decisions have at the end of 2006 been fully implemented. Those pending implementation will be implemented in 2007 in accordance with the claimant's choice for implementation of the decision (i.e. repossession, placing property under temporary administration or closure of the claim file). Special attention will also be given to the implementation of some 258 HPCC decisions in which awards of monetary compensation were made in favour of claimants pursuant to section 4 of UNMIK Regulation 2000/60.

The implementation of the administrative property aspect of the residential property mandate has continued throughout 2006 with a total of 5,257 properties under administration at the end of 2006. Some 1,845 of these properties were taken by the HPD *ex officio* (since March 2006 by the KPA) under its administration, while 3,412 were on the basis of requests from successful claimants who did not wish to repossess their homes. Special attention was given throughout the year to designing and implementing a rental scheme for properties under administration following approval for such a scheme by the SRSG and the PISG. The rental scheme which is up and running since October 2006, enables claimants who place property under administration to have it leased out, thus ensuring an income source from the property, and providing an alternative to sales.

Legislative developments in 2006 to utilize the mass claim methodology to deal with disputes over private property, including on agricultural and commercial property, resulted in far reaching changes for the HPD. A lengthy series of discussions and debate about the manner in which the resolution of such claims should be achieved had ensued during the preceding years, and culminated in March 2006 with the promulgation of UNMIK Regulation 2006/10. This Regulation effectively transformed the HPD into a new agency, the Kosovo Property Agency (the "KPA") and its personnel, assets and entire organization were carried over into the new agency. The KPA assumed responsibility for the workload of the HPD, to include the implementation of pending HPCC decisions and the management of property under

HPD administration. However, the core work of the new Agency is to ensure the effective and efficient resolution of property disputes concerning private immovable property, including agricultural land and commercial property. The KPA's policy is to provide an accessible, inexpensive, speedy fair and informal forum for the expeditious resolution of a large volume of immovable property claims. The KPA is composed of three main bodies, namely a Supervisory Board, an Executive Secretariat and an autonomous Claims Commission. The Executive Secretariat will provide secretariat functions to the Commission which will adjudicate the claims. The KPA functions outside of the Provisional Institutions of Self Government as an independent body pursuant to Chapter 11.2 of the Constitutional Framework, under the auspices of its Supervisory Board. The donor community as well as UNMIK and representatives of the Albanian and Serbian communities are all represented on the Board.

Throughout 2006, in addition to completing the residential properties mandate, a substantial amount of work has been undertaken in order to commence the implementation of the land and commercial properties mandate. Claim intake commenced in Kosovo in April 2006, in Serbia proper in July 2006 and in fYROM and Montenegro in September 2006. Notification of claims on properties and verification of documents commenced in the fall of 2006. No deadline has been set for the close of claim intake to date.

The KPA also created its own corporate image/logo. Its website was launched in April 2006, and information was disseminated through public meetings and media interviews. A comprehensive public information campaign was launched subsequently in November. Further, regular meetings were held with representatives of the minority community, the PISG, NGOs and other key players in the property rights field. In spring 2006 the KPA also launched a recruitment drive and procurement for additional vehicles and IT equipment and resources, in addition to expanding its network of offices in Serbia proper to facilitate the claim intake.

Additionally, in the Fall of 2006 the KPA drafted an Administrative Direction in consultation with other key entities which was forwarded to UNMIK's Office of the Legal Advisor setting down detailed rules of procedure for the processing, adjudication and implementation of claims falling under the KPA's mandate.

Financially 2006 has been a demanding year as considerable efforts have had to be invested by KPA management in sourcing the necessary funding for the process. This has involved meetings with all diplomatic representatives in Kosovo and hosting a Donor meeting. The Donor meeting which was held in November was chaired by the Chairperson of the KPA's Supervisory Board, the PDSRSG, and highlighted the mandate of the new agency and its importance for peace building and economic revitalization in Kosovo. To date approximately 7 million Euro has been pledged for the process. The estimated cost of the entire operation lies somewhere in the region of 15 million Euro for the predicted 11,000 claims.

The Kosovo Property Agency, which benefits from the experience and expertise of the HPD in the resolution of property disputes, has the potential to build on the achievements of the HPD, and achieve a fair and cost-effective resolution of property rights and rapidly deliver tangible results on the Kosovo Property Rights Standards – however only with the requisite level of funding made available.

CHAPTER 1

MECHANISMS TO RESOLVE PROPERTY DISPUTES: THE HOUSING AND PROPERTY DIRECTORATE AND THE KOSOVO PROPERTY AGENCY

1.1 Introduction

UNMIK's approach to dealing with property rights violations in Kosovo has been extensive. Within five months of entering Kosovo it established an independent body, the Housing and Property Directorate (the "HPD") to resolve claims over residential property. Subsequently in March 2006 a new institution, the Kosovo Property Agency (the "KPA") was created and mandated to resolve claims over immovable property, including land and commercial property. The establishment and mandate of these respective independent institutions are considered here.

1.2 The Housing and Property Directorate (HPD)

1.2.1 *Establishment and Mandate*

The HPD was established in November 1999 under UNMIK Regulation 1999/23 and was mandated to "...provide overall direction on property rights in Kosovo until the Special Representative of the Secretary-General determines that local government institutions are able to carry out the functions entrusted to the Directorate."³ Its mandate was primarily taken up with ensuring an effective resolution of residential property claims arising out of property rights violations that occurred during the preceding decade together with managing property placed under its temporary administration.

³ Section 1.1 of UNMIK Regulation 1999/23.

In relation to the resolution of property claims, the HPD was entrusted with responsibility for collecting, processing and referring claims for adjudication to its independent quasi judicial component, the Housing and Property Claims Commission (the “HPCC”). Section 1.2 of UNMIK Regulation 1999/23 set down three specific categories of claims which the HPD was competent to collect and process, as follows:

- “(a) Claims by natural persons whose ownership, possession or occupancy rights to residential real property have been revoked subsequent to 23 March 1989 on the basis of legislation which is discriminatory in its application or intent;*
- (b) Claims by natural persons who entered into informal transactions of residential real property on the basis of the free will of the parties subsequent to 23 March 1989;*
- (c) Claims by natural persons who were the owners, possessors or occupancy right holders of residential real property prior to 24 March 1999 and who do not now enjoy possession of the property, and where the property has not voluntarily been transferred.”*

The claims came to be termed in accordance with the provisions of the Regulation as category A, B and C claims. Category A claims addressed the discriminatory loss of occupancy rights to socially owned apartments that occurred as a result of the measures invoked by the authorities between 1989 and 1999. During this period many Kosovo Albanians on being dismissed from their positions of employment with Socially Owned Enterprises (“SOEs”) and Publicly Owned Enterprises (“POEs”) also lost their occupancy rights over properties which were linked to their employment. Category B claims sought to establish certainty of title for persons who had entered into informal transactions of residential property after 23 March 1989 and were unable to register their property rights as a consequence of discriminatory legislation, namely the Law on Changes and Supplements on the Limitation of Real Estate Transactions.⁴ Any person who acquired ownership of a property through an informal transaction was entitled to an order for the registration of his or her property right in

⁴ Official Gazette of the Socialist Republic of Serbia 22/91, 18 April 1991. In 1999 Council of Europe experts regarded this law as being clearly discriminatory and on 13 October 1999, UNMIK repealed the law through the promulgation of Regulation 1999/10.

the public record. Category C claims aimed at restoring possession of property to those who had been dispossessed due to circumstances surrounding the NATO air campaign and were unable to return, due to illegal occupation of their homes.

In addition to its claims processing function, the HPD was also entrusted with a number of other functions in the field of residential property rights as follows:-

- (a) *to conduct an inventory of abandoned private, state and socially owned housing;*
- (b) *to supervise the utilization or rental of such abandoned property on a temporary basis for humanitarian purposes; rental monies of abandoned private and socially owned property shall be recorded in a separate account in trust for the rightful owner, subject to deduction of relevant expenses;*
- (c) *to provide guidance to UNMIK, including CIVPOL and UNHCR, as well as KFOR on specific issues related to property rights; and*
- (d) *to conduct research leading to recommended policies and legislation concerning property rights.”⁵*

The HPD’s headquarters was located in Pristina⁶ and it had permanent regional offices throughout Kosovo and a representative office in Belgrade (Serbia proper) with a branch in Podgorica (Montenegro) and a small liaison office in Skopje (FYROM). Its working language was English, but public documents were also issued in Albanian and Serbian.

The HPD ceased to operate in March 2006 when it was subsumed into a new statutory agency, the KPA which was conferred with responsibility to complete the

⁵ See section 1.1 of UNMIK Regulation 1999/23.

