

**SUPREME COURT OF KOSOVO
GJYKATA SUPREME E KOSOVES
VRHOVNI SUD KOSOVA**

**KOSOVO PROPERTY AGENCY (KPA) APPEALS PANEL
KOLEGJI I APELIT TE KPA-es
ZALBENO VECE KAI**

GSK-KPA-A-9/11

Prishtinë/Priština, 10 June 2011

In the proceedings of:

N.F.

Appellant/Claimant

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Antoinette Lepeltier-Durel, Presiding Judge, Anne Kerber and Sylejman Nuredini, Judges, on the appeals against the decisions of the Kosovo Property Claims Commission KPCC/D/A/61/2010, KPCC/D/A/70/2010, and KPCC/D/A/77/2010, (case files registered at the KPA under the numbers KPA 38328, KPA 38329, KPA 38330, KPA 38331, KPA 38332, KPA 38333, KPA 38322, KPA 38323, KPA 38324, KPA 38325, KPA 38326, KPA 38305, KPA 38306, KPA 38308, KPA 38309, KPA 38311, KPA 38317, KPA 38318, KPA 38319, KPA 38320, KPA 38321, KPA 38313, KPA 38314, KPA 38315, KPA 38316, and KPA 38312), dated respectively 25 February, 21 April and 16 June 2010, after deliberation held on 10 June 2011, issues the following

JUDGMENT

- 1- The appeals filed by N.F. on 24 February 2011 and registered under the numbers GSK-KPA-A-9/11 to 34/11 are joined in one case, and registered under one single file number GSK-KPA-A-9/34.**
- 2- The appeals filed by N.F. on 24 February 2011 are rejected as ungrounded.**

- 3- The claim filed by N.F. on 24 February 2011 on behalf of K., V., L., Z. and S.S. is dismissed as inadmissible.
- 4- The decisions of the Kosovo Property Claims Commission KPCC/D/A/61/2010, KPCC/D/A/70/2010, and KPCC/D/A/77/2010, in their part related to the cases registered under the No. KPA 38328, KPA 38329, KPA 38330, KPA 38331, KPA 38332, KPA 38333, KPA 38322, KPA 38323, KPA 38324, KPA 38325, KPA 38326, KPA 38305, KPA 38306, KPA 38308, KPA 38309, KPA 38311, KPA 38317, KPA 38318, KPA 38319, KPA 38320, KPA 38321, KPA 38313, KPA 38314, KPA 38315, KPA 38316, and KPA 38312, are upheld.
- 5- Costs of proceedings determined in the amount of 240 Euros (two hundred and forty Euros) are to be borne by the appellant, N.F. and to be paid to the Supreme Court within 90 days from the day the judgment is delivered or otherwise through compulsory execution.

Procedural and factual background:

On 29 November 2007, N.F., acting as a family household member on behalf of his mother, filed 26 (twenty-six) claims with the Kosovo Property Agency (KPA) seeking to be recognized as the owner of different parcels of land or of forest acquired through inheritance and to be repossessed. He explained that these parcels belonged to his late mother Z.S. and that they were illegally occupied by an unknown person. He asserted that he had lost possession on 19 June 1999 as a result of the armed conflict.

To support his claim, he provided the KPA with documents related to his civil status and his parents' civil status as follows:

- 1- His birth certificate,
- 2- Copy of his identity card,
- 3- Death certificate of his mother, Z.S. born S.,
- 4- Statement signed by two witnesses asserting that Z.S., Z.S. and Z.F. are the different names of one single person,
- 5- Death certificate of F.S.,
- 6- Marriage certificate of S.P. and Z.S.,

7- Death certificate of S.S..

