

**UNITED NATIONS**  
United Nations Interim  
Administration Mission  
in Kosovo



**NATIONS UNIES**  
Mission d'Administration  
Intérimaire des Nations Unies  
au Kosovo

UNMIK/REG/2006/10  
4 March 2006

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**REGULATION NO. 2006/10**

**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 United Nations Security Council resolution 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,

For the purpose of achieving efficient and effective resolution of claims relating to private immovable property, including agricultural and commercial property,

Hereby promulgates the following:

**Chapter I**  
**The Kosovo Property Agency**

Section 1  
Establishment of the Kosovo Property Agency

The Kosovo Property Agency shall be established as an administrative agency which shall function as an independent body pursuant to Chapter 11.2 of the Constitutional Framework. Decisions on the findings and conclusions of the Kosovo Property Agency shall be made under the authority of the courts of Kosovo.

Section 2  
Responsibilities of the Kosovo Property Agency

2.1 The Kosovo Property Agency shall have the competence to receive, register and assist the courts in resolving the following categories of conflict-related claims resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999:

(a) Ownership claims with respect to private immovable property, including agricultural and commercial property, and

(b) Claims involving property use rights in respect of private immovable property, including agricultural and commercial property,

Where the claimant is not now able to exercise such property rights.

2.2 Nothing in this section shall prejudice the rights of claimants to pursue before courts of competent jurisdiction claims that do not involve the claims described in section 2.1.

**Chapter II**  
**The Kosovo Property Agency**

Section 3  
Organization of the Kosovo Property Agency

The Kosovo Property Agency shall be composed of a Supervisory Board, an Executive Secretariat and a Property Claims Commission (the Commission).

Section 4  
The Supervisory Board of the Kosovo Property Agency

4.1 A Supervisory Board shall supervise the work of the Kosovo Property Agency and provide administrative oversight, overall direction and policy guidance. It will not participate in the process by which the Commission adopts findings and conclusions on individual claims.

4.2 The Supervisory Board shall be composed of five (5) members. Within a month of the entry into force of the present Regulation, the Special Representative of the Secretary-General shall appoint the five members of the Supervisory Board.

two of whom shall be nominated by the Prime Minister. The Special Representative of the Secretary-General shall designate as the Chairperson one of the three (3) members of the Supervisory Board who has not been nominated by the Prime Minister.

4.3 If the Special Representative of the Secretary-General determines that it would be appropriate, six (6) months after the entry into force of the present Regulation he shall appoint a further two (2) members to the Supervisory Board on the nomination of the Prime Minister who shall replace the two members other than the Chairperson who were not nominated by the Prime Minister.

4.4 Members of the Supervisory Board shall serve for a term of one year, which may be renewed.

4.5 No person may become or remain a member of the Supervisory Board if such person:

(a) Has been convicted, after due process and in accordance with international standards, to imprisonment of one year or more;

(b) Has been excluded or suspended for professional misconduct from the exercise of his or her profession; or

(c) Has interests conflicting with his or her responsibilities under the present Regulation.

4.6 A member of the Supervisory Board may be removed from office by the Special Representative of the Secretary-General if he or she:

(a) Becomes ineligible to serve as a member of the Supervisory Board under section 4.5;

(b) Uses his or her office in a manner that is not consistent with the official duties and responsibilities set out in the present Regulation; or

(c) Grossly neglects his or her duties under the present Regulation.

Section 5  
Executive Secretariat

5.1 The Executive Secretariat shall have a Director and a Deputy Director who will be appointed by the Special Representative of the Secretary-General. The Deputy Director shall be nominated by the Prime Minister.

5.2 The responsibilities of the Executive Secretariat shall include the registration of claims and replies to claims, the notification of parties and the preparation of claims and replies to claims for the consideration of the Commission. The duties and responsibilities of the Executive Secretariat may be set out in detail in an Administrative Direction issued by the Special Representative of the Secretary-General.

Section 6  
Property Claims Commission

6.1 The Special Representative of the Secretary-General shall appoint the members of the Commission and shall designate one member as the chairperson. Members of the Commission shall be experts in the field of housing and property law and competent to hold judicial office.

6.2 The Commission shall be composed of two (2) international members and one local member. The local member shall be appointed by the Special Representative of the Secretary-General on the nomination of the President of the Supreme Court of Kosovo.

6.3 Six (6) months after the entry into force of the present Regulation, if the Special Representative of the Secretary-General deems it appropriate, he may appoint a further local member of the Commission who shall replace the international member who is not the chairperson.

