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*"Housing and Property Rights for All"*

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***Housing and Property Directorate and Housing and Property Claims Commission***

# HOUSING AND PROPERTY RIGHTS IN KOSOVO



## COLLECTION OF BASIC TEXTS

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## **FOREWORD**

Kosovo is at a critical juncture. There is the prospect of greater stability, respect for human rights and the rule of law, as well as greater social and physical security for all inhabitants. There is equally the prospect of increased economic growth and democracy. However, Kosovo still has the remnants of a divisive conflict and the population displacement that resulted from it.

At this juncture, there are opportunities, but also hurdles. A consistent legal framework, based upon international human rights principles, and fair and impartial remedies are critical tools to develop a sound civil administration, to restore the rule of law and to protect the fundamental rights of all inhabitants.

Disputes over housing and property rights are amongst the most complex and sensitive of all of the problems facing Kosovo and its citizens today. They are complex because of the multitude of rules and processes that can affect the exercise of housing and property rights. They are also sensitive for the many Kosovars who have been deprived of the material and symbolic security that a home entails. The establishment of the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) on November 15, 1999 was an important step towards the regularization of housing and property rights in Kosovo. The HPD has been established as an interim measure to provide policy and legal advice, to assist in the development of temporary allocations schemes and to seek mediated settlements for specific categories of residential property disputes. The HPCC is mandated to adjudicate disputes in an impartial and efficient manner.

The establishment and rapid implementation of the HPD and HPCC programmes is a cornerstone of UNMIK's strategy. This is the case for a number of reasons. First, many of the family assets in Kosovo are in land or real estate, and property is therefore a major commodity in the market. Without a clear real property framework and policy, the full potential of the market will not be realised and Kosovars will not be able to exercise their entitlements. Second, foreign direct investment, whether industrial, commercial or otherwise, is likely to involve an element of investment in the domestic real estate market. Until property rights are regularised, the perception of risk will outweigh the potential benefits and massive investment is not likely to occur. Third, sound and efficient civil administration depends on a clear legal framework and durable solutions for longstanding disputes. Finally, the full exercise of property rights is critical to restoring a society based upon the rule of law and respect for the fundamental rights of all inhabitants.

This publication is the result of the initial legal research conducted by the HPD. I am confident that it will contribute to a better understanding of the many housing and property issues that face Kosovo and that it will inform the on-going dialogue between Kosovar and international experts. I also hope that it will assist in increasing awareness - within the local population and the international and donor community - of the importance of housing and property rights in Kosovo.

Tom Koenigs  
Deputy Special Representative  
of the Secretary-General, Civil Administration

## INTRODUCTION

Housing and property rights are complex and underlie many longstanding disputes in Kosovo today. Thousands of Kosovars have been displaced from their homes, and many others have illegally occupied houses and apartments that do not belong to them. There have been reports of forced sales taking place throughout Kosovo. In many areas, the property records have been removed or destroyed. In addition, a broad spectrum of housing rights violations took place from 1989 onwards, the consequences of which continue to create uncertainty about who legitimately owns or has the right to live in a home. During the last ten years, discrimination was widespread in the housing sector, resulting in many informal or unofficial transactions in real property.

The Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) were established by UNMIK on November 15, 1999 as an interim measure to contribute to the process of regularising property rights. The HPD has broadly defined functions in three areas: policy and legal advice on property rights, temporary allocation of abandoned properties and settlement of specific residential property disputes.

Responding to an increasing need for information, the Housing and Property Directorate has taken the initiative to collect, analyse and translate the relevant legislation relating to housing and property rights. This publication is a result of these efforts and is intended to promote a better understanding of the many complex issues surrounding housing and property rights.

This edition of the *Collection of Basic Texts* includes the basic housing and property laws that were in force on March 22, 1989. By virtue of UNMIK Regulation 1999/24, these laws form part of the applicable law in Kosovo today. It is anticipated that more translations will become available in the near future.

A special section has been devoted to post-1989 laws, which were discriminatory in nature or which were applied in a discriminatory manner and which have been repealed by UNMIK Regulation No 1999/10.

Finally, this edition also includes the relevant UNMIK regulations, which affect housing and property rights.

Particular efforts have been made to make all documents available in three languages: Albanian, Serbo-Croatian and English. It is important to note that while considerable care has been taken to translate all texts as accurately as possible within time and resource constraints, they are not official translations. Rather they have been prepared with a view to contributing to the on-going debate on housing and property rights in Kosovo.

The Housing and Property Directorate will continue its efforts to analyse and translate housing and property laws and will complement this booklet as work progresses.

This publication as well as the initial development of the HPD have been realised thanks to the financial contribution made by the Government of Finland. The HPD expresses its gratitude for this support.

The HPD has also benefited significantly from the excellent collaboration and support from colleagues within the “four pillars” of UNMIK, KFOR and other international organisations.

The HPD thanks the translators of the Legal Department of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) in Sarajevo for their expert contributions.

Finally, the HPD would like to extend a special thank-you to its local legal experts who conducted the bulk of the research, its translators and support staff, as well as to the many Kosovar experts we have had the opportunity to work with. Thanks to all of you who have contributed to this effort.

## **CHAPTER ONE:**

# **CURRENTLY APPLICABLE HOUSING AND PROPERTY LAWS<sup>1</sup>**

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<sup>1</sup> UNMIK Regulation No 1999/24 provides: “The law applicable in Kosovo shall be: (a) the regulations promulgated by the Special Representative of the Secretary-General and subsidiary instruments issued thereunder; and (b) the law in force in Kosovo on 22 March 1989.”

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## **LAW ON HOUSING RELATIONS**

*"Official Gazette of the SAPK", No. 11/83, 29/86, 42/86*

*(Consolidated text)*

### **I GENERAL PROVISIONS**

#### **Article 1**

This Law regulates the rights and obligations of citizens regarding apartment usage.

#### **Article 2**

The citizen who moved into a socially owned apartment on the basis of the contract on apartment usage shall acquire the right to use that apartment permanently in order to satisfy his / her personal or family needs, under the conditions stipulated by this Law, as well as the right to participate in residential building management according to a special law (occupancy right).

The citizen who moved into an apartment owned by a citizen on the basis of the contract on lease, shall acquire the right to use that apartment, under the conditions stipulated by this Law and the contract on lease of the apartment.

#### **Article 3**

Workers in basic organisations of associated labour, work collectives, contractual organisations of associated labour, basic joint organisations, basic co-operative organisations, agricultural producers' and other co-operatives are entitled to allocate apartments to workers for use.

In exceptional cases, socio-political organisations, social organisations, as well as other self-management organisations and collectives may allocate apartments for use to specific categories of working people and citizens if these persons do not exercise the right to an apartment in accordance with paragraph 1 of this Article.

Social-legal persons referred to in paragraphs 1 and 2 of this



Article (hereinafter: allocation right holder) allocate apartments for use if they are the usage and disposal right holders to these apartments.

Article 4

A set of premises which have residential purposes and constitute, as a rule, one construction entity and have a separate entrance is considered an apartment.

Article 5

An apartment may be converted into business premises.

The Municipal Assembly may, in exceptional cases, define in which cases and under which conditions the apartment can be converted into business premises.

Article 6

Premises used as temporary accommodation (temporary workers' apartments at construction sites, in huts, etc.) as well as premises for accommodation of individuals (hostels for single persons, students, pupils, pensioners, etc.) are not considered as apartments according to this Law.

While using these apartments the users of the premises referred to in paragraph 1 of this Article shall acquire only the rights defined by the general enactment of the allocation right holder to these premises as well as the rights defined by the contract on lease of these premises.

Article 7

Provisions of this Law shall not apply to the apartment used for official purposes nor to socially owned apartments given for lease.

Apartments which are used for a certain official duty and function and which are defined as such by the self-management general enactment of the allocation right holder are considered as apartments used for official purposes.

Apartments for lease are those socially owned apartments which have been built or acquired solely for that purpose.

While using these apartments the users of the apartments referred to in paragraphs 1 and 2 of this Article shall acquire only the rights defined by the general enactment of the allocation right holder to these premises as well as the

rights defined by the contract on lease of these premises and they shall not acquire occupancy rights.

The usage of the apartments referred to in paragraph 1 of this Article shall not affect the acquisition or usage of an apartment with an occupancy right.

#### Article 8

An appropriate apartment, according to this Law, is an apartment which does not aggravate materially the housing conditions of the occupancy right holder who is supposed to move into this apartment taking into consideration all housing conditions, especially the size, comfort and location of the apartment.

One or several premises protecting the users from natural disasters and their household goods from damage are considered as emergency accommodation.

Occupancy right cannot be acquired to a premise which is considered as emergency accommodation but only those rights defined by the document on the allocation of emergency accommodation.

Providing of emergency accommodation also means providing of one or several premises to the user as a tenant, for the period of two years, provided that the person obliged to provide emergency accommodation shall bear total or partial costs thereof if the user has no financial means to pay for such an accommodation.

Families with children who are under 7 years old, children with psycho-physical or physical deficiencies and pregnant women cannot be placed into emergency accommodation, nor very ill persons whose health conditions would, according to the medical diagnosis, be seriously aggravated if accommodated under such conditions.

#### Article 9

The apartment user, according to this Law, is the occupancy right holder and his / her family household members who live together with him / her, as well as the persons who are no longer members of that household but who remained in the same apartment.

The family household members, according to this Law, are: spouse, children (born in wedlock or out of wedlock or adopted), stepchildren and grandchildren without parents, parents (father and mother, stepfather, stepmother and

adopter) and other persons whom the occupancy right holder is obliged to support in accordance with the law, or the persons who are obliged to support the occupancy right holder in accordance with the law, and who live with him / her.

If no family household member remained in the apartment after the death of the occupancy right holder but only a person who is no longer the family household member of the occupancy right holder (divorced spouse, adopted person, adopter, spouse of a deceased family household member, etc.), the membership of the family household of the occupancy right holder may be recognised to that person if the person lived for at least two years continuously with the occupancy right holder until his / her death, provided that the person is not a family household member of another person.

#### Article 10

The housing body, according to this Law, is a municipal assembly administrative body responsible for housing affairs.

### II OCCUPANCY RIGHT

#### *1. Acquisition of occupancy right*

#### Article 11

The citizen shall acquire occupancy right as of the day of lawful moving into the apartment.

#### Article 12

The occupancy right holder may have occupancy right to one apartment.

#### Article 13

The person who uses two or more apartments is obliged to inform the housing body on that matter no later than 15 days from the day when he / she started using the apartments, and decide which apartment he / she is going to use.

If the occupancy right holder who uses several apartments does not declare which apartment he / she is going to use and does not vacate other apartments, the housing body shall, having conducted the hearing of the party, issue a decision stating which apartment the occupancy right holder is going to use and which apartment he / she is obliged to vacate, taking into consideration the housing needs of his / her family household.

Every person may suggest to the housing body to issue a decision on the eviction of the person referred to in paragraph 2 of this Article.

#### Article 14

If the occupancy right holder, his / her spouse or an underage member of his / her family household have or acquire ownership to a family residential building or apartment in certain residential areas in the same or neighbouring municipality or town and if that apartment suits his / her needs and the needs of his / her family household members who live together with him / her, he / she as well as all users of the apartment are obliged to vacate the apartment which they use on the basis of the contract on apartment usage.

In the case referred to in paragraph 1 of this Article, the occupancy right holder shall be obliged, no later than 60 days from the day of acquisition or vacating the family residential building or the apartment in his / her ownership, to return the socially owned apartment containing no persons or things to the allocation right holder of that apartment.

If the occupancy right holder does not proceed according to the provisions referred to in paragraphs 1 and 2 of this Article, the municipal housing body shall issue a decision on his / her eviction from the apartment.

The Municipal Assembly stipulates by its regulation to which residential areas referred to in paragraph 1 of this Article the provisions of Article 14 of this Law shall apply, as well as what the criteria are for determining what apartment suits the needs of the occupancy right holder and the needs of his / her family household members who live together with him / her, applying thereby the standards about the rational usage of the apartment (Article 82).

#### Article 14a

If the occupancy right holder is of the opinion that the residential building or the apartment in his / her ownership does not suit his / her needs and the needs of his / her family household members, he / she shall notify the allocation right holder thereof, no later than 60 days from the day of acquisition or vacating the family residential building or the apartment in his / her ownership, and ask the housing body to determine whether the apartment in his / her ownership suits his / her needs and the needs of his / her family household members.

If the housing body determines that the family residential building or the apartment meets the housing standards according to the regulations it shall issue a decision on eviction of the occupancy right holder including all persons and things from the apartment.

The transfer of the family residential building or the apartment performed in the course of the proceeding initiated according to the provisions of Article 14 of this Law does not affect issuing of the decision on eviction provided that all other conditions have been met.

#### Article 15

The occupancy right holder to one apartment may be one person only.

If one of the spouses who live in the common household acquired occupancy right, the

occupancy right holder shall also be the other spouse.

When one of the spouses who are the occupancy right holders dies or ceases to use the apartment permanently, the other spouse shall become the occupancy right holder to that apartment unless otherwise stipulated by this Law.

#### Article 16

In case of divorce, the former spouses who are the occupancy right holders shall agree which one shall remain the occupancy right holder.

The former spouses may agree to continue to use the apartment or to exchange that apartment for two dwelling units within one year from the day of the divorce.

If one of the former spouses finds a possible exchange and the other does not agree to exchange the apartment or does not agree who will move into which apartment, the decision on that matter shall be made by the court in extra-judiciary procedure, taking into consideration the housing needs of the divorced spouses and other circumstances referred to in paragraph 4 of this Article.

After the expiration of the deadline referred to in paragraph 2 of this Article, the divorced spouse may request the Municipal Court, which has jurisdiction over the territory where the apartment is located, to decide in extra-judiciary procedure who shall remain the occupancy right holder, taking into consideration the housing needs of both spouses, their children and other family household members, as well as who was allocated the apartment for use, whether the apartment was allocated during the marriage or before, the possibility of getting another apartment, their health conditions and other circumstances.

#### Article 16a

The divorced spouse who ceased to be the occupancy right holder by the court decision is obliged to vacate the apartment together with his / her family household members on the request of the former spouse who remained the occupancy right holder to the apartment.

In the case referred to in paragraph 1 of this Article, on the request of the former spouse who vacated the apartment, the court may in extra-judiciary procedure oblige the former spouse who remained in the apartment to pay the total amount of the rent or a part of it to his / her former spouse who vacated the apartment as a compensation for his / her stay in the rented apartment, taking into consideration the financial situation of the former spouses, rationality of the leased apartment and the average rent for such an apartment until his / her housing issue is resolved.

#### Article 17

The apartment users who live together with the occupancy right holders have the right to use the apartment permanently under the conditions referred to in this Law.

The family household members are entitled to the right referred to in paragraph 1 of this Article even after the death of the occupancy right holder, as well as when he / she ceases to use the apartment permanently for other reasons, except when he / she ceased to use the

apartment on the basis of cancellation of the contract on apartment usage, termination of the contract on the basis of the contract on apartment exchange or if he / she acquired occupancy right to another apartment that was allocated to him / her and the family household members who live with him / her.

The family household members, who resolved their housing needs on any ground, are not entitled to continue to use the apartment after the death of the occupancy right holder according to the provisions of paragraph 2 of this Article, nor when he / she ceased to permanently use the apartment for other reasons.

#### Article 18

When the occupancy right holder dies or ceases to permanently use the apartment for other reasons, and his / her family household members continue to use the apartment, and no spouse remained in the apartment as the occupancy right holder, his / her family household members shall agree among themselves who will be the occupancy right holder and notify the other contracting party on that matter.

If the family household members do not reach the agreement referred to in paragraph 1 of this Article, the allocation right holder shall decide among the family household members who will become the occupancy right holder.

If the allocation right holder is of the opinion that none of the persons who remained in the apartment after the death of the occupancy right holder is entitled to continue to use the apartment according to the provisions of paragraphs 2 and 3 of Article 17 of this Law, it may file a court action for the eviction of all persons who remained in the apartment within 3 months of the cognition thereof and no later than 3 years after the death of the occupancy right holder or after he / she ceased to permanently use the apartment for other reasons.

Persons who remained in the apartment after the death of the occupancy right holder or when he / she ceased to permanently use the apartment for other reasons shall be obliged to notify the allocation right holder on that matter.

