



**ADMINISTRATIVE DIRECTION NO. 2008/6**

**AMENDING AND REPLACING UNMIK ADMINISTRATIVE DIRECTION NO. 2006/17, IMPLEMENTING UNMIK REGULATION NO. 2002/13 ON THE ESTABLISHMENT OF A SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON KOSOVO TRUST AGENCY RELATED MATTERS**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under section 7 of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2002/13 of 13 June 2002, on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters,

Recalling UNMIK Regulation No. 2002/12 of 12 June 2002 on the Establishment of the Kosovo Trust Agency, as amended,

Recalling further UNMIK Administrative Direction 2003/13 of 9 June 2003, amended and replaced by UNMIK Administrative Direction 2006/17 of 6 December 2006, Implementing UNMIK Regulation No. 2002/13 and setting out Rules of Procedure for the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related Matters,

Taking into account UNMIK Regulation 2008/4 of 5 February 2008, amending UNMIK Regulation No. 2002/13 On the Establishment of A Special Chamber of The Supreme Court of Kosovo on Kosovo Trust Agency related Matters, which provides for five specialised first instance panels and an appellate panel within the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters,

For the purpose of amending and replacing UNMIK Administrative Direction 2006/17 to establish comprehensive rules of procedure that take into account the establishment of five specialised first instance panels and an appellate panel within the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters and to reflect generally accepted international standards and norms established under the European Convention for the Protection of Human Rights and Fundamental Freedoms relating to procedural rights and safeguards,

Hereby issues the following Administrative Direction:

Section 1  
Scope of Application

The rules of procedure contained in or issue pursuant to the present Administrative Direction govern proceedings before the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (“Special Chamber”) established pursuant to section 1.1 of the Special Chamber Regulation.

Section 2  
Definitions

2.1 The definitions in section 2 of the Special Chamber Regulation shall apply to the present Administrative Direction.

2.2 For the purposes of the present Administrative Direction, the following additional definitions shall apply:

(a) “Appellate Panel” shall mean the appellate panel presided over by The President of the Special Chamber and established pursuant to section 3.3 of the Special Chamber Regulation;

(b) “Claimant” shall mean a party referred to in section 5.1 of the Special Chamber Regulation who files a claim with the Special Chamber;

(c) “Complainant” shall mean a party referred to in section 10 of the Special Chamber Regulation who files a complaint with the Special Chamber.

(d) “Judge-Rapporteur” shall mean a single international judge assigned pursuant to section 10 of the present Administrative Direction to a case before a panel.

(e) “Respondent” shall mean a party referred to in section 5.2 of the Special Chamber Regulation.

(f) “Party” shall mean a claimant, complainant or respondent.

(g) “President of the Special Chamber” shall mean the international judge designated as President of the Special Chamber on KTA related Matters pursuant to section 3 of the Special Chamber Regulation.

(h) “Presiding Judge shall mean the specialised International Judge of a Trial Panel established pursuant to section 3.2 of the Special Chamber Regulation

or the President of the Special Chamber acting as Presiding Judge of the appellate panel established pursuant to section 3.3 of the Special Chamber Regulation.

(i) “Presidium” shall mean the entity of the Special Chamber on KTA related Matters comprising its President and the five presiding judges of the Trial Panels, as established pursuant to section 11 of the present Administrative Direction.

(j) “Special Chamber Regulation” shall mean UNMIK Regulation 2002/13, on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters, of 13 June 2002, as amended from time to time.

(k) “Trial Panel” shall mean a trial panel of the Special Chamber presided over by a specialised international judge and established pursuant to section 3.2 of the Special Chamber Regulation.

(l) “UNMIK Regulation 2003/13” shall mean UNMIK Regulation 2003/13 of 9 May 2003, on the Transformation of the Right of Use to Socially-Owned Immovable Property, as amended from time to time;

(m) “UNMIK Regulation 2005/48” shall mean UNMIK Regulation 2005/48 of 21 November 2005, on the Reorganization and Liquidation of Enterprises and their Assets under the Administrative Authority of the Kosovo Trust Agency, as amended from time to time.

## **TITLE I THE SPECIAL CHAMBER**

### **CHAPTER I: JUDGES**

#### Section 3 Judges of the Special Chamber

The judges of the Special Chamber, including its President shall have professional experience in the areas of competence of the Special Chamber, including private, commercial and corporate law.

Section 4  
Incompatibilities and Recusal

4.1 A judge of the Special Chamber shall not hold any other public or administrative office incompatible with his or her functions, or engage in any occupation of a professional nature, whether remunerative or not, or otherwise engage in any activity that is incompatible with his or her functions.

4.2 No judge of the Special Chamber may take part in the adjudication of a claim in which he or she:

- (a) Has previously taken part as agent or adviser;
- (b) Has acted for one of the parties;
- (c) Has participated as a member of a court, tribunal, or commission of inquiry, or has acted in another similar capacity;
- (d) Is related by family or marriage to a party or, in the case of a party being a legal entity or other body that may be party to a proceeding before the Special Chamber pursuant to section 5 Special Chamber Regulation, is related by blood or marriage to a person, who has a controlling interest in such entity, who is a member of the board of such entity or who holds major managerial functions in such entity; or
- (e) Has or acquires a direct or indirect interest in any enterprise or in any entity seeking an ownership interest in an entity that is party to the proceedings.

A Judge shall have the duty to apply for recusal, if any of the conditions under paragraph (a) through (e) above are present.

4.3 The Presidium of the Special Chamber in pursuance of its authority under section 10 of the present Administrative Direction may recuse any judge of the Special Chamber from taking part in the adjudication of a claim, either upon the request of that judge or upon the application of any party. An application for the recusal of a judge may be made at any time during the proceedings.

4.4 A request for recusal by a judge shall be addressed to the Presiding Judge who shall bring the request to the attention of the Presidium. If a recusal pursuant to section 4.3 is granted, the judge concerned shall be replaced for the particular claim by a substitute judge, who shall be transferred for this purpose from the ranks of serving judges.

## CHAPTER II: REGISTRY

### Section 5

#### Registry

5.1 The Special Chamber shall have its own Registry separate from the registry of the Supreme Court of Kosovo.

5.2 A register shall be kept in the Registry in which a record shall be made of all pleadings and supporting documents in the order in which they are filed.

5.3 Any person may consult the register at the Registry and may obtain copies or extracts of the register, except for entries subject to a confidentiality order issued by the Special Chamber, on payment of a charge on a scale fixed by the Special Chamber.

