

**ADMINISTRATIVE DIRECTION NO. 2007/5**

**IMPLEMENTING UNMIK REGULATION NO. 2006/50 ON THE  
RESOLUTION OF CLAIMS RELATING TO PRIVATE IMMOVABLE  
PROPERTY, INCLUDING AGRICULTURAL AND COMMERCIAL  
PROPERTY**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under sections 6.3 and 21 of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2006/50 of 16 October 2006 on the Resolution of Claims relating to Private Immovable Property, including Agricultural and Commercial Property, and

For the purpose of achieving an efficient and effective resolution of claims relating to private immovable property, including agricultural and commercial property, and facilitating implementation of UNMIK Regulation No. 2006/50,

Hereby issues the following Administrative Direction:

Section 1  
Definitions

For the purposes of this Administrative Direction, unless the context otherwise requires:

“Abandoned property” means any property, which the owner or lawful possessor and the members of his or her family household have permanently or temporarily, other than for an occasional absence ceased to use and which is either vacant or illegally occupied.

“Agricultural property” means any privately-owned agricultural land, pasture or woods.

“Builder” means any person who constructs a structure or causes a structure to be built.

“Claimant” means any natural or legal person who has filed a claim referred to in section 3.1 of UNMIK Regulation No. 2006/50 with the Executive Secretariat of the Kosovo Property Agency.

“Commercial property” means any privately-owned premises that are being used officially or unofficially for commercial purposes.

“Commission” means the Property Claims Commission of the Kosovo Property Agency established under section 4 of UNMIK Regulation No. 2006/50, and read in connection with section 7 of that Regulation.

“Discrimination” means any differentiation made on grounds such as language, religion, political or other opinion, national or ethnic origin, or association with a national community, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of a property right.

“Executive Secretariat” means the Executive Secretariat of the Kosovo Property Agency established under section 4 of UNMIK Regulation No. 2006/50, and read in connection with section 6 of that Regulation.

“Fair market value” means the market value of the property at the date of the transfer of the property right.

“Illegal construction” means any construction of a structure, or addition to an existing structure on private immovable property which is not compliant with the applicable law or has been carried out without the owner’s express written consent.

“Member of the Family Household” means the spouse, children (born in and out of wedlock or adopted) and other persons whom the property right holder is obliged to support in accordance with the applicable law, or the persons who are obliged to support the property right holder in accordance with the applicable law, regardless of whether or not that person resided in the property together with the property right holder.

“Property” means any private immovable property, including agricultural and commercial property.

“Property right” means any right of ownership of, lawful possession of, right of use of or occupancy right to property.

“Respondent” means any person who upon receiving notice of a claim having been filed with the Executive Secretariat responds to that claim pursuant to section 10 of UNMIK Regulation No. 2006/50.

“Structure” means any artificial construction, affixed to the land or an existing structure, of a permanent nature and of such a size that it cannot be removed at nominal cost and with negligible damage to the land or the existing structure.

“Supervisory Board” means the Board of the Kosovo Property Agency established under section 4 of UNMIK Regulation No. 2006/50, and read in connection with section 5 of the Regulation.

“UNMIK Regulation No. 2006/50” means UNMIK Regulation No. 2006/50 of 16 October 2006 on the Resolution of Claims Relating to Private Immovable Property, including Agricultural and Commercial Property.

“Voluntary Transfer” means any transfer of property rights not effected under duress.

## **CHAPTER I**

### **General Provisions**

#### **Section 2**

#### **General Principles**

2.1 Any person who had an ownership right, lawful possession of or any lawful right of use of or to private immovable property, including agricultural and commercial property, who at the time of filing a claim is not able to exercise his/her property right due to circumstances directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999 as defined in section 3.1 of UNMIK Regulation No. 2006/50, is entitled to reinstatement as the property rights holder in of his/her property right. Such reinstatement may take the form of repossession of the property or such other relief, remedies or consequential orders as are deemed necessary by the Commission to enable the property right holder to duly exercise his/her property rights, as set out in section 15 of UNMIK Regulation No. 2006/50.

2.2 Where a claimant is found by the Commission to be entitled to reinstatement as a holder of a property right, the Commission shall authorize reinstatement in kind unless the ownership of the property has been acquired by a natural person through a valid voluntary contract for value before the date on which UNMIK Regulation No. 2006/50 entered into force.

Section 3  
Languages

3.1 The languages which may be used by the Kosovo Property Agency in all proceedings filed pursuant to UNMIK Regulation No. 2006/50 shall be Albanian, Serbian and English.

3.2 Any person participating in proceedings before the Commission and in appellate proceedings before the Supreme Court who does not speak the language of the proceedings shall have the right to speak his/her own language and the right to be informed through interpretation, free of charge, of the evidence, the facts and the proceedings.

3.3 Where a conflict or discrepancy arises in relation to a word, phrase or interpretation between the English version of a document or decision and the Albanian or Serbian version, the word, phrase or interpretation in the English language version shall prevail and be applied.

Section 4  
Duress

4.1 Any contract purporting to dispose of a property right to private immovable property concluded under duress may be declared void by the Commission, together with any subsequent sale(s) of the property.

4.2 Duress is present where the seller at the time of the conclusion of the contract either:

- (a) Has been or is being subjected to violence, intimidation or threats of physical harm; or
- (b) On account of words or conduct directed to him or her personally by any person, reasonably fears imminent violence or physical harm to his/her person, or to the members of his/her family.