The person who continued to use the apartment as new occupancy right holder according to paragraphs 1 and 2 of this Article shall be obliged to deliver within 30 days a written notification or document to the social-legal person with which he / she exercised apartment allocation right stating that he / she was allocated the apartment for use.

### 2. *Occupancy right holder's rights*

#### Article 19

Occupancy right may cease only in the cases and in the manner defined by this Law.

#### Article 20

Nobody may move into the apartment which the occupancy right holder uses without the permission of the occupancy right holder.

The occupancy right holder may, for justifiable reasons, cancel the further use of the apartment to any user except his / her underage children and the spouse, giving that user an appropriate notice, which cannot be less than 30 days, to vacate the apartment.

If the apartment user does not vacate the apartment before the expiration of the notice referred to in paragraph 2 of this Article, the occupancy right holder may file a court action for his / her eviction.

#### Article 21

The occupancy right holder may exchange his / her apartment for the apartment of another occupancy right holder.

The exchange of apartments among several occupancy right holders with the purpose of joining together or separating family household may be conducted only among the occupancy right holders who constitute a family household through joining household together according to the provision of Article 9 of this Law or when thorough the separation of the family household a member of the family household of the occupancy right holder whose household is separated becomes the new occupancy right holder to the exchanged apartment.

In case of joining together or separating the family household, occupancy right may be exchanged with the apartment allocation right if all participants in the apartment exchange agree.

The apartments cannot be exchanged if:

1. the contract on apartment usage is cancelled to the occupancy right holder, until the cancellation is withdrawn or refused by valid court decision;
2. the building or a part of the building in which the apartment is located must be pulled down by the decision of the competent body;
3. the proceeding for eviction of the occupancy right holder and his / her family household members is instituted according to Articles 14 and 14a of this Law.

The contract on apartment exchange shall be concluded in a written form.

#### Article 22

In order to exchange apartments it is necessary to acquire permission of the allocation right holders to those apartments.

The occupancy right holder is obliged to submit a written request for the apartment exchange to the allocation right holder.

The allocation right holder may refuse to give its permission for the apartment exchange if:

1. the apartment was allocated for use on the basis of employment until the expiration of the deadline referred to in paragraph 4 Article 52 of this Law;
2. the allocation right holder may within 6 months provide to the occupancy right holder an apartment which matches the apartment into which the occupancy right

- holder wants to move by way of apartment exchange;
3. it is a simulated or unjustifiable apartment exchange.

If the allocation right holder within 30 days from the day of the submission of the request referred to in paragraph 2 of this Article does not notify the occupancy right holder that it will within 6 months provide him / her with an apartment which matches the apartment into which the occupancy right holder wants to move by way of apartment exchange, or if the allocation right holder does not refuse to give its permission for the exchange, it will be considered that the permission has been given.

The refusal to give the permission for the apartment exchange must be in a written form with the explanation.

The occupancy right holder who was refused the permission for apartment exchange may, within 15 days from the day of reception of the notification on refusal to give the permission referred to in paragraph 4 of this Article, file a court action requesting that the court determine in an extra-judiciary procedure whether the conditions for the exchange have been met. When deciding on the apartment exchange the court shall be obliged to determine whether it is a simulated apartment exchange or whether a large apartment is exchanged for much smaller apartment without any justifiable reasons.

#### Article 23

The allocation right holder may withdraw the permission given to the occupancy right holder or refute the court decision made in the extra-judiciary proceeding referred to in paragraph 6 Article 22 of this Law if it establishes that:

1. the occupancy right holders do not use the exchanged apartments;
2. economic benefit was gained through the apartment exchange.

The allocation right holder may withdraw the permission for the apartment exchange given to the occupancy right holder or refute the court decision made in the extra-judiciary proceeding referred to in paragraph 6 Article 22 of this Law within 30 days from the day of cognition of the reasons referred to in paragraph 1 of this Article and no later than 2 years from the day of the exchange.

In case when the allocation right holder withdraws the permission for the apartment exchange or when the court decision made in the extra-judiciary proceeding referred to in paragraph 6 Article 22 of this Law is cancelled, the contract on the apartment usage is terminated for the occupancy right holders who exchanged the apartments.

The persons referred to in paragraph 3 of this Article may be evicted when the allocation right holder provides emergency accommodation for them.

#### Article 24

The occupancy right holder may give a part of his / her apartment for use to another person as a tenant based on the permission of the allocation right holder.

The occupancy right holder may not lease the whole apartment to other persons as tenants



except in the case referred to in Article 23 of this Law.

*3. Occupancy right holder's obligations*

Article 25

While using the apartment the occupancy right holder is obliged to be careful and protect the apartment from defects and damage.

The occupancy right holder is obliged to use the apartment in the manner that does not disturb other tenants of the building in the peaceful usage of the residential premises.

Article 26

The occupancy right holder is not allowed to use the apartment for the purposes other than living.

The occupancy right holder and his / her family household members may use certain premises in the apartment for their personal business activities with the permission of the allocation right holder and upon the opinion given by tenants' council.

The Municipal Assembly shall prescribe the conditions under which the personal business activity may be conducted in the apartment.

Article 27

The occupancy right holder is obliged to pay the apartment rent from the day of moving into the apartment unless contracted otherwise.

If the time for the rent payment is not stipulated in the contract, the rent shall be paid monthly in advance and no later than the fifth day in a month.

The competent court shall decide disputes related to the rent payment and the payment of fees for the use of common premises in the building.

Article 28

The occupancy right holder shall bear costs of the current maintenance of his / her apartment.

Article 29

If the occupancy right holder ceases to use the apartment, together with his / her family household members, continuously for more than one year and no longer than five years due to the moving to another place in the country or abroad, he / she is obliged to inform the allocation right holder on that matter and agree with it on the manner of use of the apartment during his / her absence.

If the occupancy right holder and the allocation right holder in the case referred in paragraph

1 of this Article agree that tenants chosen by the allocation right holder will use the apartment, the allocation right holder shall be obliged to guarantee to the occupancy right holder that the apartment will be used with due care and that it will repair everything in the apartment if the tenant does not return the apartment in the appropriate condition to the occupancy right holder.

If the occupancy right holder and the allocation right holder do not agree on the manner of the apartment use, the allocation right holder may lease that apartment to another worker for use and make sure that the occupancy right holder's belongings are secured. The lease on the aforementioned basis may last until the occupancy right holder or his / her family household member return and no longer than 5 years.

If the occupancy right holder and the allocation right holder do not agree on the manner of the apartment use because the allocation right holder is not interested in the apartment use, the apartment shall remain vacant and the occupancy right holder shall be obliged to pay the rent and other fees that are to be paid beside the rent.

If the occupancy right holder and his / her family household members do not use the apartment continuously for more than five years, and during that period they lived in another place in the country or abroad, the contract on the apartment usage shall be terminated and the occupancy right holder shall be obliged to return the vacated apartment to the allocation right holder.

It shall also be considered that the apartment is not used continuously in case when the occupancy right holder only occasionally comes to the apartment and when a part of the apartment is used by persons who are not the family household members.

If in the case referred to in paragraphs 4 and 5 of this Article the occupancy right holder does not vacate the apartment within 30 days from the day of the termination of the contract on apartment usage, the housing body shall issue a decision on his / her eviction.

#### Article 30

The occupancy right holder shall bear costs for repairs in the apartment or other parts of the building that are caused by his / her fault or by other apartment users who live together with him / her or by other persons who stay in the apartment with his / her permission.

#### Article 31

After the termination of the contract on apartment usage, the occupancy right holder shall be obliged to return the apartment to the allocation right holder or to the self-management housing community of interests in the original conditions in which he / she received the apartment, taking into consideration the changes that occurred due to the regular apartment usage.

The contracting parties shall be obliged to define jointly, in a written form, the situation in which the apartment is at the time of its return.

If the contracting parties do not agree regarding the situation of the apartment, each contracting party may demand that the situation be defined in the evidence acquiring

procedure with the competent court.

### III APARTMENT USAGE

#### *1. Allocation of the apartment for use*

##### Article 32

The apartment may be allocated for use to one occupancy right holder only.

The allocation right holder shall issue a decision on the allocation of the apartment for use to a person who is supposed to move into that apartment in accordance with the self-management general enactment or the regulation on the allocation of apartments for use.

##### Article 33

The allocation right holder shall allocate apartments for use in accordance with the self-management general enactment or the regulation on the allocation of apartments for use.

The self-management general enactment or the regulation on the allocation of apartments for use particularly defines:

1. the conditions, criteria and order of priorities for the allocation of apartments for use;
2. the manner of giving permission to the occupancy right holder that he / she may use the apartment for personal business activity as well as the permission for lease of a part of the apartment to tenants;
3. the conditions for termination of the contract on apartment usage if the occupancy right holder gives a written declaration that he / she will vacate the apartment as soon as he / she terminates his / her employment before the expiration of the deadline stipulated in a written obligation when he / she got the employment;
4. the conditions for allocation of apartments for use to persons who cease to use official apartments.

The self-management general enactment referred to in paragraph 1 of this Article also defines: the form of the document about the allocation of the apartment for use, bodies which decide on the allocation of the apartment for use as well as on the appeal of a worker who believes that his/her right to apartment allocation was violated.

When establishing the criteria referred to in item 1 of paragraph 2 of this Article, the housing situation, the worker's contribution and years of employment should be decisive factors for the apartment allocation shall be taken into account, as well as financial situation of the family, health situation, participation in the National Liberation War (World War II), number of children and total number of the family household members including other circumstances that are of importance for the allocation of apartment for use.

The Social Compact in the Municipality may also define the detailed criteria for the allocation of apartment for use.

Article 33a

Based on the registered needs of workers and in accordance with the self-management general enactment or the regulation on the allocation of apartments for use, the responsible body of the allocation right holder shall determine the order of priorities for the allocation of apartment for use, thus reflecting the housing needs of the workers.

Changes of the order of priorities for resolving the housing needs shall be conducted through the principles and criteria of the self-management general enactment or regulations, until the decision on the allocation of apartment for use is issued.

The decision on allocation of apartment for use may be issued when the allocation right holder has a vacant apartment or when it concluded the contract on purchase or construction while the construction of the apartment has begun.

A vacant apartment is an apartment in which the occupancy right holder, who was allocated another apartment for use by the valid decision, lives.

Article 34

If the allocation right holder without any justifiable reason does not allocate a vacant apartment for use within three months, the housing body shall allocate that apartment for use in accordance with the Municipal Assembly general enactment on allocation of apartments for use.

Article 35

The worker who believes that the procedure for the allocation of apartment for use, defined by the general enactment of his / her organisation of associated labour, was violated due to the allocation of the apartment to another person, and that the violation could have materially affected the apartment allocation enactment or that the person who was allocated the apartment does not meet the conditions defined by the self-management general enactment on allocation of apartments for use or that the apartment was allocated without passing the general enactment on allocation of apartments for use or that the application of the worker has not been included in the list of priorities for resolving the needs, has the right to file an action with the competent court in order to protect his / her rights.

The action referred to in paragraph 1 of this Article may be filed within 30 days from the day of delivery of the final decision on the appeal referred to in paragraph 3 Article 33 of this Law.

The procedure upon the action referred to in paragraph 1 of this Article is considered as urgent.

If the body does not decide on the appeal, by the appropriate document on the allocation of apartments for use, within the due deadline, the person who submitted the appeal has the right to file the action with the court as if his / her appeal was refused.

When the competent body establishes that the action referred to in paragraph 1 of this Article

is founded, it shall cancel the document by which the worker's right was violated.

The person who still occupies the apartment after the cancellation of the document by which the apartment was allocated to him / her for use shall be considered as a person illegally occupying the apartment (Article 43).

The court may temporarily prohibit moving into the contested apartment until a valid decision of the court is made on the action referred to in paragraph 1 of this Article.

#### Article 36

When the occupancy right holder vacates the apartment and moves into another apartment in a newly constructed building in the same municipality, the allocation right holder in the new building shall also allocate the apartment vacated by the occupancy right holder to its worker if the allocation right belongs to the municipality and if that apartment is socially owned on the basis of nationalisation.

The allocation right holder may use the right referred to in paragraph 1 of this Article only once, when the occupancy right holder first moves into the newly constructed apartment.

### *2. Contract on apartment usage*

#### Article 37

The contract on apartment usage shall be concluded between the person who was allocated the apartment for use and the self-management housing community of interests (hereinafter: community), on the basis of the decision of the allocation right holder.

The contract on apartment usage shall be concluded in a written form.

#### Article 38

The contract on apartment usage contains in particular:

1. names of the contracting parties;
2. indication of the decision on the allocation of apartment for use;
3. data on the apartment (building, street, number of apartment, number of premises and surface);
4. rent provisions (amount and the deadline for rent payment, change in the rent amount), amount to be paid for use of extra housing space;
5. provisions on the use and maintenance of common premises and utilities in the building, on the use of land needed for regular use of the building and on the amount and manner of payment of the fees if these fees are to be paid beside the rent;
6. provisions on obligations of the organisations regarding the maintenance of

- apartment, building, common utilities and premises in the building;
- 7. provisions on obligations of the occupancy right holder regarding the current maintenance of the apartment;
- 8. provisions on use of other premises which are not considered as the apartment and were allocated for use together with the apartment (garages, etc.)
- 9. place and date of the conclusion of the contract and the signatures of the contracting parties.

Investments of the occupancy right holder which would improve the quality of the apartment shall not be taken into account concerning the change in the amount of the rent and evaluation of the apartment, but the quality is assessed according to the conditions which existed at the time of completion of the construction and moving into the apartment.

The contract on apartment usage shall be concluded for an undefined time period unless stipulated otherwise by this Law.

#### Article 39

If the occupancy right holder is going to use the apartment temporarily, until the allocation right holder provides him / her another apartment as contracted, the contract on apartment use shall be concluded for a defined time period.

In the case referred to in paragraph 1 of this Article, the occupancy right holder shall not be obliged to vacate the apartment allocated to him / her for a temporary use until the allocation right holder enables him / her to move into another apartment as contracted, except in cases when, according to the provisions of this Law, the contract on apartment use concluded for an undefined time period is terminated to the occupancy right holder.

#### Article 40

If the contracting parties (the occupancy right holder and the community) cannot agree on the rent amount, each of them may, before the contract on apartment usage is signed, file a request with the court to determine the rent amount.

On the request for determination the rent amount the competent court shall decide in an extra-judiciary procedure.

#### Article 41

The community is obliged to maintain the same condition of the apartment as when it was allocated for use to the occupancy right holder, according to the standards on maintenance of residential buildings and apartments, unless contracted otherwise.

The occupancy right holder has the right to demand that the community conduct the necessary repairs or other works that are not the occupancy right holder's obligation.

In exceptional cases, the occupancy right holder may conduct necessary urgent repairs himself / herself in the apartment or common utilities in the building if the organisation in due time does not conduct repairs that are necessary for protection of lives and health of the apartment users or protection of the apartment and the utilities.

The occupancy right holder is entitled to deduct the costs for the repairs referred to in paragraph 3 of this Article from the rent.

Article 42

If the occupancy right holder who was allocated the apartment does not move into the apartment within 30 days from the day of the conclusion of the contract without any justifiable reasons, the contract shall be invalidated.

The time necessary for the preparation of the apartment for moving into it shall not be counted as a part of the deadline referred to in paragraph 1 of this Article.

Article 43

If a person moves into the apartment or common premises in a building contrary to the provisions of this Law, any person may request the housing body to issue a decision on the apartment vacation.

The procedure referred to in paragraph 1 of this Article shall be urgent and shall be initiated and conducted ex officio.

An appeal may be filed against the decision referred to in paragraph 1 of this Article within three days but it does not suspend the enforcement of the decision on the apartment vacation.

On the occasion of coercive enforcement of the decision referred to in paragraph 1 of this Article, the person who is evicted shall not be provided with any emergency accommodation.

The person who is evicted shall bear costs of the coercive apartment vacation as well as costs which occurred during the unlawful apartment usage (rent, heating, electricity, water, possible burdens, etc.).

Article 44

If one of the contracting parties, in the cases referred to in Articles 15, 16, 18 and 22 of this Law, within 30 day from the day of the action filed does not conclude the contract on apartment usage, the competent court shall, on the request of one contracting party, issue a decision in extra-judiciary procedure, thus replacing the contract on apartment usage until that contract is concluded according to the provisions of this Law.