⁶ The HPD/KPA’s Executive Office was located at No. 2 Goleska Street, Pristina and its file services, registry and case processing headquarters was located at No. 51 Vllaznim Bashkimi Street, Pristina. Since December 2006 the KPA’s Headquarters have been amalgamated under one roof and are located at Nazim Gafurri (former Miladin Popović) Street, Pristina. A full list of the addresses and contact details for HPD Headquarters’ and all its Regional Offices is to be found on the back-page of this report, or on its website at www.kpaonline.org.

implementation of the its residential properties mandate, and take over the management of its administrative properties portfolio.⁷

1.2.2 HPD-Caseload

The HPD commenced claim intake in Kosovo in late 2000 while claim intake in Serbia proper, FYROM and Montenegro got underway in 2002. At the close of claim intake on 1 July 2003 the HPD had received some 29,160 claims. Some 93% were category C claims, while only a little over 4% and 2% comprised category A and B claims respectively.

The chart below illustrates the geographical breakdown and number of claims received.

Region/ Category	Gjilan/ Gnjilane	Mitrovicë/a	Peja/ Pec	Prishtinë/ Priština	Prizren	Total	% total claims
A	112	203	97	698	102	1.212	4.2
B	45	65	57	579	20	767	2.6
C	3.617	3.542	7.975	8.293	3.7556	27.182	93.2
Total	3.774	3.810	8.129	9.570	3.877	29.160	100.0
% of total claims	12.9	13	27.9	32.9	13.3	100.0	

Claimed Properties

The adjudication and implementation of these claims are considered further on in this report.⁸

1.3 The Housing and Property Claims Commission (HPCC)

1.3.1 Jurisdiction and Composition

The HPCC is the independent organ of the HPD which was established under section 2 of UNMIK Regulation 1999/23. It was conferred with exclusive jurisdiction to

⁷ The background to this development is described at para. 1.4.2 of this Report.

⁸ See Chapters 2 and 3 of this Report respectively.

adjudicate and settle claims referred to it by the HPD, until “*the SRSG determines that local courts are able to carry out the mandate entrusted to the Commission.*”⁹

It is composed of a panel of two international and one national Commissioner who were appointed by the SRSG in 2000.¹⁰ The SRSG also designated one of the panel members as the chairperson. The members are all distinguished lawyers and have brought to the HPCC a wide variety of experience in different backgrounds, including the judiciary, the academic sphere, private legal practice and international human rights law.¹¹ Their appointments under UNMIK Regulation 1999/23 were for a one year period¹² but all three members were reappointed on an annual basis, and continue to be members of the HPCC up to the end of 2006.

The presence of a mix of two international and one national Commissioners on the panel was important from a number of perspectives. Firstly, the majority presence of the international members guaranteed objective and impartial decision making in line with international standards. Such guarantees proved vital to securing the support and confidence of the minority community in the process. Further, the fact that the national Commissioner was recruited from the majority population gave the process local ownership and acceptability, and made the decisions sustainable, particularly when it came to their enforcement. It also ensured that decision making was consistent with the relevant applicable domestic laws. This approach did however attract some criticism from representatives of the other ethnic communities who alleged that failure to appoint a member from the minority community resulted in the process not being sufficiently inclusive. It also fuelled some criticism and speculation about HPCC decisions dismissing minority claims.¹³

The seat of the HPCC is in Pristina but it was entitled to hold sessions elsewhere or to hold deliberations through electronic means where appropriate.¹⁴ It sits ordinarily six (6) times per year; though in 2006 it conducted its 34th through to its 40th sessions,

⁹ See section 2.5 of UNMIK Regulation 1999/23.

¹⁰ See section 2.2 of UNMIK Regulation 2000/60.

¹¹ An outline on each member is contained in the Appendices to this Report.

¹² See section 17.3 of UNMIK Regulation 2000/60.

¹³ In relation to category C claims.

¹⁴ See section 17.8 of UNMIK Regulation 2000/60. All live sessions were conducted at HPD Headquarters in Prishtinë/Priština.

altogether seven sessions. It is assisted in the performance of its judicial functions by a Registry. The official languages of the HPCC are Albanian, English and Serbian, but its working language is English with translation being provided as appropriate.¹⁵

In March 2006 notwithstanding the transformation of the HPD into the newly established KPA, the authority of the HPCC to adjudicate pending claims was preserved.¹⁶ The main change for the HPCC was that secretariat functions and services formerly provided to it by the HPD, became a responsibility of the KPA.¹⁷

1.4 THE KOSOVO PROPERTY AGENCY

1.4.1 Background and Establishment

As highlighted earlier, the HPD/HPCC process was mandated exclusively to deal with residential property issues. While tackling issues in the residential property sector as early as possible in the aftermath of the conflict was in itself a key component of peace building, no comparable initiatives were taken to address other urgent property rights challenges, such as disputes over land and commercial property. As a consequence of this, and due to the fact that the efficiency and capacity of the domestic courts was wrongly projected, disputes over land and commercial property remained unresolved some seven years later.¹⁸ This had implications for the returns process. Many refugees and IDPs would appear not to have taken repossession of their homes due to the fact that their income generating source, namely their land or commercial premises remained illegally occupied.

¹⁵ See section 17.15 of UNMIK Regulation 2000/60, and note that the Chairperson could permit any member or person appearing before it to speak in any other language.

¹⁶ See section 23 of UNMIK Regulation 2006/10, as amended by section 22 of UNMIK Regulation 2006/50.

¹⁷ Section 19 of UNMIK Regulation 2006/10, as amended section 17 of UNMIK Regulation 2006/50.

¹⁸ See the OSCE's Review of the Criminal Justice System entitled "*The Administration of Justice in the Municipal Courts*", March 2004 at p. 9; the Final Report prepared by ECO and submitted to the European Agency for Reconstruction (EAR) dated 13 December 2004 at p. 13 and p. 25; and the Report of the Secretary-General on the United Nations Interim Administration in Kosovo to the Security Council, dated 26 May 2005 (S205/335) at para. 67.

The 2005 Report of the UN Special Envoy on Standards (otherwise known as “the Kai Eide Report”) identified illegal occupation of agricultural and commercial property as one of the major factors hindering returns to Kosovo, and thus requiring urgent intervention. UNMIK responded to the findings of the Report in March 2006 by promulgating Regulation 2006/10 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property. The Regulation established an independent agency, known as the Kosovo Property Agency (the “KPA”) to resolve private immovable property claims arising out of the 1999 armed conflict, including disputes over agricultural and commercial property.

Pursuant to UNMIK Regulation 2006/10, as amended by 2006/50, the KPA functions independently of the Provisional Institutions of Self Government (the “PISG”) as an independent body pursuant to Chapter 11.2 of the Constitutional Framework, under the auspices of a Supervisory Board.

1.4.2 Transfer of HPD functions and ongoing authority of the HPCC

Under UNMIK Regulation 2006/10, as amended by 2006/50, the KPA was mandated to assume responsibility for the work of the HPD, namely the implementation of all residential property claims which were pending on 4 March 2006, and the management of its administrative properties portfolio. In exercising this aspect of its mandate, the KPA was vested with “*the rights, obligations, responsibilities and powers of the HPD*”.¹⁹ Further the HPD’s physical assets were vested in the KPA, and its personnel are now employed by the KPA in similar posts.²⁰

¹⁹ See section 19 of UNMIK Regulation 2006/10 as amended by section 17 of UNMIK Regulation 2006/50.

²⁰ Section 19 UNMIK Regulation 2006/10 prescribed that “*The Kosovo Property Agency shall exercise the powers of execution in relation to any decision or eviction order of the Housing and Property Claims Commission which on the date of the entry into force of the present Regulation may be executed, but has not been executed, by the Housing and Property Directorate. In exercising such powers of execution, the Kosovo Property Agency shall have the rights, obligations, responsibilities and powers that the Housing and Property HPD had before the entry into force of the present Regulation.*” Section 17 of UNMIK Regulation 2006/50 contained a similar provision prescribing as follows: “*The Kosovo Property Agency shall exercise the powers of execution in relation to any decision or eviction order of the Housing and Property Claims Commission which on the date of the entry into force of UNMIK Regulation No. 2006/10 may be executed, but has not been executed, by the Housing and Property Directorate. In exercising such powers of execution, the Kosovo Property*

In relation to the workload of the HPCC, section 22 of UNMIK Regulation 2006/50 preserved the authority of the HPCC to adjudicate pending residential property claims and requests for reconsideration of HPCC decisions filed pursuant to section 14 of UNMIK Regulation 2000/60.²¹ As highlighted earlier, the only change for the HPCC was that secretariat services were provided to it by the KPA from March 2006 onwards.

This approach to the establishment of the KPA effectively transformed the HPD, into the KPA. The swift transition ensures that the methodology and effective procedures formerly utilized by the HPD in the resolution of residential property claims will be applied to the processing of land and commercial property claims. It also ensures that these claims will be resolved in an expeditious and effective manner, and in accordance with procedures which guarantees impartiality and fair procedures.