4.3 Duress is presumed, until the validity of the contract is proven, where the market value of the property at the time of the sale bears no reasonable relation to the actual purchase price paid.

4.4 A decision in terms of section 2.1 declaring a contract void shall lapse permanently if the seller does not repay the purchase price in full, together with the interest due at the prescribed rate to the Executive Secretariat, as agent for the purchaser, within thirty (30) days of receiving notice of the decision.

Section 5  
Representation before the Property Claims Commission and  
the Supreme Court of Kosovo

5.1 In proceedings before the Commission and the Supreme Court of Kosovo claimants and respondents shall be represented by a member of a bar association in Kosovo, the Republic of Serbia or the Republic of Montenegro except for natural persons who may choose to represent themselves.

5.2 In proceedings before the Commission, where a natural person is unable to make a claim, the claim may be made by a member of the family household of that person. A claimant may be represented by an authorized natural person with a valid and duly executed power of attorney. In exceptional cases, where the provision of a power of attorney is problematic the Executive Secretariat may certify an alternative document authorizing representation of a claimant.

5.3 A lawyer acting for a party must submit to the Executive Secretariat or the Registry of the Supreme Court a copy of the power of attorney granting the authority to represent such party in the proceedings before the Commission or the Supreme Court. The Supreme Court may require that such power of attorney be certified.

5.4 As regards appeals before the Supreme Court of Kosovo at the discretion of the Presiding Judge, a party may also be represented by a member of a foreign bar who has the necessary competence and experience.

Section 6  
Service of Documents

6.1 The address for service of a party shall be the party's home address or if the party is represented by a lawyer then the address for service shall be the business address of the lawyer. The claimant shall state the address for service in the claim and the respondent shall state the address for service in the defense.

6.2 A party may agree that service be effected by using telefax or other electronic means of communication for transmission to its lawyer. In such case, the party shall submit to the Supreme Court all information necessary to effect service using telefax or other electronic means of communication.

6.3 Where UNMIK Regulation No. 2006/50 requires that a document be served on a party by the Supreme Court, the Supreme Court shall transmit the document to the Executive Secretariat of the Kosovo Property Agency. The Executive Secretariat shall ensure that service is effected at the address for service of that party either by the dispatch of a copy of the document by

registered mail with a form for acknowledgement of receipt or by personal service of the copy against a receipt.

6.4 Where a party has agreed, in accordance with section 6.2, that service may be effected by telefax or other electronic means of communication, any procedural document other than a judgment of the Supreme Court shall be served by the transmission of a copy of the document by such means. Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served on the party in accordance with the procedure set forth in section 6.3. The party shall be so advised by telefax or other electronic means of communication.

6.5 Service shall be deemed to have been effected:

(a) In the case of dispatch of a copy of the document by registered mail, on the day on which the addressee acknowledged receipt or, if the addressee has refused to accept the document or to sign the receipt, on the fifth day following the mailing of the registered letter at the post office in the location of the Executive Secretariat of the Kosovo Property Agency;

(b) In the case of personal service of the document pursuant to section 6.3, on the day on which the addressee acknowledged receipt or, if the addressee has refused to accept the document or to sign the receipt, on the day of the attempted service. The person serving the document shall make a note of the refusal on the document and return it to the Executive Secretariat;

(c) In the case of transmission of the document by using telefax or other electronic means of communication pursuant to section 6.2, on the day the transmission was successfully completed and documented or, if the inability to successfully complete said transmission was due to the deliberate fault of the receiver, on the day that the attempt to transmit was made.

## Section 7 Calculation of Periods

7.1 A period of time prescribed by UNMIK Regulation No. 2006/50 or the present Administrative Direction shall be calculated as follows:

- (a) Where a period expressed in days, weeks or months is to be calculated from the moment at which an event takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;
- (b) Periods expressed in days, weeks or months shall mean calendar days, weeks or months;

- (c) Where a period is expressed in months and days, it shall be first calculated in whole months, then in days;
- (d) Periods shall include Saturdays, Sundays and official holidays.

7.2 If the end of a period would fall on a Saturday, Sunday or on an official holiday, the period in question shall be extended until the end of the first following working day.

7.3 The Commission of the Kosovo Property Agency or the Supreme Court may, if the interests of justice so require, extend any time period, bearing in mind the responsibility to handle the matter expeditiously and provided it was not reasonably practicable for a party or the Commission or the Supreme Court to dispose of the matter at hand within the time period prescribed by law.

7.4 If a party fails to comply with any requirement for an action to be taken within a prescribed period of time pursuant to section 12 of UNMIK Regulation No. 2006/50 or the present Administrative Direction, the Chairperson of the Commission or the Presiding Judge in the appeal may permit the party to comply with that requirement outside the prescribed period of time if he or she considers that there are justifiable reasons for that party's failure and that no other party would suffer serious and irreparable prejudice if the defaulting party were permitted to comply outside the prescribed period of time.

7.5 An application for permission under section 7.3 shall be submitted as soon as reasonably practicable, but in any event prior to the expiry of the prescribed period of time. At the same time as serving the application the party shall through or with the assistance of the Secretariat of the Kosovo Property Agency:

- (a) Give notice of the application to the other party or parties; and
- (b) Perform any action necessary to comply with the original requirement.

