

<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 ODOSE NA KOSOVSKU POVERENIÇKU AGENCIJU</p>
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**ASC-09-0096**

In the lawsuit of

██████████, Natural Person

██████████, Viti/Vitina

Represented by Mustafë MUSA, Bulevardi i Pavarsisë 80/II, Gjilan/Gnjilane

*Claimant/Appellant*

vs

**1.** ██████████, Socially Owned Enterprise

Viti/Vitina

**2. Privatization Agency of Kosovo (PAK)**

Ilir Konushevci 8, Prishtinë/Priština

**3.** ██████████, Natural Person

██████████, Viti/Vitina

*Respondents*

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 Claimant/Appellant against the decision of the SCSC of 17 September 2009, SCC-09-0158, after deliberation held on 9 March 2010, delivers the following

## **DECISION**

**The appeal is dismissed as inadmissible.**

**Reasons at Law:**

With the appealed decision the Trial Panel of the SCSC rejected the Claimant/Appellant's claim for certification of property rights as inadmissible. According to the legal reasoning of the decision, the SCSC had no jurisdiction over the claim, since the Claimant/Appellant's right to the property in question had already been rejected with the Decision no. 201244, dated 8 March 2007, issued by the Housing and Property Claims Commission (HPCC).

In his appeal, the Claimant/Appellant requests to revoke this decision and to refer the matter to the Trial Panel of the SCSC for retrial. The Claimant/Appellant claims that there had been "essential breaches" of the law, procedural and substantial.

The appeal has to be dismissed as inadmissible.

The decision appealed by the Claimant/Appellant indicates correctly that pursuant to Section 9.5 of UNMIK REG 2008/4 an appeal against it can be submitted in writing to the Appellate Panel of the Special Chamber within 30 (thirty) days from the receipt of the decision.

Section 20.1 of UNMIK AD 2008/6 provides that a period of time prescribed by UNMIK REG 2008/4 shall be calculated as follows: Where a period is expressed in days, it is to be calculated from the moment at which an event takes place (here: the service of the decision), while the day during which that event takes place shall not be counted as falling within the period in question (compare Article 112 (1) of the Code of Civil Procedure, Official Gazette 4/77-1478 et al of the SFRY, which follows the same pattern).

The attacked decision was served on the Claimant/Appellant on 26 October 2009, as proven by the acknowledgement of receipt. This means that the period of 30 (thirty) days ended on 25 November 2009. The Claimant/Appellant filed his appeal on 26 November 2009 (postage stamp date), therefore 31 (thirty-one) days from the receipt of the Trial Panel decision, which is one day too late.

### III

The untimely appeal must therefore be rejected as inadmissible.

The Claimant/Appellant has not indicated justifiable reasons for his failure to file the appeal timely prior to the expiry of the period of time to file an appeal (Section 21.2 as read in conjunction with Section 21.3 of UNMIK AD 2008/6).

A decision concerning costs was not to be taken.

Richard Winkelhofer, EULEX Presiding Judge                      signature

Torsten Koschinka, EULEX Judge    signature

Eija-Liisa Helin, EULEX Judge    signature

Tobias Lapke, EULEX Registrar    signature