1.4.3 Mandate and Composition of the KPA

The KPA is mandated to resolve claims resulting from the 1999 armed conflict in respect of private immovable property, including agricultural and commercial property in respect of:

- (i) ownership claims with respect to private immovable property, including agricultural and commercial property; and
- (ii) claims involving property use rights in respect of immovable property, including agricultural and commercial property.

The KPA is composed of three main bodies, namely a Supervisory Board, an Executive Secretariat and an autonomous Kosovo Property Claims Commission (“the KPCC”).

Agency shall have the rights, obligations, responsibilities and powers of that the Housing and Property HPD had before the entry into force of UNMIK Regulation No. 2006/10.”

²¹ Section 22 of UNMIK Regulation 2006/50 contained a similar provision.

The Supervisory Board

The Supervisory Board is mandated to supervise the work of the KPA and provide it with administrative oversight, overall direction and policy guidance. It is however expressly precluded from participating in the process by which the KPCC adjudicates and reaches decisions on claims.

The Board is composed of 5 members, appointed by the SRSG and two of these members are appointed on the nomination of the Prime Minister of the PISG.²² The Chairperson is designated by the SRSG from one of the three members not nominated by the Prime Minister. On 29 June 2006, the SRSG appointed the 5 members of the Board who were Mr. Steven Schook, the PDSRSG (member and Chairperson of the Board), Mr. David Blunt and Mr. Kirk McBride²³ (from the British and US Offices respectively, representatives of the Donor Community) and Mr. Ardian Gjini and Mr. Milorad Todorovic (representing the public interest). The inaugural meeting of the Board was held on 12 July 2006 and it meets on a quarterly basis. Two additional meetings were conducted during the fall of 2006. The meeting in November served as a platform to raise awareness about the KPA and to invite support for the process from other entities whose cooperation and support is crucial for the successful implementation of the KPA's mandate. The meeting was attended by the entire donor community in Kosovo, and other relevant stakeholders, including the law enforcement agencies – altogether some 26 participants.

The Executive Secretariat

The Executive Secretariat is responsible for receiving and registering claims and replies to claims, notifying parties and processing claims for the consideration of the Commission. Its duties and responsibilities together with rules of procedure will be set out in an Administrative Direction to be promulgated early in 2007 which will contain similar provisions as those which governed the HPD process as set down in UNMIK Regulation 2000/60.

²² See section 5 of UNMIK Regulation 2006/50.

²³ Mr. McBride ended his posting to Kosovo in September 2006 and was replaced by Mr. Thomas K. Yazdgerdi from the US Office in Pristina.

The Executive Secretariat of the KPA will undertake all the necessary actions to process claims and refer and present them to the Commission. It will operate on a similar basis to the HPD, providing secretariat functions to the KPCC. This includes the notification of claims to current occupants and interested parties, the verification of documents, the collection of evidence and conducting interviews with parties to the claim. Thereafter it will prepare written submissions on claims and present them for adjudication to the Commission.

The KPA process is largely administrative, but its procedures contain a few adversarial and judicial elements. Its procedures reflect common concepts and principles of fair procedures and due process, and have regard for generally accepted international standards.

After the first instance decision making process is complete before the Commission,²⁴ there is a right of appeal directly to the Supreme Court of Kosovo which will hear appeals in special panels of three judges, of which two will be international and one national.²⁵

Chapter V of UNMIK Regulation 2006/50 mandates the KPA to ensure effective implementation of final decisions on claims. This will be achieved through remedies such as placing property under KPA-administration, repossession, seizure of unlawful structures, auction, compensation and lease agreements, all of which will facilitate and ensure the return of properties to the lawful property right holder.

The Kosovo Property Claims Commission (KPCC)

The KPCC is conferred with jurisdiction to adjudicate claims referred to it by the Executive Secretariat. It is composed of two international and one national member

²⁴ Pursuant to UNMIK Regulation 2006/10 it was prescribed that decisions of the KPCC, known as "Conclusions" were to be referred to the competent court for confirmation or rejection. However, due to the capacity of the courts not meeting the pre-promulgation projections, and in order to ensure an expeditious resolution of claims, UNMIK Regulation 2006/50 suspended the application of Regulation 2006/10 and prescribes that decisions of the KPCC are final and binding, unless appealed to the Supreme Court of Kosovo.

²⁵ See section 12 of UNMIK Regulation 2006/50.

who are to be appointed by the SRSG in early 2007, and one of the international members will be designated as the chairperson. The local member will be appointed on the nomination of the President of the Supreme Court of Kosovo.

1.4.4 Claim Intake

Pursuant to UNMIK Regulation 2006/10, as amended by UNMIK Regulation 2006/50 the KPA is exclusively mandated to collect claims which fall under its subject matter jurisdiction. Cases falling within the jurisdiction of the KPA which were not commenced before the courts at the date of the promulgation of the Regulation are also required to be handed over to the KPA for resolution.

The KPA procedures require claimants to submit claims personally, or through family household members or authorized representatives by attending at any KPA office or mobile unit and filling out a claim form with the assistance of a KPA officer. It commenced claim intake in Kosovo on 5 April 2006 at its five regional offices located in Gjilan, Mitrovica (with sub-offices in the northern and southern parts of the city), Pec, Pristina (including its sub-office in Gračanica) and Prizren. Claim intake in Serbia proper commenced in July 2006 at its office in Belgrade and since August 2006 at offices in Kragujevac and Nis.²⁶ Claim intake in FYROM (Skopje office) and Montenegro (Podgorica office) commenced in September 2006. No deadline has yet been set for the close of claim intake.

At 31 December 2006 some 7,761 claims had been collected. Some 6,781 (87.4%) relate to land, while 484 (6.2%) relate to commercial properties and 496 (6.4%) relate to residential property. In almost 99% of the claims filed the claimants assert ownership rights over the claimed property.

The two charts below illustrate the number, nature and regional break down of claims filed.

²⁶ From the Kragujevac and Nis offices mobile teams will be deployed to other areas where the displaced population from Kosovo is residing.

Type of Property Rights asserted by Claimants at 31 Dec 2006

Region/Category	Gjilan/ Gnjilane	Mitrovicë/a	Peja/ Pec	Prishtinë/ Priština	Prizren	Total	% of Claims
Ownership	1,202	921	2,636	1,728	11,83	7,670	98.8
User Rights	9	20	17	27	18	91	1.2
Total	1,211	941	2,653	1,755	1,201	7,761	100
% of Claims	15.6	12.1	34.2	22.6	15.5	100	

Type of Property claimed

Region/ Nature of Property	Gjilan/ Gnjilane	Mitrovicë/a	Peja/ Pec	Prishtinë/ Priština	Prizren	Total	% of Claims
Residential	72	51	164	127	82	496	6.4
Commercial	55	112	110	151	56	484	6.2
Agricultural Land	1,084	778	2,379	1,477	1,063	6,781	87.4
Total	1,211	941	2,653	1,755	1,201	7,761	100
% of Claims	15.6	12.1	34.2	22.6	15.5	100	

CHAPTER 2

PROCESSING AND ADJUDICATION OF RESIDENTIAL PROPERTY CLAIMS FILED WITH HPD

2.1 Practice and Procedure

The HPD's role in the claims resolution process was to provide secretariat services to the HPCC. It was responsible for receiving, registering, processing and referring claims for adjudication to the HPCC. This involved investigating claims, notifying parties, verifying documents and drafting legal submissions and recommendations on all claims. The HPD did not have an independent decision-making authority and could not adjudicate claims.²⁷ It could however reject claims that fell outside the HPCC's jurisdiction and issue Orders in relation to uncontested claims to register ownership rights over property in the public property records.²⁸ It should be noted that similar obligations and responsibilities applied to the KPA from March 2006 onwards when it assumed responsibility for the HPD's functions.

To deal efficiently with the collection, processing and adjudication of claims, detailed procedures were enacted through the promulgation of a subsequent UNMIK Regulation in late 2000, namely Regulation 2000/60 on the Rules of Procedure and Evidence of the HPD/HPCC. This Regulation which was drafted on the basis of input and consensus from all stakeholders represented a milestone for property rights in Kosovo as it rendered the HPD operational, thereby permitting it to move forward with the implementation of its mandate which was of crucial importance for Kosovo. Chapter II of the Regulation set down the practice which governed the processing of claims and their referral to the HPCC for adjudication. Chapter III set down the rules

²⁷ Sections 1.2 of UNMIK Regulation 1999/23 and 10.4 of UNMIK Regulation 2000/60 imposed a statutory obligation on the HPD to refer all claims that could not be mediated to the HPCC for adjudication. The mediation role conferred on the HPD under section 1.2 of UNMIK Regulation 1999/23 was not utilized as parties to contested claims either opted to have their claims decided before the HPCC, or simply withdrew their claims.