## Section 8

### Deadline for the Submission of Claims

A claim referred to in section 3.1(a) or (b) of UNMIK Regulation No. 2006/50 must be submitted to the Executive Secretariat on or before the expiry of six months from the date of promulgation of this Administrative Direction. The deadline for submission of claims may be extended by announcement of the Special Representative of the Secretary-General, who may:

- (a) Decline to extend the deadline for a category of claims; and

- (b) Provide different deadlines for different categories of claims.

## **CHAPTER II**

### **Responsibilities of the Supervisory Board**

#### Section 9

#### Oversight Responsibility and Procedural Rules

The Supervisory Board shall have oversight responsibility for all matters relating to the functioning of the Kosovo Property Agency, including its annual budget, implementation of its mandate, the development of policy initiatives and determinations, and administrative, operational and funding requirements and arrangements. The rules of procedure applicable to the Supervisory Board are set out in Annex I to the present Administrative Direction.

## **CHAPTER III**

### **Director and Staff of the Executive Secretariat**

#### Section 10

#### General Rules and Responsibilities

- 10.1 The Director shall be the chief administrative officer of the Executive Secretariat.
- 10.2 The Director shall act independently in the exercise of the powers vested in the post as prescribed in UNMIK Regulation No. 2006/50, this Administrative Direction and decisions of the Supervisory Board.
- 10.3 The Director shall report to and act under the general authority and guidance of the Supervisory Board in respect of all matters relating to the Kosovo Property Agency. The Director shall report to and be exclusively accountable to the Commission in relation to matters which fall within the jurisdiction of the Commission.
- 10.4 The Director shall appoint and dismiss the staff of the Executive Secretariat in accordance with the applicable law in Kosovo. The staffing of the Executive Secretariat shall broadly represent the communities in Kosovo.
- 10.5 No person may become or remain a staff member of the Executive Secretariat if he/she is occupying a property without the express written agreement or consent of the lawful property right holder. Where a staff

member occupies a property which is the subject of a claim under section 3.1 of UNMIK Regulation No. 2006/50 he/she shall declare this fact in writing to the Director of the Executive Secretariat.

10.6 In the discharge of their duties, all staff members owe their duty entirely to the Commission or the Executive Secretariat as appropriate and to no other party or entity. They shall not receive instructions with respect to the discharge of their duties from any authority other than the Commission or the Executive Secretariat.

10.7 All staff members shall maintain the confidentiality of information obtained in the course of performing duties for the Executive Secretariat both during and following their period of employment, and they shall make the following written declaration:

*"I solemnly declare that I will perform my duties faithfully, impartially and conscientiously, and with full respect for the duty of confidentiality."*

10.8 No staff member of the Executive Secretariat, consultant or expert engaged to perform services for the Executive Secretariat shall take part in processing a claim, or in any proceedings on a claim in which they have a personal interest, or if they have been consulted by or are associated with a party to a claim or have been involved in any legal proceedings on a claim other than the proceedings before the Executive Secretariat and the Commission, or if there are any other circumstances which may affect their impartiality. In case of any doubt concerning this rule the staff member shall declare this fact in writing to the Director of the Executive Secretariat through his/her hierarchical superior in the Executive Secretariat and the Director shall determine whether his/her impartiality could be affected, and decide on the matter as he/she deems necessary.

10.9 All staff members are barred from receiving a benefit from any party or entity other than the Executive Secretariat in relation to any action or omission of the Kosovo Property Agency without prejudice to Section 10.10.

10.10 Subject to approval of the Director of the Executive Secretariat, staff may be seconded to the Executive Secretariat from other institutions or entities. In such cases, their remuneration and personal conditions of service shall depend on their contract with the seconding entity.

## CHAPTER IV

### **Duties, Responsibilities and Rules of the Executive Secretariat regarding Claims**

#### **Section 11**

#### **Collection and Registration of Claims**

The Executive Secretariat shall receive and register claims referred to in section 3.1 of UNMIK Regulation No. 2006/50 in accordance with sections 9 and 10 of the Regulation. The duties, responsibilities and rules of the Executive Secretariat regarding claims are set out in Annex II to the present Administrative Direction.

## CHAPTER V

### **Duties and Responsibilities of the Property Claims Commission**

#### **Section 12**

#### **Duties, Responsibilities and Applicable Rules**

The duties, responsibilities and rules of procedure of the Property Claims Commission regarding the adjudication of claims are set out in Annex III to the present Administrative Direction.

## CHAPTER VI

### **Appeals to the Supreme Court of Kosovo**

#### **Section 13**

#### **Applicable Laws**

In interpreting UNMIK Regulation No. 2006/50 and the present Administrative Direction, the Supreme Court of Kosovo may take into account, with such modifications or qualifications as it considers necessary or appropriate in the given circumstances, the provisions of the applicable laws on the powers of the Supreme Court relating to civil procedures including *mutatis mutandis* the provisions in Administrative Direction No. 2003/13 of 11 June 2003 implementing UNMIK Regulation No. 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters.

Section 14  
Registry

14.1 The Supreme Court shall maintain its own separate Registry for matters relating to the Kosovo Property Agency (the Registry) for records on appeals filed pursuant to the provisions of UNMIK Regulation No. 2006/50.

14.2 A record shall be made of all claims, replies and supporting documents in the order in which they are filed. Entries shall be made in a register maintained for this purpose and kept in the Registry.

