

**RULES MADE UNDER SECTIONS 8(2)(A) AND 22 OF THE LAW FOR THE
COMPENSATION, EXCHANGE AND RESTITUTION OF IMMOVABLE
PROPERTIES WHICH ARE WITHIN THE SCOPE OF SUB-PARAGRAPH
(B) OF PARAGRAPH 1 OF ARTICLE 159 OF THE CONSTITUTION
(LAW NO: 67/2005)**

The Council of Ministers of the Turkish Republic of Northern Cyprus hereby approves the 2006 Immovable Property Commission Rules, made under sections 8(2)(A) and 22 of the Law No: 67/2005 entitled the Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution and decides for the publication thereof in the Official Gazette for entry into force.

- Short title** 1. These Rules may be cited as the Immovable Property Commission Rules 2006.
- Interpretation** 2. In these Rules, unless the context requires otherwise;
“Commission” means the Immovable Property Commission established under section 11 of Law No: 67/2005 entitled the Law For The Compensation, Exchange and Restitution Of Immovable Properties Which Are Within The Scope Of Sub-paragraph (b) Of Paragraph 1 Of Article 159 Of The Constitution.
“Application” means the Application made to and/or the application commenced before the Commission and the affidavit attached thereto.
“Applicant” means“ the person applying to the Commission with a claim of right in respect of immovable properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution, and in respect to movable property which is claimed to be owned by such person, such property having been abandoned in the North prior to 13 February 1975, being the date of the proclamation of the Turkish Federated State of Cyprus.
“Chairman” means the Chairman of the Commission.
“Secretariat” means the secretariat responsible to conduct the administrative and secretarial work of the Commission.
“Secretary” means the person responsible in the Secretariat or a person authorized by the Chairman.
“Immovable Property” means immovable properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution.
“Member” means a member of the Commission or the Chairman or Deputy Chairman thereof, as the case may be.
“Law” means Law No:67/2005 entitled the Law For The Compensation, Exchange and Restitution Of Immovable Properties Which Are Within The Scope Of Sub-paragraph (b) Of Paragraph 1 Of Article 159 Of The Constitution.

Form of Application

3.(1) Any application made to the Commission shall be as shown in Form 1 attached to the Rules in which the claims of the applicant shall be stated.

(2) Every application and all its attachments submitted to be stamped by the secretariat shall be signed by the applicant or by his representative or lawyer. In the event that a lawyer makes the application, the retainer should also be filed. The affiant should sign the affidavit attached to the application. Applications, which are personally made by the applicant together with the affidavit and other documents, should be made as much as possible similar to Form 1.

(3) The application should include its number, the name and surname of the applicant, his identity card and/or passport numbers, his address, the request for confidentiality, if any, the Ministry Responsible for Housing Affairs and/or Attorney General representing the Ministry Responsible for Housing Affairs as the respondent party, in the event of representation by the lawyer the name, surname and address for service of the lawyer, if pro se, an address for service for the applicant, phone number, statement of claim, a definite description of the movable and/or immovable property for which compensation is claimed and the share constituting the claim on the property and whether any kind of mortgage exists on the property.

(4) The affiant should give detailed information on the facts in issue regarding his claims in the application.

(5) (a) In applications for immovable property, the applicant, together with the application, should submit the originals or duly approved photocopies by the notary public of his identity card and/or passport, the land registration certificate showing his share on the immovable property and that his rights still exist.

(b) For movable properties, the applicant must;

(i) show the originals or duly approved photocopies of documents that prove that the movable property was bought before 13 February 1975 including receipt, cheque, bank transfer, exchange transfers; or

(ii) show the originals or duly approved copies or photocopies of official documents and/or documents from the archive of a real or legal person that prove that the movable property has been acquired through inheritance and/or gift and/or present before 13 February 1975.

(c) The applicant must also show by original or duly approved copies of documents that he had to abandon in the North the movable properties under his possession prior to 13 February 1975.

(d) Such an application, together with its attachments and other valid original documents or their copies certified by a notary public or photocopies thereof, shall be submitted to the secretariat in thirteen copies or any other sufficient number. A revenue stamp worth 100 YTL should be affixed to the application.