5.4 The Registry of the Special Chamber may request and shall be granted assistance from any other court in Kosovo for the fulfilment of its duties.

### Section 6

#### Duties of the Registrar of the Special Chamber

6.1 The Registrar and the Deputy Registrar shall be selected and appointed by the Minister of Justice, in close coordination with the President of the Special Chamber.

6.2 Before taking office, the Registrar and Deputy Registrar shall take the following oath or make the following solemn declaration before the Special Chamber: “I swear” – or “I solemnly declare, that I will exercise loyally, discretely, and conscientiously, the functions conferred upon me as Registrar/Deputy Registrar of the Special Chamber of the Supreme Court for Kosovo Trust Agency Related Matters, and that I will keep secret and confidential all and any information that may come to my knowledge in the exercise of my functions.”

6.3 Under the authority of the President of the Special Chamber the Registrar and the Deputy Registrar shall assist the Special Chamber in the performance of its functions and shall be responsible for the organization and activities of the Registry. They shall also have responsibility to supervise the preparation of minutes by court recorders of proceedings of the Special Chamber.

6.4 The Registrar and the Deputy Registrar shall have the custody of the court stamp of the Special Chamber and the archives of the Special Chamber, and shall be the channel for all communications and notifications made by, or addressed to the Special Chamber in connection with cases brought or to be brought before it.

6.5 Subject to the duty of discretion attaching to this office, the Registrar and the Deputy Registrar shall reply to requests for information concerning the work of the Special Chamber.

6.6 General instructions drawn up by the Registrar and the Deputy Registrar and approved by the Special Chamber shall regulate the work and organization of the Registry.

6.7 The Special Chamber may require other employees working for the Special Chamber to take an oath or make a solemn declaration in accordance with section 6.2 above.

### **CHAPTER III: ORGANISATION OF THE SPECIAL CHAMBER**

#### Section 7 Permanent Chamber

The Special Chamber as established with five Trial Panels and an Appellate Panel pursuant to section 3 of the Special Chamber Regulation shall remain permanently in session.

#### Section 8 The President of the Special Chamber

The President of the Special Chamber shall direct the administration of the Special Chamber and unless otherwise provided in the present Administrative Direction its judicial business. The President when temporarily absent or unable to act shall designate another international Judge to exercise the functions of President of the Special Chamber. The Judge who is to preside over the Appellate Panel in cases of temporary absence or inability to act of the President of the Special Chamber shall be determined by the Presidium pursuant to the provisions of section 10 of the present Administrative Direction.

#### Section 9 The Presiding Judges

Every Trial Panel and the Appellate Panel of the Special Chamber shall have a Presiding Judge pursuant to section 3.2 and 3.3 Special Chamber Regulation. Presiding Judges shall direct the judicial business of the panel and preside at hearings and deliberations unless otherwise provided in this rules of procedure of the Special Chamber.

Section 10  
The Presidium of the Special Chamber

10.1 The Presidium of the Special Chamber shall consist of the President and the Presiding Judges. It shall

(a) issue rules for and make determinations on the allocation of cases to Trial Panels as far as this is not determined by the provisions of the Special Chamber Regulation or the present Administrative Direction;

(b) regulate the substitution of judges, decide on applications to recuse a judge and lay down criteria for the assignment of judges as Judges-Rapporteur;

(c) adopt additional rules and issue practise directions governing special proceedings under sections 67 through 69 of the present Administrative Direction, if so requested by the competent Trial Panel;

(d) issue such additional procedural rulings for cases not expressly covered by the present Administrative Direction, which clarify or complement the procedural rules set out under or issued pursuant to the present Administrative Direction.

10.2 Procedural rules on the manner in which cases are distributed to Trial Panels in accordance with sub-section 1 shall be issued by the Presidium at the beginning of the calendar year for the period of that year. Such rules shall only be amended during the calendar year if a Trial Panel becomes unduly burdened due to long-term absence from duty of one or more judges.

10.3 The Presidium takes decisions by a simple majority of the attending judges. It has a quorum as long as three judges are present during its deliberations. If the Presidium is not able to reach a decision in time, the President shall take such decision and present it to the Presidium for approval. Any decision taken by the President shall be in force until the Presidium decides otherwise.

10.4 A determination made by the Presidium on the manner in which case are distributed between the Trial Panels shall be set out in a concise document that is shared with the Registrar. The Registrar shall publish the document as soon as it is received from the Presidium.

10.5 Procedural rulings of the Presidium under sub-section 10.1 (d) above shall take the form of a procedural Judgement issued by Special Chamber which may not be appealed.

Section 11  
Judge-Rapporteurs and Sub-Panels

11.1 A case that is filed with the Special Chamber shall be allocated immediately to a panel in accordance with section 12 of the present Administrative Direction and the procedural rules issued by the Presidency pursuant to section 10 of the Present Administrative Direction. The Presiding Judge or its designee shall determine whether the conduct of the proceedings is to be delegated to a Judge-Rapporteur or to a sub-panel in accordance with section 8.2 of the Special Chamber Regulation. If the Presiding Judge decides to delegate the proceedings to a sub-panel or a Judge-Rapporteur and following the criteria laid down in accordance with section 10.1 of the Present Administrative Direction, the Presiding Judge shall issue an order setting out the extent to which the sub-panel or the Judge-Rapporteur is to exercise responsibilities and may issue Decisions and Judgements in respect of the case before the panel.

11.2 In a sub-panel, the international judge shall act as Presiding Judge. All Decisions and Judgements issued by a sub-panel shall be adopted by consensus failing which the matter shall be referred to the full panel. Any Judge not sitting in the sub-panel may request a review of such judgement by the full panel setting out justified reasons before such decision or judgement is issued officially.

11.3 A Judge-Rapporteur shall:

- (a) if so authorised by the panel in:
  - (i) routine cases that are not of a complex nature, or
  - (ii) such other cases for which the Judge-Rapporteur has specialised knowledge and experience,

issue material decisions and Judgements as determined by the panel and act as the Presiding Judge.

- (b) In all other cases the Judge-Rapporteur shall:
  - (i) summarise and report to the panel the facts and legal aspects of the case before that panel; and
  - (ii) make such preparations and reach such procedural determinations as is necessary for the panel to finalise the proceedings and reach a Decision or Judgement.