14.3 Any person who can demonstrate a legitimate interest in the matter may consult the register at the Registry and may obtain copies or extracts of the register, except for entries subject to a confidentiality order of the Supreme Court, on payment of a charge on a scale fixed by the Ministry of Justice of Kosovo.

Section 15  
Presiding Judge

When an appeal is filed with the Supreme Court and a panel has been established pursuant to section 12.9 of UNMIK Regulation No. 2006/50, the President of the Supreme Court shall immediately designate one of the international judges to serve as the Presiding Judge in the appeal panel.

Section 16  
Proceedings

The proceedings before the Supreme Court shall consist of written proceedings and, where the interests of justice require, an oral hearing may take place.

Section 17  
Further Written Submissions

17.1 In accordance with section 12.10 of UNMIK Regulation No. 2006/50 the Supreme Court may, on receipt of a response to an appeal, request that the parties file further written submissions.

17.2 The Supreme Court may direct the parties as to the nature of the further written submissions required and may specify a date for delivery of the further written submissions.

17.3 The Supreme Court shall deliver its request for further written submissions to the Executive Secretariat of the Kosovo Property Agency, who shall serve the request on the parties.

17.4 The parties shall file their further written submissions through the Executive Secretariat of the Kosovo Property Agency.

### Section 18 Reassessment of Further Clarification from the Commission

In accordance with section 12.9 of UNMIK Regulation No. 2006/50, the Supreme Court may request reassessment or clarification of an appealed decision from the Commission. The Supreme Court may request that the Commission:

- (a) Obtain further documentary evidence;
- (b) Hold an oral hearing;
- (c) Take testimony from the parties or witnesses including expert witnesses; and/or
- (d) Provide any other reassessment or clarification necessary to assist the Supreme Court to determine the appeal.

### Section 19 Oral Hearings

19.1 According to section 12.10 of UNMIK Regulation No. 2006/50, the Supreme Court may hold an oral hearing.

19.2 The Supreme Court may hold an oral hearing on a specific contested issue relating to facts and evidence addressed before the Commission when it considered the claim.

### Section 20 Evidence

20.1 The Supreme Court may of its own motion, in order to properly establish facts, administer evidence from a document or a hearing of a party or a witness including an expert witness.

20.2 In exceptional circumstances the Supreme Court may administer any other evidence which is necessary for the expeditious conclusion of the proceedings including, but not limited to, inspecting a site or object.

## Section 21 Judgment

21.1 A decision of the Supreme Court adjudicating an appeal shall be set forth in a judgment. The Supreme Court shall base a judgment upon an analysis of the facts presented during proceedings and the applicable law.

21.2 Any relief awarded by the Supreme Court shall not exceed the relief sought by the appellant.

21.3 If the respondent to an appeal accepts the appeal in written form, the Supreme Court shall deliver a judgment in favour of the appellant.

21.4 An original of the judgment, signed by the Presiding Judge and the Registrar, shall be stamped and deposited at the Registry. Each party shall be served with a copy of the judgment within thirty days of its adoption.

21.5 The judgment shall be in English, Albanian and Serbian, and, where applicable, in the other language or languages used by the parties.

21.6 The judgment shall be binding from the day of its service on the parties, and shall be enforceable as a final judgment of the Supreme Court of Kosovo according to the provisions of the applicable law.

## **CHAPTER VII**

### **Remedies**

#### Section 22 Execution of Eviction Orders

22.1 An Eviction Order issued by the Commission shall not be executed by the Executive Secretariat until the time period specified in section 12.1 of UNMIK Regulation No. 2006/50 for submitting an appeal from a decision of the Commission on a claim has expired.

22.2 An Eviction Order issued pursuant to section 23.3 shall be signed by the Director of the Executive Secretariat.

22.3 The Executive Secretariat may, in coordination with the Chairperson of the Commission or the Presiding Judge of the Supreme Court panel respectively, delay execution of the Eviction Order for a reasonable period of time when it considers that circumstances so warrant. The Executive Secretariat shall inform the parties to the claim of the reason for the delay.

22.4 The Executive Secretariat shall bear no responsibility for any damage to or loss of moveable property removed during an eviction, or for any material or financial loss or otherwise.

### Section 23

#### Property under Administration of the Authority of the Kosovo Property Agency

23.1 The Executive Secretariat is authorized to administer property under the authority of the Kosovo Property Agency in any of the following circumstances:

- (a) By agreement of the parties in settlement of a claim filed pursuant to section 3.1 of UNMIK Regulation No. 2006/50;
- (b) On the request of a claimant, following a final decision confirming the property right of the claimant;
- (c) Where no request has been submitted for administration of the property, following implementation of a Decision of the Commission, and the eviction of the current occupant, if the property right holder fails to repossess the property on being notified of the execution of the eviction.

23.2 The Executive Secretariat may lease out property under its administration, subject to such reasonable terms and conditions as it deems fit.

23.3 The property right holder of a property under the administration of the Kosovo Property Agency may at any time give notice to the Executive Secretariat of his/her intention to return to possession of the property. Following such a request, the Executive Secretariat will deliver an Eviction Order requiring the current occupant to vacate the property within 90 days of delivery of the Order, and in the case of a lease, a notification of termination of the lease directing the lessee to vacate the property on the expiry of the lease agreement. If the current occupant or the lessee fails voluntarily to vacate the property, the Executive Secretariat will issue a warrant authorizing execution of the Eviction Order and the provisions of section 16 of UNMIK Regulation No. 2006/50 shall apply *mutatis mutandis* in such cases. The administration of the property by the Kosovo Property Agency terminates upon legal repossession of the property by the property right holder.