Concerning the parcels that he allegedly inherited from his mother, the documents he submitted to the KPA are as follows:

No. of KPA case file	Data of claimed parcel	Submitted documents
Case file KPA 38328	Parcel No. 3290 of 0, 69, 62 ha Located at “Vruce Padine”, cadastral zone (CZ) Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 265 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/3 to Z.S.
Case file KPA 38329	Parcel No. 1299 of 0, 10, 17 ha Located at “Bara”, CZ of Zebincë/ Zebince , Municipality of Novobërdë /Novo Brdo	Possession list No. 113 of Novobërdë /Novo Brdo stating that the parcel belongs to Z.S. for 1/1
Case file KPA 38330	Parcel No. 1851 of 0, 36, 07 ha Located at “Lepi Dub”, CZ Zebincë/ Zebince, Municipality of Novobërdë /Novo Brdo	Possession list No. 113 of Novobërdë /Novo Brdo stating that the parcel belongs to Z.S. for 1/1
Case file KPA 38331	Parcel No. 1866 of 0, 13, 20 ha Located at “Popov Zabel”, CZ Zebincë/ Zebince, Municipality of Novobërdë /Novo Brdo	Possession list No. 113 of Novobërdë /Novo Brdo stating that the parcel belongs to Z.S. for 1/1
Case file KPA 38332	Parcel No. 1868 of 0, 14, 81 ha Located at “Lepi Dub”, CZ Zebincë/ Zebince, Municipality of Novobërdë /Novo Brdo	Possession list No. 113 of Novobërdë /Novo Brdo stating that the parcel belongs to Z.S. for 1/1
Case file KPA 38333	Parcel No. 1869 of 0, 04, 50 ha Located at “Lepi Dub”, CZ Zebincë/ Zebince, Municipality of Novobërdë /Novo Brdo	possession list No. 113 of Novobërdë /Novo Brdo stating that the parcel belongs to Z.S. for 1/1
Case file KPA 38322	Parcel No. 3257 of 0, 06, 75 ha	Possession list No. 260 of

	Located at “Lekovita Voda”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38323	Parcel No. 3258 of 0, 04, 15 ha Located at “Lekovita Voda”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38324	Parcel No. 3271 of 0, 74, 02 ha Located at “Potajiste”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38325	Parcel No. 3272 of 0, 84, 62 ha Located at “Potajiste”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38326	Parcel No. 3288 of 0, 36, 21 ha Located at “Potajiste”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38305	Parcel No. 978 of 0, 35, 88 ha Located at “Ciganska Padina”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38306	Parcel No. 979 of 0, 05, 76 ha Located at “Ciganska Padina”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.

Case file KPA 38308	Parcel No. 981 of 0, 81, 79 ha Located at "Ciganska Padina", CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38309	Parcel No. 988 of 0, 10, 57 ha Located at "Pod Vrmaniti", CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38311	Parcel No. 993 of 0, 24, 86 ha Located at "Pod Vrmaniti", CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38317	Parcel No. 3222 of 1, 22, 47 ha Located at "Golemi Zabe", CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38318	Parcel No. 3226 of 0, 19, 76 ha Located "Silajsti Kamen", CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38319	Parcel No. 3254 of 0, 11, 10 ha Located at "Lekovita Voda", CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38320	Parcel No. 3255 of 0, 68, 42 ha Located at "Lekovita Voda", CZ Parallovë/Paralovo, Municipality of Gjilan	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs

	/Gnjilane	for 1/1 to Z.S.
Case file KPA 38321	Parcel No. 3256 of 0, 20, 21 ha Located at “Lekovida voda”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38313	Parcel No. 995 of 0, 97, 02 ha Located at “Pod Vrmaniti”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38314	Parcel No. 1020 of 0, 09, 27 ha Located at “Potok”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38315	Parcel No. 1021 of 2, 01, 14 ha Located at “Potok”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38316	Parcel No. 3220 of 0, 50, 43 ha Located at “Golo Zebe”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.
Case file KPA 38312	Parcel No. 994 of 0, 24, 86 ha Located at “Pod Vrmaniti”, CZ Parallovë/Paralovo, Municipality of Gjilan /Gnjilane	Possession list No. 260 of Gjilan /Gnjilane and certificate for immovable property rights stating that the parcel belongs for 1/1 to Z.S.