11.4 Judgements or Decisions of a sub-panel or a Judge-Rapporteur shall be considered Judgements or Decision of a panel and shall be subject to review or



appeal in accordance with the relevant provisions of the rules of procedure of the Special Chamber.

## **CHAPTER IV: PRIMARY COMPETENCE OF TRIAL PANELS**

### Section 12

#### Primary Competences and Case Allocation

12.1 The allocation of claims to the five Trial Panels of the Special Chamber shall follow the primary competence of a Trial Panels as set out in section 3.2 Special Chamber Regulation. Following this competence, claims involving:

(a) privatization-related and ancillary matters shall be referred to the Trial Panel having competence for privatisation-related matters;

(b) matters related to entitlements of employees under section 10 of Regulation No. 2003/13 and general employment matters of enterprises under the Agency's administrative authority, shall be referred to the Trial Panel having competence for employee entitlement matters;

(c) general ownership and creditor claims which do not arise in connection with the privatisation of an enterprise or its assets shall be referred to the Trial Panel having competence for general ownership and creditor claims;

(d) matters related to or arising in connection with the liquidation of an Enterprise or its assets shall be referred to the Trial Panel having competence for matters related to the liquidation of Enterprises;

(e) the reorganization or restructuring of Enterprises pursuant to Regulation No. 2005/48 or such other matters excluding liquidation related matters which are subject to the provision of Regulation No. 2005/48 shall be referred to the Trial Panel having competence for the reorganisation and restructuring of Enterprises.

12.2 Claims brought before the Special Chamber involving matters for which no Trial Panel has primary competence or for which a Trial Panel has not been established at the time when the claim is brought, shall be dealt with by a Trial Panel as determined under the rules established by the Presidium pursuant to section 10 of the present Administrative Direction for the distribution of cases to Trial Panels.

12.3 The rules established by the Presidium pursuant to section 10 of the present Administrative Direction for the distribution of cases to Trial Panels may allow for the distribution of cases to a panel other than such designated under section 12.1

above if special circumstance warrant such distribution, provided that the special circumstance are laid down in detail in such rules.

## **TITLE II PROCEEDINGS**

### **CHATER V : GENERAL POWERS OF THE COURT**

#### Section 13

#### The Powers of Case Management

13.1 The powers given to the Special Chamber under the present Administrative Direction are in addition to any powers provided to it by any other applicable law or to any other powers the Special Chamber may otherwise have.

13.2 Except where the present Administrative Direction provides otherwise, the Special Chamber may:

- (i) extend or shorten the time for compliance with any Decision by the court, even if an application for extension is made after the time for compliance has expired;
- (ii) adjourn or bring forward a hearing;
- (iii) require a party or party's legal representative to attend the court;
- (iv) during a hearing to receive evidence by telephone or by using any other method of direct oral communication;
- (v) direct that parts of any proceedings to be dealt with as separate proceedings or consolidate separate proceedings;
- (vi) stay the entire or parts of any proceedings or Decision or Judgement either generally or until a specified date or event;
- (vii) try more than one claim on the same occasion;
- (viii) direct a separate trial on any matter;
- (ix) decide the order in which matters are to be tried;
- (x) exclude an matter from consideration;

- (xi) dismiss or adjudicate any claim after having made a Decision on a preliminary matter;
- (xii) order any party to file and serve an estimate of costs
- (xiii) make any Decision or take any other step for the purpose of managing the case and furthering the overriding objective.

13.3 When the Special Chamber takes a Decision, it may

- (i) take it subject to conditions, including a condition to pay an amount of money into court; and
- (ii) specify the consequences of failure to comply with the Decision or a condition.

13.4 The Court may order a party to pay an amount of money into court if that party has, without good reason, failed to comply with a ruling, order or determination issued by the Court.

(a) When exercising its power under this sub-section, the Court shall take into account:

- (i) the amount in dispute;
- (ii) the costs which parties have incurred so far or may incur further; and
- (iii) the financial abilities of the parties involved.

(b) Where a party pays money into court following a Decision under this section, the money shall be security for any sum payable by that party to any other party in the proceedings.

#### Section 14 Sessions and Deliberations of the Special Chamber

14.1 The dates and times for sessions of the Trial Panels and the appellate panel shall be fixed by their Presiding Judges. A panel may decide to hold one or more sessions in a place other than that in which the Special Chamber has its seat.

14.2 All panels shall deliberate in closed sessions. The Registrar and other court staff may be present during deliberations, if required by a panel.

14.3 All judgements and decisions by a panel shall be decided by an affirmative vote of,

- (i) in the case of a Trial Panel, two judges; and
- (ii) in the case of the appellate panel, three judges.

Judgements and Decisions by a sub-panel shall be made unanimously.

### Section 15 Referral of Claims

15.1 Pursuant to section 4.2 Special Chamber Regulation, a Trial Panel may, upon application by a party or in its own discretion, order that a specific claim, category of claims or parts thereof be referred to a court having the required subject-matter jurisdiction under applicable law, provided that:

- (a) All parties have confirmed in writing that they consent to the matter being so referred; or
- (b) The Trial Panel is satisfied that the court to which it will refer the claim will be able to reach an objective decision having regard to:
  - (i) The nature of the parties;
  - (ii) The value of the amount in controversy; and
  - (iii) Other circumstances of the claim.

15.2 An order referring a matter pursuant to sub-section 1 above shall be in writing and shall state the reasons for the decision and whether an appeal against any Decision or Judgement issued by the court the matter is referred to can be filed directly with the Special Chamber or initially with another competent court in Kosovo. The order shall be binding on the parties and on the court to which the matter is referred.

15.3 If the order under sub-section 2 above determines that an appeal against a Decision or Judgement issued by the court the matter is referred to under sub-section 1 above may be filed directly with the Special Chamber, the Trial Panel which has competence for such matter pursuant to section 12.1 of the present Administrative Direction shall also be competent to hear such appeal.

Section 16  
Removal of Actions Pending in Other Courts in Kosovo

16.1 A decision made pursuant to section 4.6 Special Chamber Regulation shall be final and binding. It shall be served on the court in which the action is pending, on the parties to the action and on the Agency. The court shall transmit to the Special Chamber the complete case file, including amongst others all orders, minutes, pleadings and submitted documents relating to the action.

16.2 The action shall be entered in the register of the Special Chamber. Unless the Special Chamber makes an order under section 16 of the Present Administrative Direction that the action is referred to another court in Kosovo, the proceedings before the Special Chamber shall resume with the written proceedings according to the rules set forth in the present Administrative Direction. Pleadings and documents already submitted during the proceedings before the removal of the action shall be supplemented, if the requirements of the present Administrative Direction are not fulfilled.