23.4 The Executive Secretariat shall make reasonable efforts to minimize the risk of damage to any property under its administration. The Executive Secretariat shall bear no responsibility for any damage to property under its administration or loss of or damage to its contents, material or financial or otherwise.

## **CHAPTER VIII**

### **Final Provisions**

#### **Section 24** **Liabilities**

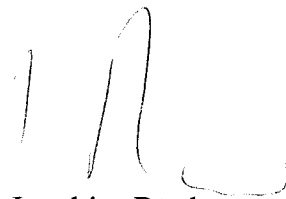
The staff of the Executive Secretariat, the staff and members of the Commission and the members of the Supervisory Board shall not be liable to any party other than the Kosovo Property Agency for any action or omission on behalf of the Kosovo Property Agency within the scope of UNMIK Regulation No. 2006/50 or this Administrative Direction. The staff of the Executive Secretariat, the staff and members of the Commission and the Supervisory Board shall be liable to the Kosovo Property Agency for any neglect of duty in accordance with their contracts with the Agency.

#### **Section 25** **Applicable Law**

Where multiple claims have been initiated, with some falling within the competence of the Kosovo Property Agency and others falling within the competence of the courts, or other administrative bodies or tribunals, claims falling within the competence of the Kosovo Property Agency shall be given priority and dealt with first.

#### **Section 26** **Entry into Force**

This Administrative Direction shall enter into force on 1 June 2007.



Joachim Rücker

Special Representative of the Secretary-General

## ANNEX I

### Rules of Procedure and General Principles of the Supervisory Board

#### Section 1

#### Applicable Rules and General Principles

1.1 The Director of the Executive Secretariat shall represent the Executive Secretariat before the Supervisory Board.

1.2 The Chairperson acting in consultation with other members of the Supervisory Board may designate one or more persons to participate on an *ad hoc* basis in the work of the Board.

1.3 Every Member of the Supervisory Board shall designate a person to serve on the Board in his or her absence. In cases of absence of the Chairperson, a person designated by the Chairperson shall chair the Board session.

1.4 Members of the Supervisory Board shall perform their duties impartially and in accordance with the provisions of section 5 of UNMIK Regulation No. 2006/50. They shall not receive any instructions in relation to the exercise of their duties except as provided for under the applicable law.

1.5 No person may become or remain a member of the Supervisory Board if he/she is continuously occupying a property without the express written agreement or consent of the lawful property right holder or not in conformity with the applicable law. Where a Board member occupies a property which is the subject of a claim under section 3.1 of UNMIK Regulation No. 2006/50, he/she shall declare this fact in writing to the Supervisory Board through the Chairperson of the Board.

1.6 No member shall receive compensation for attending Supervisory Board meetings from the Kosovo Property Agency.

#### Section 2

#### Role of the Executive Secretariat

The Executive Secretariat shall provide secretariat support services to the Supervisory Board. The responsibilities of the Executive Secretariat shall include organizing Board meetings, preparing agendas for and minutes of these meetings, disseminating relevant documents and information, and monitoring follow-up actions in connection with decisions taken or advice provided by the Supervisory Board.

Section 3  
Meetings

3.1 Meetings of the Supervisory Board shall be convened quarterly. The Chairperson acting in consultation with other members of the Supervisory Board may convene more frequent meetings of the Board.

3.2 The Chairperson shall approve the draft agenda for each meeting of the Supervisory Board.

3.3 Notice of meetings of the Supervisory Board shall be communicated to members of the Board no later than two weeks prior to each meeting, except where circumstances warrant a shorter notification period. The agenda and any related documents and information shall be forwarded with the notice.

3.4 Minutes of each meeting shall be prepared and distributed for review to the members of the Supervisory Board prior to a subsequent meeting.

3.5 Members of the Supervisory Board may be accompanied at meetings of the Board by an assistant or aid of his/her own choice.

Section 4  
Decisions and Voting

4.1 The Supervisory Board shall have a quorum if at least three voting members are present.

4.2 Decisions of the Supervisory Board shall be made by consensus. Where no consensus is reached, decision shall be made by voting. Unless provided otherwise in this Administrative Direction, decisions shall be made by a simple majority of the members present. Where a qualified majority is provided for, at least three affirmative votes shall be required.

4.3 Members of the Supervisory Board have one vote. In cases where there is an equal division of votes, the Chairperson shall have the casting vote.

## ANNEX II

### **Duties, Responsibilities and Rules of the Executive Secretariat regarding Claims**

#### Section 1

#### Collection and Registration of Claims

1.1 In the performance of its functions under UNMIK Regulation No. 2006/50 and this Administrative Direction the Director of the Executive Secretariat may:

(a) Enter into arrangements with and cooperate with the United Nations Office in Belgrade and the UNMIK Liaison Office in the former Yugoslav Republic of Macedonia (hereinafter referred to as “FYROM”) in order to ensure and facilitate the collection of claims in FYROM, Montenegro and Serbia proper; and

(b) Enter into *ad hoc* arrangements with, and cooperate with governmental, intergovernmental and non-governmental organizations in order to ensure and facilitate the collection of claims from outside the territory of Kosovo.