(6) The secretariat shall accept all applications made in conformity with the procedure, assign every application a number and sign the application verifying that it has been received. A copy of the application signed in this manner shall be given to the applicant and another copy shall be served to the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property within twenty one working days of the filing of the application. The service of documents shall be effected by the secretariat.

Should the applicant demands confidentiality; the person ,who holds the right of ownership or the right of tenure according to the Rules and Legislation of the Turkish Republic of Northern Cyprus, is given a written notice as set forth in the Sample 1 A attached to this Regulations.

(7) An application which is not in conformity with the Rules may be accepted by the secretariat. The Chairman may request the applicant to amend the application according to these Rules. The request has to be fulfilled within one month the latest. Otherwise, the application will be rejected. The application will not be put in effect until the request is fulfilled.

(8) The Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property shall within 30 working days file with the secretariat a defence or opinion prepared in accordance with Form 2

attached to these Rules and serve a certified copy thereof on the address of the applicant.

(9) The defence or opinion given by the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property in accordance with the legislation in force in the TRNC shall consist of the summary of the facts in issue. If deemed necessary, the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or holds the ownership of property shall attach to the defence or opinion an affidavit by persons who have knowledge on the matter.

Criteria in calculating compensation

4. Compensation to be paid under section 8 (4) of the Law shall be determined by the Commission in an equitable manner and in accordance with the criteria enumerated in the said section and, if any, by taking into account the opinions of the experts.

Criteria in issuing a permit for improvement on immovable properties subject to restitution

5. (1) In accordance with section 8(2)(A) of the Law, the Ministry responsible for Housing Affairs may, by also taking into account the interests of the applicant who has demonstrated his legitimate rights over the immovable property, permit the improvement of the immovable property that will be restituted after the settlement of the Cyprus Problem, in line with the provisions of the settlement, to a natural or legal person who under the legislation of the TRNC is in possession of or holds the ownership of property. In this context, the Ministry for Housing Affairs shall take into account whether the improvement will increase the value of the property and the economic and social need of the person who has requested permission for such improvement.

(2) Subject to the exceptions mentioned in subsection (1) above, the Ministry may also consider the possibility of creating new jobs and employment opportunities and significant contribution to the economy at large or substantial contribution to educational, scientific, sports and cultural fields of the improvement to the immovable property that will be restituted after the settlement of the Cyprus Problem in line with the provisions of the settlement in accordance with section 8(2) of the Law in issuing a permit, provided that a just balance between the applicant who has

demonstrated his legitimate rights over the immovable property and public interest in improvement is achieved.

Friendly settlement agreement on the satisfaction of the applicant

6. (1) The Ministry responsible for Housing Affairs shall execute the decision of the Commission relating to restitution, exchange, compensation in lieu of the immovable property, compensation for non-pecuniary damages due to loss of the right to respect for home and compensation for loss of use. In execution of such decision, the Ministry responsible for Housing Affairs shall prepare a draft friendly settlement agreement in accordance with Form 3 and serve it to the applicant who has demonstrated his legitimate rights together with an invitation letter.

(2) The invitation letter shall state that the applicant who has demonstrated his legitimate rights should either personally or through a representative come to sign the draft friendly settlement agreement within one month. Otherwise, the draft friendly settlement agreement will be deemed rejected and he shall have the right to apply to the High Administrative Court.

(3) Should the applicant who has demonstrated his legitimate rights either personally or through his representative accept the draft friendly settlement agreement, this draft shall be signed by the Minister responsible for Housing Affairs and by him or his representative.

(4) Should the friendly settlement agreement is rejected or when it is deemed rejected according to sub-section (2) of this section, a disagreement document shall be served on the interested parties.

(5) In case a dispute is not resolved through a friendly settlement, the right of the interested parties to appeal to courts shall be preserved.

The functioning and meetings of the Commission

7(1) Following the submission of the defence or opinion of the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property in accordance with these Rules, the parties will be convened

on a specified date for the meeting concerning the giving of directions regarding the application in the Chairman's office or any other place he may determine which is convenient for the parties. The Chairman may, following the hearing of the views of the parties, give the necessary directions regarding further detail, the discovery or examination of further documents, the manner in which testimony will be heard, whether or not a site investigation shall be carried out, the persons who should be required to be present during the presentation and on other matters deemed appropriate.