In compliance with the procedure, KPA officers went to the places where the litigious parcels were allegedly located and put up signs indicating that the property was subject to a claim and that

interested parties should have filed their response within a month. In its notification reports, the KPA noted that the notification was done properly, based on “ortophoto and GPS coordinates” and with the help of neighbors, that the litigious parcels were not occupied (KPA 38328: damaged forest, KPA 38329: meadow, KPA 38323: forest) or occupied by an unknown person (KPA 38330, KPA 38331 and KPA 38332:forest, KPA 38333: meadow, KPA 38324:forest, KPA 38325: cultivated land, KPA 38326 and KPA 38305:forest, KPA 38306:meadow, KPA 38308: cultivated land, KPA 38309, KPA 38311, KPA 38317, KPA 38318 and KPA 38319: forest, KPA 38320: cultivated land, KPA 38321: meadow, KPA 38322 and KPA 38313: cultivated land, KPA 38314: meadow, KPA 38315 and KPA 38316: forest, KPA 38312: meadow).

Since no respondent filed a reply within the deadline, all the claims were considered as uncontested.

The verification reports of the KPA showed that the above mentioned documents related to the civil status of the claimant and of his family members and related to the parcels as well were found in and corroborated by the Municipal Civil Registry of Novobërdë /Novo Brdo and by the Cadastral Office of Gjilan/Gnjilane and of Novobërdë /Novo Brdo.

By three different decisions issued respectively on 25 February, 21 April and 16 June 2010, the Kosovo Property Claims Commission (KPCC or the Commission) dismissed all the claims for lack of proof of the claimant’s capacity to file a claim on behalf of the property right holder. The KPCC was not satisfied that the claimant was a family household member of the deceased property right holder due to the differences of the names appearing in the civil status certificates which hindered to prove the links between the claimant and the property right holder.

The claimant received the KPCC’s decisions on 28 January 2011.

On 24 February 2011, N.F. (herein after the appellant) filed 26 (twenty-six) appeals with the Supreme Court against the aforementioned decisions.

In his appeals, he asserted that the first instance decisions were taken on wrong or incomplete determination of the facts: he argued that the two different dates of birth appearing in two documents related to his mother’s identity were due to the subsequent use of two different calendars in Serbia. Further, he explained that his father was born under the name S.P., that his father was then adopted by F.S. whose last name became his and that his father gave to him, as a mark of gratitude

towards his own adoptive father, the name N.F.. He added that his parents were S.S. and Z.S. (maiden name S.) and had six children, himself and five daughters whose last name is S.

In case the Court would not be satisfied with his explanations, he asked it to recognize the property right over the parcels of any of his sisters, whose last name is not in contradiction with their mother's last name, stating that his sisters were living and working abroad.

In support of his appeals, he provided the Supreme Court with additional documentation: one of his sisters' birth certificate (Z.S. married N.) and two witnesses' statement certifying the truth of his explanations.

Legal reasoning:

Joining the appeals:

Section 13.4 of UNMIK Regulation 2006/50 as amended by the Law No. 03/L-079 on the resolution of claims relating to private immovable property, including agricultural and commercial property provides that the Supreme Court may decide upon joined or consolidated appeals where such joinder or consolidation has been decided upon by the Commission in accordance with section 11.3 (a) of the same regulation. This latter section allows the Commission to join or consolidate claims for the purpose of their consideration and reaching decisions thereon where there are common legal and evidentiary issues to be considered.

As to the provisions of the Law on Contested Procedure (LCP) which are applicable to the appellate proceedings before the Supreme Court according to section 12.2 of UNMIK Regulation 2006/50 as amended by the Law No. 03/L-079, section 408.1, read in conjunction with section 193 foresees that appeals may be joined in one suit if such joinder contributes to the efficiency of the proceedings.