*3. Termination of the contract on apartment usage*

Article 45

The occupancy right holder may terminate the contract on apartment usage 30 days before he / she intends to vacate the apartment.

The occupancy right holder shall give the contract termination notice in writing, without the

court involvement, on the first day in a month, and the notice period shall expire on the last day in the month in which the termination notice was given.

Article 46

The contract on apartment usage may be terminated to the occupancy right holder if:

1. the occupancy right holder or any other user of the apartment uses the apartment for purposes which are contrary to the contract or in the manner that causes damage to the apartment and common premises or utilities by their fault;
2. the occupancy right holder or any other user of the apartment uses the apartment in the manner that disturbs other apartment users in peaceful apartment usage;
3. the occupancy right holder delays the payment of the rent, fees for use of extra housing space as well as other fees related to the apartment usage, continuously for a period longer than 3 months, except for the reason referred to in Article 48 of this Law, unless contracted otherwise.

Article 47

The contract on apartment usage may be terminated to the occupancy right holder if:

1. the occupancy right holder leases the housing space to tenants without the permission of the allocation right holder when such a permission is needed according to the Law;
2. the occupancy right holder leases the housing space for business purposes;

In the cases referred to in paragraph 1 of this Article, the occupancy right holder shall be provided an apartment which is, according to its size and utilities, proportionate to the part of the apartment used by the occupancy right holder and his / her family household members for living, not including the surface of the part of the apartment which is leased for business purposes or to tenants.

Article 48

The contract on apartment usage may not be terminated to the occupancy right holder if he / she failed to pay the rent, fees for use of extra housing space or fees for use of common premises while he / she is temporarily unemployed or for other similar justifiable reasons if he / she regularly pays the rent and the fees in proportion to the amount of the compensation that he / she received during the temporary unemployment.

The occupancy right holder shall be obliged to pay for the unpaid amount of the rent, fees for use of extra housing space as well as fees for use of common utilities when he / she gets a job, no later than the period which is three times longer than the period of his / her temporary unemployment.

Article 49

The contract on apartment usage may be terminated for the reason referred to in Article 46 of this Law only if the occupancy right holder or any other apartment user tries to use the apartment for purposes which are contrary to the contract or in the manner that causes



material damage to the apartment or disturbs other apartment users in peaceful apartment usage, even after he / she receives a written warning sent to him / her as a registered mail by the community.

The written warning referred to in paragraph 1 of this Article shall not be necessary if the court or the competent body in a valid decision established the responsibility of the occupancy right holder or other apartment user for actions due to which the contract is terminated.

#### Article 50

The contract on apartment usage may be terminated to the occupancy right holder if he / she leases the whole apartment to other persons as tenants (Article 24).

#### Article 51

The contract on apartment usage may be terminated to the occupancy right holder if he / she and his / her family household members who live together with him / her cease to use the apartment continuously.

The contract on apartment usage cannot be terminated to the occupancy right holder when he / she is conscripted in the National Defence Service or when he / she is hospitalised.

It shall be considered that the apartment is not used continuously if the occupancy right holder does not use the apartment longer than one year, except in the cases referred to in Article 29 of this Law, if he / she only occasionally comes to the apartment, as well as when the whole apartment is used by a person who is not the family household member.

#### Article 52

If the apartment was allocated to the occupancy right holder for use on the basis of employment, the allocation right holder may also terminate the contract on apartment usage to the occupancy right holder if he / she ceases to work in the basic organisation of associated labour or work collective on the basis of his / her statement that he / she terminates the employment as well as due to the termination of the employment because of a serious violation of duty or if he / she is punished for a criminal act which entails the termination of employment according to statutory force.

In the case referred to in paragraph 1 of this Article, the allocation right holder may terminate the contract on apartment usage to the occupancy right holder no later than three months after the termination of his / her employment. The notice period shall be 30 days and starts from the first day of the next month.

In the case referred to in paragraph 1 of this Article, the occupancy right holder shall be provided with emergency accommodation when he / she vacates the apartment.

The provisions of paragraph 1 of this Article shall not apply if the occupancy right holder was employed with the allocation right holder for more than 10 years, or for a shorter period defined by the self-management general enactment on the allocation of apartments for use.

The contract on apartment usage may not be terminated according to the provisions of paragraph 1 of this Article to the worker who has been employed for more than 20 years in total, and who has been employed for more than 5 years in the basic organisation of associated labour or work collective where he / she was allocated the apartment for use.

*4. Use of common premises and utilities in residential buildings*

Article 53

The contract on apartment usage may be terminated to the occupancy right holder if the apartments are converted into business premises in accordance with the criteria established by the regulation of the Municipal Assembly.

In the case referred to in paragraph 1 of this Article, an appropriate apartment shall be provided to the occupancy right holder.

The allocation right holder shall bear costs of moving the occupancy right holder into another apartment in the cases referred to in paragraph 1 of this Article.

If the parties do not agree on the costs of moving, the amount of these costs shall be determined by the competent court in extra-judiciary procedure.

Article 54

The allocation right holder shall terminate the contract on apartment usage according to the provisions of Articles 47, 50, 51, 52 and 53 of this Law, unless contracted otherwise between the allocation right holder and the community.

The community shall terminate the contract on apartment usage according to the provisions of Article 46 of this Law.

Article 55

The contract on apartment usage to the occupancy right holder shall be terminated through the court action filed with the competent court.

The procedure upon the court action for the termination of the contract on apartment usage shall be urgent.

Article 56

The contract on apartment usage shall be terminated if the building or a part of the building in which the apartment is located is destroyed by some *force majeure* (earthquake, flood, fire).

Article 57

The contract on apartment usage shall be terminated if the building or a part of the building in which the apartment is located must be pulled down on the basis of the decision of the competent body as well as when the apartment must be vacated on the basis of the administrative decision of the competent body because it does not meet the hygienic-technical conditions, or when there is a danger of ruining building or the part of the building.

The occupancy right holder referred to in paragraph 1 of this Article may vacate the apartment on the basis of the decision of the competent body of the Municipal Assembly after another apartment which does not materially aggravate his / her housing conditions is provided to him / her.

The action filed with the court shall not suspend the enforcement of the decision referred to in paragraph 1 of this Article.

#### Article 58

The contract on apartment usage shall be terminated if the building is declared a construction object for military purposes by the decision of the Federal National Defence body.

In the case referred to in paragraph 1 of this Article, the occupancy right holder and other apartment users may vacate the apartment when the competent military body provides an appropriate apartment for them.

#### Article 59

The occupancy right holder's obligation to vacate the apartment shall also apply to the other apartment users, unless stipulated otherwise by this Law.

#### Article 59a

The occupancy right holders and the owners of apartments as particular parts of the buildings have the right to use laundries, drying yards, attics, roofs, basements and other common premises and utilities which serve all the tenants, in accordance with their purposes, in the residential building.

The owners or the users of business premises in the residential building have the right to use common premises and utilities in the residential building if the purpose of those premises or utilities is functionally related to the use of the business premises.

The residential building managing body shall make sure that the common premises and utilities are used in accordance with their purpose and establish the situation of their usage as well as the obligations of tenants and users of the business premises related to their usage and maintenance of the common parts and utilities in the residential building.

If no managing body is formed in the residential building, or if it does not perform its duties referred to in paragraph 2 of this Article, its competencies and obligations shall be taken by the self-management housing community of interests.

#### IV TENANT RELATIONS

##### Article 60

The tenant relationship shall be based on the contract between the occupancy right holder and the tenant.

The contract referred to in paragraph 1 of this Article may be concluded for an undefined time period or for a defined time period.

##### Article 61

The tenant has the right to use the residential premises defined by the contract on tenant relationship within the limits and in the manner defined by that contract.

The tenant shall not lease to another person the whole residential premise or a part of it which he / she is using on the basis of the contract on tenant relationship.

##### Article 62

The Municipal Assembly may regulate the manner and the conditions for lease of a part of the apartment to tenants.

The regulations referred to in paragraph 1 of this Article may also regulate the highest amounts of the rent that the tenant has to pay to the occupancy right holder for the residential premises that he / she is using as a tenant.

##### Article 63

The contract on tenant relationship concluded for an undefined time period shall be terminated by cancellation of the contract.

The contract referred to in paragraph 1 of this Article may be terminated by each of the contracting parties without giving the reasons for that.

The termination notice for the contract on tenant relationship concluded for an undefined time period shall be 30 days unless a longer period for the termination notice is defined by the contract.

##### Article 64

The contract on tenant relationship concluded for a defined time period shall be cancelled with the expiration of that period.

The contract on tenant relationship concluded for a defined time period shall be considered as tacitly prolonged to an undefined time period if the tenant continues to use the residential premise after the expiration of the period for which the contract was concluded.

##### Article 65

The occupancy right holder may terminate the contract on tenant relationship, concluded for a defined time period before the expiration of the deadline stipulated by the contract only in the cases referred to in Article 46 of this Law when the contract on apartment usage may be terminated to the occupancy right holder as well as in the cases defined by the contract.

The tenant may terminate the contract on tenant relationship, concluded for a defined time period, before the expiration of the period stipulated by the contract if the occupancy right holder does not fulfil the obligation that he / she has toward the tenant based on the contract on tenant relationship or the Law, if the tenant gets a job in another place as well as in the cases defined by the contract on tenant relationship.

Article 66

The contract on tenant relationship concluded for an undefined time period shall be terminated to the other party directly verbally or in a written form, by mail or through the court.

Article 67

The tenant's right to use the residential premise on the basis of the contract on tenant relationship shall cease with the cessation of the occupancy right holder's right to use the apartment in which the premise is located.

The tenant who stays in the apartment after the occupancy right holder vacates the apartment shall be considered as illegally using the residential premises.

**V RIGHTS AND OBLIGATIONS OF FAMILY RESIDENTIAL BUILDING OWNERS  
AND APARTMENT OWNERS**

Article 68

Family residential building owner or apartment owner may give his/her apartment or family residential building to another citizen for lease if he/she himself/herself or a member of his/her family household is not using that family residential building or apartment for dwelling, relaxation or convalescence, except in case referred to in Articles 14 and 70 of this Law.

The Municipal Assembly may determine that the owner of a vacant apartment is obliged to give such apartment for lease.

The contract on lease of the apartment referred to in paragraph 1 of this Article shall be concluded between the apartment owner and the lessee.

If the owner of a family residential building or apartment, does not give his/her apartment for lease within 3 months as of the day when it was vacated, in the case when he/she is obliged to do so under the regulation referred to in paragraph 2 of this Article, the apartment shall be allocated for use to the person designated by the housing body with which the owner is obliged to conclude the contract on lease of the apartment, in accordance with the provisions

of this Law.

#### Article 69

In accordance with this Law, a family residential building or apartment is considered to be used for the purpose of relaxation or convalescence if the housing body in the municipality where the building or the apartment is located has issued a certificate confirming that the building or the apartment is used for the purpose of relaxation or convalescence.

The certificate referred to in paragraph 1 of this Article may be issued by the housing body of the municipality upon request of the owner.

#### Article 70

An occupancy right holder or a member of his/her family household, who owns or acquires ownership to a family residential building or to an apartment in particular residential areas in the same or neighbouring municipality or town, which he/she is not obliged to move into under Article 14 of this Law, shall give the family residential building or the apartment for lease, under the conditions stipulated by the law, to the person designated by the allocation right holder or a housing body of the municipality where the family residential building or the apartment is located, and with such person the owner is obliged to conclude the contract on lease of the apartment.

In the case referred to in paragraph 1 of this Article, the owner is not obliged to give for lease a family residential building or an apartment which he/she owns, if the apartment that he/she is using as occupancy right holder is not suitable in accordance with the standards on rational use of apartments, while the apartment which he/she owns is being used by a member of the family household of the occupancy right holder, who is of age.

The amount of rent, which may not higher than the rent that would be paid for that apartment if it were used on the basis of the contract on use of the apartment with an occupancy right, shall be determined by the contract on lease referred to in paragraph 1 of this Article.

The owner of the apartment is obliged to give for lease a family residential building or an apartment to the person designated by the allocation right holder or a housing body of the municipality as long as he/she is using a socially owned apartment as an occupancy right holder.

The person referred to in paragraph 3 of this Article shall be designated by the allocation right holder in accordance with the conditions and standards stipulated in the self-managing enactment on allocation of apartments for use, or by a housing body in accordance with the regulations of the Municipal Assembly on allocation of apartments for use.

The contract concluded with the person to who the owner has given a family residential building or an apartment for lease in accordance with paragraph 1 of this Article may be cancelled only if the allocation right holder or the municipal housing body provide an adequate apartment. It is considered that in that case the lessee has met the requirements to be allocated an apartment for use in accordance with the conditions and standards stipulated by the self-managing enactment on allocation of apartments for use.

The contract concluded with the person to who the owner has given a family residential building or an apartment for lease in accordance with paragraph 1 of this Article may also be cancelled: if he/she fails to pay the rent for a period longer than 3 months, if he/she uses the apartment in a manner which is preventing other users of the apartment in their peaceful use of the apartment, if he/she uses the apartment contrary to the purpose stipulated in the contract, or in a manner which causes damage to the apartment, joint premises or utilities by his/her fault.

#### Article 71

The contract on lease shall specifically contain:

1. names of the contracting parties,
2. data on the apartment (building, street, apartment number, number of rooms),
3. amount of rent and the manner of payment which may not amount to more than the double rent that would be paid for that apartment if it were used on the basis of a contract on use of the apartment with an occupancy right,
4. provision about the period for which the contract has been concluded,
5. provisions on cancellation and period of notice
6. place and date of the contract and signatures of the parties.

The contract on lease of the apartment shall be concluded in writing.

#### Article 72

The contract on lease of an apartment shall be concluded for a defined period of time which may not be shorter than one year.

#### Article 73

Contract on lease of an apartment concluded for a defined period of time shall cease by the expiration of the period for which it was concluded.

If the apartment is not vacated and returned upon the expiration of the time period for which the contract was concluded, the owner may file an action with the competent court for the apartment to be vacated.

The proceeding upon the court action for vacating the apartment shall be urgent.

#### Article 74

Contract on lease of an apartment concluded for a defined period of time, after expiration of that period shall be considered as tacitly renewed for at least one year if the owner did not notify the lessee about his/her intention to request vacating the apartment within the contracted period, six months before expiry of the contract.

#### Article 75

The owner may desist from the contract on lease of the apartment for a defined time period, regardless of the contractual or legal provisions on the duration of lease:

1. if the lessee, even after being warned by the owner, uses residential premises contrary to the contract or if he/she considerably damages the premises by using them without the due care.
2. if the lessee fails to pay the due compensation (rent) even after expiry of three months from the time the owner gave him a warning.

#### Article 76

The lessee may desist from the contract on lease of the apartment for a defined period of time regardless of the contractual or legal provisions on duration of the lease of the apartment if the owner fails, within the appropriate deadline given by the lessee, to bring the residential premises to the condition in which he/she is required to hand them over or maintain them.

#### Article 77

The party which desists from the contract on lease of the apartment for a defined time period is obliged to give the other party a written statement on desistance, as well as to set a deadline until when that party will hand over or receive the vacated premises.

The deadline referred to in paragraph 1 of this Article may not be shorter than 30 days as of the day when the other party received the statement on desistance from the contract.

#### Article 78

If the lessee, who received the statement on desistance from the contract, fails to hand over the vacated premises within the deadline referred to in Article 77 of this Law, the lessor may file an action with the competent court demanding hand-over of the vacated residential premises.

Disputes upon the action for hand-over of vacated residential premises are considered as urgent.

#### Article 79

The owner of a family residential building or an apartment may, in order to satisfy his/her personal and family housing needs, request the family residential building or the apartment to be vacated if he/she offers instead a suitable apartment to the occupancy right holder.

The owner of the family residential building or apartment may, in order to satisfy his/her personal and family housing needs, request the occupancy right holder who lets for lease a part of the apartment, to vacate the family residential building or the apartment if he/she can offer instead another apartment which by its size and utilities is adequate to the part of the apartment that the occupancy right holder is using with members of his/her family household for residential purposes, not taking into account the part of the apartment which has been let for lease for more than one year.



The owner of a family residential building or apartment is obliged to move out from the apartment in his ownership which he/she is using, together with all members of his/her family household, and move into a socially owned apartment which was allocated to him/her, as an occupancy right holder, for use together with the members of the family household living with him/her.