1.2 In the case of a natural person, where he/she is unable to make a claim, the claim may be made by a member of the family household of that person.

#### Section 2

#### Content of Claims

2.1 The claim shall be made in a special form to be determined by the Executive Secretariat, signed by the claimant or an authorized person in the presence of a responsible officer of the Executive Secretariat (hereinafter referred to as “the Claim Form”). The Claim Form shall contain:

- (a) The name of the claimant;
- (b) An address for service of documents;
- (c) The facts on which the claimant relies and the nature, extent and grounds for the claim; and
- (d) The relief being sought.

2.2 The claimant shall submit with the Claim Form the originals or certified copies of any documents relevant to the claim or on which he or she purports to reply in support of the claim and which are in his or her possession, or reasonable power of procurement. The Executive Secretariat shall not retain original documents. On receipt of original documents, it shall make copies thereof, certify them and return the originals forthwith to the claimant together with a certified copy of the Claim Form. The Executive Secretariat is authorized to certify copies.

### Section 3 The Right of the Parties to the Claim

3.1 Any person other than the claimant who is currently exercising, or purports to have rights to the property which is the subject of a claim and/or any other person who may have a legal interest in the claimed property shall be a respondent to the proceedings and may reply to a claim and make such written submissions or present evidence in connection with a claim in accordance with section 10 of UNMIK Regulation No. 2006/50 and the provisions of this Administrative Direction.

3.2 The notice of intention to participate in proceedings referred to in section 10.2 of UNMIK Regulation No. 2006/50, shall be in writing and shall contain:

- (a) The name of the respondent; and
- (b) An address for service of documents.

3.3 The reply to the claim referred to in section 10.4 of UNMIK Regulation No. 2006/50 shall be made in a form determined by the Executive Secretariat signed by the respondent or an authorized natural person in the presence of a responsible officer of the Executive Secretariat (hereinafter referred to as “the Reply to Claim”) and shall contain:

- (a) The facts and grounds on which the respondent relies to contest or dispute the claim; and
- (b) The nature of any property right which the respondent alleges the claimed property.

3.4 A respondent shall submit originals or copies of any documents relevant to the claim on which he/she purports to rely in support of the claim, which are in his/her possession, or reasonable power of procurement. The Executive Secretariat shall not retain original documents. On receipt of original documents, it shall make copies thereof, certify them and return the originals

forthwith to the respondent together with a certified copy of the Reply to Claim. The Executive Secretariat is authorized to certify copies.

3.5 The Executive Secretariat shall deliver a copy of the Reply to Claim to the other parties to the proceedings.

3.6 The copy of the Claim and copy of Reply to Claim referred to in sections 10.1 and 10.4 of UNMIK Regulation No. 2006/50 respectively shall not disclose the claimant's or the respondent's respective contact details, and the Executive Secretariat may decline to disclose any information submitted to it by a claimant or respondent or other interested party, including the identity of any party or witness, where it deems it necessary for the security of any person.

3.7 A Claim Form and a Reply to Claim may be submitted in Albanian, English or Serbian.

3.8 In the interests of the efficient and fair resolution of claims, the Commission may, in specific cases, extend any deadline or dispense with any procedural rule in UNMIK Regulation No. 2006/50 or this Administrative Direction, where there is good reason to do so and this would not materially prejudice the rights of any party. The Executive Secretariat shall promptly communicate any such decision to the parties. However, the failure of any party without proper justification to participate in the proceedings or comply with any rule shall not delay the resolution of the claim.

3.9 A claimant or a respondent may submit additional written submissions or evidence relevant to a claim to the Executive Secretariat at any point during the proceedings, provided the claim has not been finally adjudicated by the Commission.

#### Section 4 Resolution of Claims

4.1 The Executive Secretariat shall inform the parties of their rights and obligations under UNMIK Regulation No. 2006/50 and this Administrative Direction and may take whatever steps it deems necessary to facilitate a settlement or to assist the parties to resolve claims.

4.2 The Executive Secretariat may investigate a claim, and obtain evidence relevant to a claim from any record held by a public body, corporate or natural person. The Executive Secretariat shall be entitled to unrestricted and free access without charge to any and all records in Kosovo relevant to the settlement of a claim or for any other verification purposes.

4.3 Pursuant to its authority under section 6.2 of UNMIK Regulation No. 2006/50 the Executive Secretariat may, by written decision, dismiss claims that are manifestly not receivable and clearly not within the scope of the jurisdiction of the Kosovo Property Agency. A claim may be dismissed at any stage of the proceedings up to and until it is referred to the Commission for adjudication.

4.4 The Executive Secretariat shall refer to the Commission any claim in respect of which the claimant disputes the Executive Secretariat's dismissal in terms of section 4.3 of this Annex II.

4.5 The Executive Secretariat shall prepare claims including submissions and evidence, translations of evidence, and recommendations in respect of all claims, except those rejected pursuant to section 4.3 of this Annex II, where the claimant does not dispute that rejection, for the consideration of the Commission.

#### Section 5 Cooperation

In the performance of any of its functions under UNMIK Regulation No. 2006/50, the Executive Secretariat may co-operate with and receive information from any intergovernmental, governmental or non-governmental entity.

