

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

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DECISION

PANEL NO: 1

DECISION NO.: KPCC/D/2/2007

DECISION DATE: 03/09/2007

ORDER

(1) In each of the 487 (four hundred and eighty seven) claims identified in parts A, B and C of the attached Schedule, the Commission

decides that

(a) The claimant or the property right holder, as the case may be, has established ownership over the claimed property, or such part thereof as specified in the respective individual decision; and

orders that

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

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

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

(2) In each of the 138 claims identified in part D of the attached Schedule, the Commission additionally decides that the claims be dismissed insofar as the claimants seek compensation for physical damage to, or for unauthorized use of, the claimed property.

(3) In cases in which there is more than one owner, the above decision and order do not affect the rights of any respective co-owners.

REASONS FOR THE DECISION

1. A claimant is entitled to an order from the Commission for repossession of the property, if the claimant proves:

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

where the claimant is not now able to exercise such property rights, and where the claim involves circumstances directly related to or resulting from the armed conflict that occurred in Kosovo between 27 February 1998 and 20 June 1999. (See section 3.1 of UNMIK/REG/2006/50.)

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

3. The Commission held its second session on 21-24 August 2007 in Prishtina/Pristina. A total of 1,179 claims were submitted by the Executive Secretariat of the Kosovo Property Agency (the “Executive Secretariat” and “KPA,” respectively) to the Commission at its second session, together with supporting documentation, claims processing reports, verification reports, legal memoranda and other relevant information.

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

A. Ownership claims

5. Based on its review of the claims and of the supporting documentation, and of the information provided and the verification conducted by the Executive Secretariat, a total of 692 claims were referred by the Commission back to the Executive Secretariat for additional review and verification, or were withdrawn by the Executive Secretariat. These claims, which are listed in part E of the attached Schedule, will be considered by the Commission in due course. The present decision applies therefore to the remaining 487 claims, which are listed in parts A, B and C of the attached Schedule. In all of these claims the claimants seek the resolution of an ownership claim, and all of them relate to agricultural properties, including agricultural land, pasture and forests.

6. The Commission notes that all of the claims listed in parts A, B and C of the attached Schedule are uncontested in the sense that at the time the claimed properties were notified there was no evidence of illegal occupation, use or cultivation of these properties by any person or, even if there was such evidence, no party has contested the validity of the claim within the 30-day period prescribed in section 10.2 of UNMIK/REG/2006/50. Based on the information provided by the Executive Secretariat, the Commission is satisfied that the Executive Secretariat has made

reasonable efforts to notify the claimed properties, the persons who may be currently occupying the properties, and any other persons who may have a legal interest in such properties, as required by section 10.1 of UNMIK/REG/2006/50. Accordingly these claims must be considered uncontested.

7. In the 423 claims identified in part A of the attached Schedule, the Commission notes that the claimants or the property right holders, as the case may be, have submitted various types of documents in support of their ownership claims, including possession lists, purchase contracts, contracts on gift, contracts on division of property, and court decisions recognizing ownership. The Commission is satisfied that these documents indeed constitute proof of ownership. Many claimants have also submitted additional supporting documents, including tax decisions, witness statements, copies of plans and cadastral decisions. All of these documents have been verified as being valid by the Executive Secretariat.

8. In the 64 claims identified in part B of the attached Schedule, the Commission notes that the claimants or the property right holders, as the case may be, have submitted inheritance decisions in support of their ownership claims. The Commission is satisfied that these documents indeed constitute proof of ownership. All of these documents have been verified as being valid by the Executive Secretariat.

9. The various types of documents relied upon by the claimants in support of the claims referred to in paragraphs 7 and 8 above are listed in part F of the attached Schedule.

10. In the two sets of connected claims identified in part C of the attached Schedule, *i.e.* Claim Nos. 15474&15434 and Claim Nos. 15456&15473, the Commission notes that, while each of the two sets of claims relates to the same properties, the Claimants are claiming only for their own respective parts of the properties such that the claims do not overlap. The Commission is satisfied that the Claimants have each established ownership to the respective parts of the claimed properties, in such parts as specified in the respective individual decision.

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

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

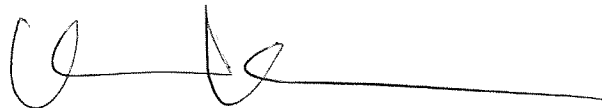
B. Claims for compensation

12. In the 138 claims identified in part D of the attached Schedule, the claimants also seek, in addition to ownership, compensation for physical damage to, or for unauthorized use of, the claimed property. Under UNMIK/REG/2006/50 the Commission has no jurisdiction over such claims. Accordingly these claims must be dismissed.

C. Concluding remarks

13. In view of the foregoing, the Commission finds that the claims listed in parts A, B and C of the attached Schedule succeed and an order be made in respect of each claim as set out above.

14. Section 8.8 of Annex III of Administrative Direction No. 2007/5 allows the Chairperson of the Commission to sign a cover decision approving all individual claims identified in the cover decision, if the number of claims decided in a session is high. The Commission considers that this is appropriate in the present case.



Chairperson

APPEALS

UNMIK/REG/2006/50 provides that:

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

12.3 The appeal may be filed on the grounds that:

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

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

Spreadsheet /Lista /Prilog
Part A/Pjesa A/Deo A

KPA00434	KPA07259	KPA07623	KPA10208	KPA14289	KPA15686
KPA06050	KPA07265	KPA07627	KPA10209	KPA14315	KPA15687
KPA06176	KPA07271	KPA07630	KPA11353	KPA14318	KPA15708
KPA06291	KPA07274	KPA07635	KPA13050	KPA14341	KPA15716
KPA06308	KPA07277	KPA07637	KPA13134	KPA14343	KPA15717
KPA06569	KPA07280	KPA07641	KPA13135	KPA14394	KPA15718
KPA06577	KPA07285	KPA07653	KPA13193	KPA14436	KPA15722
KPA06578	KPA07286	KPA07737	KPA13237	KPA14438	KPA15723
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KPA06621	KPA07291	KPA07750	KPA13278	KPA14471	KPA15866
KPA06657	KPA07298	KPA07752	KPA13280	KPA14485	KPA15867
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Spreadsheet /Lista /Prilog
Part B/Pjesa B/Deo B

Spreadsheet /Lista /Prilog
Part C/Pjesa C/Deo C

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