In cases referred to in paragraphs 1 and 2 of this Article, the owner of the apartment shall bear the costs of moving of the occupancy right holder.

If the parties cannot agree on the moving costs, the amount of the costs shall be determined by the municipal court in an extra-judicial procedure.

#### Article 80

If the owner of a family residential building or apartment lives in difficult housing conditions, a suitable apartment to the occupancy right holder residing in his/her apartment shall be provided by the municipality where the occupancy right holder lives, from the housing stock of vacated, nationalised and confiscated apartments, as well as from the funds of amortisation which is calculated for those apartments, or from other means.

The municipality shall provide the apartment referred to in paragraph 1 of this Article only if the owner had ownership to the family residential building or apartment before coming into force of the Law on Nationalisation of Buildings for Lease and Construction Land, i.e. before January 1, 1959.

The occupancy right holder referred to in paragraph 1 of this Article is obliged to move out of the apartment of the owner and move into the apartment provided to him by the municipality within 30 days.

#### Article 80a

The Municipal Assembly may define in its decision what kind of housing conditions of the owner of a family residential building or apartment are considered to be difficult, as well as the way of defining difficult housing conditions in each individual case.

If the Municipal Assembly does not define difficult housing conditions, for the purpose of this Law, the difficult housing conditions shall mean living in a damp apartment, in the basement, in a building which may easily decline, in an insanitary apartment, as well as living in a considerably smaller apartment than what is prescribed by the standards on rational use of apartments.

Upon request of the owner, the responsible administrative body in the municipality shall issue a decision in an administrative proceedings establishing whether the owner lives in difficult housing conditions.

#### Article 81

Occupancy right holder to an apartment that is owned by another person, may submit a request to a basic organisation of associated labour or a work collective to be allocated a socially owned apartment for use as if his/her housing problem had not been resolved

provided that the owner of the family residential building or apartment lives in difficult housing conditions (Article 80).

If the occupancy right holder wishes to use his/her right referred to in paragraph 1 of this Article, the owner of the apartment who lives in difficult housing conditions may exercise that right on his/her behalf, with all associated rights that belong to a worker.

Occupancy right holder referred to in paragraph 1 of this Article, to whom a socially owned apartment is allocated for use, shall be obliged to move out of the apartment owned by another person, together with all members of his/her family household.

#### Article 81a

Owners of parts of a building shall participate in costs of maintenance of common parts of the building in accordance with the value of their respective parts in proportion to the total value of the whole building.

The method of raising funds needed for current and investment maintenance of common parts of a building, their registration and deciding on their use is regulated by the contract on mutual relations in the buildings in which all parts of a building are owned by citizens and civil-legal persons, while in the buildings where some parts are privately owned and some socially owned, by the contract concluded by all owners of parts and the responsible self-management housing community of interests.

If owners, i.e. owners and the responsible self-management housing community of interest can not reach an agreement on the content of the contract referred to in the previous paragraph, each of them is entitled to request the court to decide on disputable issues in an extra-judiciary proceeding.

#### Article 81b

Until the contract referred to in Article 81a of this Law is concluded, owners of parts of a building are obliged to pay in advance for the current maintenance of the building in the same amount as occupancy right holders pay for the same apartment.

The municipal self-management housing community of interests establishes the amount of the advance and the funds belong to the residential building.

Owners of parts of a building are obliged to pay the advance for investment maintenance of the building in accordance with the investment maintenance program if such program exists, until the contract referred to in Article 81a is concluded.

The body that issued the investment maintenance program for the building establishes the amount of the advance and the funds are paid to the responsible self-management housing community of interests.

If the investment maintenance program for the building has not been issued, owners of parts of buildings are obliged to participate in the costs of investment maintenance in accordance with the funds actually invested for the works on the building and the funds are paid to the investor.

Provisions and standards of Article 81a of this Law shall be applied when the amount of the advance payment for investment maintenance of the building is being established or when the final calculation of the invested funds is made.

## VI EXTRA HOUSING SPACE

### Article 82

The standards on rational use of apartments are established by a social compact concluded by the Municipal Assembly, Municipal Conference of the Socialist Alliance of the Working People, Municipal Chamber of the Trade Union Confederation and the Chamber of Commerce of Kosovo, taking into account the functionality of the apartment and the number of users, their age, sex, occupation etc.

Municipal Assembly, in accordance with the social compact referred to in paragraph 1 of this Article, stipulates the manner of establishing extra housing space, the amount of the compensation, obligation of the occupancy right holder to pay compensation for using the part of the apartment that is extra housing space, as well as the manner how the compensation will be used.

Until the social compact referred to in paragraph 1 of this Article is concluded and the decision referred to in paragraph 2 of this Article, for the purpose of this Law an apartment is considered to be used rationally if the number of rooms of the apartment corresponds to the number of family household members.

## VII PENAL PROVISIONS

### Article 83

A citizen shall be fined for violation in an amount from 5,000 to 50,000 dinars in case:

1. he/she fails to inform a housing authority of the fact that he/she uses more than one apartment, within the deadline referred to in Article 13 of this Law;
2. he/she fails to inform the allocation right holder and the housing body of the fact that he/she moved out of the apartment which he/she used on the basis of a contract on use, within the deadline referred to in Article 14 of this Law, or that he/she owns an apartment which is not in accordance with his/her needs and the needs of the members of the family household who live with him;
3. he/she fails to inform the allocation right holder of the death of the occupancy right holder or the fact that he/she definitely ceased using the apartment for some other reason, within the deadline referred to in Article 18 of this Law;
4. the occupancy right holder fails to vacate the apartment within 30 days as of the day of the cessation of the contract on use of the apartment (Article 29);
5. he/she moves into the apartment prior to the final decision on allocation of the apartment for use (Article 35);

6. he/she moves into an apartment for which the court issued a decision which temporarily prohibits moving into that apartment (Article 35);
7. he/she leases residential premises to tenants contrary to the regulations of the Municipal Assembly and without the approval of the allocation right holder (Articles 24 and 61);
8. he /she uses the apartment or a part of the apartment for business activity contrary to the regulations of the Municipal Assembly and without the approval of the allocation right holder (Article 26);
9. he/she fails to return the apartment after cessation of the contract for use, in the same condition that he/she received it for use, taking into account changes that took place due to the regular use of the apartment, (Article 31);
10. he /she fails to give for lease a family residential building or apartment and to conclude a contract in accordance with Article 67 of this Law;
11. he/she collects the rent contrary to provisions of Articles 70 and 71 of this Law;
12. the user continues using the apartment even after the occupancy right holder has moved out (Article 59);
13. he/she fails to enable repairs and reconstruction made in the apartment in order to give for lease co-tenant parts of the apartment. (Article 89).

#### Article 84

An organisation of associated labour or another legal person shall be fined in the amount of 50,000 to 250,000 dinars if:

1. it gives approval for exchange of the apartment contrary to provisions of Article 22 of this Law;
2. it issues a decision on allocating an apartment for use without previously adopting a self-managing enactment on allocation of apartments for use (Article 33);
3. it allocates residential premises for use to a new co-tenant.

A responsible person in the organisation of associated labour or in another legal person shall be fined in the amount of 5,000 to 10,000 dinars for a violation referred to in paragraph 1 of this Article.

### VIII TRANSITIONAL AND FINAL PROVISIONS

#### Article 85

A citizen may own individual apartments and family residential building within the boundaries established by the Law on Nationalisation of the Buildings for Lease and Construction Land.

An apartment or a family residential building in accordance with paragraph 1 of this Article is the apartment or the family residential building which is used by the owner and the members of his/her family use seasonally or temporarily for relaxation and convalescence, if by its constructional characteristics and the possibility of use it has the character of an apartment or a residential building.

Article 86

The occupancy right holder who acquired that right to a family residential building or apartment owned by a citizen, upon the commencement of this Law, shall have all rights and obligations stipulated by this Law for an occupancy right holder to a socially owned apartment, unless otherwise provided by this Law.

The owner of a family residential building or apartment in which the occupancy right holder referred to in paragraph 1 of this Article resides, shall have all rights and obligations of an allocation right holder referred to in Articles 14, 16, 18, 22, 23, 29, 40, 43, 50, 51, 53, 78, 85, 86 and 88 of this Law.

The owner of a family residential building or apartment shall have all rights and obligations of the community referred to in Articles 37, 40, 41, 46 and 47 of this Law if he/she self-manages the building or the apartment.

Article 87

Tenant relations that have been in place on the day of the commencement of this Law shall remain in force.

Article 88

The co-tenant is an occupancy right holder to the residential premises that he/she is using as a co-tenant.

Article 89

The holder of the right to use a residential building or apartment as a separate part of the building and the owner of the family residential building or apartment where co-tenant relations are in place may, in accordance with the building regulations, conduct reconstruction of the apartment in order to separate the co-tenant parts of the apartment.

Users of the apartment may not oppose the reconstruction unless it causes deterioration of their housing conditions.

Article 90

Upon the commencement of this Law, a vacant apartment may be allocated for use to only one occupancy right holder.

Article 91

The allocation right holder may cancel the contract on use to all co-tenants if he/she can provide other apartments for them, which match the part of the apartment that they had used.

Article 92

If one of the co-tenants moves out, the premises that he used may not be allocated for use to a

new co-tenant.

The allocation right holder decides whether the premises from which one co-tenant moved out will be allocated for use to other co-tenants.

After one co-tenant moves out, the allocation right holder may cancel the contract on use of the other co-tenant if he can provide another apartment for him/her which matches the part of the apartment that he/she used as a co-tenant.

The co-tenant shall not acquire occupancy right to the part of the apartment allocated to him/her in accordance with paragraph 2 of this Article unless the allocation right holder specifically notes so in the decision on allocation of the apartment for use.

#### Article 93

Co-tenant pays the rent in accordance with the residential surface area that he/she is separately using.

Co-tenant pays the rent for residential premises that he is using together with other co-tenants in proportion with the number of users who are using those premises together with him/her, i.e. in accordance with the total number of persons who are using the common premises.

While determining the rent which individual co-tenants are going to pay, the differences between the co-tenants concerning their use of supporting premises (bathroom, kitchen, closet, etc.) are taken into account.

Rent that the co-tenant pays is determined in the contract on use.

Co-tenant pays a rent determined by the allocation right holder in accordance with the principles on determination of rent for premises that he/she is using under Article 92 of this Law but to which he/she has not acquired occupancy right.

#### Article 94

Co-tenant may exchange residential premises that he/she is using for another apartment or residential premises in accordance with Articles 21 and 22 of this Law.

Allocation right holder may not give permission for exchange of apartment to a co-tenant if another co-tenant disagrees with the exchange because his/her housing conditions would considerably deteriorate due to the number of persons that would move in on the basis of the exchange, or for other justifiable reasons, or if the person who needs to move in suffers from a chronic contagious disease.

The court shall be competent to decide in case of a dispute.

#### Article 95

A co-tenant may not give for lease the residential space without agreement of other co-tenants, i.e., he/she may not bring another person into his/her part of the apartment, unless that person is his/her spouse or a person that he/she is obliged to support in accordance with

the Law.

If the co-tenant receives a tenant or another person into his/her part of the apartment, contrary to paragraph 1 of this Article, the other co-tenant may, within 30 days as of the day when he/she learned of the fact that another person moved in, file an action with the competent court demanding that person's eviction.

#### Article 96

Co-tenant may demand that the other co-tenant be evicted from the apartment if he/she is disturbing him/her in a peaceful use of the apartment, under the conditions provided in this Law for cancellation of contract on use of an apartment due to the fact that one occupancy right holder disturbs another occupancy right holder in peaceful use of the apartment.

Co-tenant may demand that another co-tenant be evicted from the apartment together with members of his/her family household if he/she is allocated another apartment for use with an occupancy right, or if he/she has or acquires ownership to an apartment.

#### Article 97

To the person who is using until the commencement of this Law a part of an apartment in which on 23 July 1959 he/she was residing as a tenant, cancellation of tenancy status may only be given in cases and under conditions provided for cancellation of the contract on use to an a occupancy right holder, such as:

1. if he/she is using the residential space alone or with one or more members of his/her family household on the basis of an decision issued by a housing body, or
2. if he/she started using the residential space before 14 July 1994, or
3. if he/she pays the rent for using the residential space directly to an organisation or the owner of the apartment who is not an occupancy right holder to the apartment within which that residential space is located.

Non-enforceable decisions and other decisions contradictory to the provisions of paragraph 1 of this Article may not be enforced.

Provisions of paragraph 1 of this Article shall not apply if the tenant used the residential space with furniture belonging to the occupancy right holder.

The rent that the person referred to in paragraph 1 of this Article pays for using the residential space shall be determined in accordance with Article 88 of this Law.

#### Article 97a

As an exception to the provisions of this Law regarding exchange of apartments, a temporary ban on exchange of apartments is put in place, in case the aim of the exchange is to displace members of a nation or a nationality from the territory of the Socialist Autonomous Province of Kosovo.

The ban to exchange apartments referred to in paragraph 1 of this Article may last as long as

the reasons for which it was put in place exist, but no longer than 31 December 1990.

In case of ban to exchange apartments for reasons referred to in paragraph 1 of this Article, it is considered that the allocation right holder agreed even if the conditions under paragraph 4 of Article 22 of this Law have been fulfilled, but the occupancy right holder may, within 15 days after expiry of the deadline referred to in paragraph 4 of Article 22 of this Law, submit a request to the municipal court, demanding that the right of exchange be confirmed in an extra judiciary proceedings.

## II FINAL PROVISIONS

### Article 98

The existing contracts on apartment usage, which have been concluded before the commencement of this Law in accordance with the applicable regulations at the time, as well as existing tenant relations established in a valid manner before commencement of this Law, shall remain in force, but provisions of this Law shall apply to the right and obligations following from those contracts and relations.

### Article 99- deleted

### Article 100

If a proceeding has been initiated before a municipal housing body under the Law on Housing Relations (Official Gazette SFRY, 11/66 and 32/68), and if a first instance decision has not been issued until the day when this Law comes into force, or if the decision has been revoked before that day and the case remitted to the first instance body, the proceeding shall resume under the provisions of this Law.

If an appeal has been lodged against the decision issued under the Law on Housing Relations (Official Gazette SFRY, 11/66 and 32/68), or if an appeal has been lodged against such a decision prior to the commencement of this Law, the decision upon the appeal shall be issued in accordance with the provisions of that Law.

If in the case referred to in paragraph 2 of this Article, the decision is revoked and the case remitted to the first instance body after commencement of this Law, the proceeding shall resume and the case shall be decided under the provisions of this Law.

### Article 101

The proceeding initiated before the court under the regulations on housing relations shall resume under the provisions of this Law if an effective court decision has not been issued as of the day when this Law enters into force.

### Article 32



A citizen shall be fined with 10,000 to 20,000 dinars, or sentenced to 30 days of prison if he/she moves into an apartment or common premises in the building without some legal basis (Article 43).

Article 35

The Municipal Assembly shall harmonise its regulations with the provisions of this Law within 6 months as of the day when it comes into force.

The allocation right holder shall harmonise its self-management enactment and regulations with the provisions of this Law within 6 months as of the day when this Law comes into force.

Article 37

If a proceeding has been initiated before the competent municipal administrative body under the provisions of the Law on Housing Relations (Official Gazette SAPK, 26/73, 40/82, 26/82) which ceased to apply as of the day when this Law enters into force and if a first instance decision has not been issued until that day, or if the decision has been revoked and the case remitted to the first instance body, the proceeding shall resume under the provisions of this Law.

Article 38

The proceeding initiated before the court under the provisions of the Law on Housing Relations which ceased to apply as of the day when this Law comes into force, shall resume under the provisions of this Law if an effective court decision has not been issued as of the day when this Law comes into force.

Article 39

The Legislative Commission of the Assembly of the Social Autonomous Province of Kosovo is hereby authorised to make the consolidated version of the Law on Housing Relations.

Article 40

This Law shall become effective on the eighth day as of the day it is published in the Official Gazette of the Socialist Autonomous Province of Kosovo.