16.3 If the Special Chamber establishes that another court in Kosovo has assumed jurisdiction in a case over which the Special Chamber has primary jurisdiction pursuant to UNMIK/REG/2002/13, the Special Chamber, upon the application of a party to the case, shall, and in the absence of an application may at its own initiative and discretion, remove the proceedings from that court, regardless of the stage of the proceedings. The provisions of this Administrative Direction shall apply to such removal.

**CHAPTER VI: SERVICE**

Section 17  
Address for Service

17.1 The address for service of a party shall be the address of such party's lawyer or, if the party is not legally represented, the party's home address. The claimant shall state the address for service in the claim and the respondent shall state the address for service in the defence.

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

Section 18  
Effecting Service

18.1 Where the present Administrative Direction requires that a document be served on a party, the Registrar shall ensure that service is effected at the address for service of that party either by the dispatch of a copy of the document by registered mail with a form for acknowledgement of receipt or by personal service of the copy against a receipt.

18.2 Where a party has agreed, in accordance with section 7.2, that service may be effected by telefax or other electronic means of communication, any procedural document other than a judgement of the Special Chamber shall be served by the transmission of a copy of the document by such means. Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served on the party in accordance with the procedure set forth in section 8.1. The party shall be so advised by telefax or other electronic means of communication.

18.3 Service shall be deemed to have been effected:

(a) In the case of dispatch of a copy of the document by registered mail pursuant to section 8.1, on the day on which the addressee acknowledged receipt or, if the addressee has refused to accept the document or to sign the receipt, on the fifth day following the mailing of the registered letter at the post office of the place where the Special Chamber has its seat;

(b) In the case of personal service of the document pursuant to sub-section 1 above, on the day on which the addressee acknowledged receipt or, if the addressee has refused to accept the document or to sign the receipt, on the day of the attempted service. The person serving the document shall make a note of the refusal on the document and return it to the Registry;

(c) In the case of transmission of the document by using telefax or other electronic means of communication pursuant to sub-section 2 above, on the day the transmission was successfully completed and documented or, if the inability to successfully complete said transmission was due to the deliberate fault of the receiver, on the day that the attempt to transmit was made.

18.4 After service of the initial claim is effected, a panel may require a party to serve additional pleadings and documents on another party without the assistance of the court. In addition to the proof of service the serving party shall always file with the court copies of any pleadings or documents served on another party without the assistance of the court.

Section 19  
Mutual Legal Assistance

19.1 For the purposes of the present section, the term “mutual legal assistance” means assistance relating to legal proceedings provided by Kosovo authorities to authorities outside Kosovo or provided by authorities outside Kosovo to Kosovo authorities.

19.2 A request by the Special Chamber or by a court in Kosovo to which a claim has been referred by the Special Chamber pursuant to section 4.2 Special Chamber Regulation for mutual legal assistance in matters falling within the primary jurisdiction of the Special Chamber shall comply with the following guidelines:

(a) The request shall be sent in writing to the Director of the Department of Justice, setting out clearly the nature of the request and the time by when a response is requested;

(b) The Director of the Department of Justice shall forward the request to the Special Representative of the Secretary-General who shall send the request through official channels to the relevant authorities outside Kosovo; and

(c) A response to a request for mutual legal assistance shall be sent to the SRSG who shall forward the response to the Director of the Department of Justice. The Director of the Department of Justice shall transmit the response to the Special Chamber or the relevant court.

19.3 A request by a court outside Kosovo for mutual legal assistance in matters falling within the primary jurisdiction of the Special Chamber shall be processed as follows:

(a) The request shall be in writing, setting out clearly the nature of the request and the time by when a response is requested and shall include an undertaking that such materials as are requested shall only be used for the purpose indicated in the request.

(b) The request shall be sent through official channels to the Special Representative of the Secretary-General who shall forward the request to the Registrar of the Special Chamber. A request for mutual legal assistance received directly by a court in Kosovo shall be forwarded immediately to the Special Representative of the Secretary-General, prior to the initiation of any action;

(c) If the request relates to a claim which has been referred by the Special Chamber to a court pursuant to section 4.2 Special Chamber Regulation, the Registrar shall transmit the request to that court for action; and

(d) A response to a request for mutual legal assistance shall be forwarded by the Registrar of the Special Chamber to the Special Representative of the Secretary-General who shall send the response through official channels to the requesting court outside Kosovo.

## **CHAPTER VII: PERIODS AND TIME-LIMITS**

### Section 20

#### Calculation of Periods

20.1 A period of time prescribed by UNMIK Regulation No. 2002/13, or the present Administrative Direction shall be calculated as follows:

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

(b) A period expressed in weeks or months shall end with the expiry of whatever day in the last week or month is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) Where a period is expressed in months and days, it shall be first calculated in whole months, then in days;

(d) Periods shall include Saturdays, Sundays and official holidays.

20.2 If the period would otherwise end on a Saturday, Sunday or on an official holiday, it shall be extended until the end of the first following working day.

### Section 21

#### Expiry of Time Periods

21.1 Without prejudice to its responsibility to handle matters before it expeditiously, the Special Chamber may in exceptional cases, and if the interest of justice so requires, extend a time period prescribed by law; if it determines that it is not reasonably practicable for a party or the Special Chamber to dispose of the matter at hand within the time period prescribed by law.



21.2 If a party fails to comply with any requirement within the period of time prescribed pursuant to the present Administrative Direction, the Presiding Judge may permit the party to comply with that requirement outside the prescribed period of time if he or she considers that there are justifiable reasons for that party's failure and that no other party would suffer serious and irreparable prejudice if the defaulting party were permitted to comply outside the prescribed period of time.

21.3 An application for permission under section 21.2 shall be submitted as soon as reasonably practicable, but in any event prior to the expiry of the prescribed period of time. At the same time as serving the application the party shall:

(a) Give notice of the application to the other party or parties; and

(b) Perform any action necessary to comply with the original requirement.

21.4 The Presiding Judge may permit a party to comply with a requirement outside the prescribed period of time on condition that that party pays costs occasioned to the other party or parties by the failure to comply with the requirement within the prescribed period of time.

## **CHAPTER VIII: GENERAL PROVISIONS**

### Section 22 Proceedings

The proceedings before the Special Chamber shall consist of written proceedings and oral proceedings.