Section 7  
Appointment and Removal from Office of Members of the  
Property Claims Commission

7.1 Members of the Commission shall be appointed by the Special Representative of the Secretary-General for an initial term of one year and they may be re-appointed for one or more additional terms.

7.2 A member of the Commission may be removed from office by the Special Representative of the Secretary-General on the recommendation of a majority of the members of the Commission for failure to meet the qualifications for office or for persistent and unjustified failure to perform the duties of office.

### Section 8 Submission of claims

8.1 A person may submit a claim referred to in section 2.1 to the Executive Secretariat.

8.2 On receipt of a claim, the Executive Secretariat shall send a copy to the competent court.

8.3 The Executive Secretariat shall receive claims at offices established for this purpose in Kosovo from the date of entry into force of the present Regulation.

8.4 The Executive Secretariat shall establish a procedure to facilitate the receipt of claims from internally displaced persons currently residing outside of Kosovo.

### Section 9 The Procedure for the processing of claims

9.1 Upon receipt of a claim, the Executive Secretariat shall notify and send a copy of the claim to any person other than the claimant who is currently exercising or purporting to have rights to the property which is the subject of the claim and make reasonable efforts to notify any other person who may have a legal interest in the property. In appropriate cases, such reasonable efforts shall take the form of an announcement in an official publication of the Executive Secretariat.

9.2 Any person other than the claimant who is currently exercising or purporting to have rights to the property which is the subject of the claim and/or any other person who may have a legal interest in the claimed property shall be a party to the claim, provided that such person informs the Executive Secretariat of his or her intention to participate in the administrative proceedings within thirty (30) days of being notified of the claim by the Executive Secretariat in accordance with section 9.1.

9.3 A person with a legal interest in the claim who did not receive notification of a claim may be admitted as a party at any point in the proceedings.

9.4 Within thirty (30) days of receiving a copy of the claim, the receiving party may submit to the Executive Secretariat a reply to the claim.

Section 10  
Conclusions of the Property Claims Commission

10.1 The Commission shall reach its findings and conclusions on the basis of the claim and the reply or replies.

10.2 Where the interests of justice so require, the Commission may request and consider further written submissions from the parties or hold a hearing of all parties involved, including witnesses and experts. In such cases the Commission shall act expeditiously.

10.3 The Kosovo Property Agency shall submit the conclusions of the Commission to the competent court and serve copies of the conclusions on the parties.

**Chapter III**  
**Authority of the Courts**

Section 11  
General Principle

The proceedings before the Kosovo Property Agency and the conclusions issued by the Commission shall be without prejudice to the ultimate authority of the courts with territorial and subject-matter jurisdiction over the claims described in section 2.1 for the resolution of such claims.

Section 12  
Decisions of competent courts

12.1 No court in Kosovo shall exercise jurisdiction over a claim involving the subject-matter described in section 2.1 unless such claim has been referred to it by the Kosovo Property Agency accompanied by conclusions pursuant to section 10.

12.2 Within forty-five (45) days of receipt of the conclusions issued by the Commission on a claim, the competent court shall serve a decision on the parties

and the Kosovo Property Agency. Through such decision the competent court shall:

- (a) Confirm the Commission's conclusions;
- (b) Reject the Commission's conclusions;
- (c) Request from the Commission a clarification which may take the form of a question or questions with regard to the basis for the Commission's conclusions in order to facilitate a decision on the claim; or
- (d) Direct the Commission and/or the Executive Secretariat on the proper application of the law and/or on the provision and evaluation of additional evidence and arguments and/or on the conduct of further examination or assessment.

12.3 If, after receipt of a clarification from the Commission requested under paragraph 2(c) or the Commission's revised conclusions following a direction under paragraph 2(d), the competent court determines that it is still unsatisfied, it may itself render a decision on the merits of the claim.

12.4 If the competent court requests a clarification or issues a direction under paragraph 2, the Commission and/or the Executive Secretariat shall submit to the competent court and the parties the clarification or execute the direction within thirty (30) days from receipt of the request for clarification or the direction.

12.5 Where following a request for a clarification or the issuance of a direction under paragraph 2(c) or 2(d) above there is an unreasonable delay, a claimant may submit a motion to the Supreme Court for an order for immediate action. The Supreme Court shall rule on such motion within ten (10) days of its submission. If the Supreme Court of Kosovo finds that there has been unreasonable delay, it shall order the competent court to render a decision within thirty (30) days from the day of the receipt of such order. If the competent court fails to render a decision within said thirty (30) days, the Supreme Court shall within ten (10) days issue a decision on the claim taking into account the conclusions issued by the Commission. If the Supreme Court of Kosovo finds that there has not been unreasonable delay, it shall notify the competent court and the parties and the competent court shall remain seized of the claim and shall continue with the proceedings.