**Note: Articles 32, 35, 37 to 40, have been issued on the basis of amendments to this Law (Official Gazette SAPK, 42/86). These Articles could not be placed chronologically since Articles of the basic Law are under those numbers.**





**LAW**  
**ON CO-OWNERSHIP OF AN APARTMENT**  
(Official Gazette of SAPK, No. 43/80, 22/87)

Article 1

This Law regulates legal ownership and other proprietary legal relations of co-ownership to an apartment, except for those legal ownership and other proprietary legal relations, which have been regulated uniformly by the Law on Apartment Co-ownership of the Socialist Republic of Serbia, for the whole territory of the Republic.

Article 2

In accordance with provisions of this Law, co-ownership may be acquired:

1. through investment of personal and social resources in construction or purchase of an apartment,
2. through purchase of an ideal part of a socially owned apartment,
3. through investment of personal funds to finance works on improvement of housing conditions,
4. in other cases envisaged by the Law.

Article 3

Co-ownership to an apartment may be acquired if that has been envisaged by the articles of incorporation of a self-management organization of associated labour, work collective and other kind of self-management organization or community (hereinafter: social-legal person) or by a regulation of the socio-political community.

Mutual relations between owners of an ideal part of an apartment and a social-legal person who has the right of use, management and disposal of the part of the apartment that is socially owned, shall be regulated by a written contract in accordance with the Law.

The contract referred to in paragraph 2 of this Article shall regulate particularly:

1. sale of the whole apartment,
2. use or lease of the apartment
3. major repairs in the apartment.

Article 4

Investment of personal and social resources in construction or purchase of an apartment, as a way to acquire co-ownership to an apartment, may be made with a social-legal person, by pooling resources of the worker, other workers and citizens with the resources of those social-legal persons responsible for the construction or purchase of apartments within the framework of the program for meeting housing needs of workers, and citizens.

#### Article 5

Co-ownership may be acquired through purchase of an ideal part of an apartment allocated for use, i.e. socially owned apartment:

1. when the occupancy right holder purchases an ideal part of the apartment which he/she uses,
2. when the occupancy right holder pays the difference in value between the larger or more comfortable apartment and the socially owned apartment that he had been using before,
3. when the previous owner purchases an ideal part of the apartment that he/she is provided as just compensation in an expropriation procedure,
4. when the previous owner or the occupancy right holder pays the difference in value between the larger or more comfortable apartment provided in an expropriation procedure or through an administrative transfer,
5. when the owner of an apartment or a family residential building, in agreement with a social-legal person, transfers to social ownership his/her building or apartment, in exchange for a larger or more comfortable apartment to which he/she shall acquire co-ownership in proportion to the value of the apartment that he/she transferred to social ownership.

Transfer of the socially owned part of the apartment in cases referred to in items 3 and 4 of this Article shall be conducted on the basis of the agreement between the previous owner and the expropriator.

In the case referred to in paragraph 1, item 4 of this Article, the previous owner and the expropriator, or the social-legal person for whose needs the expropriation was carried out, may reach an agreement that the amount of just compensation which the previous owner would be given in the expropriation procedure be considered as additional payment for the purpose of acquiring a larger or more comfortable apartment.

#### Article 6

Adaptations and reconstruction, which results in increasing the value of a building or a part of a building, are considered as improvement of housing conditions, for the purpose of this Law.

Works undertaken on an apartment, which increases the value of the apartment in an amount, which is smaller than the amount established by this law for acquiring co-ownership to an apartment, are considered as improvement of housing conditions.

Acquiring co-ownership to an apartment by improvement of housing conditions is possible under the following conditions:

1. if the housing need of the user of the apartment, to which he/she is entitled in accordance with the criteria –set by a self management organization responsible for meeting housing needs, is met;
2. where construction or reconstruction of premises results in the introduction of installations which were not in the apartment before such as: bathrooms, toilet, rooms, kitchens, halls, closets, central heating, water supply system, sewage system and electricity.

For the value of the works referred to in paragraph 3 item 2 of this Article, the value of these works in a socially owned housing construction shall be taken.

#### Article 7

Co-ownership to an apartment may be acquired in accordance with this Law if the value of the ideal part of the apartment on which the co-ownership right is acquired amounts to no less than 10% of the value of the apartment.

The value of the socially owned apartment on which co-ownership is acquired shall be established:

1. when the co-ownership is established by investing personal and social means for construction or purchase of the apartment, the value is the amount of the fixed price of the apartment.
2. when an ideal part of the socially owned apartment is purchased and co-ownership established by investing personal means for funding works on improvement of housing conditions, the value is the transfer value of the apartment as established by the regulations on transfer of real properties.

In the case where the owner transfers the apartment to social ownership, the value of the apartment is established in the manner referred to in paragraph 2 item 2 of this Article, at the same time when value of the socially owned apartment to which the co-ownership has acquired, is established.

A commission formed by the Municipal Assembly establishes the transfer value of an apartment under the regulations on real property and rights transfer taxes.

#### Article 8

The funds collected on the basis of establishing co-ownership to an apartment by the social-legal person that has the right to use, manage and dispose of a part of a socially owned apartment, may only be used for meeting housing needs.

#### Article 9

The contract on the basis of which co-ownership is acquired to an apartment by investing funds in accordance with Article 4 of this Law, shall specifically include:

1. Amounts, timeframes and the manner of pooling resources;
2. Size, category and position of the apartment, for construction or purchase of which the funds are invested;
3. Value of the apartment and share of personal funds, as well as the ratio between these values in percentages;
4. Conditions, manner and timeframe for fulfilment of the contract.

#### Article 10

The contract on the basis of which co-ownership is acquired to an apartment by purchase of

an ideal part of a socially owned apartment, in accordance with Article 5 of this Law, shall specifically include:

1. data on the apartment in which ownership is being acquired of an ideal part or on the apartment which is being exchanged;
2. value of the apartment and the price of its ideal part which is being purchased, or the value of the apartment which is being exchanged, as well as ratio between these values in percentages;
3. conditions, terms and timeframe for fulfilling the contract.

#### Article 11

Owner of an ideal part of an apartment may purchase ideal parts of the apartment until he/she acquires ownership to the whole apartment.

The size of ideal parts, which may not be smaller than 5% of the value of a part of the apartment, as well as other conditions for purchase of ideal parts of the apartment, shall be elaborated in a self management enactment, or a regulation issued by a social-legal person which has the right to use, manage and dispose of the apartment.

Transfer value of a socially owned apartment shall be established during each purchase of an ideal part of that apartment.

#### Article 12

Owner of an ideal part of the apartment, as a user of that apartment, has the status, rights and obligations of an occupancy right holder to a part of a socially owned apartment unless otherwise provided by this Law. When a competent body i.e. a court establishes that under the provisions of the Law on Housing Relations, the conditions for cessation of occupancy right of the owner of an ideal part of an apartment have been met, upon a request of a social-legal person, in the procedure for dissolving community by means of a sale, the court shall at the same time order the apartment to be vacated.

#### Article 13

An ideal part of an apartment to which there is an ownership right, may be inherited in accordance with the regulations on inheritance of real properties.

Inheritance of an ideal part of an apartment shall not affect the rights of legal persons that are using the apartment in accordance with the regulations on housing relations.

#### Article 14

An Owner of an ideal part of an apartment, as a user of the apartment, shall participate in the costs of investment and current maintenance of common parts of the building, in proportion to his/her co-ownership part, and shall pay rent for the socially owned part of the apartment.

#### Article 15

In case of sale of a co-ownership part, other co-owners shall have the right of pre-emptive

purchase in the manner and under the conditions envisaged for exercising the right of pre-emptive purchase to ideal parts of an apartment in accordance with the stipulated order.

#### Article 16

When the value of the owned ideal part of the apartment exceeds 50% of the overall value of the apartment, depending on the size of that part, a decision by a self-management organization or a regulation issued by a social-legal person, may be provide that:

1. a spouse, a descendant, an adopted child, parents or adopters, to whom the co-owner of the part of the apartment transferred the ownership right to the ideal part of the apartment, have the right of priority of moving into the vacated apartment,
2. a co-owner of an ideal part of an apartment with ownership right who uses a part of the apartment as an occupancy right holder, may exchange that apartment for an apartment of another occupancy right holder, without approval of the social-legal person.

A Social-legal person may, within its rights, obligations and responsibilities, provide other appropriate favorable terms for purchase of the whole apartment.

#### Article 17

If an apartment with co-ownership right is vacated, and the method of leasing the apartment has not been regulated by a contract, or the agreement on its lease is not reached within 30 days, each party is entitled to initiate the proceedings for dissolution of the community property by sale of the apartment before the competent court.

#### Article 18

The person who uses an apartment which is co-owned, but who is not the owner of a part of the apartment, shall have occupancy right to the socially owned part of the apartment, and the right of lease to the part of the apartment that is owned.

With regard to rights and obligations of the person referred to in paragraph 1 of this Article, provisions of the Law on Housing Relations referring to rights and obligations of an occupancy right holder shall apply accordingly.

Compensation for use of the apartment referred to in paragraph 1 of this Article shall be the amount of the rent that would be paid if the whole apartment were used on the basis of the contract on use of apartment with an occupancy right.

#### Article 19

This Law shall enter into force on the eighth day from the day of its publication in the Official Gazette of the Socialist Autonomous Province of Kosovo.



Article 8

It may be envisaged in a statute of a self-management organization or regulation of a social-legal person, in accordance with the Law, that the co-ownership right to an apartment be recognized to an occupancy right holder of a socially owned apartment who has invested personal resources for enlargement or adaptation, or otherwise invested his/her personal resources, which was the condition for use of the apartment, if the value of these resources amount to no less than 10% of the total value of the apartment at the time those resources were invested or paid.

Article 9

The Legislative Commission is hereby authorized to draft a consolidated proposal of the Law on Apartment Co-ownership.

**Note: Articles 8 and 9, which are above this note, have been issued on the basis of amendments to this Law (Official Gazette, SAPK, No. 22/87). Due to that fact they have not been chronologically included in the Law.**



**LAW ON CONSTRUCTION OF ANNEXES TO BUILDINGS AND CONVERSION  
OF COMMON PREMISES INTO APARTMENTS**

*"Official Gazette SAPK, No. 14/88"*

I INTRODUCTORY REMARKS

Article 1

This Law stipulates the conditions, manner and procedure of construction of annexes to residential and residential-business buildings which are socially owned (hereinafter: construction of annexes to common premises and converting them into apartments).

Article 2

It is considered that, in accordance with this Law, it is in general interest to construct annexes to buildings and convert common premises into apartments whereby the construction of apartments under more favorable conditions is ensured, as well as more rational use of space and city construction land, urbanization of towns, cities and other populated areas.

Article 3

Provisions of this Law shall not apply to family residential buildings with ownership right.

Article 4

The investor for construction of annexes to buildings or conversion of common premises into apartments (hereinafter: investor) may be a social-legal person.

Working people and citizens may join resources with social-legal persons referred to in paragraph 1 of this Law in order to acquire co-ownership to apartments in accordance with the Law on Apartment Co-ownership.

A citizen may become the investor through housing co-operative only.

Article 5

Construction of annexes to buildings and conversion of common premises into apartments shall be conducted as soon as possible, with as little disturbance as possible caused to

users of the existing building.

Article 6

Construction of annexes to buildings and conversion of common premises into apartments shall be conducted in accordance with the regulations on construction land, physical planning and urban development, designing, construction of objects and housing relations, unless otherwise stipulated by this Law.

II CONSTRUCTION OF ANNEXES TO BUILDINGS

Article 7

Construction of annexes to buildings, according to this Law, is construction of one or more apartments within one building, so that they constitute one construction entity together with the existing building

Article 8

The location and the technical urban requirements for buildings to which annexes are constructed shall be defined by a detailed urban plan.

If the detailed urbanistic plan has not been made, the location and the urbanistic-technical requirements for building to which annexes are constructed shall be defined by the decision of the Municipality in accordance with the regulations on physical planning and urban development.

Article 9

The decision referred to in paragraph 2 Article 8 of this Law shall be made by the Municipal Assembly after it has obtained the opinion of the disposal right holder, ownership right holder to a separate part of the building as well as the council of tenants of the building to which an annex is to be built.

If the disposal right holder or the ownership right holder to a separate part of the building or the tenants' council do not deliver the requested opinion referred to in paragraph 1 of this Article within 60 days, it shall be considered that the positive opinion has been given.

The Municipal Assembly is obliged to inform the disposal right holder or the ownership right holder to a separate part of the building or the tenants' council about its position regarding

their respective opinions.

#### Article 10

Construction of annexes to a building may be done under the following conditions:

1. if the building has not been constructed up to height defined by the urban plan or other appropriate document while otherwise it meets defined urban and technical construction conditions;
2. if construction of annexes to the building will not aggravate the usability of individual parts of the existing building for purposes it is supposed to serve, as well as other conditions for use of the existing building;
3. if construction of annexes to buildings is functional and economical, if it is in accordance with the purpose of the building and if the building, as a whole, will meet the modern housing or usage conditions once the construction of annexes is completed.
4. if it does not materially affect the housing conditions of users of the building to which annexes are supposed to be constructed.

#### Article 11

The right to construct annexes to buildings can be exercised through public tenders, under the conditions, in the manner and through the procedure defined by the Municipal Assembly, taking into account that social-legal persons who are the disposal right holders to all apartments in the building should have priority over others.

The criteria for determining priority right for construction of annexes to buildings through public tenders must be in accordance with the established housing construction policy and resolving the housing needs, as well as with other interest for construction and urban planning stipulated by the Law.

#### Article 12

The Municipal administrative body responsible for property-legal affairs shall issue a decision on the right to construct annexes to buildings on the basis of which an application for location as well as urbanistic-technical conditions for construction of annexes can be submitted.

#### Article 13

Decision on the right to construct annexes to buildings shall contain:

1. name of the investor that obtained the right to construct annexes;
2. designation of the building to which annexes are to be constructed (street, number of cadastral plot);
3. indication that the right holders' right to use common premises or parts of common premises shall cease due to the construction of annexes;
4. indication of the common parts and premises of the building to which the right of use ceases due to the construction of annexes;
5. deadline for submission of applications for construction permits and the deadline for completion of construction;
6. indication that the tenants of the residential building are obliged to enable the investor to have access to the premises and facilities in the building that are needed for preparation of the construction of annexes as well as for construction works.

#### Article 14

The investor who is entitled to construct annexes by a decision may, within a year from the day when a valid decision on the right to construct annexes was issued, submit an application for the construction permit that is to be issued by the Municipal body responsible for construction affairs.

Construction of annexes must be completed within a year from the day when the construction permit became effective.

If the construction is not completed within the period referred to in paragraph 2 of this Article, the Municipal Assembly may assign the completion of construction to another contractor, the costs of which are to be paid by the investor.

#### Article 15

The investor who has obtained a construction permit is entitled to:

1. perform all construction works to the existing building;
2. to connect installations and utilities of the annex to the installations and utilities of the existing building;

3. use common parts of the existing building, as well as the land necessary for construction of annexes (common entrance, stairways, etc.)

Article 16

The investor shall be obliged to:

1. pay compensation, which corresponds to a proportionate part of the construction value of the common parts of the building, to the disposal right holder and the ownership right holder to a separate part of the building for depriving him/her of the usage right to the common parts of the building;
2. bear costs for repairs and damage that occurred on the existing part of the building due to the construction of annexes;
3. in case of need to vacate the apartment temporarily, provide the occupancy right holder and his/her family household members with another temporary apartment, which does not materially aggravate the housing conditions with regard to its size, and enable them, within 30 days from the day of issue of usage permit for the annex to the building, to continue, without any disturbance, using the apartment from which they were temporarily moved out;
4. bear costs of moving the belongings from the occupancy right holder's apartment into the temporarily allocated apartment, as well as the costs of re-moving into the apartment to which certain persons have occupancy right;
5. bear costs that increased due to emergency accommodation;
6. pay compensation for decreased value of belongings that occurred due to moving into the temporary apartment;
7. inform tenants of the building in an appropriate way, about the preparation and beginning of the construction works, no later than 30 days prior to the commencement of the works.

Article 17

If in the course of annex construction and due to the change of investment-technical documentation, contractor's mistake or other subjective or objective reasons, the existing housing conditions permanently deteriorate, the investor shall be obliged to provide another appropriate apartment to the occupancy right holder or the ownership right holder to the separate part of the building, as well as to bear costs of moving.

Article 18

The amount of compensation referred to in item 1 Article 16 of this Law shall be determined by agreement between the investor and the disposal right holder or the ownership right holder to a separate part of the building, before the Municipal administrative body responsible for property-legal affairs.