²⁸ Section 11.1 of UNMIK Regulation 2000/60 permitted the HPD to issue orders for registration of property rights in uncontested category B cases. Section 10.3 of the Regulation set down the HPD's jurisdiction to reject claims, but note that where a claimant disputed the HPD's rejection, the claim had to be referred to the HPCC for adjudication.

of procedure of the HPCC in relation to evidence, hearings and decision making.²⁹ The Regulation incorporated the core concepts of due process and the principles akin to them such as fairness of procedures. This was in line with the requirements of section 2.6 of UNMIK Regulation 1999/23 which expressly required that the HPCC's rules of evidence and procedure guarantee fair and impartial proceedings in accordance with internationally recognized human rights standards.

Decisions of the HPCC are binding and enforceable and are not subject to review by any other judicial or administrative authority in Kosovo³⁰ subject only to section 14 of UNMIK Regulation 2000/60 which provides for a review procedure, known as "a reconsideration" of decisions which may be requested by the parties to the claim or interested third parties.

The HPCC could refer specific issues arising in connection with a claim, which were not within its jurisdiction, to a competent local court or administrative body or tribunal.³¹

At its October 2006 Session the HPCC completed the adjudication of all 29,160 claims at first instance. Binding decisions have been issued in respect of all claims and have been served on the parties to the claim. Some 68% of claims were decided within 3 years of being filed.

2.1.1 Reconsideration Proceedings

Where a claim was decided by the HPCC, section 14 of UNMIK Regulation 2000/60 afforded a party to the claim or any interested person an opportunity to request reconsideration of the decision. Such a request has to be submitted within thirty (30) days of learning of the decision, but no later than one (1) year from the date of the decision. Requests are required to be grounded on the basis that legally relevant evidence was not considered by the HPCC in initially deciding the claim, or on the

²⁹ UNMIK Regulation 2000/60 was promulgated on 31 October 2000.

³⁰ See section 2.7 of UNMIK Regulation 1999/23.

³¹ See section 22.1 of UNMIK Regulation 2000/60. The HPCC referred claims to court under section 22.1 in some approx. 925 cases.

basis that there has been a material error in the application of the provisions of the Regulation to the resolution of the claim.

By December 2006 some 4,253 requests for reconsideration of HPCC decisions had been submitted, representing 14.6% of decisions made. As at the end of 2006, the HPCC had adjudicated a total of 3,918 requests (some 2,441 were decided during 2006) and the remaining 335 requests will be decided in the HPCC's 2007 sessions. The HPCC has during 2006 granted 14% of the requests and 86% have been rejected. In the vast majority of cases the requesting party did not present legally relevant evidence that was not considered by the HPCC when it initially decided the claim, or adduce evidence of a material error in the application of the Regulation. The majority of reconsideration requests were based on the requesting parties' own personal circumstances, or on other grounds which were deemed to be irrelevant to a determination of the property dispute, such as on humanitarian grounds where the requesting party pleaded that he or she had no access to alternative accommodation. The limited number of requests coupled with the low number of substantive challenges to HPCC decisions evidences a high degree of satisfaction and acceptance of decisions. This would not have been the case if the parties had reason to doubt the legal basis for the decision or the fairness of procedures in relation to the decision making process itself.

HPCC decisions 2006

Commission session	Number of reconsideration requests	Number of first instance decisions
34 th	423	75
35 th	155	66
36 th	677	16
37 th	364	18
38 th	358	4
39 th	311	0
40 th	153	0
<i>Total</i>	<i>2,441</i>	<i>179</i>

CHAPTER 3

IMPLEMENTATION OF HPCC DECISIONS

3.1 Introduction

In granting a claim it was open to the HPCC to order the registration of a property right in the public property records or compensation or repossession depending on the category of claim and the legal issues that arose. It was well recognised by the framers of the HPD/HPCC process that a decision on its own was insufficient in a post conflict society to restore possession of property to a claimant or to ensure registration of property rights or payment of compensation. Thus, in order to ensure the implementation of decisions the HPD, and today the KPA which assumed responsibility for the implementation of decisions on residential property claims as and from March 2006,³² is conferred with the power to ensure compliance with legally binding HPCC decisions. It can enforce decisions through issuing and executing eviction orders where illegal occupation of a property prevented a claimant from taking repossession of the property. It is mandated to establish a Trust Fund to ensure the payment of compensation awarded by the HPCC to claimants and to enter into any other arrangements necessary for the successful implementation of HPCC decisions.

The process presents claimants who receive HPCC decisions recognising their property rights and ordering repossession with a number of options for the implementation of their decision, which included immediate repossession of the property or placing it under the KPA's temporary administration.

The implementation process is considered here from the perspective of how it facilitated the return of properties to lawful property right holders, or sought to vindicate property rights where restitution in kind was no longer possible or feasible.

³² Considered at para. 1.4.2 of this Report.

3.2 Registration of property rights

Successful claimants who received decisions ordering their ownership of the property to be registered in the appropriate public record were facilitated in registering their property right.³³ In this regard, the HPD reached a joint understanding with the Kosovo Cadastre Agency (the “KCA”) which is responsible for registering ownership in the public property records. The KCA undertook to register all HPCC decisions on receiving a certified copy of the HPD/HPCC Order, together with a written request for registration from both the HPD and the claimant. Prior to March 2006 when the KPA took over responsibility for the implementation of pending decisions, the HPD had furnished all claimants with the HPD/HPCC Order in their case and they were also informed about the requirement to submit a written request to the KCA.

3.3 Taking repossession or placing property under administration

In cases where restitution in kind was ordered by the HPCC claimants were entitled to choose between three possible options for implementation of their HPCC decision. They could request repossession of the claimed property forthwith. Alternatively, and in recognition of the fact that not all successful claimants wished to return to their properties at the time they received their decision, claimants could opt to place their property under the HPD’s temporary administration.³⁴ The third option was closure of the claims file which was mainly chosen by claimants who had found their own solutions and no longer required any assistance from the HPD/KPA in relation to their property, e.g. where the claimants have sold or otherwise voluntarily disposed of the property.³⁵

³³ This matter fell within the remit of the Kosovo Cadastre Agency (KCA) pursuant to section 3.7 of UNMIK Regulation 2000/22. The joint understanding was reached between the KCA and the HPD in May 2005.

³⁴ Section 1.1(b) of UNMIK Regulation 1999/23 permitted the HPD to utilize property under its administration on a temporary basis for humanitarian housing purposes. As to administration generally, see Chapter 4 of this Annual Report.

³⁵ On receipt of a request for closure the Registrar drafted a Memo which stated that the claimant had requested closure, and both the request and the Memo were sent together with the claims file for archiving.

Where repossession had been requested, the HPD/KPA made arrangements for the handover of the keys to the claimant.

On receiving a request from a claimant for repossession or administration, officers from the HPD's/KPA's Regional Office visited the property in order to ascertain its physical condition, as uninhabitable or destroyed properties could not be placed under administration and repossession was not an option for claimants in such cases.

In cases where the claimant requested administration and the property was habitable and unoccupied, the property was sealed and was officially placed under administration.

Where a property was found to be illegally occupied, a copy of the HPCC decision was served on the occupant, ordering him or her to vacate the property within thirty (30) days or failing this that he or she would be evicted.³⁶ In order to ensure fairness of procedures, it was open to an occupant in such cases to request humanitarian housing, or to file a request for reconsideration of the decision. The execution of a pending eviction order was automatically stayed from the time of lodging a reconsideration request with the HPD/KPA until the HPCC had decided on the request, unless the HPCC decided otherwise.³⁷ Requests for humanitarian housing were required to be filed within fourteen (14) days of receiving the decision.³⁸ In cases where the claimant had requested administration and the HPD/KPA found that the occupant's request for housing assistance was well founded,³⁹ it could on taking the property under its administration, grant the occupant a temporary permit to reside there pursuant to section 12 of UNMIK Regulation 2000/60. Where the claimant requested repossession, the provision of humanitarian housing for the occupant was subject to the availability of suitable alternative properties and eligibility criteria. The HPD/KPA could, at its discretion, delay the execution of an eviction order for up to 6

³⁶ See section 13.2 of UNMIK Regulation 2000/60. Where the occupant sought to evade service of the decision, the process server noted this fact on a receipt which he or she signed and placed on the claim file.

³⁷ See section 14.3 of UNMIK Regulation 2000/60. In its jurisprudence up to the end of 2006, the HPCC did not decide otherwise.

³⁸ The fourteen (14) day period allowed for the processing of the application before the expiry of the reconsideration timeline of thirty (30) days.

³⁹ This was in line with its internal criteria for granting housing assistance.

months, pending a resolution of the housing needs of the occupant, or under such circumstances as it deemed fit.⁴⁰ In such cases the HPD/KPA took all necessary steps and endeavored to source alternative humanitarian housing for all meritorious housing applications.