12.6 The competent court may render a decision rejecting the Commission's conclusions on the grounds that:

- (a) The conclusions contain a material breach of the applicable law; or
- (b) The conclusions rest upon incomplete facts or an erroneous evaluation of the facts.

12.7 Without prejudice to paragraphs 4 and 5, if after the expiry of forty five (45) days from the date of receipt of the conclusions of the Commission in respect of a claim the competent court does not render a decision under paragraph 2, the Kosovo Property Agency shall serve on the parties and the competent court a notification that the parties may within seven (7) days of service submit a petition to the Supreme Court to give a direction to the competent court to render a decision under paragraph 2. If within this period of seven days none of the parties submits a petition to the Supreme Court, the conclusions of the Commission shall be legally binding and immediately enforceable as a final decision without prejudice to the right of appeal under section 13. The parties shall be advised accordingly by the Kosovo Property Agency.

12.8 If a party submits a petition to the Supreme Court to give a direction to the competent court to render a decision under paragraph 2, the party shall at the same time serve the petition on the UNMIK Department of Justice, the Kosovo Property Agency, the competent court and the other party or parties.

12.9 Upon receipt of a petition to the Supreme Court to give a direction to the competent court to render a decision under paragraph 2, the Department of Justice shall expeditiously submit to the Special Representative of the Secretary-General a request for the assignment to the Supreme Court of a panel of three (3) judges, including at least two international judges, of whom one shall be the presiding judge, to decide upon the petition. Upon approval of the request by the Special Representative of the Secretary-General, the Department of Justice shall expeditiously designate a panel of three (3) judges, including at least two international judges, of whom one shall be the presiding judge, to render a decision upon the petition.

12.10 The Supreme Court shall decide upon a petition within seven (7) days of the designation of a panel of three (3) judges by the Department of Justice. Such decision shall be served upon the competent court, the parties and the Kosovo Property Agency. Within seven (7) days of receipt of the decision of the Supreme Court, the competent court shall render a decision under paragraph 2 in accordance with the decision of the Supreme Court. The decision of the competent court shall be served on the Supreme Court, the Kosovo Property Agency and the parties. In the event that the competent court does not render a decision within this period of seven days, the conclusions of the Commission shall be legally binding and immediately enforceable as a final decision without



prejudice to the right of appeal under section 13. The parties shall be advised accordingly by the Kosovo Property Agency.

Section 13  
Appeals

13.1 Within fifteen (15) days of service of the decision of the competent court confirming or rejecting the Commission's conclusions or within fifteen (15) days of the parties being advised that the conclusions of the Commission are legally binding and immediately enforceable as a final decision, a party may submit to the Supreme Court of Kosovo an appeal against such decision on the grounds that:

- (a) The decision contains a serious violation of the applicable law; or
- (b) The decision rests upon incomplete facts or an erroneous evaluation of the facts.

13.2 At the same time as a party submits an appeal to the Supreme Court, the party shall submit copies of the appeal to the Kosovo Property Agency. On receipt of the appeal the Supreme Court shall submit copies to the other party or parties and the competent court.

13.3 If requested, the Executive Secretariat of the Kosovo Property Agency shall provide a dissatisfied party information and guidance on the procedure to be followed in the preparation of an appeal to the Supreme Court of Kosovo.

13.4 Within fifteen (15) days of receipt of a copy of the appeal, the other party or parties shall submit a written response to the claimant with a copy to the Supreme Court of Kosovo.

13.5 The Supreme Court of Kosovo shall decide on appeals in a panel of three judges of whom two shall be international judges and one shall be a judge who is a resident of Kosovo.

13.6 If the interests of justice so require, on receipt of a response from a party other than the claimant, the Supreme Court of Kosovo may request and consider further written submissions by the parties or hold an oral hearing. In such cases the Supreme Court of Kosovo shall act expeditiously.

13.7 Within fifteen (15) days of the date on which the Supreme Court of Kosovo determines that it has received all the evidence that it requires to decide the appeal,

it shall render a decision on the appeal which it shall serve on the competent court, the Kosovo Property Agency and the parties.

13.8 In its decision the Supreme Court shall either accept or reject the appeal.

#### Section 14

##### The applicable law on civil disputes

Unless otherwise determined by the present regulation or any subsequent Administrative Direction issued pursuant to section 22 of the present Regulation, judicial proceedings under the present Regulation shall be governed by the applicable law on civil disputes. The prescribed periods of time set forth in the present Regulation shall always take precedence over any conflicting provisions in the applicable law on civil disputes.