Article 19

The relevant provisions of the Law on Expropriation shall be applied to the procedure of determining the compensation referred to in Article 17 of this Law, taking into account that the two-month period for reaching agreement on the amount of compensation starts from the day when the valid decision on construction of annexes becomes effective.

Article 20

Municipal administrative body responsible for housing affairs shall issue the decision on temporary vacation of the apartment by the occupancy right holder or the apartment owner, as well as the decision on moving into the temporary apartment.

Appeal lodged against the decision referred to in paragraph 1 of this Article shall not suspend enforcement of the decision.

Article 21

The rent and obligations concerning the maintenance of common premises shall be reduced to the occupancy right holders or the ownership right holders in proportion to the reduction of their rights concerning the usage of the common parts that occurred due to the construction of annexes.

The reduction referred to in paragraph 1 of this Article shall be performed through the reduction of points or in other appropriate way, starting from the day when the construction permit was issued.

### III CONVERSION OF COMMON PREMISES INTO APARTMENTS

Article 22

Conversion of common premises within buildings into apartments (hereinafter: conversion), in accordance with this Law, refers to the conversion of attics, laundries, drying yards and



other common parts and premises within residential buildings into apartments.

Article 23

The location and urban-technical conditions for conversion of common premises in one or several buildings shall be determined by the decision of the Municipal Assembly where the buildings in which the conversion should take place are located.

Article 24

The Municipal Assembly shall issue the decision referred to in Article 22 of this Law after it had obtained the disposal right holder's opinion, the opinion of the ownership right holder to a separate part of the building and the opinion of the tenants' council to which the conversion proposal was made.

If the disposal right holder, the ownership right holder to a separate part of the building and the tenants' council do not deliver the requested opinion referred to in paragraph 1 of this Article within 60 days, it shall be considered that the positive opinion was given.

Municipal Assembly shall be obliged to inform the disposal right holder or the ownership right holder to a separate part of the building and the tenants' council about the position it took upon their opinions.

Article 25

Conversion can take place under the following conditions:

1. if the conversion is feasible according to the defined technical conditions for that category of dwelling units;
2. if the conversion can take place without endangering stability of the building;
3. if the conversion shall not cause deterioration to the usability of individual parts of the building as well as the conditions of building usage;
4. if the conversion is functional and economical and in accordance with the purpose of the building;
5. if the conversion will not cause a disproportionate increase of costs for building maintenance;
6. if some premises in the building are provided for drying yard purpose, if drying yard premises are converted into common premises.

Article 26

The right to conversion shall be exercised through public tenders, under the conditions, in the manner and through the procedure defined by the Municipal Assembly.

The criteria for determining priority right for the exercise of conversion right must be in accordance with the established policy of resolving housing needs, as well as with the exercise of other interest for construction and urban planning stipulated by the Law.

#### Article 27

Municipal administrative body responsible for property-legal affairs shall issue a decision on the right of conversion at the location as well as urbanistic-technical conditions for the conversion.

#### Article 28

The decision on the priority right shall contain:

1. name of the investor that obtained the right to conversion;
2. designation of the building in which common premises are converted into apartments (street, number of cadastral plot, floor and detailed designation of premises that are converted into an apartment );
3. indication that the right holders' right to use common premises or parts of common premises shall cease due to conversion;
4. deadline for submission of applications for execution of conversion works and the deadline for completion of works;
5. indication that the tenants of the residential building are obliged to enable the investor to have access to the premises and facilities in the building that are needed for preparation and execution of conversion works.

#### Article 29

The investor whose right to conversion was confirmed by the decision may, within six months from the day when the valid decision on conversion right became effective, submit an application for permission to execute the conversion works.

The conversion must be completed within six months from the day when the valid permit to the contractor to perform the conversion became effective.

If the conversion is not completed within the period referred to in paragraph 2 of this Article, the Municipal Assembly may assign the completion works to another contractor, the costs of which are to be paid by the investor.

Article 30

Municipal body responsible for construction affairs shall issue a permit for execution of conversion works.

Article 31

The investor who was issued a permit for execution of conversion works is entitled to:

1. execute all works necessary for conversion in the existing building;
2. use common parts of the existing building and land which are necessary for conversion (common entrance, stairways, etc.).

Article 32

The investor shall be obliged to:

1. pay compensation, which corresponds to a proportionate part of the construction value of the common parts of the building, to the disposal right holder and the ownership right holder to a separate part of the building for depriving him/her of the usage right to the common parts of the building, as well as to pay compensation to the occupancy right holder for possible costs that may occur during the construction;
2. bear costs for repairs and damage that occurred on the existing part of the building due to conversion;
3. inform tenants of the building, in an appropriate way, about the preparation and beginning of the construction works, no later than 15 days prior to the commencement of the works.
4. fulfil other obligations defined by the decision on the conversion right.

Article 33

The amount of the compensation referred to in item 1 Article 31 of this Law shall be determined by the written agreement concluded between the investor and the disposal right holder or the ownership right holders to a separate part of the building, before the Municipal body responsible for property-legal affairs.

Article 34

The relevant provisions of the Law on Expropriation shall be applied to the procedure of establishing the amount of compensation referred to in Article 32 of this Law, taking into account that the two-month period for reaching agreement on the amount of compensation starts from the day when the valid decision on conversion became effective.

The procedure of establishing the amount of compensation shall not suspend the exercise of the conversion right which was approved by the competent body in accordance with the regulations on construction of the object.

Article 35

The rent and obligations concerning the maintenance of common parts and premises in the building shall be reduced to the occupancy right holders or the ownership right holders in proportion to the reduction of their rights concerning the usage of the common parts that occurred due to conversion of common parts into premises and apartments.

The reduction referred to in paragraph 1 of this Article shall be performed through the reduction of points or in other appropriate way, starting from the day when the permit for conversion works was issued.

Article 36

Common premises or their parts, for which no technical conditions for conversion into individual dwelling units exist, may be joined to the neighboring apartments in the building with the purpose of resolving housing needs, under the conditions stipulated by this Law relating to conversion of common premises into apartments.

IV TRANSITIONAL AND FINAL PROVISIONS

Article 37

An investor outside the JNA may construct annexes and convert common premises into apartments in buildings from the housing stock of the JNA to which the disposal right holder, in total or in its major part, is the Federal National Defense Secretariat, only if construction of annexes and conversion has not been planned by the JNA Housing Construction Program.

Article 38

Investors who obtained the right to construct annexes to buildings or to convert common premises into apartments prior to the commencement of this Law, may conduct construction or conversion under the conditions stipulated by this Law.

Article 39

This Law shall become effective on the eighth day as of the day of its publication in the “Official Gazette of the Socialist Autonomous Province of Kosovo”.

## **LAW ON TRANSFER OF REAL PROPERTY**

*Official Gazette of SAP Kosova, No. 45/81 and 29/86*

### **I. GENERAL PROVISIONS**

#### Article 1

This Law regulates the transfer of agricultural and construction land, forests and forestland, buildings, apartments, business premises and other real properties (hereinafter: real properties), except basis of ownership-legal relations and other real-legal relations, regulated in the unique manner for the whole territory of the Republic, by republican laws.

The provisions of this law are applied as well in transfers of the ideal parts of real properties.

#### Article 2

Deleted

#### Article 3

When a holder of ownership rights to real property acquired on the basis of inheritance acquires it beyond limits stipulated by the Law or when the condition upon which the ownership right on real property was acquired ceases, he/she is obliged to report to the municipal administrative body, competent for property-legal affair within thirty days from the day of coming into effect of the decision on inheritance, or from the day of the cessation of conditions for the acquisition of real property, and to elect which real property he/she will retain the ownership rights.

The holder of ownership rights may transfer the surplus real property within a three-year period, and inherited business premises may be transformed to an apartment by approval of the competent administrative body, as long as the limits stipulated by law in ownership rights to an apartment space is not exceeded.

If the holder of the ownership rights does not elect the real property upon which he/she will retain ownership right, the municipal administrative body competent for property-legal affair shall determine what will be the surplus inherited real property and this shall be become socially owned. The decision will be taken, after the expiry of time period referred to in paragraph 2 of this Article.

## **II. TRANSFER OF THE LANDS AND BUILDINGS**

### **Article 4**

Agricultural and construction land, forest and forestland may not be transferred from social ownership, unless otherwise provided by the law.

Social legal persons may transfer real properties referred to in paragraph 1 of this Article between them, with or without compensation, which cannot be higher than the value of investments on the properties.

### **Article 5**

Social legal persons may give agricultural land out of the agricultural complex, on which they have ownership rights, to another holder of ownership rights in exchange for land.

Organization of Associated Labour and other social legal persons may transfer, socially owned agricultural land for compensation for the benefit of a holder of ownership rights, if such land is outside agricultural use or small and scattered, with the condition that the money shall be used for buying new agricultural land within two years from the day of transfer.

The municipality where the agricultural land is located must issue approval for the transfer referred to in paragraph 1 and 2 of this Article.

### **Article 6**

Organization of Associated Labour may transfer from social ownership for compensation, forest and forestland which are not possible to operate rationally (the small isolated forest, enclave and semi-enclave, in the forests where the ownership right exists etc.), on condition that the money received shall be used for buying another forest, forestland or raising another forest within a time period determined by the forest industry.

The condition referred to in paragraph 1 of this Article does not affect the validity of legal acts.

The municipality council must approve the transfer of the forests and forestland, referred to in paragraph 1 of this Article, if they are within a forest-Industry area.

### **Article 7**

A social-legal person may acquire an apartment building, apartments, business premises, or particular parts of buildings from the holder of the ownership rights.

A social-legal person may only transfer socially owned apartment buildings, apartments, business premises or particular parts of the buildings, for compensation.

Article 8

When a socially owned apartment building or apartment is transferred through a loan, the type of loan and the conditions under which it is given shall not be more favourable than the conditions of a loan given by a bank for the construction of the building.

The buyer referred to in paragraph 1 of this Article can not sell the apartment building or apartment before the expiration of a five year period from the day the sale contract was concluded.

Article 9

The transfer of socially owned real properties shall be conducted through public tendering or by collecting written offers, and if the transfer can not be concluded through the tender process, or the collection of the written offers is unsuccessful, then the transfer shall be conducted through direct bargaining.

The contract on transfer of socially owned real property, which is concluded contrary to the provisions of paragraph 1 of this Article, shall be null and void.

Article 10

If an agricultural land owner can not prove ownership rights from the extract from the appropriate book for ownership rights registration or by a decision in force issued on the basis of the Law on Property Relations Settlement Created by Arbitrary Occupation of Land in social ownership, he/she can sell the land to a social-legal person or he/she can conduct an exchange for the land in social ownership, if s/he obtains a certificate issued from the municipal administrative body competent for property-legal affairs, proving that he/she is the owner of that land.

In order to obtain the certificate, referred to in paragraph 1 of this Article, the owner of the land is obliged to prove that:

1. He/she acquired ownership of the land on a legal ground and that he/she and his/hers legal predecessors were in permanent possession of the land.
2. There has not been a successful legal action over dispute of ownership awaiting execution
3. He/she is registered in cadastre books as the possessor of the land.

Article 11

The holder of the ownership right of a real property may waive his/her ownership right to the benefit of the municipality in whose territory the real property is located, by a unilateral declaration of the will, as long as there are no burdens on the real property, except a real usufruct right.

The waiver referred to in paragraph 1 of this Article shall be made to the municipal administrative body competent for property-legal affairs and shall serve as a basis for registration in the public book of real properties in social ownership.



#### Article 12

The contract on the basis of which a social-legal person transfers real property from social ownership, and the contract on the basis of which social-legal person receives real property from the holder of an ownership right, shall be annulled, if at the time the contract was concluded, the contract price was not proportionate to the market value of the real property and it places the social owner as a disadvantage.

In arriving at the market value of real property referred to in paragraph 1 of this Article, the price reached on the free market, the location and the surroundings at the time of the conclusion of the contract shall be taken into consideration.

The application of the provision from paragraph 1 of this Article cannot be excluded by the contract.

#### Article 13

The court verifying the signatures of a contract referred to in Article 13 of this Law, is obliged to deliver a copy to the Municipal Public Attorney, in whose territory the real property is located, within 15 days from the day of the verification.

In cases where it is established that a contract on transfer of real property was concluded contrary to the conditions stipulated in Article 8 and 12 of this Law, the Public Attorney shall bring legal action to annul the contract within 6 months from the day of receiving the contract. During the annulment procedure, the contract referred to in paragraph 2 of this Article shall not be annulled if the provisions of this Law are complied with

Provisions of paragraph 2 and 3 of this Article shall not affect the right of the contracting parties to request annulment of the contract on other grounds.

#### Article 14

When a contract has been annulled by legal action in accordance with Article 13 of this Law, Public Attorney shall request from the contracting parties return of the real property and the sums paid.

Request for the return of the real property can be made by a third person, if he/she was not aware non compliance with the provisions of the Law during the acquisition of the real property.

If the request by a third person for the return of the real property is not successful, the Public Attorney can request from the buyer and seller the difference between the purchase and transfer price of the real property at the time of the sale.

#### Article 15

The contract for the provision, transfer and alienation of the real properties in possession of a socio-political grouping shall be concluded by the competent person, based on the socio-political groups' or an administrative body's decision.

The competent person of the economic organizations in accordance with the organisations' decisions shall conclude the contract for the provision, transfer and alienation of real property from the joint use of economic organizations forming a body of social-political group.

Article 16

The contract for the provision, transfer and alienation of the real property in possession of the SAP Kosova shall be concluded by the Provincial Secretary of Finance in accordance with a decision of the Executive Government Council of the SAP Kosova Assembly.

Article 17

The legal opinion of the appropriate Public attorney shall be sought on the legality of a contract between a socio-political group and the ownership right holder for the provision and transfer of the real property to social ownership before it is concluded.

Article 18

Provisions from the Articles 8, 9, 12 and 13 of this law do not apply to the transfer of buildings, apartments, business premises and other real properties by a social-legal person in the ordinary course of its regular business activities.

### **III. PREFERENTIAL RIGHT TO PURCHASE**

Article 19

The ownership right holder of agricultural land, who intends to sell this land, is obliged to make a written offer first to the Organisation of Associated Labour dealing with agricultural production, agricultural co-operatives in the municipality where the land is located, the municipality whose territory the land is located and to the owner of the neighbouring land.

In cases when there are several owners of the neighbouring land whose agricultural land borders on the agricultural land of the seller, the owner of the neighbouring land whose predominant part of the agricultural land borders on the land of the seller shall have priority in the exercise of the preferential right to purchase.

The ownership right holder of forest and forestland, who intends to sell, is obliged to make a written offer first to the Organization of Associated Labour engaged in the forest management in the municipality where the forest and forestland is located, and to the municipality whose territory the forest and forestland is located.

The offer referred to in paragraph 1 and 3 of this Article must contain data of the land (number of the cadastral parcel, surface, cultivation, location etc.) the price and other terms of sale.

If the preferential right holders who were offered the real property do not make a declaration within 30 days from the day of receipt of the offer, to accept the offer, the holder of the

ownership right may sell the agricultural land, forest and forest land to another person but not under more favourable conditions.

The exercise of the preferential right to purchase shall be carried out in the order stipulated in paragraph 1 of this Article.

#### Article 20

The ownership right holder, who intends to sell land in construction area, is obliged to first offer it to the municipality in whose territory the land is located.

The provisions of Article 19 of this law shall also apply to transfer of forests and forestland in construction areas.

The provision of paragraph 1 of this Article relates to construction land within an urban plan, as well as to construction land in a designated construction area determined by municipal council decision.

The declaration regarding the written offer for the land subject to sale shall be given by a body or an organization determined by municipal council.

#### Article 21

The ownership right holder who intends to sell an apartment building or apartment, is obliged first offer it to the co-owner, occupancy right holder and to the municipality in whose territory the apartment building or apartment is located.

The exercise of the preferential right to purchase shall be carried out in the order stipulated in paragraph 1 of this Article.

#### Article 21-a

When a social-legal person intends to transfer a socially owned apartment building or an apartment, the social-legal person is obliged, in written form, to first offer it for sale to the occupancy right holder – the user of the apartment.

The offer must contain the price and other terms of the sale, and must be delivered in the form of a registered letter or by submission to the competent court.

