



UNMIK/DIR/2004/12
4 June 2004

ADMINISTRATIVE DIRECTION NO. 2004/12

**IMPLEMENTING UNMIK REGULATION NO. 2004/11
ON THE REGISTRATION AND OPERATION OF
POLITICAL PARTIES IN KOSOVO**

The Special Representative of the Secretary-General (SRSG),

Pursuant to the authority given to him under section 26 of UNMIK Regulation No. 2004/11 of 5 May 2004 on the Registration and Operation of Political Parties in Kosovo,

For the purpose of setting out the composition of, and procedures to be followed by, a Political Party Appeals Committee, in accordance with section 7.2 of UNMIK Regulation No. 2004/11,

Hereby issues the following Administrative Direction:

Section 1

Composition, Qualification and Appointment of the Appeals Committee

1.1 The Political Party Appeals Committee (hereinafter "the Appeals Committee") shall be composed of four (4) members appointed by the SRSG on the recommendation of the DSRSG for Institution Building (Pillar III) pursuant to sections 1.2 and 1.3.

1.2 The DSRSG for Institution Building (Pillar III) shall recommend for appointment persons who hold university degrees and who are professionals of recognized ethical and professional standards in their respective fields of activity.

1.3 A person shall not be eligible to be a member of the Appeals Committee if he or she is:

- (a) A holder of a public or political party office;

(b) A member or employee of the Political Party Registration Office, the Central Election Commission or the Department of Elections of UNMIK Pillar III;

(c) A member of the Assembly of Kosovo;

(d) A member of a Municipal Assembly in Kosovo; or

(e) A candidate for elected public office in Kosovo.

1.4 The SRSG shall designate one (1) member as the Chairperson of the Appeals Committee. The Chairperson shall be responsible for the management and record keeping of the Appeals Committee.

1.5 The Chairperson shall designate an Alternate Chairperson from among the members of the Committee. If the Chairperson is not available to receive an appeal, chair a hearing or sign a decision, the Alternate Chairperson shall act as the Chairperson.

1.6 The terms of members of the Appeals Committee shall be for a minimum period of six (6) months and up to two (2) years, as specified in the letters of appointment signed by the SRSG. Members may be reappointed for subsequent terms.

1.7 No member of the Appeals Committee can be dismissed or otherwise removed from office unless the SRSG determines that the member:

(a) Is affected by physical or mental incapacity likely to be permanent or prolonged;

(b) Has engaged in serious misconduct;

(c) Has failed in the proper execution of his or her responsibilities;

(d) Has been placed in a position incompatible with the execution of his or her duties; or

(e) Has acquired a position or status rendering him or her ineligible to be appointed a member under section 1.3.

1.8 A member of the Appeals Committee may resign by submitting his or her resignation communication in writing to the SRSG at least fifteen (15) days in advance of the date on which the member proposes to cease work with the Committee. Such a communication shall include an explanation of the reasons for the resignation.

Section 2
Submission of Appeals

2.1 A Political Party may appeal a decision of the Political Party Registration Office (hereinafter “the Office”) under UNMIK Regulation 2004/11 to the Appeals Committee by filing with the Office an appeal addressed to the Appeals Committee within fourteen (14) days of receiving notice of the decision.

2.2 The Office shall, as soon as possible, deliver the appeal to the Chairperson, or if the Chairperson is unavailable, to the Alternate Chairperson.

2.3 An appeal shall be in writing and shall include:

- (a) The full name, address and telephone number of the appellant;
- (b) A copy of the decision in question;
- (c) A written statement indicating the aspect or aspects of the decision being appealed and the grounds for appeal; and
- (d) Any supporting documentation upon which the appellant relies.

Section 3
Appeals Committee Procedures

3.1 The Appeals Committee shall issue a decision on an appeal within thirty (30) days of the appeal being filed with the Office. The SRSG may, at the request of the Chairperson of the Appeals Committee, extend the deadline for decision in a particular case. Such a request shall include an explanation of the circumstances justifying the extension requested.

3.2 Subject to section 3.3, the Appeal Committee shall, after reviewing an appeal, request the Office to provide the Committee with written submissions explaining its reasons for the decision under appeal, along with all relevant documentation relating to the decision. The Office shall provide the Appeals Committee with all such information within two (2) working days of receiving a request.

3.3 If the Appeals Committee determines that an appeal is without merit, the Committee may dismiss the appeal without requesting the Office to make any submission.

3.4 The Appeals Committee may at any time request clarification of a written submission by either the appellant or the Office, or request either party to provide

additional documentation or information. The Office and the appellant shall respond within two (2) working days of receiving such a request.

3.5 The Appeals Committee shall meet at the times and locations selected by the Chairperson in consultation with the other Appeals Committee members. The Chairperson shall set the agenda for each meeting of the Appeals Committee.

3.6 Meetings of the Appeals Committee shall be closed to the public.

3.7 The Appeals Committee shall not hold hearings or call witnesses.

3.8 The Appeals Committee may, at its discretion, adopt additional rules of procedure, provided that such additional rules of procedure are consistent with the provisions of the present Administrative Direction.

Section 4 Burden of Proof and Evidence

4.1 The appellant bears the burden of proving that the decision under appeal was incorrect.

4.2 Subject to section 4.3, the Appeals Committee shall consider any evidence that it considers relevant.

4.3 The Appeals Committee may consider new evidence submitted by an appellant that was not considered by the Office at the time of the decision, provided that the appellant can establish that it could not reasonably have put such evidence before the Office before the decision was made.

Section 5 Decision Making

5.1 At least three (3) members of the Appeals Committee must be present at a meeting to constitute a quorum. The Appeals Committee cannot take a decision in the absence of a quorum.

5.2 The Appeals Committee shall take decisions by majority vote. In the event of a tie, the Chairperson shall make a decision and his or her decision shall be deemed to be the decision of the Appeals Committee.

5.3 If the Appeals Committee determines, having regard to all the evidence, that the decision under appeal was incorrect, then it shall uphold the appeal.

5.4 If the Appeals Committee determines, having regard to all the evidence, that the decision under appeal was not incorrect, then it shall dismiss the appeal.

5.5 The Appeals Committee shall issue written decisions that include the legal and factual basis therefor. Decisions shall be drafted by the Chairperson or a member selected by the Chairperson. The Appeals Committee shall provide a copy of a decision to the Office and to the appellant within forty-eight (48) hours of issuing the decision. A decision issued by the Appeals Committee shall be signed by the Chairperson on behalf of the Committee.

Section 6
Powers of the Appeals Committee

6.1 If the Appeals Committee upholds an appeal from a decision of the Office, the Appeals Committee may:

- (a) Substitute its decision for that of the Office;
- (b) Direct the Office to reconsider the decision in light of the findings of the Appeals Committee; and
- (c) Order the Office to take remedial action.

6.2 A decision of the Office remains in effect pending the final decision on an appeal to the Appeals Committee.

Section 7
Entry into Force

The present Administrative Direction shall enter into force on 4 June 2004.

Harri Holkeri
Special Representative of the Secretary-General