

<p style="text-align: center;">DHOMA E POSAÇME E GJYKATËS SUPREME TË KOSOVËS PËR ÇËSHTJE QË LIDHEN ME AGJENCINË KOSOVARE TË MIRËBESIMIT</p>	<p style="text-align: center;">SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON KOSOVO TRUST AGENCY RELATED MATTERS</p>	<p style="text-align: center;">POSEBNA KOMORA VRHOVNOG SUDA KOSOVA ZA PITANJA KOJA SE ODNOSE NA KOSOVSKU POVERENIÇKU AGENCIJU</p>
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**ASC-09-0049**

In the lawsuit of

1. [REDACTED],  
" [REDACTED], Ferizaj
2. [REDACTED],  
[REDACTED], Altindag, Turkey
3. [REDACTED],  
[REDACTED], Izmir, Turkey, and
4. [REDACTED]  
[REDACTED], Turkey

**1., 3., and 4. represented by** [REDACTED]  
" [REDACTED], Ferizaj

Claimants

vs

[REDACTED]  
**Agricultural Cooperative Prishtinë/Priština**  
Fushë Kosovë/Kosovo Polje

Respondent

the Appellate Panel of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (SCSC) composed of Richard Winkelhofer, President of the SCSC, as Presiding Judge, Torsten Frank Koschinka and Eija-Liisa Helin, Judges, on the appeal of the **Claimants 1, 3 and 4**, against the decision of the SCSC of 9 July 2009, SCC-08-0071, after deliberation held on 12 November 2009, delivers the following

**DECISION**

The appeal is dismissed as inadmissible.

**Reasons at Law:**

In their claim of 12 February 2008, filed with the Special Chamber, the four Claimants strive for the recognition of ownership rights over certain parcels of land; simultaneously they applied for a preliminary injunction to prevent the Respondent from "privatizing" the land.

With decision of 9 July 2009, SCC-08-0071, the Trial Panel rejected the request for a preliminary injunction as inadmissible, on the grounds that the Claimants have not given credible evidence as to the requirements set forth in Section 55.1 UNMIK AD 2008/6 for issuing a preliminary injunction (immediate and irreparable injury, loss or damage).

The decision was served on the Claimants on 16 July 2009.

In the appeal, submitted on 17 August 2009 (a Monday) to the SCSC in Albanian language only, the (Appellate Panel of the) Special Chamber was requested to overturn the challenged decision and to grant the preliminary injunction as applied for. In the appeal, it is not indicated if it is filed in the name of all Claimants; the name of Claimant Nr 2 is not mentioned, therein.

With order of 4 September 2009, served on the (representative of the) Claimants on 23 September 2009, the Appellate Panel requested them to submit within 14 days a copy of the challenged decision, an English translation of the appeal, and a clarification if the appeal was filed in the names of all but the second or all Claimants. In the order the Claimants were made aware of the consequences of not complying with it in time.

On 12 October 2009 a copy of the attacked decision, and an English translation of the appeal, were handed over in person to the Special Chamber.

### III

The appeal has to be rejected as inadmissible.

According to Section 28.4 of UNMIK AD 2008/6, the Trial Panel shall reject a claim on the grounds of inadmissibility, if the Claimant, having filed a claim that does not fulfil the requirements set forth in Sections 25, 27 in connection with 28.2 paragraph (f) of UNMIK AD 2008/6, fails to submit a completed or corrected claim which meets these requirements within the period prescribed in an order to be served on him, or to produce the required documents within the period prescribed in the order.

These provisions apply mutatis mutandis to proceedings in the Appellate Panel (Sections 58.2 and 61.4 UNMIK AD 2008/6), meaning that failing with the ordered completion of an appeal within the time period set results in its rejection as inadmissible. When formal or substantial legal requirements of an appeal are missing, and the order to complete it is not followed accordingly, the appeal has to be rejected as inadmissible (see, e.g., *Kodek in Rechberger ZPO*<sup>3</sup> pp 1499 [Vienna 2006]).

The Claimants did not respond to the order of the Appellate Panel of 4 September 2009 within the time limit set therein. In addition, the request to clarify the question in whose name the appeal was filed, was not addressed, at all. Therefore the appeal, which has to be considered as filed by Claimants 1, 3 and 4 only, is inadmissible.

A decision concerning costs was not to be taken.

The Trial Panel will have to deal with the claim now.

Richard Winkelhofer, EULEX Presiding Judge	signed
Torsten Frank Koschinka, EULEX Judge	signed
Eija-Liisa Helin, EULEX Judge	signed
Tobias Lapke, EULEX International Registrar	signed