### Section 23 Obligations of Parties in Proceedings

23.1 The parties shall submit all facts that the Special Chamber requires to reach a decision regarding the claim. The Special Chamber shall only conduct an *ex officio* investigation of the facts relevant to the claim in exceptional circumstances.

23.2 The Special Chamber shall encourage the parties to reach a negotiated settlement prior to and during any proceedings.

23.3 In all stages of the proceedings, the parties shall be obliged to act truthfully. The parties shall be required to submit facts comprehensively and to the best of their knowledge.

23.4 Each party is under the obligation to indicate the legal basis on which it grounds its claim, to present facts and propose evidence on which that party grounds its claim and addresses the statements and evidence of the opposing party.

Section 24  
Representation before the Special Chamber

24.1 Claimants and respondents, other than the Agency, shall be represented by a member of a bar association in Kosovo or in Serbia except for natural persons who may choose to represent themselves, subject to section 21.2. The Agency may be represented by qualified lawyers from its staff.

24.2 Upon application by any party or upon his or her own motion, the Presiding Judge may order that any party must be represented by a member of a bar association in Kosovo or in Serbia, if the Presiding Judge is satisfied that such an order is required for the protection of that party's rights and interests, for the orderly conduct of proceedings or is otherwise in the interests of justice. The Presiding Judge shall not make such an order unless he or she is satisfied that:

(a) Such party is reasonably able to afford legal representation; or

(b) Legal aid will be made available to that party to cover the costs of legal representation. For this purpose the Presiding Judge may write to any person or body recommending the grant of legal aid to provide representation and requiring that person or body to state whether or not such legal aid will be provided.

24.3 At the discretion of the Presiding Judge, a party may be represented by a member of a bar other than a bar associate in Kosovo and Serbia, who has the necessary competence and experience.

24.4 A lawyer acting for a party must submit to the Registry a copy of the power of attorney granting the authority to represent such party in the proceedings before the Special Chamber. The Special Chamber may require that such power of attorney be certified.

24.5 The Special Chamber shall notify a claimant who is not represented by a lawyer without delay of the provisions of sub-sections 1, 2 and 3 hereabove.

24.6 If the claimant is a legal person and fails to appoint a lawyer within a given period or if the lawyer fails to submit a copy of the power of attorney, the claim shall be dismissed as inadmissible by the Special Chamber. In this case the claimant shall not be prevented from bringing an action again once a lawyer has been appointed.

Section 25  
Filing of Pleadings

25.1 The original of every pleading must be signed by the party or by the party's lawyer, if that party has legal representation. The original, accompanied by all annexes referred to therein, shall be filed at the Registry together with four copies for the Special Chamber and a copy for every other party to the proceedings. The copies shall be certified by the party filing them. The Registrar may refuse to accept pleadings that are not in conformity with this section.

25.2 Once pleadings are filed with the Registry of the Special Chamber, any calculation of time-limits for taking steps in proceedings shall take into account only the date of the filing with the Special Chamber as noted by the Registry pursuant to section 25.5 of the present Administrative Direction. If the Special Chamber authorizes a party to file pleadings with another office, the date of the filing with such other office shall be the date of such filing. If pleadings are sent by regular mail, the date of filing for such pleadings shall be the date when the pleadings are mailed by the party, as evidenced by the postal stamp.

25.3 The date on which a copy of the signed original of a pleading is received at the Registry by telefax or other electronic means of communication available to the Special Chamber shall be deemed to be the date of filing for the purposes of compliance with the time-limits and periods for taking steps in the proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in section 25.1, is filed in accordance to section 25.2 above no later than ten days thereafter.

25.4 The first pleading of a legal person shall be accompanied by:

(a) The instrument or instruments constituting or regulating that legal person as well as any other proof of its existence in law; and

(b) Proof that the power of attorney granted to the claimant's lawyer has been properly conferred by someone authorised for that purpose under the applicable law.

25.5 When a document is registered, the Registrar shall make a note to that effect on the original. In order to be filed with the Registry, pleadings and motion papers shall be originals signed by a party or by the party's lawyer, if that person has legal representation.

25.6 Any person may obtain copies or extracts from pleadings and supporting documents or authenticated copies of judgements and orders on payment of a charge on a scale fixed by the Special Chamber.

25.7 Pleadings and supporting documents may be submitted in Albanian, Serbian or English. However, if submitted in Albanian or Serbian, an English translation of all pleadings and supporting documents shall be provided together with the pleadings. Such translation shall be at the party's expense.

25.8 A natural party may submit an application to the Presiding Judge for assistance in the translation of pleadings and supporting documents. Such application shall be submitted with the pleadings and include a statement of the party's financial means and any supporting evidence which the party wishes the Presiding Judge to take into account.

25.9 The Presiding Judge may direct that the translation of pleadings and supporting documents required by sub-section 7 above be undertaken at the expense of the Special Chamber where he or she determines that it is reasonable to so direct having regard to the means of the party. If the Presiding Judge rejects such an application, he or she shall so inform the party by decision in writing and shall order that party to provide English translations at the party's expense within a period to be specified in the decision. If such translations are not so provided within that period, the Special Chamber shall order that translations be undertaken and that the costs thereof be awarded against that party on a scale to be determined by the Special Chamber.

## Section 26

### Withdrawal, Amendment, Acknowledgement and Settlement

26.1 The claimant may at any time withdraw its claim, with the consent of the Special Chamber. In granting its consent the Special Chamber shall consider the interest of all other parties. The decision assenting to withdrawal of a claim may include an order for costs and expenses of the proceedings. Such a decision shall not preclude a party from re-filing the claim.

26.2 A party may amend its pleadings at any time before the conclusion of the proceedings. The Presiding Judge shall decide whether to accept the request for amendment, taking into account whether such amendment serves the interest of justice.

26.3 The respondent may at any stage of the proceedings accept the claim filed against it or parts thereof.

26.4 A negotiated settlement reached by the parties during the proceedings and confirmed in writing shall become final and binding upon the parties.

## CHAPTER IX: WRITTEN PROCEEDINGS

### Section 27 Initiation of Proceedings

27.1 A claim shall be brought before the Special Chamber in writing.

27.2 The claim shall state:

- (a) The name and address of the claimant;
- b) The name and address for service of the lawyer, if any, acting for the claimant;
- (c) The name and address for service of the respondent;
- (d) The relief sought by the claimant;
- (e) The subject-matter and all material facts pertaining to the claim, the grounds for the primary jurisdiction of the Special Chamber over the claim, the legal arguments on which the claim is based and a list of evidence which the claimant intends to produce; and
- (f) Where damages are sought, a Schedule of Damages setting out the nature of the loss or damage, the amount of money claimed for each type of loss or damage, and the evidence that is to be offered in support of that type of loss or damage.

