



UNMIK/REG/2004/9
27 April 2004

REGULATION NO. 2004/9

ON THE CENTRAL ELECTION COMMISSION

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

Pursuant to the authority given to him under United Nations Security Council resolution (UNSCR) 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

In conformity with UNSCR 1244 (1999) and the Constitutional Framework for Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001),

Having promulgated UNMIK Regulation No. 2000/21 of 18 April 2000, as amended, on the Establishment of the Central Election Commission,

Taking into account and without prejudice to UNMIK Administrative Direction No. 2003/28 of 15 November 2003 implementing UNMIK Regulation No. 2000/21, as amended,

For the purpose of setting out provisions governing activities of a Central Election Commission and the conduct of elections in Kosovo,

Hereby promulgates the following:

Section 1

The Central Election Commission

1.1 The Central Election Commission (hereinafter "the Commission") established pursuant to UNMIK Regulation No. 2000/21, as amended, shall be a permanent and independent body within the meaning of Chapter 11 of the Constitutional Framework for Provisional Self-Government.

1.2 The Commission may enter into technical arrangements and understandings that are required for the fulfilment of its functions and responsibilities.

Section 2

Composition of the Commission and Remuneration

2.1 The Commission shall consist of a Chairperson, and eleven (11) other members (hereinafter "Commissioners") to be appointed by the SRSG. Two (2) Commissioners shall be selected by the SRSG in consultation with UNMIK Pillar for Institution Building from among international representatives having relevant professional qualifications and practical experience in electoral matters, and nine (9) shall be nominated in accordance with section 3. The Deputy SRSG for Institution Building shall be a Commissioner *ex officio* and shall serve as the Chairperson.

2.2 Each Commissioner, except for the Chairperson, shall have an Alternate appointed by the SRSG. An Alternate shall serve as a temporary member of the Commission if the Commissioner concerned is unable to attend a meeting. An Alternate shall have the rights and obligations of the Commissioner for whom he or she is substituting.

2.3 The Commission shall be composed having regard to gender representation.

2.4 Commissioners and Alternates, except the Chairperson and Commissioners and Alternates selected by the SRSG, shall be remunerated for the performance of their duties with resources provided from the Kosovo Consolidated Budget.

Section 3

Nomination of Commissioners and Alternates

3.1 The following Political Entities and non-governmental organizations shall have the right to nominate, upon the request of the SRSG, one (1) candidate each to serve as a Commissioner:

(a) The three Political Entities not eligible for reserved seats that respectively received the highest numbers of votes in the most recent election to the Assembly of Kosovo;

(b) The Political Entity that received the highest number of votes among those Entities that contested the seats reserved for the Kosovo Serb community in the most recent election to the Assembly of Kosovo;

(c) The Political Entity that received the highest number of votes among those Entities that contested the seats reserved for the Roma, Ashkali and Egyptian communities in the most recent election to the Assembly of Kosovo;

(d) The Political Entity that received the highest number of votes among those Entities that contested the seats reserved for the Turkish community in the most recent election to the Assembly of Kosovo ;

(e) The Political Entity that received the highest number of votes among those Entities that contested the seats reserved for the Bosniak and Gorani communities in the most recent election to the Assembly of Kosovo;

(f) A non-governmental organization registered under UNMIK Regulation No. 1999/22 of 15 November 1999 on the Registration of Non-governmental Organizations in Kosovo that has expertise in relation to persons with physical and mental disabilities, selected by the Presidency of the Assembly of Kosovo; and

(g) A non-governmental organization registered under UNMIK Regulation No. 1999/22 that has expertise in electoral or human rights matters or gender issues, selected by the Presidency of the Assembly of Kosovo.

3.2 Each Political Entity or non-governmental organization identified in section 3.1 shall, at the time it nominates a Commissioner, nominate a person to serve as the Alternate of that Commissioner.

3.3 A person shall not be eligible to be a Commissioner or Alternate if he or she is:

- (a) A member of the Assembly of Kosovo;
- (b) A member of a Municipal Assembly in Kosovo;
- (c) A candidate for elected public office in Kosovo;
- (d) A member of a publicly elected representative assembly outside of Kosovo;
- (e) A holder of a senior public or high political party office;
- (f) A member of a public electoral commission within or outside of Kosovo;
- (g) A member of the Kosovo Protection Corps;

- (h) A member of any police force or body of like kind;
- (i) A member of the armed forces of any State;
- (j) A person not eligible to vote in Kosovo, other than persons in the category selected for appointment as Commissioners or Alternates by the SRSG pursuant to section 2.1; or
- (k) A person serving a sentence imposed by the International Criminal Tribunal for the Former Yugoslavia or under indictment by the Tribunal and has failed to comply with an order to appear before the Tribunal.