If the preferential right holder who was offered the real property does not make a declaration within 30 days on receipt of the offer of the intention to decline or accept the offer, the seller, in accordance with the provisions of Article 9 of this Law, may transfer the apartment building or the apartment to another person.

When a socially-owned apartment building or apartment is transferred to another person, in accordance with paragraph 3 of this Article, the occupancy right holder – the user of the apartment shall continue to use the apartment with the rights and obligations established by the Law, while the owner of the apartment building or the apartment shall have all the rights and obligations referred to in Article 86 Paragraph 2 and 3 of the Law on Housing Relations.

Article 22

The ownership right holder who intends to sell a business premises, is obliged to offer it first to the co-owner, lessee who has been using the business premises for five years and the municipality in whose territory the business premises is located.

The exercise of the preferential right to purchase shall be carried out in the order stipulated in paragraph 1 of this Article.

Article 23

The offer referred to in Articles 19 – 22 of this Law shall be in writing and it shall include data of the real property (number of the cadastral parcel, the surface, culture, location etc.) price and other terms of sale.

The offer must be delivered in the form of a registered letter or by submission to the competent body or organization and a certificate acknowledging receipt of the registered letter must be provided.

Article 24

If the preferential right holder who was offered the real property does not notify the owner of the real property in written form within 30 days from the day of receipt of the offer of the intention to accept or decline the offer, the ownership right holder may sell the real property to another person but not at a lower price or under more favourable conditions.

Article 25

If the ownership right holder does not sell the real property within one year from the day of non-acceptance of the offer, he/she is obliged to act in accordance with the provisions of Articles 19 – 22 of this Law if he/she intends to sell the real property again.

Article 26

A court shall reject a request for verification of signatures of a contract if the holder of the ownership rights does not enclose proof that he/she has made the offer in accordance with Articles 19-22 of this Law.

If the ownership right holder does not make the offer in accordance with Articles 19 – 22 of this Law, and he/she sells the real property to a third person under more favourable conditions than the conditions of the original offer, the preferential right holder may bring legal action seeking the annulment of the contract, and seeking the real property to be sold to him/her under the same conditions.

The legal action referred to in paragraph 2 of this Article may be brought within one year from the day when the preferential right holder became aware that the real property was sold to a third person, and no later than three years from the day the sale contract was concluded.

The claimant is obliged at the time of filing the legal action, to deposit an amount of money equal to the sale price in the municipality court in whose territory the real property is located.

Article 26-a

If a contract for the sale of real property is not concluded in the form prescribed by this Law and possession of the real property is delivered to a buyer, the preferential right shall be considered violated, and the preferential right holder may exercise the right within one year from the day when he/she became aware of the sale.

**IV. SPECIFIC PROVISIONS**

Article 27

A court is obliged to deliver a copy of a decision on inheritance, a copy of a contract on transfer of the real property to the municipal administrative body responsible for geodetic affairs, except when the contract is a contract on transfer of real property in social ownership from one to another social-legal person.,

If the municipal administrative body responsible for geodetic affairs discovers that the holder of the ownership rights based on inheritance, has acquired real property beyond the limits of the ownership rights, the municipal administrative body responsible for property-legal affairs shall be notified and legal action shall be commenced pursuant to Article 3 of this Law.

If the municipal administrative body referred to in paragraph 2 of this Article discovers that a holder of the ownership right acquired real the property over the limits of the ownership rights pursuant to a legal decision, a formal declaration shall be submit to the responsible municipal Public Attorney in order to commence legal action for the annulment of that legal act.

**V. PENAL PROVISIONS**

Article 28

The responsible court official who resells real property or mediate on real property transferred by compensation shall be committing an offence punishable by three years in prison or a fine.

Article 29

An Organization of Associated Labour that transfers agricultural land, forest or forestland from social ownership contrary to the provisions of Articles 5 and 6 of this Law shall be committing an offence and shall be fined up to 50.000 dinars.

With regards to the offence referred to in paragraph 1 of this article the responsible official from the Organisation of Associated Labour shall be fined an amount up to 5.000 dinars.

Article 30

A social–legal person that transfers socially–owned apartment buildings or apartment, contrary to the provisions of Article 8 of this Law shall be committing an offence and shall be fined an amount up to 50.000 dinars.

With regards to the offence referred to in paragraph 1 of this Article the responsible person from the social-legal person shall be fined an amount up to 5.000 dinars.

A Holder of ownership rights, who sells an apartment building or apartment before the expiry of the time period referred to in Article 8 paragraph 2 of this Law, shall be committing an offence and shall be fined an amount up to 30.000 dinars.

Article 31

Any person who acquired real property by inheritance beyond the limits determined by the Law and who fails to inform the municipal administrative body responsible for property-legal affairs within the time limit referred to in Article 3 paragraph 1 of this Law be committing an offence and shall be fined an amount up to 5.000 dinars.

**VI. TRANSITIONAL AND FINAL PROVISIONS**

Article 32

On the day of entry into force of this Law, the Law on Transfer of Real Property (“Official Gazette of SAP Kosova “ No. 18/75) shall become ineffective.

The procedure started by the provisions of the Law on Transfer of Real Property (“Official Gazette of SAP Kosova” No. 18/75) shall be concluded by the provisions of this Law.

Article 33

This Law shall enter into force on the eighth day from its publication in the "Official Gazette of SAP Kosova".

**LAW ON CHANGES AND SUPPLEMENTS  
TO THE LAW ON TRANSFER OF REAL PROPERTY**

Article 1

In the law on transfer of real property ("Official Gazette SAPK", No.45/81), four articles are added after article 32:

Article 32a

As an exception to the provisions of the law by which the transfer of real estate was temporarily regulated, the transfer of real estate by citizens and civil legal persons who have the right to the property is prohibited if the transfer of real estate is between citizens of different nations from the territory of the Socialist Autonomous Province of Kosova.

The prohibition of real estate transfer from paragraph 1 of this article shall be extended until 31 December 1990 if it is determined that there is reason for its extension.

Article 32b

Contracts for the transfer of real estate, which are in contravention of the provision of article 32a of this law, shall be null and void.

Article 32c

Contracts for the transfer of the right to property, which on the day of entry into force of this law were not verified, shall be void.

Article 32f

The Director of the Provincial Directorate for property-legal affairs is authorised to provide instructions for the application of provisions of article 32a, 32b, and 32c of this law.

Article 2

This law enters into force on the day after publication in the "Official Gazette of Socialist Autonomous Province of Kosova".





## **LAW ON REGISTRATION OF REAL PROPERTIES IN SOCIAL OWNERSHIP**

*Official Gazette of SAP Kosova, No. 37/71*

### **Article 1**

Real property in social ownership shall be registered in the public register, which registers the holder of the right to use, except real properties for public usage and use rights held by social-legal persons to real properties (the right to use).

A change in the holder of usage rights to real property in social ownership shall be registered in the public register in which real properties and the rights to them are registered.

Real properties, according to this Law, are: lands and buildings.

### **Article 2**

Socio-Political Communities, Labor and other Self-management Organizations as well as other Socio-Political Organizations, which have acquired the rights to real property in social ownership, may be registered as the holder of the usage rights of that real property.

The SFRY-Ministry of Defense shall be registered as the holder of the usage rights to real property in social ownership used by military units or military installations.

### **Article 3**

Registration of real property in social ownership shall be carried out on the basis of:

1. an effective court decision or other administrative body decision, which determines that real property has passed to social ownership;
2. a verified contract which includes provisions stipulating that the real property may be registered as real property in social ownership;
3. a verified unilateral declaration, confirming that the owner of real property waives his/her ownership rights to the real property to the benefit of the social community;

### **Article 4**

The recording of the usage rights to real property in social ownership shall be carried out on the grounds of an effective court decision or a decision of an administrative body, that determines which legal person gets the benefit of the usage right, as well as on the grounds of a verified contract stipulated by Law.

If the holder of the usage right to real property in social ownership cannot be determined from the document which forms the basis for recording the real property in social ownership, the municipality in whose territory the real property is located shall be registered as the holder of the usage rights.

The recording, referred in paragraph 2 of this Article, shall be done on the proposal of the municipal assembly, upon confirmation that no other social-legal person has usage rights to the real property in question.

Article 5

The Provincial Secretary for Legislation and Jurisdiction shall be responsible, in case of needs, to adopt the regulations on procedure for the recording of the real properties in the social ownership in the public books and the usage rights, on contents of the proposal for the record, on documentation that must be submitted and on other technical issues relating with the recording.

Article 6

A recording done on the basis of the Law on Recording of Real Properties in the Social Ownership ("Official Gazette of SFRY", No. 12/65) shall be considered as the recording done on the basis of this Law.

Article 7

This Law shall enter into force on the eighth day after its publication in the "Official Gazette of SAP Kosova" and shall be applied from 1 January 1972.



## **CHAPTER TWO:**

### **POST-1989 DISCRIMINATORY LAWS REPEALED BY UNMIK**

**(REGULATION No. 1999/10)**

**LAW**

**ON CHANGES AND SUPPLEMENTS TO THE LAW ON THE  
LIMITATION OF REAL ESTATE TRANSACTIONS<sup>2</sup>**

**Article 1**

The transaction of real estate between physical subjects, as well as between physical and public and civil legal subjects in the region which encompasses the territory of the SR of Serbia, without the territory of SAP Vojvodina, is limited for a time period of ten years from the day this law comes into force.

**Article 2<sup>3</sup>**

A transaction of real estate, in the sense of this Law, concerns the transfer of possession rights and other real rights connected with the purchase of real estate and other ways of obtaining possession.

The application of paragraph 1 of this Article excludes transactions of real estate between cousins in the first order of inheritance.

**Article 3<sup>4</sup>**

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<sup>2</sup> *Law on Changes and Supplements on Limitation of Real Estate Transactions is published in the "Official Gazette of the SRS", No. 30 of 22 July 1989, and came into force the same year, the Law on Changes and Supplements of this Law is published in "Official Gazette of the SRS", No. 42 of 28 September 1989, (and in the same year came into force) and in the "Official Gazette of the Republic of Serbia", No. 22 of 18 April 1991 and came into force 19 April of the same year. With these changes to this law, it has been given current name.*

<sup>3</sup> *The transaction of real estate under this article includes the right to transfer property rights and the right to lease property and, like all other forms of property acquisition, includes official rights, usage rights, the right to gain financially from the enjoyment the right, through exercising the right to build (construct) on the property, and the right to rent the property and receive other charges on the property.*

*Entering into the possession of real estate without approval, and without the conclusion of a contract as regulated under this law is illegal and entails an appropriate sanction (Article 6 of this law).*

*Transactions between first and last cousins under this Article, are not considered as transactions, and do not entail any kind of sanction.*

*The determinations of those persons considered to be first and last cousins are regulated under Articles 9-12 of the Law on Inheritance ("Official Gazette of the SRS", No. 52/74 and 1/88).*

<sup>4</sup> *In order to present a request to receive permission for a real estate transaction, citizens must present: a copy of the contract, facts concerning the contracting parties (seller and buyer), the subject of the contract (land, housing, building) and details concerning what the contract is terminating.*

The Ministry of Finance– Directorate for Property - Rights Affairs will allow a real estate transaction from Article 1 of this law if it has assessed that the transaction does not have an effect on the alteration of the national structure of the population, or on the emigration of members of a particular nation, or a nationality respectively, and when that transaction does not provoke commotion, or insecurity and inequality towards the citizens of another nation, or respectively another nationality.

If the Ministry of Finance – Directorate for Property Rights Affairs does not allow a real estate transaction to take place upon the appeal by the interested party, which may be exercised within a time period of 30 days from the day the verdict is passed, a Commission formed by the Assembly of the Socialist Republic of Serbia will issue a final decision.

There shall be no right to appeal the decision of the Commission described under this paragraph.

#### Article 4

The competent organs of the municipality when possessing knowledge about the instigation of a procedure on real estate transactions without the conclusion of a contract required under Article 3(1) of the present law, are obliged immediately to take measures to prevent the continuation of the transaction concerned.

#### Article 5

Any contract which involves the transaction of real estate concluded in a manner contrary to the regulations stipulated in Article 1 and Article 3(1) of this law, is declared null and void.

#### Article 6

Citizens which take part in procedures involving the transfer of real estate which does not correspond with the regulations stipulated in Article 3(1) of this law, shall be punished for such infringement by a prison sentence of 60 days or fined 1,000 to 5,000 dinars.

A fine of 5,000 to 50,000 dinars shall be levied for the violation by co-operatives or enterprises (organization) which terminates contracts without obtaining the approval required under Article 3(1) of this law.

Violations of paragraph 2 of this Article shall also include a fine levied against the responsible person within the co-operative or organization (enterprise) by fine of 1,000 to 5,000 dinars.

#### Article 6a

All submissions and decisions connected to the realization of the rights contained in this law do not exempt the payment of tax.

#### Article 6b

Requests for obtaining the approval of the transaction of real estate brought under previous regulations will be settled in accordance with the regulations contained in this law.

Article 7

With the entry into force of this law, the application of Article 3(4) and 3(5) of the Law on Transaction of Real Estate (“Official Gazette of the SRS”, No. 43/81, 24/85, 28/87 and 6/89) shall cease to be valid.

Article 8

This law enters into force on the day of publication within the “Official Gazette of the Socialist Republic of Serbia”.

## **LAW**

### **ON THE CONDITIONS, METHOD AND PROCEDURE OF GRANTING AGRICULTURAL LAND TO CITIZENS WHO WISH TO WORK AND LIVE IN THE TERRITORY OF THE AUTONOMOUS PROVINCE OF KOSOVO AND METOHIIJA**

#### **Article 1**

Based upon the aims established by the Programme for the Establishment of Peace, Liberty, Equality, Democracy and Prosperity in AP Kosovo (Official Gazette SRS. 15/90), this law sets out the conditions for the settlement of all citizens who wish to work on agricultural land and live and work permanently in the territory of the AO Kosovo and Metohija, and establishes the conditions, methods and procedures to grant agricultural land from the fund of socially-owned land, established in accordance with this law.

#### **Article 2**

In the land fund from article 1 of this law shall be included:

1. agricultural land which is at the disposal of the municipality, and this land must be in an administrative way transferred for these purposes, in accordance with the law;
2. agricultural land which is at the disposal of an agricultural company, and this land must be in an administrative way transferred for these purposes, in accordance with the law;
3. agricultural land which is donated to the Republic by natural and legal persons for these purposes;
4. agricultural land which is for these purposes purchased from private interests;
5. agricultural land which was in accordance with the law taken over in the procedure on revision of the agricultural regulations in Kosova and Metohija.

#### **Article 3**

It is considered according to this law that the administrative transfer under Article 2, items 1 and 2 of this law is in the public interest.

The administrative transfer must be carried out in the interest of the Republic.

Compensation for the land which is secured on the basis of Article 2, items 1, 2 and 4 of this law shall be paid in accordance with the conditions and methods determined by the Law on the Fund for the Development of SAP Kosovo to Prevent Emigration and to Return Serbs and Montenegrins to Kosovo (Official Gazette, SRS 35/90, 46/90 and 10/90-Special Gazette and Official Gazette RS 13/90).



#### Article 4

According to this law, the Republic organ responsible for property and legal matters (hereinafter: the organ) shall decide on requests for grants of agricultural land, after consultation with the Ministry of Agriculture, Forests and Water.

A request from the above paragraph 1 of this article shall contain:

1. all information on the household of the requestor (number of household members, material and welfare conditions, age, social status etc.);
2. the area of the requested land;
3. the municipality and place where the requestor wants to live, when he/she wishes to be settled including any special requests relating to the settlement.

All information on the facts from paragraph 2, item 1 of this article must be proven by appropriate evidence attached to the request.

#### Article 5

When the organ concludes that all conditions for granting agricultural land are fulfilled, it will invite the requestor to declare within 15 days whether he accepts the land which is offered to him.

When the requestor declares in writing that he accepts the offered land within the deadline mentioned in paragraph 1, the organ will adopt a decision to grant this land.

A decision from paragraph 2 of this article shall contain in particular:

1. the surname, name of the father and members of the household;
2. the cadastre land register (number of the parcel, area, culture, class and other necessary data);
3. the obligation on the requestor that he/she will be settled on this land not later than one year starting from the date when the decision entered into force;
4. the time and procedures for the transfer of the land.