27.3 A single claim may be brought by one or more claimants. If more than one claimant brings a claim, the name and address of each claimant shall be stated and each claimant shall sign the claim or a power of attorney authorising another claimant to bring the claim.

### Section 28 Admissibility of Claim

28.1 Upon receipt and registration of the claim and referral of the competent Trial Panel pursuant to section 12, the Trial Panel shall examine:

- (a) Whether the claim is admissible; and
- (b) Whether, assuming the truth of all the allegations in the claim, any relief can be awarded in respect of the claim as a matter of law.

28.2 A claim shall only be admissible if:

(a) The Special Chamber has jurisdiction pursuant to section 4 Special Chamber Regulation;

(b) The claimant has the right to initiate proceedings pursuant to section 5.1 Special Chamber Regulation;

(c) The claim is brought against a party who may be a respondent in proceedings before the Special Chamber pursuant to section 5.2 Special Chamber Regulation;

(d) The claim has been filed within the period set forth in section 6.1 Special Chamber Regulation, where applicable;

(e) The claimant has given notice to the Agency of his/her/its intention to file a claim against an Enterprise or the Agency within the prescribed period pursuant to sections 29.1 or 30.2 of UNMIK Regulation 2002/12, where applicable; and

(f) The pleadings submitted conform to the requirements of sections 25 and 27 of the present Administrative Direction.

28.3 If the Trial Panel determines that the requirements set forth in paragraphs (a) to (e) above are not met, it shall reject the claim on the grounds of inadmissibility.

28.4 If the Trial Panel determines that the requirements set forth in paragraph (f) above are not met, it shall issue an order to the claimant, in which a reasonable period for completion or correction of the claim shall be prescribed. The order shall state in which way the claim fails to meet the requirements set forth in paragraph (f) above. The order shall be served on the claimant. If the claimant fails to submit a completed or corrected claim which meets the requirements set forth in paragraph (f) above within the period prescribed in the order, or to produce the required documents within the period prescribed in the order, the Trial Panel shall reject the claim on the grounds of inadmissibility.

28.5 If the Trial Panel determines without oral hearing that no relief can be awarded in respect of the claim as a matter of law, it shall before rejecting the claim on that basis, shall serve a notice of its determination on the claimant who shall have 14 days from the date of service to present in writing to the Trial Panel reasons, including law materials, for not rejecting the claim or to submit a request for an oral hearing to present submissions and law materials on the claim. If, taking into account any reasons so submitted by the claimant, the Trial Panel considers that no relief can be awarded in respect of the claim as a matter of law, it shall reject the claim without an oral hearing unless the claimant has requested an oral hearing.

28.6 If the Trial Panel determines that the requirements set forth in section 28.2 are met and the claim has not been rejected on the basis of section 28.5, it shall serve the claim on the respondent.

### Section 29 Defence of the Respondent

29.1 Within one month of the respondent having been served with a claim, the respondent may file a defence. The defence shall contain:

- (a) The name and address of the respondent;
- (b) The name and address for service of the lawyer acting for the respondent;
- (c) The response to the relief sought by the claimant;
- (d) All material facts pertaining to the defence and detailed legal arguments upon which the defence is based; and
- (e) When damages are claimed by the claimant, a response to the claimant's Schedule of Damages.

29.2 The period set forth in section 29.1 may be extended by the Judge Rapporteur upon a reasoned application by the respondent. The parties shall be informed of the decision.

### Section 30 Reply and Rejoinder

30.1 The claim and the defence may be supplemented by a reply from the claimant and a rejoinder from the respondent.

30.2 The Trial Panel shall establish the periods within which the reply and rejoinder are to be filed by the parties.

### Section 31 Counterclaims

31.1 Counterclaims that come under the jurisdiction of the Special Chamber may be filed no later than the time allowed for service of the defence.

31.2 Counterclaims shall be receivable if they comply with the admissibility requirements for claims set forth in section 28. The claimant may apply to the Trial Panel to sever the counterclaim from the proceedings on the grounds that the facts in dispute between the parties in the claim do not materially relate to the counterclaim, and the Trial Panel shall grant such application if the interests of justice so require. Where the counterclaim is severed, it shall proceed as a separate claim with a separate entry in the register.

### Section 32 Closing of Written Proceedings

Written proceedings are closed:

- (a) On the date when the rejoinder is filed;
- (b) At the expiry of the period for filing a reply if no reply is filed; or
- (c) At the expiry of the period for filing a rejoinder if no rejoinder is filed.

### Section 33 Procedural Directions on the Hearing of Claims

33.1 At any time during the proceedings, the Special Chamber may order that two or more claims concerning the same subject-matter shall, on account of the connection between them, be joined for the purposes of the written or oral proceedings or the final judgement. The claims may subsequently be severed.

33.2 At any time, the Special Chamber may order that one or more issues in a claim be heard as a preliminary matter, in the interests of justice, or the saving of costs or the speedy resolution of proceedings. A preliminary matter shall be decided upon by the Special Chamber following an oral hearing of the arguments of the parties upon the basis of assumed or agreed facts.

33.3 The Special Chamber may at any time summon the parties to an oral hearing for the purpose of issuing directions at which any necessary directions for the conduct of proceedings can be given.

### Section 34 Preliminary Report of the Judge Rapporteur

34.1 If a Trial Panel has delegated proceedings to a Judge-Rapporteur pursuant to section 11.3 (b) it shall establish a date on which the Judge Rapporteur is to



present a preliminary report to the panel. Such date shall be as soon as practicable but not later than 30 days after closure of the written proceedings.

34.2 The preliminary report shall contain recommendations as to which facts are contested by the parties and which party bears the burden of proof of such facts.

34.3 If a party which bears the burden of proof has not offered evidence in support of the facts in dispute in the submitted pleadings, the Trial Panel may inform the party accordingly by setting a period for submitting such evidence. If that party does not offer the evidence within the prescribed period, that party shall be prohibited from adducing such evidence at any later stage of the proceedings unless the Special Chamber decides otherwise.