3.4 If a Political Entity or non-governmental organization fails to nominate a person to be a Commissioner or Alternate within 21 days of being requested to do so, the SRSG shall at his discretion select and appoint an eligible person to fill the vacant position.

3.5 If the Presidency of the Assembly of Kosovo fails to select a non-governmental organization, or a selected non-governmental organization fails to nominate a person to be a Commissioner or Alternate, pursuant to sections 3.1(f) or (g) within 21 days of being requested to do so, the SRSG shall at his discretion select and appoint an eligible person to fill the vacant position.

3.6 If the SRSG considers that a nominee is not suitable to serve as a Commissioner or Alternate under the present Regulation, he shall hold consultations with and request the Political Entity or non-governmental organisation concerned to nominate a new candidate. If the Political Entity or non-governmental organization in question fails to nominate an eligible person to be a Commissioner or Alternate within 21 days of such request, the SRSG shall at his discretion select and appoint an eligible person to fill the vacant position.

Section 4

Oath of Declaration and Appointment

4.1 The SRSG shall issue a letter of appointment to each successful nominee for the position of a Commissioner or Alternate who shall personally appear before the SRSG or his designated representative on a date notified by the SRSG and make the following Declaration in the language of his or her choice:

“I solemnly declare that I shall discharge the duties of my office as Commissioner (Alternate) of the Central Election Commission honourably, faithfully, impartially, diligently and conscientiously.”

4.2 If a person nominated to be a Commissioner or Alternate fails, without good cause shown, to make the Declaration pursuant to section 4.1, the SRSG shall request the authority that nominated that person to nominate a different person. If the authority fails to nominate an eligible person to be a Commissioner or Alternate within 21 days of such request, the SRSG shall at his discretion select and appoint an eligible person to fill the vacant position.

Section 5
Term of Office of Commissioners

5.1 The term of office of a Commissioner shall be three (3) years from the date of his or her appointment, unless terminated earlier by reason of:

(a) The resignation, death or mental or physical incapacity of the Commissioner concerned;

(b) The failure of the Commissioner concerned to attend four (4) consecutive meetings of the Commission without reasonable justification, as determined in the judgment of the Commission;

(c) The failure of the Commissioner concerned to satisfactorily discharge his or her official duties, as determined in the judgment of the Commission;

(d) The acquisition by the Commissioner concerned of a position or status rendering him or her ineligible to be appointed a Commissioner under section 3.3; or

(e) A decision of the SRSG taken on:

(i) His own initiative for the reason of a Commissioner's non-compliance with the present Regulation, after having sought advice of the Commission through its Chairperson; or

(ii) A recommendation of the Commission.

5.2 If the term of the office of a Commissioner is terminated for one of the reasons set out in section 5.1, the SRSG shall request the Political Entity or non-governmental organization that nominated the Commissioner to nominate a new person to serve the remainder of the Commissioner's term.

5.3 Upon the expiry of a Commissioner's term of office, the SRSG shall request the relevant Political Entity or non-governmental organization to nominate a new Commissioner pursuant to section 3.1. A Commissioner may be nominated and appointed for subsequent terms.

Section 6
Decision Making

6.1 The Commission shall adopt decisions by consensus. If a consensus cannot be reached on an issue following the practices and within the time limits established by the Rules of Procedure of the Commission, the Chairperson shall make a decision after consultation with the Commissioners and his or her decision shall be deemed to be the decision of the Commission.

6.2 A decision of the Commission is not subject to appeal, except as may be expressly provided for in the applicable law.

6.3 The Commission shall establish its own rules of procedure consistent with the present Regulation.

6.4 A Commissioner shall not participate in the making of a decision by the Commission on a matter in which he or she or his or her family member has an interest of a personal or financial nature, which may call into question the ability of the Commissioner to act impartially.

Section 7
Responsibilities and Functions of the Commission

7.1 The Commission shall be responsible for policy development and the managerial oversight of the conduct of:

- (a) Elections to the Assembly of Kosovo; and
- (b) Elections to the Municipal Assemblies in Kosovo.