3.4 Execution of Eviction Orders

Where an occupant failed to vacate the property and did not request humanitarian housing or reconsideration of the HPCC decision, the eviction Order was enforced and a warrant authorizing its execution was issued.⁴¹ Evictions were carried out by HPD/KPA officers with the support of the law enforcement authorities.⁴²

An eviction order was executable against any party occupying the property at the time of the eviction.⁴³ The responsible HPD/KPA officers were required to be in possession of the signed eviction warrant authorizing the execution of the eviction order. Pursuant to section 13.5 of UNMIK Regulation 2000/60, during the execution of an eviction order any party who failed to comply with an instruction issued by the responsible officer requesting him or her to leave the premises could be removed by the law enforcement authorities.⁴⁴ Following an eviction, the responsible HPD/KPA officers sealed the property⁴⁵ and arrangements were made to place the property under administration or secure repossession in accordance with the claimant's request for implementation of the decision.

In cases where the claimant requested repossession, the HPD/KPA made arrangements with the claimant for the collection of the keys to the property.⁴⁶ Due to limited resources, a claimant was entitled to one eviction only from the HPD/KPA.

⁴⁰ See section 13.2 of UNMIK Regulation 2000/60.

⁴¹ A warrant was issued pursuant to section 13.2 of UNMIK Regulation 2000/60.

⁴² See section 13.4 of UNMIK Regulation 2000/60. Initially support was provided by international police officers (UNMIK Police) and the NATO led military presence (KFOR), but this responsibility was gradually transferred to the local Kosovo Police Service under the direction of UNMIK police.

⁴³ See section 13.3 of UNMIK Regulation 2000/60.

⁴⁴ See section 13.5 of UNMIK Regulation 2000/60.

⁴⁵ The Enforcement Unit took photographs of the claimed property, recorded its grid number using GPS technology and prepared a report setting out the condition of the property.

⁴⁶ Section 13.6 of UNMIK Regulation 2000/60.

Once a claimant made arrangements to collect the keys and took repossession of the claimed property, jurisdiction over the property automatically reverted back to the local authorities. Where a need for enforcement services arose subsequently, this was referred to the local authorities, especially the police who were authorized by statute to independently enforce HPCC decisions.⁴⁷ However where somebody re-occupied the claimed property illegally between the date of the initial eviction and the date arranged with the claimant for repossession, the HPD/KPA undertook responsibility to ensure the subsequent eviction(s) of the illegal occupant from the property, for the purpose of returning an empty property to the property right holder. A similar procedure applied in relation to evictions carried out in favour of claimants who originally had placed property under HPD/KPA-administration and subsequently requested repossession of the property.⁴⁸

3.5 Compensation

The HPCC could award compensation to claimants in a limited number of cases. This arose only where it was determined that a category A claimant had an occupancy right over a socially owned apartment which had been cancelled as a result of discrimination, and a category C claimant (or a Respondent to a category A claim), had an ownership right over the property (having subsequently purchased it from the allocation right holder under the Law on Housing). In order to deal with the competing claims over the property, section 4 of UNMIK Regulation 2000/60 prescribed a formula for determining the property rights of the parties. It prescribed that the A claimant with the occupancy right was to be awarded restitution in kind and be granted ownership of the property upon payment of a sum to be determined by the HPD,⁴⁹ and that the C claimant or Respondent was to receive monetary compensation for their loss of ownership right over the property. The only exception occurred in cases where it was not possible to award restitution in kind to an A claimant because there had been a valid sale of the property to a third party and in such cases the A

⁴⁷ See section 13.6 of UNMIK Regulation 2000/60 which prescribes that any person who, without lawful excuse, enters a property by breaking a seal may be subjected to removal from the property by the law enforcement authorities.

⁴⁸ See section 12.7 of UNMIK Regulation 2000/60.

⁴⁹ Essentially this involved the A claimant who had an occupancy right purchasing the ownership right.

claimant was issued with a certificate entitling him or her to compensation for loss of occupancy right.

Where the A claimant with the occupancy right did not wish to purchase the ownership right and pay the sum determined by the HPD, the C claimant or respondent was entitled to have his or her ownership over the property confirmed and the A claimant with the occupancy right was to be issued with a certificate entitling him or her to compensation for their loss of occupancy right.

In determining the amount of compensation to be paid to eligible category C claimants in cases where the A claimant was awarded restitution in kind, the HPD was obliged under section 4 to establish formulae and a method of calculation for such awards. It was also required to establish and administer a trust fund to implement the compensation scheme. The HPD and today the KPA has given special attention to putting in place legislation and procedures to implement this compensation scheme. Already in August 2005 the HPD drafted the necessary legislation to implement the scheme. Approval for the implementation of the scheme came with the promulgation of UNMIK Regulation 2006/50 on the Resolution of Claims relating to Private Immovable Property, including Agricultural and Commercial Property in October 2006 which was required to be carried out under the auspices of the KPA. Section 19 of the Regulation prescribes that the scheme shall be implemented “*in accordance with criteria and procedures adopted by the Kosovo Property Agency for the calculation of the amounts referred to in Section 4 of UNMIK Regulation 2000/60.*” Some 258 claims are pending implementation under section 4 of UNMIK Regulation 2000/60.

3.6 Destroyed Property Cases

By the end of 2006 some 10,646 claimed properties had been confirmed destroyed by the HPCC. It is well recognized that the destruction of property should not disentitle refugees or IDPs from seeking or obtaining monetary compensation for their loss of property right and the restoration of the land parcel on which their home once stood.

However, the HPCC process was not conferred with jurisdiction to deal with claims for monetary compensation for damage or destruction to property. Section 2.6 of UNMIK Regulation 2000/60 expressly precluded the HPCC from receiving “*claims for compensation for damage to or destruction of property*”.

Claimant in such cases who proved compliance with the requirements for an order for repossession at the time of the destruction of the property, were issued with a declaratory order confirming their property right as at the time of its destruction. A Declaratory Order could be used in court proceedings to contest any subsequent illegal occupation of the land parcel on which the residential property stood, or as evidence of the property right where the claimant sought to benefit from any future reconstruction project or compensation scheme. However, this limitation of jurisdiction resulted in over one third of claimants who filed claims with the HPD not receiving compensation in lieu of restoration of their property right, where their property was found to be destroyed. Regrettably reconstruction projects have not been undertaken on a scale necessary to provide for the rebuilding of these properties.

3.7 Statistics on Implementation

Some 28,439 residential property claims have been successfully implemented (97.5%), with some 5,330 claims having been implemented during 2006. Only 721 claims are pending implementation (2.5%). Some 4,615 claimants opted for repossession of their property while 3,425 requested the HPD to place their property under its administration

CLAIMS IMPLEMENTED DURING 2006

Area	Total	All Claims					A/C - Claims				B-Claims
		withdr.	Rej. HPD	Dismissed HPCC		Closed Claimant Request	Dest. Property	Reposs.	Under Admin	w/o Phy. Imp.	Granted Ownership
				No Juris.	No merrits						
Kosovo Wide	5,330	112	0	41	468	362	987	2,250	673	437	0
% of filed claims	18.3	0.4	0	0.1	1.6	1.2	3.4	7.7	2.3	1.5	0
% of implemented	19.3	0.4	0	0.1	1.7	1.3	3.6	8.2	2.5	1.6	0

The chart below presents a breakdown on the overall status of the implementation process at the end of 2006

TOTAL IMPLEMENTED CLAIMS

31 DECEMBER 2006

Area	Total	All Claims					A/C - Claims				B-Claims
		withdr.	Rej. HPD	Dismissed HPCC		Closed Claimant Request	Dest. Property	Reposs.	Under Admin	w/o Phy. Imp.	Granted Ownership
				No Juris.	No merrits						
Kosovo Wide	28,439	2,187	57	155	2,784	2,175	10,403	4,615	3,425	2,327	311
% of filed claims	97.5	7.5	0.2	0.5	9.5	7.5	35.7	15.8	11.7	8	1.1
% of implemented	100	7.7	0.2	0.5	9.8	7.6	36.6	16.2	12	8.2	1.1
MITROVICA	3,690	132	5	17	268	235	1,317	297	1,112	294	13
GNJILANE	3,689	339	1	39	325	209	1,622	505	277	365	7
PEC	8,041	264	3	15	244	295	4,453	1,057	1,275	416	19
PRISTINA	9,207	1,246	48	81	1,744	1,091	1,705	1,757	454	813	268
PRIZREN	3,812	206	0	3	203	345	1,306	999	307	439	4

CHAPTER 4

PROPERTIES UNDER ADMINISTRATION AND THE RENTAL SCHEME

4.1 Introduction

UNMIK Regulations 1999/23 and 2000/60 authorized the HPD to place property under its temporary administration and effectively care-take it for dispossessed property right holders in certain limited situations. In March 2006 the KPA in assuming responsibility for HPD operations took over responsibility for managing properties already under HPD administration, and for the ongoing implementation of the scheme.⁵⁰

Section 1.1(b) of UNMIK Regulation 1999/23 authorized the administration of abandoned housing for the purposes of providing for the housing needs of displaced persons and refugees. Further, section 12 of UNMIK Regulation 2000/60 authorized the administration of residential property in the following circumstances:

- (i) By agreement of the parties in settlement of a claim;
- (ii) On the request of the claimant, following a decision by the HPCC confirming the property right of the claimant;
- (iii) Following the eviction of the current occupant, if the claimants failed to repossess the property within 14 days of being notified of the execution of the eviction;
- (iv) Where no claim had been submitted for the property, and the property was either vacant, or the current occupant of the property did not assert any property right to the property; or
- (v) Where no claim had been submitted for the property, on the request of the owner or occupancy right holder of the property.