34.4 Based upon the preliminary report, the Trial Panel may consider making an order to dispense with the collection of testimony or other evidence if it determines that there remain no genuine disputes of material fact necessary to decide the claim.

34.5 Before making an order pursuant to sub-section 4 above, the Trial Panel shall inform the parties that it is considering such an order and shall invite the parties to make submissions on whether such an order should be made. The Trial Panel may make such an order only if it is satisfied that any party objecting to such an order has had a reasonably sufficient opportunity to submit documentary evidence on any question of fact which that party wishes to dispute.

34.6 If an order to dispense with the collection of evidence is made pursuant to sub-section 4 above, sections 35 to 47 of the present Administrative Direction shall not apply to the claim.

## **CHAPTER X: EVIDENCE AND HEARING**

### Section 35

#### Delegation of Collection of Evidence to Sub-Panels or Individual Judges

35.1 The collection of evidence may be delegated by the Presiding Judge to a single judge or a sub-panel consisting of two judges of the panel.

35.2 The collection of evidence by a panel or an individual judge shall proceed in accordance with the Rules of Procedure set forth in the present Administrative Direction.

Section 36  
General Principles

36.1 The parties may submit evidence to the Special Chamber by way of:

- (a) Providing the name and address of a witness and a summary of the evidence that the witness is expected to provide;
- (b) Requesting an expert report and indicating the facts to be established by that expert report;
- (c) Providing a copy of a document or a physical item which contains information relevant to the claim;
- (d) Describing a document or a physical item which contains information relevant for the claim but which is not in that party's possession or control and indicating the person believed to possess or control that document or physical item and the reasons for that belief; or
- (e) Identifying a site to be visited or an object to be inspected, and indicating the facts to be established by such visit or inspection.

Section 37  
Summons of Witnesses

37.1 The Special Chamber shall order the examination of a witness proposed by a party provided that the pleading submitted by the party shows sufficient cause for the examination of such witness.

37.2 Witnesses shall be produced by the parties or summoned by an order of the Special Chamber containing the following information:

- (a) The surname, forenames, address and any other available description of the witness;
- (b) An indication of the facts about which the witness is to be examined;  
and
- (c) Where appropriate, particulars of the arrangements made by the Special Chamber for reimbursement of reasonable expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

37.3 The Special Chamber shall have the order served on the witness, or may direct a party to do so.

37.4 The Special Chamber may rule that a party has not shown sufficient cause for a witness to be summoned.

37.5 A summons of a witness with an address for service outside of Kosovo shall be served in accordance with the provisions of section 19 of the present Administrative Direction.

37.6 The Special Chamber may make the summoning of a witness conditional upon the party requesting the summons paying a deposit to the Registry of the Special Chamber of a sum sufficient to cover the expected expenses to be incurred by the witness. The Special Chamber shall fix the amount of such payment. If the summoning of a witness is not made conditional upon a deposit, the Registry shall advance the funds necessary in connection with the examination of any witness summoned.

37.7 Witnesses with an address for service in Kosovo who have been duly summoned shall obey the summons and attend a hearing of the Special Chamber for examination. If such a witness who has been duly summoned fails to appear before the Special Chamber, the Special Chamber may impose upon the witness a financial penalty not exceeding five hundred Euro (€500) and may order that a further summons be served on the witness at the witness's own expense. The same penalty may be imposed upon a witness who, without a valid reason as set out in section 40 below, refuses to give evidence or to take the oath or to make a solemn declaration.

37.8 The witness may request that the financial penalty imposed by the Special Chamber be reduced if it is disproportionate to his or her means.

### Section 38 Testimony of Witnesses

38.1 Witnesses shall not be present at the hearing during any oral submissions or during the examination of other witnesses.

38.2 The parties shall have the right to be present during the examination of witnesses.

38.3 At the beginning of the examination, the identity of a witness shall be established by the Presiding Judge. The witness shall be informed of the criminal consequences of giving false evidence and may be required to take an oath or solemn declaration that the testimony given by the witness is true.

38.4 After the witness has given evidence questions may be put to the witness by the judges. Subject to the control of the Presiding Judge or the judge delegated to

collect evidence, questions may also be put to witnesses by the lawyers of the parties.

38.5 A witness may refuse to give evidence on:

(a) What a person has said to him or her in a religious confession;

(b) Facts that have come to the knowledge of the witness, or advice given by a witness, in his or her capacity as a lawyer or a doctor of medicine or through the performance of some other occupation or activity implying the obligation of confidentiality of information obtained in the performance of such occupation or activity; or

(c) Facts which would tend to incriminate either himself or herself or his or her spouse ascendants or descendants in direct line, and in a collateral line to the second degree.

38.6 The Presiding Judge or the judge delegated to collect evidence shall inform witnesses of their right to refuse to give evidence as indicated in sub-section 6 above as appropriate.

38.7 Before giving evidence the witness shall take the following oath or solemn declaration, if so required by the Presiding Judge or the judge delegated to collect evidence:

“I, \_\_\_\_\_, swear (or solemnly declare) that I shall speak the truth, the whole truth and nothing but the truth.”

38.8 The court recorder shall take verbatim minutes in order to accurately reflect the statement of the witness. The minutes shall be signed by the Presiding Judge or by the judge responsible for conducting the examination of the witness and by the court recorder.

### Section 39 Expert Witness Report

39.1 The Special Chamber may, and a party may apply to the Special Chamber to appoint an expert witness who shall prepare an expert report. The order appointing an expert witness shall define the expert’s tasks and set a time-limit within which the expert witness is to prepare a report.

39.2 A person may not be appointed expert witness in a claim in which he or she

(a) Has previously taken part as agent or adviser;

(b) Has acted for one of the parties;

(c) Has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity;

(d) Is related by family or marriage to any of the parties or, in the case of a party being a legal entity or other body that may be party to a proceeding before the Special Chamber pursuant to section 5 Special Chamber Regulation, is related by family or marriage to a person who has a controlling interest in such entity, who is a member of the board of such entity or who holds major managerial functions in such entity; or

(e) Has or acquires a direct or indirect interest in any Enterprise or in any entity seeking an ownership interest in an entity that is party to the proceedings.

39.3 Expert witnesses shall receive a copy of the order, together with all the documents necessary for carrying out their task. They shall be under the supervision of the Judge Rapporteur, who may be present during their investigation and who shall be kept informed of the progress in carrying out their task.