#### Section 6 Additional Rules

The Executive Secretariat may adopt additional rules for carrying out its functions provided that they are consistent with UNMIK Regulation No. 2006/50, this Administrative Direction and decisions of the Supervisory Board.

## ANNEX III

### **Duties, Responsibilities and Rules of Procedure of the Property Claims Commission**

#### Section 1 General

1.1 The Commission shall sit in sessions or in such Panels as are established under section 7 of UNMIK Regulation No. 2006/50. Where two or more panels of the Commission are established pursuant to section 7.4 of UNMIK Regulation 2006/50, the terms 'Commission' and 'Chairperson' shall mean 'Commission' and 'Chairperson of the Commission' in relation to sessions, and 'Panel' and 'Chairperson of the Panel' in relation to claims considered in panels.

1.2 The Chairperson of the Commission shall direct the work of the Commission.

1.3 The Commission may elect a Vice-Chairperson who shall perform the functions of the Chairperson of the plenary Commission in his or her absence.

1.4 The Chairperson of the Commission may appoint a Vice-Chairperson in respect of each Panel of the Commission who shall perform the functions of the Chairperson of the Panel in his or her absence.

1.5 Members of the Commission serve only in their personal capacity. In addition to the provisions of section 8.3 of UNMIK Regulation No. 2006/50, members of the Commission shall not take part in any proceedings on a claim in which they have a personal interest, or if they have been consulted by or are associated with a party to the claim, or if they have been involved in any legal proceedings on the claim other than the proceedings before the Executive Secretariat and Commission, or if there are any other circumstances which may affect their impartiality. In case of any doubt concerning this paragraph, or in any other circumstance which might affect the impartiality of members in deciding a claim, the Chairperson shall decide or, in the event that the Chairperson's impartiality could be affected, the Vice-Chairperson of the Panel shall decide.

1.6 Without prejudice to any other law or regulation dealing with immunity, members of the Commission shall be immune from any criminal or civil proceedings for any acts carried out within the scope of their official duties.

1.7 The seat of the Commission shall be in Pristina. The Commission may decide to hold sessions elsewhere if it thinks fit. In appropriate cases, deliberations of the Commission may take place through electronic means.

1.8 The Executive Secretariat shall provide administrative, technical and legal support to the Commission.

1.9 The Chairperson of the Commission, in consultation with the other members of the Commission and taking into account information on the caseload provided by the Director of the Executive Secretariat, shall determine the order in which claims will be considered by the Commission and shall allocate claims between the Panels, having regard to the desirability of developing a consistent practice.

1.10 The Commission may adopt additional rules for carrying out its functions provided that they are consistent with UNMIK Regulation No. 2006/50 and this Administrative Direction.

## Section 2 Solemn Declaration

Before taking office, the members of the Commission shall make in writing the following solemn declaration:

*“I solemnly declare that I will perform my duties and exercise my power as a member of the Property Claims Commission honorably, faithfully, impartially and conscientiously.”*

The declaration shall be maintained in the archives of the Commission.

## Section 3 Resignation or Removal from office in the Commission

3.1 If the Chairperson of the Commission resigns, is removed or is not re-appointed, the longest-serving Panel Chairperson shall be the Acting Chairperson of the Commission pending the designation of the Chairperson by the Special Representative of the Secretary-General. For Panels established subsequent to the first Panel, the Chairperson shall be designated by the Chairperson of the Commission, after consultation with the members of the relevant panel.

3.2 A member of the Commission who intends to resign shall:

- (a) Provide at least one month’s written notice through the Director of the Executive Secretariat to the Chairperson of the Commission;

- (b) Continue to perform all of his/her functions until the end of the notice period and, to the extent possible, for such time thereafter as necessary for the limited purpose of finalizing any claim or group of claims which are still pending before that member's Panel.

#### Section 4

##### Session and Meetings of the Commission

4.1 In consultation with the other members of the Commission, the Chairperson of the Commission shall determine the number and date of the sessions of the Commission.

4.2 Members of the Commission who are unable to participate in a session shall give written notice through the Director of the Executive Secretariat to the Chairperson of the Commission at least two weeks before the session. The notice must set out reasons for their inability to participate in the session.

#### Section 5

##### Proceedings before the Commission

5.1 Proceedings before the Commission shall be based on written submissions and, where the interests of justice so require, oral hearings. In the context of section 11.2 of UNMIK Regulation No. 2006/50, claims shall be decided on the basis of the submissions by the parties, including documentary evidence.

5.2 Each party may request to give oral evidence or argument before the Commission unless the Commission finds that the interests of justice do not so require. An oral hearing shall take place in public, with due notice to the parties, unless the Chairperson determines otherwise for reasons relating to the security of the parties or other special circumstance. Proceedings in an oral hearing shall be conducted under the direction of the Chairperson.

5.3 The Commission may consider written or oral submissions from any intergovernmental, governmental or non-governmental entity or expert witness on any matter relevant to a claim.

5.4 The Commission may appoint any one of its members to carry out any of its procedural functions, including attending the hearing of oral evidence at any place, and to report back to the Commission.

5.5 The Commission may consider claims raising common legal and evidentiary issues together and it may adopt any other legal and evidentiary

techniques consistent with the provisions of section 11.3 of UNMIK Regulation No. 2006/50.