⁵⁰ As to the background to the KPA takeover of HPD responsibilities see para. 1.4.2 of this Report.

Where a property is placed under administration, the KPA is authorized to utilize it for the purposes of providing for the housing needs of displaced persons and refugees. It issues temporary permits to applicants for humanitarian housing in accordance with its internal allocation criteria and on conducting an assessment of the needs of the applicant.

As at 31 December 2006 there were a total of 5,257 properties under administration. Some 3,412 were placed under administration on the basis of requests from successful claimants while 1,845 were abandoned and were taken *ex officio* under administration.

The mandate to utilize property under administration on a temporary basis for humanitarian purposes has been over the years confused with or interpreted as a mandate to provide for and resolve long-term humanitarian housing for the disadvantaged in Kosovo. This is not the position, as permits issued to persons authorizing them to occupy property under administration were granted only on a temporary basis. Further, the statutory obligation to provide for and address social housing issues rests with the Provisional Institutions of Self Government (the "PISG") and in particular the Municipalities. This responsibility was transferred to them from UNMIK already in August 2000 pursuant to section 1.3(k) of UNMIK Regulation 2000/45.

4.2 The Rental Scheme

Section 1.1(b) of UNMIK Regulation 1999/23 prescribed for a rental scheme to be put in place for properties under administration. Rental money from property placed under administration is required to be lodged in a separate account on trust for the rightful owner, subject to a deduction of relevant expenses. Such a rental scheme was proposed throughout the HPD's years of operations and proposals on the design of such a scheme were put forward. However due to the politically sensitive nature of this matter the scheme only received the approval of the SRSG in April 2006, subsequent to the HPD having been subsumed into the KPA. The PISG expressly concurred to the implementation of the rental scheme in August 2006.

The scheme became operational in October 2006. The KPA enters into a rent agreement with the temporary permit holder, the tenant, and collects rent on a monthly basis. Where the rent is not paid the KPA can evict the occupant. The KPA takes a one time deposit from the tenant on signing a Rental Agreement. The deposit covers potential unpaid rent or damages to the property should the tenant be held responsible for such damage. The remaining portion of the deposit is returned to the tenant when the agreement ends and after the property is inspected. The rent rate is fixed by the KPA on the basis of the current value of the property as stipulated by the municipality property tax and is therefore non negotiable. The physical depreciation of the property and its condition is also taken into account in fixing rent.

The scheme serves to provide legal and physical protection for abandoned residential property, and ensures a minimum income source from the property for displaced property right holders, who otherwise might decide to sell their homes. It is also envisaged that it will cater for the temporary accommodation requirements of voluntary spontaneous returnees and for rejected asylum seekers, forced by host nations to return to Kosovo.

To date some 1,254 property right holders have opted to participate in the KPA's rental scheme. Some 38 rental agreements have been signed and the total rental money collected as at December 2006 was Euro 19,981.80.

CHAPTER 5

PERSONNEL AND CAPACITY BUILDING

At the end of 2006 some 248 personnel were employed with the KPA. The majority of these staff members were already employed with the HPD and automatically transferred into similar positions in the KPA in March 2006 when the HPD was subsumed into the KPA.⁵¹ A recruitment drive was launched in April 2006 in order to hire additional staff and to nationalize management positions. Further, additional staff were also required to expedite the implementation of the KPA's mandate, in particular to collect and notify claims, and work on the provision of essential IT services and a public information campaign.

Personnel are deployed in eleven offices, additional sub-offices and mobile teams throughout Kosovo, Serbia proper, Montenegro and FYROM.

More than 90% of the personnel are national staff – the international component are present mainly in an advisory capacity to provide program management, oversight and guidance and where necessary to protect national staff by forming a shield against external pressure. This situation has been achieved through ongoing capacity building efforts throughout its years of operations which were specifically designed to build and enhance the capacity of national staff. All staff were afforded equal access to training and opportunities for personal development from those engaged in administration and management to lawyers assigned to the case processing. Personnel were entrusted with responsibilities and supported in their roles through monitoring, regular performance appraisals and advice. The capacity of staff was built through permitting them to deal with complex issues and conducting meetings between national and international staff which were used for exchanging information, coming to common decisions and devising an approach to deal with complex issues arising in relation to both claims and programme issues.

Capacity was also built through training whereby the HPD/KPA employed the services of a local University to provide lectures to its management personnel in

⁵¹ Considered on para. 1.4.2 of this Report.

relation to a wide range of management issues. An annual retreat was organized for key staff members focusing on the nationalization of KPA supervisory functions.

Success in building capacity has allowed the KPA to continue the nationalization of key management positions, and at December 2006 some 14 out of 21 units within KPA (66,7%) were headed by local staff. Six units (28.5%) were headed by women.

In 2006, a total of Euro 3,085,024 million was expended on salaries.

Personnel expenditures 2006 (consolidated figures for HPD and KPA):

<i>KCB-staff</i>	EUR	148,435
<u><i>UNOPS-staff</i></u>		
Local staff	EUR	1,315,713
International staff	EUR	968,871
UNMIK secondments	EUR	358,255
Norway secondments	EUR	293,750
Total staff expenditures:	EUR	3,085,024

CHAPTER 6

OUTREACH ACTIVITIES & DISSEMINATION OF PUBLIC INFORMATION

The KPA throughout 2006 continued the efforts of the HPD in reaching out to the public. It undertook several initiatives to make itself more accessible to the parties to the claims, NGOs, national and international organizations and the public at large.

It maintained the services of its Call Centre and a dedicated information telephone line so that the parties to residential property claims could be informed promptly on the up to date status of their claim and arrangements could be made for the expeditious service and implementation of HPCC decisions. It also served to provide information to claimants who sought information about the procedure for filing claims for land and commercial property under the new KPA mandate.

The Agency maintained two websites (www.hpdkosovo.org for HPD-claims and www.kpaonline.org for KPA-claims) to ensure the provision of a wide range of information and statistics on its activities and the implementation of its mandate. This also included the provision of a search engine whereby HPD-claimants could ascertain the up to date status of their claim or download the decision in relation to their claim.

At the beginning of 2006 some 1,541 HPD-claimants could not be contacted as they had relocated without having furnished the HPD with up to date contact details. As a result their claims could not be resolved as information necessary for processing or implementing their claim could not be obtained from them. In order to address this situation the HPD issued a number of public announcements in early 2006, through Pristina and Belgrade media channels, its website and through NGOs and IGOs working with IDPs requesting missing claimants to make contact with the HPD. At the end of 2006 there were still some 1,159 missing claimants. These are believed to be persons who may have voluntarily disposed of their properties and therefore have no further interest in the legal proceedings filed with the HPD or its implementation services (taking repossession of their property or placing it under administration).

The HPD and now the KPA lobbied actively and advocated strongly throughout 2006 for support from the local authorities for the implementation of its mandate. It was highlighted that a necessary prerequisite to achieving a rapid completion of the implementation of its mandate was a showing of public support for the process from national and international leaders and authorities.

In an effort to ensure the provision of information to national and international institutions and authorities the HPD/KPA met regularly with other actors in the property rights field in order to increase awareness of its work and its relevance to peace building, economic development and the rule of law. It also met regularly with officials from the PISG and the relevant law enforcement authorities (UNMIK Police, the Kosovo Police Service and KFOR) in order to review the requisite level of support for the implementation of eviction orders.

In order to reach out to the minority community from which some 93.4% of the total number of HPD-residential property claims were filed, the HPD/KPA met with senior management of the Ministry of Community and Returns on a regular basis. Its efforts also included entities located in Belgrade where representatives from the HPD/KPA met with representatives from various Government institutions, NGOs, donors and international organizations. Further, officials from the HPD/KPA regularly attended and participated in meetings and workshops in Kosovo and Serbia proper which were hosted by organizations and NGOs involved in issues relevant to property rights and the return process.

The HPD/KPA is represented and reported on a regular basis to the Property Rights Standard Working Group co-chaired by the PISG and OSCE which is mandated to monitor the implementation of the standards and benchmarks on property rights in Kosovo.

Further, a key means of achieving the mandate of the KPA has been sharing expertise and collaborating with other stakeholders in the field of property rights. The KPA was very active over the past year in intensifying cooperation and dialogue with several international and national institutions in Kosovo such as UNDP, UNMIK's Office of

Communities and Return, UNHCR, the Danish Refugee Council, the Norwegian Refugee Council, the World Bank, the OSCE and the EU. The HPD/KPA also worked closely with UNDP in relation to the provision of information relating to HPCC decisions on destroyed properties for the purposes of facilitating UNDP in implementing reconstruction projects throughout Kosovo.