The proceedings that would be attended by the foreign members shall be in English. In all other cases, it will be in Turkish. However, upon the request of the applicant, an interpreter shall be provided.

(2) The proceedings of the Commission shall be based on the documents. All material relating to the applications shall be translated into English for foreign members. Provided that if deemed appropriate the Commission may hear the views and arguments of the parties and take the oral or sworn testimony of the witnesses they may wish to call. The proceedings of the Commission shall be held at its own premises provided that if necessary the Commission may also use the existing courtrooms or chambers to be allocated to the Commission with the approval of the President of the Supreme Court.

The Commission, when it deems necessary, may delegate the task of on-site exploration of the immovable property and preparation of an exploration report by a group of three members.

(3) The Commission may at any stage of the proceedings on its own motion call any person to give evidence or produce any document for the purpose of reaching a fair decision. No such testimony will be given without prior notice to the parties. The parties' rights to express their views on the matter of calling such witnesses shall be reserved. The proceedings of the Commission, other than those on the documents, shall be in public. However, the rights of the applicant to request confidential proceedings should be preserved and upon request all proceedings shall be in camera.

(4) The Commission shall take its decisions with the simple majority of those present during sittings with a quorum of the

2/3 of the total number of its members. For the purposes of this section, the Chairman and the Deputy Chairman are each to be counted as one member of the Commission. Those dissenting or in the minority may write their views and opinions separately. Such separate views and opinions shall be part of the decision. At the meetings the voting shall be in public. Those present at the meetings shall not be entitled to cast any abstention vote. In case of equality of votes, the matter voted upon shall be deemed to have been rejected. The decision of the Commission shall be signed by the Chairman and another member and shall be conveyed to the parties or served on their address for service after having been sealed by the seal of the Commission.

(5) The Commission shall, after hearing all the views and claims of the parties, announce its reasoned decision within three months. However, depending on its work load and the unique character of the application, the writing of the reasoned decision may be extended up to six months.

The Commission Secretariat

8(1) There shall be an official seal at the Commission Secretariat. All documents received and those sent out shall be sealed by the official seal. The seal shall bear the words "Immovable Property Commission". Every sealed document shall be signed and dated by the Secretary.

(2) Applications shall be entered into the official register. The summary of the proceedings relating to each application shall also be noted in the register. These inputs may also be computerized.

(3) No other fee shall be charged by the Secretariat for the certification or service of any application or any other document.

(4) The required fee for the typing or preparation of the notes of proceedings relating to the application shall be as specified in the Civil Procedure Rules.

The Application of Civil Procedure Rules

9. For the purpose of the better application of these Rules, the appropriate provision or provisions of the Civil Procedure Rules shall apply, *mutatis mutandis*, as regards the

circumstances not provided for, or not specifically provided for, under these Rules.

Transitional Secretariat

10. Until the Commission Secretariat becomes active, the Registry of the Supreme Court shall perform the functions of the transitional Secretariat

11 (1) The Commission shall convene upon the invitation of the Chairman with 2/3 majority of the total number of its members. In the absence of the Chairman, the invitation shall be made by the Deputy Chairman and in his absence, by the most senior member. The decisions shall be taken by the simple majority of the participants. In case of the equality of votes the matter forming the subject of the voting shall be deemed to have been rejected.

(2) There shall be two kinds of decision registers at the Commission. One is related to the applications. The second is for the other decisions to be taken by the Commission. The decisions relating to applications may be inspected at the place they are kept at reasonable times by those interested.

(3) The term of office of a member not participating in the Commission meetings without a valid reason (illness, official duty abroad, and the like) for three times, may be terminated by the Supreme Council of Judicature upon the request of the Chairman of the Commission. The term of office of the Chairman of the Commission not participating in the Commission meetings without a valid reason (illness, official duty abroad, and the like) for three times, may be terminated by the Supreme Council of Judicature upon the request of the President of the Republic. In other cases, the conditions for the termination of the term of office of a member of the Commission shall be the same as those applied to a Supreme Court Judge.

(4) As long as the quorum is sustained, any shortcoming in the composition of the Commission shall not affect the functioning of the Commission.

