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## Germans to go head to head with Government over farm grab

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### THREE foreign farm owners intend to challenge a Government decision to expropriate their farms.

The first hearing is expected to start in the Windhoek High Court today, The Namibian has reliably learnt.

Key elements of the farmer owners' case against the Ministry of Lands and Resettlement include the criteria used and the constitutionality of the move.

They will argue that no criteria were set out for expropriation and that as German citizens, their investments in Namibia should be protected in terms of a bilateral agreement between the German and Namibian governments.

The three cases will be heard from today until Thursday.

The Namibian was able to identify two of the owners.

They are a Mr Herburger of Farm Heimaterde and Gunter Kessl, who owns Gross Ozombutu and Okozongutu West.

Both farms are close to the popular tourism farm Mount Etjo in the Otjiwarongo area.

Kessl was tightlipped when approached for comment yesterday.

"Each of us is filing the High Court application separately," was all he was prepared to say.

"I will not comment further at this stage."

According to voluminous papers filed with the High Court, Kessl's law team also intends to argue that the expropriation would contradict Article 10 of the Namibian Constitution.

Article 10(2) states: "No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status."

According to available information, Government has so far expropriated five commercial farms.

The first was Ongombo West belonging to Hilde Wiese, situated 40 kilometres east of Windhoek.

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That was followed by the farms Marburg and Okorusu of Heidi Lacheiner-Kuhn.

Both owners are Namibian women.

A German national with permanent residence in Namibia, Dr Klaus Schindler, had his two farms expropriated a few weeks ago.

In each case, Government paid compensation.

Ongombo West made headlines in 2003 after a labour dispute which led to the sacking, eviction and reappointment of six workers.

One of the farmworkers was accused of being negligent in caring for a gosling, which died.

The six workers were evicted and camped along the roadside for several weeks.

The High Court ordered that they should be reinstated, which was done.

Wiese received close to N\$3 million for Ongombo West, which was expropriated at the end of 2005.

Since then, no production has taken place there.

The former farmworkers were resettled on parts of the farm, while two new people from other areas were also allocated portions of the farm.

These new beneficiaries only travel to the farm on weekends, The Namibian has established, while the former farmworkers lack financing to start productive farming and are working on neighbouring farms to earn some cash.

The farms Okorusu and Marburg of Lacheiner-Kuhn were expropriated in August 2005 and Government paid N\$8 million, although it initially only offered N\$3,2 million.

Lacheiner-Kuhn did not oppose the expropriation, but launched a court action, arguing the offered price was too low, since intensive mining activities took place on Okorusu, making the farm more valuable.

In 2003, she had decided to sell Okorusu because farming activities clashed with those of the mining company.

Namibian laws stipulate that every commercial farm to be sold must first be offered to Government.

The State has 60 days to consider and must issue a waiver certificate to the owner if it is not interested in buying the farm.

Lacheiner-Kuhn offered the farm to Government in January 2004, but did not receive a waiver for five months.

A High Court judge ordered the Lands Ministry to immediately issue the waiver

- in July 2004 - and pay the costs of her court application.

The mining company was interested in buying the farm Okorusu.

However, during the negotiations, which had the blessing of the Ministry of Mines and Energy, the Lands Ministry in 2005 said it wanted to buy Okorusu and the adjacent Marburg farm.

The owner and the Ministry settled for N\$8 million, which was paid out last September.

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