The KPA, as the HPD previously, was invited to attend an international conference on property dispute resolution in post-conflict environments which was held in Thailand in August 2006. The Conference was organized by the Centre for Housing Rights and Evictions (COHRE) and provided a platform for the participants to share their expertise in the field of property dispute resolution.

In order to highlight the nature of its work and the transformation of the HPD into the KPA numerous information bulletins and messages were distributed throughout 2006 throughout Kosovo, Serbia proper, Montenegro and FYROM. Recipients included national and international organizations, governmental entities, diplomatic liaison offices, international and national NGOs, IDP organizations, judges, lawyers, prosecutors, local and international media, educational institution and other interested bodies.

Throughout the year, the KPA maintained a strong media presence. Representatives from the KPA conducted over forty (40) newspaper, radio and television interviews and press conferences on property related issues. The HPD also provides media with regular and up to date information and statistics on its activities and policies through its Information Unit.

KPA - Public Information Campaign

The KPA's target group of claimants is estimated by an independent EAR-commissioned consultancy report of 2004 to lie somewhere in the region of 11,000 stemming from the 1999-conflict in Kosovo. A cross boundary information campaign was launched in the fall of 2006 to inform the public about the KPA process and the

possibility to file claims. The campaign, which will continue throughout February and March 2007, is being organized through a series of media releases, online information (www.kpaonline.org),⁵² newspaper advertisements, billboards, TV and radio spots and debates. It will also involve interviews with Media and key entities in the field of property right, town hall meetings, communications with associations and NGO's working with IDP's and refugees all of which are designed to promote public awareness of the Agency and its mandate.⁵³ The campaign will inform the public and all key actors in the property rights field about the KPA process and on how and where to file claims.

⁵² The KPA's website was launched in April 2006 at www.kpaonline.org and provides up to date statistics on claim intake and the KPA process and procedures.

⁵³ This will include profiling the KPA process in Germany, Slovenia, Switzerland, Austria and other countries where significant numbers of the displaced population reside.

CHAPTER 7

FUNDING

7.1 The HPD

The work of the HPD was enabled and sustained through the continued support of its donors, mainly direct funding from individual governments which constituted 60% of total contributions. UNMIK and the Kosovo Consolidated Budget (KCB) covered 12% and 28% of the annual budget, respectively.

Total donations to HPD:

Donor/year		2000	2001	2002	2003	2004	2005	2006	Total	% of total
								(6 months)	(US\$)	
1. UNMIK	KCB	745,000	490,000	770,000	1,235,000	1,340,000	1,200,000	550,000	6,330,000	31.2
	Secondment	0	0	54,000	550,000	465,000	465,000	300,000	1,834,000	
2. Norway	Grants	185,000	0	310,000	1,170,000	240,000	660,000	0	2,565,000	14.5
	Secondment	0	0	130,000	510,000	410,000	41,000	150,000	1,241,000	
3. Switzerland		0	500,000	1,800,000	400,000	180,000	500,000	0	3,380,000	12.9
4. EAR		0	0	1,835,000	0	650,000	490,000	0	2,975,000	11.4
5. Netherlands		0	0	0	1,200,000	230,000	1,230,000	0	2,660,000	10.2
6. USA		0	0	230,000	0	1,000,000	500,000	0	1,730,000	6.6
7. Canada		880,000	320,000	377,000	0	0	0	0	1,577,000	6.0
9. Finland		0	860,000	0	0	0	0	0	860,000	3.3
9. Germany		215,000	215,000	0	0	0	200,000	0	630,000	2.4
10. Ireland		162,000	255,000	0	0	0	0	0	417,000	1.6
TOTAL		2,187,000	2,640,000	5,506,000	5,065,000	4,515,000	5,286,000	1,000,000	26,199,000	100
% of total		8.3	10.1	21.0	19.3	17.2	20.2	3.8	100	

From its inception in 1999 to December 2006 the accumulated cost of the HPD-operation is calculated at some US\$ 26million. This equates with a very economical US\$898 per each fully processed claim, to include claim collection, processing, adjudication, reconsideration and implementation, together with overall institutional planning, the administered property scheme and policy and advice activities.

The cost efficiency of the HPD operation became evident when it was compared to the cost of procuring similar legal services and resolving claims before the Kosovo courts. The scale of fees for legal services and court appearances are set down in a

tariff scheme on Remuneration and Compensation of expenses of lawyers issued by the Executive Board of the Kosovo Chamber of Advocates. The tariff scheme sets the rate for the compilation of submissions in civil proceedings at US\$ 280 to 370 (tariff no. 7). The cost of a court session is US\$ 96, plus 30% (US\$ 29) per hour. Based on this scale of fees, the US\$898, which covered the cost of processing and fully resolving a HPD claim, would only have covered the filing of a claim with the court and less than 15 hours of additional work, court fees excluded. This time would not have been sufficient to resolve a residential property claim.

7.2 The KPA

Throughout 2006 the KPA developed detailed proposals for 2007-2009 which envisage steady and effective implementation of its mandate. Estimated cost projections for the KPA activities are as follows (amounts in €):

Claim Intake		350,000
Public Information Campaign		
	Domestic	650,000
	International	<u>350,000</u>
		1,000,000
Vehicles		150,000
Equipment/Communications/IT		250,000
Operations		6,000,000
Personnel		7,000,000
	Total	<u>14,750,000</u>

At the end of 2006 the KPA had received the following commitments from donors for the process (amounts in €):

Kosovo Consolidated Budget (limited to expenditure in Kosovo only – 3 yrs) approx.	3,000,000
European Agency for Reconstruction (limited to expenditure in Kosovo and for personnel one year only)	3,000,000
Switzerland (over 3 years 2006-2008) ⁵⁴	1,000,000
UNMIK (1 year in-kind donation 2 international professionals and 6 UNVs)	660,000
Great Britain (one year)	500,000
US	270,000
Norway (in-kind donation 3 professionals for one year)	250,000

Total	€8,680,000
	Deficit €6,070,000

In November 2006 the KPA, in consultation with the PDSRSG, as the Chairman of the Supervisory Board, organized a public Donor meeting to inform the donor community about the mandate and status of the KPA. Participants at the Conference were provided with information packs detailing the action plan for implementation of the KPA's mandate; its relevance to peace building and economic rebirth in Kosovo, together with the estimated cost of the entire operation. Relevant information on production goals was also provided together with a firm commitment to substantive delivery.

⁵⁴ €300,000 is pending parliamentary approval of budget for 2008.

CHAPTER 8

KEY EVENTS DURING 2006

- In March 2006 UNMIK promulgated Regulation 2006/10 on the Resolution of Claims relating to Private Property, including Agricultural and Commercial Property, which transformed the HPD into a new Agency, the KPA and mandated it to resolve claims over land and commercial property in addition to its existing residential property mandate. The HPD which was subsumed into the KPA ceased to exist.

- In April 2006 Mr. Jean Dussourd, the former Head of UNMIK's Pillar I, Police and Justice officially launched KPA claim intake operations at a public meeting in Mitrovica.

- In April 2006 the Director of the KPA met with the newly appointed Prime Minister of the PISG, Mr. Agim Ceku, in order to apprise him of the mandate and functions of the newly established KPA. Mr. Ceku acknowledged the significant contribution made by the former HPD process to achieving property rights standards and pledged his full support and that of the Government of Kosovo for the KPA process.

- In April 2006 the SRSG approved the implementation of a rental scheme for properties under HPD/KPA administration, which was subsequently endorsed by PISG in August.

- In May the Government of Norway confirmed its support by extending existing secondment arrangements for three international lawyers throughout 2006.

- In July 2006 as part of ongoing efforts to ensure the smooth and effective implementation of the KPA's mandate, UNMIK and UNOPS signed an amendment to a 2002 agreement on the HPD by which UNOPS undertook to extend similar services to the KPA.

- In July 2006 the European Agency for Reconstruction (EAR) publicly pledged €3 million Euro to KPA operations. It considers the project as paramount to creating a climate for investment, stimulating the general economy, enforcing the rule of law, promoting sustainable return and increased economic development opportunities for minority communities.
- In July 2006 the inaugural meeting of the Supervisory Board of the KPA was held. Mr. Steven Schook, PDSRS and Chairperson of the Board impressed on the board members the importance of their positions, stating that they were “*effectively ...the stewards of the KPA process*” and this responsibility required them to provide the KPA with administrative oversight, overall direction and policy guidance.
- In September 2006 the UK Government pledged 500,000 Euro for the KPA process and the US Government pledged €270,000.
- In October 2006 UNMIK Regulation 2006/50 on the Resolution of Claims relating to Private Property, including Agricultural and Commercial Property was promulgated which made some crucial amendments to the claims adjudication process, thereby enacting procedures which will ensure the expeditious resolution of all claims.
- In October 2006 the KPA in consultation with the members of the HPCC, UNMIK’s Department of Justice and the Office of the Legal Advisor prepared and submitted a draft Administrative Direction implementing UNMIK Regulation 2006/10, as amended by Regulation 2006/50, setting out detailed rules of procedure for collecting, processing, adjudicating and implementing claims.
- In November 2006 the KPA held a public Donor meeting at which support was sought for the KPA process, where the Swiss Government pledged one

million Euro for the KPA process. The KPA launched a four month comprehensive public information campaign.