No appeal is possible against the decision granting land, but an administrative procedure can be brought before the Supreme Court of Serbia within thirty days from the day when the decision is delivered.

#### Article 6

After the organ receives the request and finds that some conditions are not fulfilled, the claimant will be informed within thirty days starting from the day that he/she has submitted the request.

#### Article 7

The area of land which will be granted in accordance with this law will be determined on the basis of the number of household members, their material and welfare situation, and shall not exceed 5 ha. per household.

The quality of the land (class, culture, position in regard to roads, access to water supply etc.) as well as the disposal of the land for these purposes shall be taken into account when determining the area of land.

#### Article 8

The decision will constitute the basis for registration of the rights to the land in the property books, and in other public books in which the rights on real estate are registered.

The right to the property is registered for every member of the household to ensure that each member has an equal part of co-ownership, unless there is a different agreement between them.

#### Article 9

The land granted in accordance with this law cannot be sold for 30 years starting from the day when the decision enters into force, nor can it be divided or in any other way transferred, given in rental or in mortgage, in part or in total, unless the provisions of this law determine otherwise.

The prohibition in paragraph 1 of this article will be registered in the land book or other public book in which rights to real estate are registered.

The land can only be exchanged when the responsible organ mentioned in paragraph 1 of Article 4 of this law gives the permission to do so, upon the written request of the person who wants to exchange the land.

#### Article 10

Persons to whom land is granted in accordance with this law can be provided with a credit for constructing buildings, economic and other developments and for necessary agricultural machinery, for buying livestock, from the Fund For Development SAP Kosovo to Prevent Emigration And to Return Serbs and Montenegrins in Kosovo.

Such means will be given under the following conditions:

1. as a credit without self contribution;
2. with payment over a period of time of 25 years;
3. with interest rate of 5%;
4. with first repayment 5 years after the credit was accorded.

On the credit amount there will be no compound interest.

Credits from paragraph 1 of this Article can be approved without any guarantee in cases where the competent organ, the Municipal Assembly or the Peoples Assembly of the Republic of Serbia issue a decision about guarantees.

#### Article 11

If the family which is in possession of the land pursuant to Article 7 of this law has three children, the first repayment of credit under Article 10 of this law will start 10 years from

when the credit was accorded.

Article 12

Persons who are in possession of this land in accordance with this law are exempt from taxes on the land for two years, except for social and health care taxes.

Article 13

This law shall enter into force on the 8<sup>th</sup> day after publication in the Official Gazette of the Republic of Serbia.

## **CHAPTER THREE:**

# **UNMIK REGULATIONS RELATING TO HOUSING AND PROPERTY RIGHTS**

**UNITED NATIONS**

United Nations Interim  
Administration Mission in  
Kosovo



UNMIK

**NATIONS UNIES**

Mission d'Administration  
Intérimaire des Nations Unies au  
Kosovo

UNMIK/REG/1999/1  
25 July 1999

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**REGULATION NO. 1999/1**

**ON THE AUTHORITY OF THE INTERIM ADMINISTRATION  
IN KOSOVO**

The Special Representative of the Secretary-General,

Recalling resolution 1244 (1999) of 10 June 1999, whereby the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, authorized the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo, known as the United Nations Interim Administration in Kosovo (UNMIK), in order to provide an interim administration in Kosovo with the mandate as described in the resolution;

Acting pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999, and for the purpose of establishing and maintaining the interim administration in the territory of Kosovo;

Hereby promulgates the following:

Section 1

Authority of the interim administration

1. All legislative and executive authority with respect to Kosovo, including the administration of the judiciary, is vested in UNMIK and is exercised by the Special Representative of the Secretary-General.
2. The Special Representative of the Secretary-General may appoint any person to perform functions in the civil administration in Kosovo, including the judiciary, or remove such person. Such functions shall be exercised in accordance with the existing laws, as specified in section 3, and any regulations issued by UNMIK.

Section 2

Observance of internationally recognized standards

In exercising their functions, all persons undertaking public duties or holding public office in Kosovo shall observe internationally recognized human rights standards and shall not discriminate against any person on any ground such as sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

Section 3

Applicable law in Kosovo

The laws applicable in the territory of Kosovo prior to 24 March 1999 shall continue to apply in Kosovo insofar as they do not conflict with the standards referred to in section 2, the fulfillment of the mandate given to UNMIK under United Nations Security Council resolution 1244 (1999), or the present or any other regulation issued by UNMIK.

Section 4

Regulations issued by UNMIK

In the performance of the duties entrusted to the interim administration under United Nations Security Council resolution 1244 (1999), UNMIK will, as necessary, issue legislative acts in the form of regulations. Such regulations will remain in force until repealed by UNMIK or superseded by such rules as are subsequently issued by the institutions established under a political settlement, as provided for in United Nations Security Council resolution 1244 (1999).

Section 5

Entry into force and promulgation of regulations issued by UNMIK

- 5.1 UNMIK regulations shall be approved and signed by the Special Representative of the Secretary-General. They shall enter into force upon the date specified therein.
- 5.2 UNMIK regulations shall be issued in Albanian, Serbian and English.  
  
In case of divergence, the English text shall prevail. The regulations shall be published in a manner that ensures their wide dissemination by public announcement and publication.
- 5.3 UNMIK regulations shall bear the symbol UNMIK/REG/, followed by the year of issuance and the issuance number of that year. A register of regulations shall indicate the date of promulgation, the subject matter and amendments or changes thereto or the repeal or suspension thereof.

Section 6  
State property

UNMIK shall administer movable or immovable property, including monies, bank accounts, and other property of, or registered in the name of the Federal Republic of Yugoslavia or the Republic of Serbia or any of its organs, which is in the territory of Kosovo.

Section 7  
Entry into force

The present regulation shall be deemed to have entered into force as of 10 June 1999, the date of adoption by the United Nations Security Council of resolution 1244 (1999).

Dr. Bernard Kouchner  
Special Representative of the Secretary-General

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



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Intérimaire des Nations Unies au  
Kosovo

UNMIK/REG/1999/2  
12 August 1999

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**REGULATION NO. 1999/2**

**ON THE PREVENTION OF ACCESS BY INDIVIDUALS AND THEIR  
REMOVAL TO SECURE PUBLIC PEACE AND ORDER**

The Special Representative of the Secretary-General,

Acting pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999, and for the purpose of maintaining public peace and order in the territory of Kosovo,

Hereby promulgates the following:

Temporary Removal and Prevention of Access

- 1.1 The relevant law enforcement authorities may temporarily remove a person from a location, or prevent access by a person to a location, if this is necessary in the opinion of the law enforcement authorities and in light of the prevailing circumstances on the scene, to prevent a threat to public peace and order.
- 1.2 A threat to public peace and order may be posed by any act that jeopardizes
  - (a) the rule of law,
  - (b) the human rights of individuals,
  - (c) public and private property,
  - (d) the unimpeded functioning of public institutions.
- 1.3 The relevant law enforcement authorities may temporarily remove a person from a location, or prevent access by a person to a location, if this is necessary in the opinion of the law enforcement authorities and in light of the prevailing circumstances on the scene, to prevent interference with the carrying out of the duties of the fire department, the delivery of first aid, or any other emergency activity.



Temporary Detention

- 2.1 The relevant law enforcement authorities may temporarily detain a person, if this is necessary in the opinion of the law enforcement authorities and in light of the prevailing circumstances on the scene, to remove a person from a location, or to prevent access by a person to a location in accordance with section 1 of the present regulation.
- 2.2 The detention may last only so long as necessary to carry out the actions specified in section 1 of the present regulation and in any case no longer than 12 hours.

Entry into Force

The present regulation shall enter into force on 12 August 1999.

Bernard Kouchner  
Special Representative of the Secretary-General

UNITED NATIONS  
United Nations Interim  
Administration Mission in  
Kosovo



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Intérimaire des Nations Unies au  
Kosovo

UNMIK/REG/1999/10  
13 October 1999

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**REGULATION NO. 1999/10**

**ON THE REPEAL OF DISCRIMINATORY LEGISLATION AFFECTING  
HOUSING AND RIGHTS IN 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 N0. 1999/1 of 25 July 1999 on the Authority of the Interim  
Administration in Kosovo,

For the purpose of repealing certain legislation that are discriminatory in nature and  
that are contrary to international human rights standards,

Hereby promulgates the following:

Repeal of Certain Legislation

The following laws, which do not comply with the standards referred to in section 2 of  
UNMIK regulation No. 1999/1 are repealed in Kosovo:

The Law on Changes and Supplements on the Limitation of Real Estate Transactions  
(Official Gazette of Republic of Serbia, 22/91 of 18 April 1991);

The Law on the Conditions, Ways and Procedures of Granting Farming Land to  
Citizens Who Wish to Work and Live in the Territory of the Autonomous Province of Kosovo  
and Metohija (Official Gazette of Republic of Serbia, 43/91 of 20 July 1991).

Entry into force

The present regulation shall enter into force on 13 October 1999.

Bernard Kouchner  
Special Representative of the Secretary-General

**UNITED NATIONS**

United Nations Interim  
Administration Mission in  
Kosovo



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Intérimaire des Nations Unies au  
Kosovo

UNMIK/REG/1999/23  
15 November 1999

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**REGULATION NO. 1999/23**

**ON THE ESTABLISHMENT OF THE HOUSING AND PROPERTY  
DIRECTORATE AND THE HOUSING AND PROPERTY CLAIMS  
COMMISSION**

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 on the Authority of the Interim Administration in Kosovo,

For the purpose of achieving efficient and effective resolutions of claims concerning residential property,

Hereby promulgates the following:

Section 1

Housing and Property Directorate

- 1.1 The Housing and Property Directorate (the "Directorate") shall provide overall direction on property rights in Kosovo until the Special Representative of the Secretary-General determines that local governmental institutions are able to carry out the functions entrusted to the Directorate. In particular, the Directorate shall:
- (a) Conduct an inventory of abandoned private, state and socially owned housing;
  - (b) Supervise the utilization or rental of such abandoned property on a temporary basis for humanitarian purposes; rental monies of abandoned private and socially owned property shall be recorded in a separate account in trust for the rightful owner, subject to deduction of relevant expenses;
  - (c) Provide guidance to UNMIK, including CIVPOL, and UNHCR, as well as KFOR on specific issues related to property rights; and
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- (d) Conduct research leading to recommended policies and legislation concerning property rights.
- 1.2 As an exception to the jurisdiction of the local courts, the Directorate shall receive and register the following categories of claims concerning residential property including associated property:
- (a) Claims by natural persons whose ownership, possession or occupancy rights to residential real property have been revoked subsequent to 23 March 1989 on the basis of legislation which is discriminatory in its application or intent;
  - (b) Claims by natural persons who entered into informal transactions of residential real property on the basis of the free will of the parties subsequent to 23 March 1989;
  - (c) Claims by natural persons who were the owners, possessors or occupancy right holders of residential real property prior to 24 March 1999 and who do not now enjoy possession of the property, and where the property has not voluntarily been transferred.

The Directorate shall refer these claims to the Housing and Property Claims Commission for resolution or, if appropriate, seek to mediate such disputes and, if not successful, refer them to the Housing and Property Claims commission for resolution.

## Section 2 Housing and Property Claims Commission

- 2.1 The Housing and Property Claims Commission (the “Commission”) is an independent organ of the Directorate which shall settle private non-commercial disputes concerning residential property referred to it by the Directorate until the Special Representative of the Secretary-General determines that local courts are able to carry out the functions entrusted to the Commission.
- 2.2 The Commission shall initially be composed of one Panel of two international and one local members, all of whom shall be experts in the field of housing and property law and competent to hold judicial office. The Special Representative of the Secretary-General shall appoint the members of the Panel and shall designate one member as the chairperson. The Special Representative of the Secretary-General may establish additional Panels of the Commission in consultation with the Commission.
- 2.3 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 Housing and Property Claims Commission honourably, faithfully, impartially and conscientiously.”
- The declarations shall be put in the archives of the Commission.
- 2.4 The Commission shall be entitled to free access to any and all records in Kosovo relevant to the settlement of a dispute submitted to it.

- 2.5 As an exception to the jurisdiction of local courts, the Commission shall have exclusive jurisdiction to settle the categories of claims listed in section 1.2 of the present regulation. Nevertheless, the Commission may refer specific separate parts of such claims to the local courts or administrative organs, if the adjudication of those separate parts does not raise the issues listed in section 1.2. Pending investigation or resolution of a claim, the Commission may issue provisional measures of protection.
- 2.6 The Special Representative of the Secretary-General shall establish by regulation the Rules of Procedure and Evidence of the Commission, upon the recommendation of the Commission. Such rules shall guarantee fair and impartial proceedings in accordance with internationally recognized human rights standards. In particular, such rules shall include provisions on reconsideration of decisions of the Commission.
- 2.7 Final decisions of the Commission are binding and enforceable, and are not subject to review by any other judicial or administrative authority in Kosovo.

#### Executive Director and Staff

The Special Representative of the Secretary-General shall appoint an Executive Director of the Directorate after consultation with the Executive Director of the United Nations Centre for Human Settlements (UNCHS) (Habitat). The Executive Director shall appoint the staff of the Directorate, which shall comprise local experts, and shall allocate staff to the Commission who shall be under the exclusive control of the Commission.

#### Applicable law

The provisions of the applicable laws relating to property rights shall apply subject to the provisions of the present regulation.

#### Entry into Force

The present regulation shall enter into force on 15 November 1999.

Bernard Kouchner  
Special Representative of the Secretary-General

**UNITED NATIONS**

United Nations Interim  
Administration Mission in  
Kosovo



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UNMIK/REG/1999/24  
12 December 1999

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**REGULATION NO. 1999/24**

**ON THE LAW APPLICABLE IN KOSOVO**

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 on the Authority of the Interim Administration in Kosovo,

For the purpose of defining the law applicable in Kosovo,

Hereby promulgates the following:

Applicable law

1.1 The law applicable in Kosovo shall be:

- (a) The regulations promulgated by the Special Representative of the Secretary-General and subsidiary instruments issued thereunder; and
- (b) The law in force in Kosovo on 22 March 1989.

In case of conflict, the regulations and subsidiary instruments thereunder shall take precedence.

1.2 If a court of competent jurisdiction or a body or person required to implement a provision of the law, determines that a subject matter or situation is not covered by

the laws set out in section 1.1 of the present regulation but is covered by another law in force in Kosovo after 22 March 1989 which is not discriminatory and which complies with section 1.3 of the present regulation, the court, body or person shall, as an exception, apply that law.

- 1.3 In exercising their functions, all persons undertaking public duties or holding public office in Kosovo shall observe internationally recognized human rights standards, as reflected in particular in:

The Universal Declaration on Human Rights of 10 December 1948;  
The European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Protocols thereto;  
The International Covenant on Civil and Political Rights of 16 December 1966 and the Protocols thereto;  
The International Covenant on Economic, Social and Cultural Rights of 16 December 1966;  
The Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965;  
The Convention on Elimination of All Forms of Discrimination Against Women of 17 December 1979;  
The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment of 17 December 1984;  
The International Convention on the Rights of the Child of 20 December 1989.

- 1.4 No person undertaking public duties or holding public office in Kosovo shall discriminate against any person on any ground such as sex, race, colour, language, religion, political or other opinion, natural, ethnic or social origin, association with a national community, property, birth or other status. In criminal proceedings, the defendant shall have the benefit of the most favourable provision in the criminal laws which were in force in Kosovo between 22 March 1989 and the date of the present regulation.

- 1.5 Capital punishment is abolished.

#### Implementation

Courts in Kosovo may request clarification from the Special Representative of the Secretary-General in connection with the implementation of the present regulation. The Special Representative of the Secretary-General shall provide such clarification for the consideration of the courts in the exercise of their functions.

#### Entry into Force

The present regulation shall be deemed to have entered into force as of 10 June 1999.



Transitional Provision

All legal acts, including judicial decisions, and the legal effects of events which occurred, during the period from 10 June 1999 up to the date of the present regulation, pursuant to the laws in force during that period under section 3 of UNMIK Regulation No. 1999/1 of 25 July 1999, shall remain valid, insofar as they do not conflict with the standards referred to in section 1 of the present regulation or any UNMIK regulation in force at the time of such acts.

Bernard Kouchner  
Special Representative of the Secretary-General