### **Chapter IV: Execution of Decisions**

#### Section 15

##### Execution of Decisions

15.1 The decision of the competent court or, respectively, the Supreme Court or a decision that otherwise becomes final and legally enforceable under the present Regulation shall become effective fifteen (15) days following the date on which the decision becomes final and legally enforceable and is served on or notified to the parties and the Kosovo Property Agency.

15.2 Remedies for the execution of a decision may include eviction, placing the property under administration, a lease agreement, seizure of unlawful structures, auction and compensation.

15.3 In the event of a decision involving the eviction of persons, the Kosovo Property Agency shall deliver a decision confirming an order for eviction to the current occupant of the claimed property.

15.4 A decision confirming an order for eviction is executable after delivery. The eviction order may be executed against any person occupying the property at the time of the eviction.

15.5 An eviction shall be executed by the responsible officer of the Kosovo Property Agency, with the support of the law enforcement authorities. The said

officer and authorities must be in possession of a warrant signed by the Director of the Kosovo Property Agency.

15.6 During the execution of an eviction order, any person who fails to obey an instruction of the responsible officer to leave the property may be removed by the law enforcement authorities. In the event that movable property is also removed in connection with the execution of the eviction order, the Kosovo Property Agency shall make reasonable efforts to minimize the risk of damage to or loss of such property.

15.7 The Kosovo Property Agency shall notify the claimant and any person occupying the property of the scheduled date of the eviction. Following the execution of an eviction order, if the claimant is not present to take immediate possession of the property, the responsible officer shall seal the property, and notify the claimant. Any person who, without lawful excuse, enters a property by breaking a seal may be subject to removal from the property by the law enforcement authorities.

## **Chapter V**

### **Transitional Provisions**

#### Section 16

##### Abandoned Property

The Kosovo Property Agency shall succeed to the responsibilities of the Housing and Property Directorate under Section 1.1(b) of UNMIK Regulation No. 1999/23 of 15 November 1999 on the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission and section 12 of UNMIK Regulation No. 2000/60 of 31 October 2000 on Residential Property Claims and the Rules of Procedure and Evidence. For the purposes of this section, "abandoned property" shall be interpreted in accordance with the provisions of UNMIK Regulation No. 2000/60.

#### Section 17

##### Physical assets of the Housing and Property Directorate

Upon the entry into force of the present Regulation, the title to all physical assets in which the title has been vested in the Housing and Property Directorate shall be vested in the Kosovo Property Agency.

Section 18  
Contracts of a private law character

Upon the entry into force of the present Regulation, the rights and obligations of the Housing and Property Directorate under all contracts of a private law character to which the Housing and Property Directorate is a party shall pass to the Kosovo Property Agency.

Section 19  
Claims before the Housing and Property Directorate

The Kosovo Property Agency shall exercise the powers of execution in relation to any decision or eviction order of the Housing and Property Claims Commission which on the date of the entry into force of the present Regulation may be executed, but has not been executed, by the Housing and Property Directorate. In exercising such powers of execution, the Kosovo Property Agency shall have the rights, obligations, responsibilities and powers that the Housing and Property Directorate had before the entry into force of the present Regulation.

Section 20  
Claims before courts

The provisions of the present regulation shall apply to any claim under section 2.1 which has been submitted to a court of competent jurisdiction, provided that judicial proceedings in respect of such claim have not commenced prior to the date of entry into force of the present regulation.

**Chapter VI**  
**Final Provisions**

Section 21  
Applicable Law

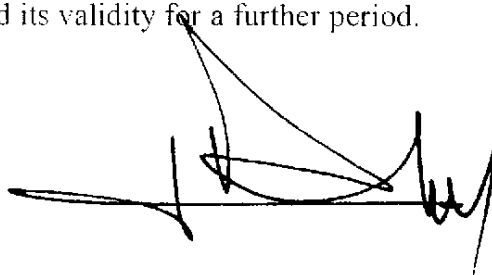
The present regulation shall supersede any provision in the applicable law, which is inconsistent with it.

Section 22  
Implementation

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Regulation.

Section 23  
Entry into Force

The present regulation shall enter into force on 4 March 2006, without prejudice to the continuing authority of the Housing and Property Claims Commission to adjudicate claims which have already been submitted to the Housing and Property Directorate and to act on requests for reconsideration of decisions in accordance with UNMIK Regulation No. 2000/60. The present Regulation shall remain in force for a period of twelve (12) months. The Special Representative of the Secretary-General may extend its validity for a further period.

A handwritten signature in black ink, appearing to be 'Søren Jessen-Petersen', written over a horizontal line.

Søren Jessen-Petersen  
Special Representative of the Secretary-General