- In December 2006 the Norwegian government confirmed its support by extending existing secondment arrangements for three international lawyers for six months.
- In December 2006 the KPA consolidated its headquarters to Nazim Gafurri Street in Pristina (formerly located at No. 2, Goleska Street and No. 51, Vllaznim Bashkimi Street).

INDEPENDENT EVALUATION

In 2006 the Government of Norway continued its independent evaluation of the HPD operation which commenced in November 2005. Representatives of the Government of Norway traveled to Belgrade and throughout Kosovo and received detailed briefings and supporting documentation on HPD practice and procedures, the decisions of the Housing and Property Claims Commission (HPCC), the applicable law governing HPD/HPCC procedures through conducting meetings with HPD management and personnel. They also meet with external parties within UNMIK, OSCE, the PISG and other key players in the field of property rights. The primary aim of the evaluation was to assess the HPDs output in so far as the implementation of its residential property mandate was concerned and to assess its impact in Kosovo and the region as a whole.

The evaluation report published in October 2006 found that the HPD/HPCC's regulatory framework had the qualities necessary to resolve property disputes in a fair and efficient manner. It also found that its procedures and practices incorporated principles of fair procedures and due process, and had regard to generally recognized human rights standards.

It concluded that the institution had played a crucial role in bringing justice to the minority population of Kosovo, and had earned a reputation for being impartial, having implemented its mandate in an objective and neutral manner, irrespective of political or other considerations. The report also concluded that there were a number of valuable lessons that could be learned from the HPD/HPCC process, both in the context of the treatment of property rights challenges in post conflict settings, and in relation to the establishment and design of legal mechanisms for redressing property disputes. It found that these lessons would be undoubtedly invaluable in formulating policy and establishing mechanisms to tackle property rights challenges in future post conflict settings.⁵⁵

⁵⁵ The evaluation report is available at <http://www.humanrights.uio.no/forskning/publ/nr/2006/1206.pdf>

CHAPTER 9

THE YEAR AHEAD

9.1 Adjudication and Implementation of residential property claims

The HPCC will adjudicate on the 335 pending reconsideration requests in its forthcoming sessions and these claims will be implemented in early course.

The KPA will complete the implementation of the remaining 721 residential property claims in the coming months. It will implement the compensation scheme provided for under section 4 of UNMIK Regulation 2000/60 in order to ensure that 258 orders of the HPCC granting ownership rights and compensation are finalized and implemented.

9.2 Handover of completed residential property case files

Since the fall of 2005 the HPD/KPA had been firming up on arrangements for the handover of the completed HPD-claim files to the local authorities with the aim of securing records of all cases. It held meetings and liaised with all municipal courts, UNMIK's Department of Justice and the Ministry of Justice in order to ensure that necessary arrangements are made to facilitate this process. This includes ensuring that the recipients are logistically prepared to receive the large volume of claim files and substantively competent to utilize the files in the future.

The KPA is digitally reproducing all files in order to make electronic copies of the files available for the local authorities, UNMIK and other entities identified by the SRSG. The hand over of the files will coincide with the completion of the residential mandate.

9.3 Agricultural Land and Commercial Property claims

The KPA will work to ensure an effective and expeditious resolution of an estimated 11,000 disputes over private immovable property, including agricultural and commercial land, arising out of the 1999 armed conflict. In order to achieve this it will continue to collect claims over land and commercial property. It will process these claims and refer them for adjudication to the Property Claims Commission. An Administrative Direction setting out detailed rules of procedure and evidence relevant to the processing, adjudication and implementation of claims will render the process operational and this is expected to be promulgated in 2007. The KPA will continue to manage properties under its administration and ensure the enhancement of the rental scheme Kosovo wide for these properties.

KPA management has set ambitious production goals for 2007 and the year ahead. It is envisaged that the KPA process will require three years of operations. The production goals, contingent on funding being made available are projected as follows:

Period/ timeline	Activity
March 2007	Collection of an estimated 11,000 claims
	Referrals of some 2,000 processed claims to the KPCC for adjudication
	Contact and deliver information to all claimants where decisions in their claims have been reached by the KPCC
December 2007	All 11,000 claims referred to the KPCC
	Contact and deliver information to all claimants where decisions in their claims have been reached by the KPCC
December 2008	All 11,000 KPCC-decisions implemented
March 2009	Hand-over of records to local authorities completed
June 2009	KPA liquidated

CONCLUDING NOTE

The HPD initiative has proved to be a resounding success as decisions in all 29,160 residential property cases have been issued and delivered to the parties to the claim. It provided an accessible, fair, inexpensive and expeditious forum for the resolution of these property disputes. The completion of its workload has made a significant contribution to both the ideals espoused in Security Council Resolution 1244, and post conflict rehabilitation and peace building. It has effectively addressed the loss of property rights brought about due to ethnic discrimination and mass population displacement. It is well recognized that such events if left unaddressed, continue to precipitate social unrest and ethnic tension leading to further violence and unrest. Overall, the process has had a positive spin off effect on post conflict rehabilitation and the promotion of economic growth and prosperity for all the people of Kosovo.

The HPD/HPCC experience has amply demonstrated that the resolution of property disputes is fully achievable if an orderly mechanism is put in place which is equipped with the necessary tools that facilitate optimal efficiency in the resolution and implementation of decisions. The KPA has the potential to build on this record in relation to the resolution of claims over private immovable property, including land and commercial property.

Through the establishment of the HPD and KPA mechanisms to resolve property disputes, the right to restitution of property rights for displaced persons which has been described as '*a struggle which remains very much a long-term proposition*'⁵⁶ has in fact become a reality for Kosovo refugees and IDPs. Residential property restitution has been completed setting a historical precedent and the HPD has been viewed as a model for resolving property disputes in scenarios as disparate as Iraq, Cyprus, Georgia and Palestine, among others.⁵⁷

⁵⁶ Leckie, S., "*Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons*", Transnational Publishers, New York, 2003.

⁵⁷ See for example the Norwegian Evaluation Report on the HPD available at <http://www.humanrights.uio.no/forskning/publ/nr/2006/1206.pdf>.

ANNEX 1

MEMBERS OF THE HOUSING AND PROPERTY CLAIMS COMMISSION

Mr. Alan Dodson (South Africa) was the Chairperson of the HPCC for the duration of its existence. He was conferred with a Bachelor of Commerce and LL.B. from the University of Natal and an LL.M. from the University of Cambridge. He was a practicing attorney at the High Court of South Africa from 1985-1995 and a Judge of the Land Claims Court of South Africa from 1995-2000, in addition to chairing the Forestry Laws Drafting Committee. He currently chairs the National Forests Advisory Council in South Africa. As an advocate at the High Court of South Africa since 2000, he specialized in property law, constitutional law and administrative law. He is a world expert on the resolution of property disputes in transitional societies and published several articles on housing rights, environmental law and related themes.

Mr. Veijo Heiskanen (Finland) was an international member of the HPCC panel. He was a graduate of the University of Helsinki and Harvard Law School; he was conferred with his LL.M. in 1988 and S.J.D. in 1992. He specialized in international law; commercial arbitration law, trade law and internet law. Prior to his position with Lalive & Partners in Geneva, he served as Secretary General and Senior Claims Judge of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (2001-2002); Director of the Institute of International Economic Law of the University of Helsinki (1998-2000); Deputy Chief of the Legal Service of the UN Compensation Commission (1994-1998); and Legal Advisor with the Iran-US Claims Tribunal in the Hague (1990-1994). He lectured in various institutions, including at the University of Helsinki and the Hague Academy of International Law; been a Visiting Scholar with the UN University in Tokyo (1999); he worked for the Arbitration Commission of the International Conference for the Former Yugoslavia (1993); and was also a member of the Steering Committee on International Mass Claims Processes at the Permanent Court of Arbitration. He is the author of numerous publications on international law; international arbitration and dispute settlements.

Mr. Aqif Tuhina (Kosovo) was the national member of the HPCC panel. He graduated in law in 1964 from the University of Belgrade. Prior to his current practice as an attorney at law, he served as a Judge in Kosovo at both the Labor Court and the Supreme Court before Kosovo lost its autonomy in 1989. More recently he worked for the Kosovo Provincial Secretariat of Legislation and Administration and with UNMIK's Department of Judicial Affairs. He is a specialist in real property and criminal law.