

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.