5.6 The Commission may, in specific cases, proceed notwithstanding non-compliance with any procedural rule by any Party or by the Executive Secretariat in the interests of the efficient administration of justice, where there is good reason to do so and this would not materially prejudice the rights of any party.

5.7 All proceedings before the Executive Secretariat and the Commission, including the completion and submission of the Claim Form and Reply to Claim or other documents to the Executive Secretariat are considered to be administrative proceedings for the purposes of section 176 of the Penal Law of Kosovo (Official Gazette of the SAPK no 20/77, 25/84 and 44/84, as amended) concerning false testimony.

5.8 The Commission shall be entitled to unrestricted and free access without charge to any and all records in Kosovo relevant to the settlement of a claim submitted to it, or for any other verification purposes.

## Section 6 Evidence

6.1 The Commission may be guided but is not bound by the rules of evidence applied in the local courts in Kosovo.

6.2 The Commission may consider any reliable evidence, which it considers relevant to a claim, including evidence presented by the Executive Secretariat concerning the reliability of any public record.

6.2 In exercising its jurisdiction pursuant to section 11.6 of UNMIK Regulation No. 2006/50 the Commission may require the Executive Secretariat to obtain more information from a party, or to conduct additional investigations in relation to any claim.

## Section 7 Panels

7.1 Subject to sections 1.4, 4.2 and 7.2 of this Annex III, claims shall be adjudicated by a Panel of the Commission.

7.2 The quorum for meetings of a Panel of the Commission shall be two members.

7.3 Decisions of a Panel of the Commission shall normally be taken unanimously. If all the members of the Panel are present and unanimity cannot be reached, a decision shall be taken by majority vote. If two members of the Panel are present and a consensus cannot be reached, the claim shall be deferred for consideration to the earliest next session of a Panel of the Commission.

7.4 A Panel of the Commission or the Chairperson of a Panel may refer specific issues relating to a claim to the session of the Commission for guidance. Decisions of a Panel of the Commission to refer specific issues to the session of the Commission shall be made in accordance with section 7.2 of this Annex III.

7.5 In deciding on a claim or on whether to refer specific issues relating to a claim to the session of the Commission, members of a Panel of the Commission may not abstain.

7.6 The Chairperson of the Commission may temporarily designate a member of a Panel to serve on a different Panel where he or she deems it necessary for the proper functioning of the Commission.

## Section 8 Decisions of the Commission

8.1 The Commission may refer issues arising in connection with a claim, which are not within its jurisdiction or specific parts of such claims, if the adjudication of those separate parts do not raise issues listed in section 3.1 of UNMIK Regulation No. 2006/50, to a competent local court or administrative board or tribunal.

8.2 The Commission shall be bound by the principles established in its own decisions, unless compelling reasons exist for deviating from those principles.

8.3 The Commission shall award remedies in accordance with those provided for in UNMIK Regulation No. 2006/50.

8.4 The Commission shall not award the costs arising in connection with proceedings before the Executive Secretariat or the Commission in favor of or against any party to the proceedings.

8.5 Where a claim is made by a family member of the property right holder in accordance with section 1.2 of Annex II, the Commission may in its decision determine any property right in the name of the property right holder, and make an order for possession in favor of the claimant. Such a decision shall not

determine or affect any legal issue between the claimant and the property right holder or any other person not a party to the claim.

8.6 In its decision, the Commission may:

- (a) Decide on the property rights claimed as are necessary to resolve the claim;
- (b) Make an order for possession of the property in favor of any party;
- (c) Refuse or dismiss a claim on any grounds, including those set down in section 11.4 of UNMIK Regulation No. 2006/50;
- (d) Cancel any lease agreement in respect of a property which is subject to an order in terms of UNMIK Regulation No. 2006/50 and make ancillary orders to give effect to the cancellation;
- (e) Make any other decision or order necessary to give effect to the provisions of UNMIK Regulation No. 2006/50 or this Administrative Direction.

8.7 A decision shall contain the:

- (a) Date of adoption;
- (a) Names of the parties and their representatives;
- (c) Relief sought;
- (d) Reasons for the decision, including the material facts and property rights found by the Commission; and
- (e) Orders of the Commission.

8.8 Decisions shall be signed by the Chairperson, provided that if the number of claims decided in a session is high, the Chairperson may sign a cover decision approving all individual decisions identified in the cover decision. The individual decisions shall be certified by a senior official designated by the Commission or by the Director of the Executive Secretariat. A copy of an original document signed by the Chairperson which has been sent to the Director of the Executive Secretariat or a person designated by him/her by facsimile transmission of the original (or similar means) is sufficient authority for any actions taken pursuant to the document.

8.9 Any textual errors in a decision of the Commission which do not materially affect the rights of any party, may be corrected by a senior official designated by the Commission or by the Director of the Executive Secretariat, subject to the express written concurrence of the Chairperson of the Commission.

Section 9  
Summary Procedure

9.1 Any claim under section 3.1(b) of UNMIK Regulation No. 2006/50, which is uncontested, may be considered by the Commission under a summary procedure as a separate claim or jointly with other similar claims.

9.2 In a summary procedure, the Commission may make an order for recovery of possession of the property if it is satisfied that there is evidence that the claimant was in uncontested possession of the property which was lost due to circumstances directly relating to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999.

9.3 A summary decision shall contain:

- (a) The date of adoption;
- (b) The names of the parties and their representatives; and
- (c) The operative provisions of the decision.