7.2 The basic rules which govern the conduct of elections in Kosovo, including Kosovo-wide and municipal elections, shall be set out in a Regulation promulgated by the SRSG. Any such Regulation shall expressly provide for, *inter alia*, the following:

- (a) An appropriate electoral system;
- (b) Voter eligibility;
- (c) Authority of the SRSG to certify the final result of elections;
- (d) Authority of the SRSG to set out and announce the date of elections; and

- (e) Establishment of an Election Complaints and Appeals Commission.

7.3 The Commission shall:

- (a) Prepare and issue Electoral Rules, instructions and procedures relating to the implementation of the Regulation referred to in section 7.2 and any other matter pertaining to the conduct of elections within its competence;
- (b) Publish all approved Electoral Rules and instructions and make them readily accessible to the public;
- (c) Establish and maintain the list of persons eligible to vote in a particular election;
- (d) Establish a Code of Conduct for Political Entities participating in an election;
- (e) Certify Political Entities and candidates eligible to participate in an election;
- (f) Design and approve ballot papers and other electoral materials;
- (g) Accredite official election observers;
- (h) Certify the voters list in relation to an election;
- (i) Publish the results of elections;
- (j) Undertake activities designed to increase voter awareness of and participation in elections;
- (k) Establish polling station committees and regulate their operation;
- (l) Undertake projects or research in relation to electoral system and related matters;
- (m) Regulate coverage by the news media of elections in Kosovo to ensure fair and equitable public debate;
- (n) Establish appropriate procedures and undertake activities to ensure that all persons with disabilities are able to exercise their right to vote and participate fully in electoral processes in Kosovo; and
- (o) Perform any other functions ancillary to the holding of elections in Kosovo assigned to it by relevant Regulations and subsidiary instruments thereunder.

Section 8
Secretariat of the Central Election Commission

The Commission shall be assisted in the discharge of its responsibilities and functions by a Secretariat (hereinafter the “Commission Secretariat”) which shall operate in accordance with UNMIK Administrative Direction No. 2003/28. Responsibilities and functions of the Commission Secretariat shall be set out in Electoral Rules issued by the Commission. Either the Chief Executive Officer or the Deputy Chief Executive Officer of the Commission Secretariat shall attend every meeting of the Commission in an advisory capacity.

Section 9
Municipal Election Commissions

9.1 The Commission shall establish a Municipal Election Commission for each municipality for each election. The Commission shall determine the number of persons constituting a Municipal Election Commission, taking into account the population of the municipality, the number of polling stations to be established, and the physical area of the municipality.

9.2 Each Municipal Election Commission shall, under the exclusive supervision and direction of the Commission acting through the Commission Secretariat, administer the election within its municipality ensuring the legality, legitimacy and efficiency of the electoral process.

9.3 Each Municipal Election Commission shall be composed of:

(a) A Municipal Election Commission Executive Officer employed by the Commission; and

(b) One or more members appointed by the Commission in consultation with the relevant Municipal Administration.

9.4 A member of a Municipal Administration appointed to serve as a Municipal Election Commission member shall, with respect to his or her duties as a Municipal Election Commission member, serve under the authority of the Commission and the Municipal Election Commission Executive Officer during the period of his or her appointment.

9.5 The Commission may replace a Municipal Election Commission member or members at any time if it determines that the member or members are unable or unwilling to perform their responsibilities as Municipal Election Commission members.

9.6 Every member of a Municipal Election Commission must be a person eligible to vote in Kosovo.

9.7 Members of a Municipal Election Commission referred in section 9.3 (b), other than those who are current employees of a Municipal Administration, shall be remunerated for the performance of their duties pursuant to an Electoral Rule to be issued by the Commission.

Section 10
Voter Eligibility

The eligibility to vote in elections in Kosovo shall be as specified in section 9.1.3 (c) of the Constitutional Framework for Provisional Self-Government.

Section 11
Repeal

UNMIK Regulation No. 2000/21, as amended, is hereby repealed.

Section 12
Implementation

The SRS G may issue Administrative Directions for the implementation of the present Regulation.

Section 13
Applicable Law

The present Regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 14
Entry into Force

The present Regulation shall enter into force on 27 April 2004.

Harri Holkeri
Special Representative of the Secretary-General