In the cases at hand, the appellant filed only one appeal, implicitly giving his consent to the joining of the cases, as provided by section 408.3 of the LCP. In addition, the Supreme Court observes that the facts, the legal grounds and the evidentiary issues are exactly the same in the 26 (twenty-six) cases. Only the parcels, object of the property right which is alleged in each claim, are different. The appeals are based on the same explanatory statement and on the same documentation. Actually the appellant's statement and the submissions he provided with his appeal have been copied and filed in

each KPA case file corresponding to one file per claimed parcel. Moreover the legal reasoning of the KPCC's cover decisions, part related to N.F.'s claims is exactly the same.

Insofar as all the elements of the cases are the same but the parcels, it is obviously more efficient to join the appeals and to examine them in one single judgment.

The cases registered under the numbers GSK-KPA-A-9/11 to GSK-KPA-A-34/11 shall become one single case registered under the number GSK-KPA-A-9/11.

Admissibility of the appeals:

According to Section 12.1 of UNMIK Regulation 2006/50 as amended by the Law No. 03/L-079, a party may submit an appeal within thirty (30) days of the notification of the decision.

In the present cases, all appeals were filed by the party who was claimant during the first instance proceedings on 24 February 2011, that is to say less than 30 days after the receipt of the notification of the KPCC decisions.

Therefore, the appeals are admissible.

With regard to the appeal registered under the No. GSK-KPA-A-30/11, the Supreme Court observes that it was expressly filed against the KPCC's decision dealing with the claim registered at the KPA under the No. KPA 38313. From the original case file of the KPA, it appears clearly that the claim in this case was fully processed by the Executive Secretariat and referred to the KPCC on 28 January 2010. Then the KPCC's cover decision KPCC/D/A/61/2010 was served on the appellant along with the individual excerpt of decision. However, whereas the number "KPA 38313" is mentioned in the excerpt of the decision (also called individual decision), the cover decision does not refer to this number. By letter of 15 April 2011 the judge in charge asked the KPA to indicate whether the case KPA 38313 was really adjudicated by the KPCC or not. In its written answer of 27 April 2011, the KPA confirmed that this case was examined and decided by the KPCC as the minutes and the spreadsheet prepared for the session proved it. Therefore it is only due to a clerical mistake that the number of this case is not mentioned in the KPCC's cover decision although the Commission adjudicated it. Consequently, the Supreme Court is convinced that the case KPA 38313

was decided at the first instance level and will examine the appeal filed against the Commission's decision dealing with it.

The merits:

1- The civil status issues:

As a threshold question, the Supreme Court observes that, based on the documents provided by the claimant and on the verification reports of the Executive Secretariat, the Commission has correctly assessed that the parcels, object of the claims, belonged to Z.S. who died on 3 July 1994. These facts are disputed or challenged neither by the claimant nor by the Commission.

However, the Commission considered that the documents brought in order to prove the links between Z.S. and the claimant were not satisfactory since they contained some discrepancies.

As the Commission did, the Supreme Court notes that the death and marriage certificates of Z.S. provided different dates of birth: 27 November 1922 in the death certificate while 14 November 1922 in the marriage certificate. In those two certificates, the maiden name of Z.S., "S." and the place of birth, "Manishincë/Manišince, Prishtinë/Priština" are identical. The appellant explains that this difference is due to the subsequent use of two different calendars.

A quick research related to the calendars shows that, after the use of the Julian calendar, Serbia adopted the Gregorian calendar in 1918 and that the conversion table between the two calendars gives a difference of + 13 (thirteen) days since the year 1900. The Supreme Court observes that the two birth dates appearing in the certificates of Z.S. born S. are separated by 13 (thirteen) days and that her birth year (1922) is not long after the adoption of a new calendar by Serbia. Such concordances lead the Supreme Court to think that the explanation given by the appellant about this discrepancy should be taken seriously into consideration.

