

**REGULATION NO. 1999/23**

UNMIK/REG/1999/23

15 November 1999

**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 resolution 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
- (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- (a) Claims by natural persons whose ownership, possession or occupancy rights to residential real property have been revoked subsequent to 23 March 1989 on the basis of legislation which is discriminatory in its application or intent;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.

### Section 3

#### **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.

### Section 4

#### **APPLICABLE LAW**

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

### Section 5

#### **ENTRY INTO FORCE**

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

***Bernard Kouchner***  
**Special Representative of the Secretary-General**