FORM 1

Form TMK1

APPLICATION

Before the Immovable Property
Commission established under
Law No:67/2005

Application No:

Applicant: _____ (a)

Id. No: _____ /Passport No: _____

and

Respondent: The Ministry responsible for Housing Affairs and/or Office of the
Attorney General representing the Ministry responsible for Housing Affairs,
Lefkoşa.

The parties cited above are invited to attend the meeting taking place at the
Immovable Property Commission, Atatürk Square, opposite the Court Buildings,
Lefkoşa, on _____ for the directions stage of the
application. The summary of the claims of the applicant in this application are as
follows:

The facts supporting the claims in the application can be seen in
_____ (b)'s affidavit dated _____.

Applicant's address for service is as stated below: (c)

(Signature)
Personal application (d)
Application by lawyer

Registered and sealed
on the _____ day of the
month of _____ of
the year 200____

(Signature)

Commission Secretary

Note: The observations and opinion of the Ministry responsible for Housing Affairs and/or Office of
the Attorney General and/or a natural or legal person who under the legislation of the TRNC is in
possession of or holds the ownership of property shall be filed with the Secretariat within a month of
service of this application and its attachments, and a copy thereof shall be served at the address for
service of the applicant.

- (a) Insert the name, surname, address and identity or passport number of the applicant. State your
request for confidentiality of the proceedings if any.
- (b) Insert the name, surname and identity or passport number of the affiant.
- (c) Insert the address for service of the applicant and his telephone number if available.
- (d) Delete those not applicable.

FORM 2

Form TMK2

DEFENCE/OBSERVATION

Before the Immovable Property
Commission established under
Law No:67/2005

Application No:

Applicant: _____ (a)

Id. No: _____ /Passport No: _____

and

Respondent: The Ministry responsible for Housing Affairs and/or Office of the
Attorney General representing the Ministry responsible for Housing Affairs,
Lefkoşa.

The observations of the respondent on the application cited above, filed by
_____ (a) which has been notified to have been fixed
for the directions stage on the date of _____ 200__
a.m/p.m. at _____ o'clock, is as follows:

The facts regarding the observations and opinion given above by the respondent
are as stated below/as stated in the affidavit by _____, dated
_____ (b)

Filed on _____ 200__
Secretariat

(Signature)

The Ministry responsible for Housing
Affairs and/or the Attorney General
representing the Ministry responsible
for Housing Affairs

- (a) Insert the name of the applicant.
(b) Delete those not applicable.

FORM 3
TURKISH REPUBLIC OF NORTHERN CYPRUS
_____ **MINISTRY**

Date:

Number:

FRIENDLY SETTLEMENT

Number and date of the Immovable Property Commission
decision: _____

Decision of the Immovable Property
Commission: _____

I declare and accept that with the execution of the decision of the Immovable Property Commission dated _____ and numbered _____ served to me regarding the compensation and/or exchange and/or restitution, the damage I have suffered with respect to the relevant movable and/or immovable property is fully recovered.

I declare and accept that I shall not claim any right regarding the movable and/or immovable property set forth in my application upon the receipt of compensation in lieu of the said properties pursuant to the application of the Law (a).

I declare and accept that I shall not claim any right regarding the immovable property set forth in my application upon the acquisition of a new immovable property in exchange and/or receipt of compensation in lieu of the said properties pursuant to the application of the Law (b).

Ministry responsible for Housing Affairs

Applicant who has
demonstrated his legitimate
rights or his Person
Representative

Name-Surname
(Signature)

Name-Surname
(Signature)

(a), (b) Delete those not applicable.

SAMPLE 1 A

Form TMK 1 A

NOTIFICATION

Before the Immovable Property Commission

Established under Law no 67/2005

No:

Dear

The person, who claims to be the property owner of the immovable property registered under your name, demands the compensation and/or exchange and/or restitution of the immovable property the details of which is given hereinafter.

The situation is predicated to you in accordance with the Regulations set under the Law no 67/2005. For further information regarding this matter, you should apply to the Commission no later than.....

(signature)

The President of the Immovable
Property Commission

Registered and sealed
on the day of the
month ofof
the year 200...