More difficult are the differences of names that hindered the Commission to ascertain the links between the claimant and the property right holder.

The first instance Commission has perfectly raised the points that question the lineage link.

The identity of the property right holder is mentioned as Z.S. in the possession lists and in the certificates of immovable property that were provided to the Commission. Where they are related to the property right holder, the civil status documents that were brought by the claimant bear the following names: Z.S. in her marriage certificate, Z.S. born S. in her death certificate, Z.S. in her husband's death certificate. The marriage certificate shows that the groom is called S.P. while he is called S.S. in his own death certificate (same birth date and same first names of the parents) and his wife's death certificate. However none of these documents matches with the appellant's civil status documents: the appellant's birth certificate and his identity card mention only his name as being N.F.. In his birth certificate, his parents appear to be S.F. and Z.F. respectively born in Zebincë/Zebince and Manishincë/Manišince. Unfortunately, his parents' birth dates and personal identification numbers are not indicated. Even if the probability to find several couples whose first names are S. born in Zebincë/Zebince and Z. born in Manishincë/Manišince could be weak, it remains the possibility that other parents having these first names and born in these places existed. Therefore such indications cannot constitute the sufficiently strong proof of a lineage link between the appellant and the property right holder.

Further, the appellant asserted that the last name F. was given to him as a mark of gratitude towards his grand-father who adopted his father. Indeed, the death certificate of the alleged grand-father, F.S., bears F. as first name. Nevertheless, although this constitutes a possible explanation of the discrepancies, it does not eliminate other possibilities and therefore does not prove with the required certitude why there is no mention of the name S. besides the given name of F. as alias, why there is no mention of birth dates or/and of personal identification numbers of the appellant's parents in his birth certificate.

The additional document that the appellant brought with his appeal, one of his alleged sisters' birth certificate, does not allow proving the litigious link between the appellant and the property right holder. It is related to Z.N. born S., from S.S. and Z.S., S.. The Supreme Court observes that, on the contrary to what was done on the appellant's birth certificate, the parents' birth dates are indicated in this birth certificate. Such mention which contributes to clarify the complete identification of the parents is surprisingly missing in the appellant's birth certificate whereas it is indicated in the other one.

The appellant provided also the Supreme Court with two new statements of witnesses, who presented themselves as his parents' servants, certifying the truth of his explanations. He had previously provided the Executive Secretariat with a statement signed by two witnesses asserting that

Z.S. born S. and Z.F. were names of one and the same person. The Supreme Court has to examine whether the statements written by witnesses could constitute adequate evidence of the lineage link in the present case. Section 3.1 of UNMIK Regulation 2006/50 as amended by the Law No. 03/L-079 limits the competence of the KPCC and of the Supreme Court dealing with appeals against KPCC's decisions to the resolution of conflict related ownership claims. The question of the lineage links of the claimant/appellant is a matter raising the issue of the establishment of maternity or of the correction of civil status acts or of inheritance, all legal issues falling under the jurisdiction of other courts or administrative bodies and submitted to specific proceedings. It is only through such procedures that a competent court or administrative body may assess the strength and the validity of testimonies to establish the maternity link and/or to correct the discrepancies in the appellant's civil status. The Supreme Court in its function of Court of Appeal against the Commission's decisions has to check whether a party has the required capacity to act before it but it should be beyond the scope of its jurisdiction to solve the question related to the establishment of a lineage link.

The Executive Secretariat tried to clarify the family links between the appellant and Z.S., by asking several times for additional documents and by seeking whether the civil registry books contained more information, amongst them personal identification number. These attempts failed.

Having regard to all these factors, the Supreme Court considers that the Commission has lawfully decided that there was no satisfactory proof of the lineage link between the claimant and the property right holder and, as a result, that the claimant was not entitled to act as a family household member of Z.S..

2- The claim filed by the appellant on behalf of his sisters, K., V., L., Z. and S.S.:

The appellant formulated a new claim with his appeal, asking the Supreme Court, in case it would not have been convinced that he is Z.S.'s son, to recognize anyone of his sisters' ownership rights over the parcels, stating that they do not suffer from the same discrepancies of their civil status documents. He added that his sisters were living and working abroad, implicitly acting on behalf of them as a family household member.

The Supreme Court finds that, for the same reasons that the appellant is currently unable to prove his quality of family household member vis-à-vis the property right holder, he cannot prove the family link between him and his alleged sisters.

Moreover, such claim appears to be inadmissible. Filing an additional claim means amending the claim. According to articles 258.1 and 258.2 of the Law 03/L-006 on Contested Procedure, a claimant may amend the claim no later than the conclusion of the main hearing at the first instance level. In case there is no hearing at the first instance level, it is clear that amendment of a claim should be done before the deliberation session so that it could be examined by the first instance court. Nevertheless, it cannot be done for the first time before the second instance court.

In addition, the Supreme Court finds that anyway the appellant is not entitled to act on behalf of his sisters. Section 5.2 of UNMIK Administrative Direction (AD) No. 2007/5 as amended by the Law No. 03/L-079 reads:

“In proceedings before the Commission, where a natural person is unable to make a claim, the claim may be made by a member of the family household of that person.”

Section 1 of the same AD defines the “*member of the family household*” as “*the spouse, the children and other persons whom the property right holder is obliged to support in accordance with the applicable law, or the persons who are obliged to support the property right holder in accordance with the applicable law, regardless of whether or not that person resided in the property together with the property right holder.*”

Neither the evidence of any inability of the alleged sisters to make a claim nor the elements corresponding to this definition are met in the case at hand.

As a result, this claim is inadmissible and shall be dismissed. This decision does not hinder the persons on behalf of whom the appellant acted, to file a claim before the regular and competent courts.

Consequently, based on all the above legal reasoning, the decisions of the KPCC shall be upheld.

Costs of the proceedings:

Pursuant to Article 8.4 of Administrative Direction (AD) 2007/5 as amended by the Law No. 03/L-079, the parties are exempted from costs of proceedings before the Executive Secretariat and the Commission.

However such exemption is not foreseen for the proceedings before the Supreme Court.

As a consequence, the normal regime of court fees as foreseen by the Law on Court Fees (Official Gazette of the SAPK-3 October 1987) and by AD No. 2008/02 of the Kosovo Judicial Council on Unification of Court fees are applicable to the proceedings brought before the Supreme Court.

Thus, the following court fees apply to the present appeal proceedings:

- Court fee tariff for the filing of the appeal (Section 10.11 of AD 2008/2): 30 €
- Court fee tariff for the issuance of the judgment (Sections 10.21 and 10.1 of AD 2008/2), considering that the value of the whole property at hand, composed of 0. 14. 67 ha of meadows and 0. 64. 08 ha of forests in the municipality of Zebincë/ Zebince, and of 3. 38. 60 ha of cultivated land, 0. 60. 10 ha of meadows and 6. 60. 21 ha of forests in the municipality of Parallovë/Paralovo could be reasonably estimated as being 32 000 €: 50 € + 0, 5 % of 32. 000= 210 €.

These court fees are to be borne by the appellant that loses the case.

According to Article 46 of the Law on Court Fees, the deadline for fees payment by a person with residence or domicile abroad may not be less than 30 days and no longer than 90 days. The Supreme Court decides that, in the current case, the court fees shall be paid by the appellant within 90 days from the day the judgment is delivered to him.

Legal Advice

Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by the Law 03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Signed by: Antoinette Lepeltier-Durel, EULEX Presiding Judge

Signed by: Anne Kerber, EULEX Judge

Signed by: Sylejman Nuredini, Judge

Signed by: Urs Nufer, Eulex Registrar