39.4 The Special Chamber may request the party applying for an expert witness or the parties to pay a deposit to the Registry of the Special Chamber of a sum sufficient to cover the costs related to the preparation of the report by the expert witness.

39.5 Experts witnesses may give their opinion only on issues and facts which have been expressly referred to them.

39.6 After expert witnesses have prepared their reports, copies of the reports shall be submitted immediately to the Special Chamber. The Registry shall serve copies of the reports on each party.

39.7 The Special Chamber may order that the expert witness be examined at a hearing. The examination of the expert witness shall take place in the hearing on the claim. The Presiding Judge and the judges may put questions to the expert witness. Subject to the control of the Presiding Judge, questions may also be put to the expert witness by the lawyers of the parties.

39.8 Before taking up their appointment expert witnesses may be required to take or make the following oath or solemn declaration:

“I, \_\_\_\_\_, swear (or solemnly declare) that I shall conscientiously and impartially carry out my task; that I am neither related to any of the parties to the litigation nor have any financial interest in any of the parties or the outcome of

the litigation other than the fees which I receive from the Court; that I shall provide to the Court copies of all the evidence upon which I shall base my opinion; that I shall base my opinion only on facts that I believe to be true; and that I honestly and in good faith shall hold the opinion which I shall state to the Special Chamber.”

#### Section 40

##### Objections against Witnesses and Expert Witnesses

40.1 If one of the parties, upon application to the Special Chamber, objects to the relevance or to the competency of a witness or an expert witness, the Special Chamber shall make a determination regarding such application taking into consideration the supporting facts and legal arguments set out in the application and any submissions from other parties.

40.2 If a witness refuses without justification to give evidence or an expert refuses without justification to give evidence or to file a report, or a witness or an expert refuses to take or make an oath or solemn declaration, the Special Chamber may impose a financial penalty as the Special Chamber deems appropriate on such witness or expert witness and the Special Chamber shall refuse to consider the testimony of the witness or the report or testimony of the expert when making its final determination for the claim.

40.3 An objection, if any, to a witness or to an expert witness must be raised promptly. The statement of objection must set out the grounds of the objection and provide evidence or a legal argument in support of the objection.

#### Section 41

##### Reimbursement of Witnesses and Expert Witnesses

41.1 Witnesses and expert witnesses shall be entitled to reimbursement of their reasonable travel and other reasonable expenses. The Registry of the Special Chamber may make advance payments to witnesses and expert witnesses for such expenses.

41.2 Witnesses shall be entitled to compensation for loss of earnings and expert witnesses shall be entitled to be paid reasonable fees for their services. The Registry of the Special Chamber shall pay witnesses and expert witnesses their compensation or fees after they have carried out their respective obligations. The rates payable in respect of compensation for loss of earnings and expert reports shall be determined by the Special Chamber.

Section 42  
Production of Documents or other Physical Evidence

42.1 A party may offer evidence by producing documents or physical items in the party's possession or control.

42.2 If the party that bears the burden of proof for a particular fact has a document or physical item which contains evidence for such fact in its possession or control, it shall submit a copy of the document or a photograph of the physical item with its pleadings, or as soon thereafter as practical. The Special Chamber may order that the original of the document or the physical item be produced at the hearing of the claim.

42.3 If evidence for a particular fact is contained in a document or physical item which the party that bears the burden of proof does not have in its possession or control but has reason to believe that another party has in its possession or control, such party may make a written request that the other party serve the document, a certified copy of the original document or the physical item. The requesting party shall submit a copy of such request to the Special Chamber.

42.4 If the party from which a document or physical item has been requested under sub-section 3 above refuses to produce the document or physical item or fails to respond to the request within a reasonable time, the requesting party may file an application with the Special Chamber for an order to the other party to produce such document or physical item. The Special Chamber shall order the other party to produce the document or physical item, if it is satisfied that the document or physical item is within that party's possession or control and that its production is necessary in the interests of justice. If that party fails without reasonable excuse to produce a document or physical item in breach of an order under this section, the Special Chamber may impose a financial penalty as the Special Chamber deems appropriate on such party, and may draw such inferences against that party as it thinks fit from the party's failure to produce the document or item as ordered.

42.5 If the party that bears the burden of proof for a particular fact has reason to believe that this fact is contained in a document or physical item which is in possession or control of a person not a party to the proceeding, the party may file an application with the Special Chamber for an order for that person to produce the document or physical item. The Special Chamber shall order the person to produce the document or physical item if it is satisfied that the document or physical item is within that person's possession or control and that its production is necessary in the interests of justice. If that person fails without reasonable excuse to produce a document in breach of an order under this section, the Special Chamber may impose a financial penalty as the Special Chamber deems appropriate on such person.

Section 43  
Site Visits or Inspection of Objects

43.1 A visit to a site or an inspection of an object may be requested upon the application of any party where the fact to be proven cannot be proven by means of witness examination, expert reports or the presentation of documents or other physical items.

43.2 Evidence by way of a visit of a site or an inspection of an object shall be offered by the party that bears the burden of proof for a particular fact through identification of the particular site or object and the fact that shall be proven by such visit or inspection.

43.3 If the site or object is in the possession of a person not party to the proceedings, the party bearing the burden of proof may apply for an order against such person to grant access to the site or object concerned.

Section 44  
Public Hearings

Oral proceedings shall be open to the public. The Special Chamber may order that the public be excluded from a hearing, provided that such exclusion is warranted by the safety of any of the parties or of their lawyers or by considerations of public safety and order.

Section 45  
Orderly Conduct at Hearings

45.1 Any party, lawyer, witness or other participant in oral proceedings whose conduct towards the Special Chamber, a judge or the Registrar or any other officer of the Special Chamber is incompatible with the dignity of the Special Chamber, or who acts offensively towards another party or such party's lawyer, or who uses his or her rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order from the Special Chamber. The person concerned shall be given the opportunity to defend himself or herself. The order shall have immediate effect.

45.2 Where a lawyer for a party is excluded pursuant to sub-section 2 above, the proceedings shall be suspended for a period fixed by the Presiding Judge in order to allow the party concerned to appoint a new lawyer.

45.3 The Presiding Judge may exclude from oral proceedings any observer, whose conduct is incompatible with the dignity of the Special Chamber or who disturbs the oral proceedings.



Section 46  
Notice of Hearing

46.1 The parties shall be summoned to the first hearing by written notice. The notice shall contain the date, time and venue of the hearing and shall be served on the parties no later than two weeks before the date of the hearing.

46.2 Upon application by any of the parties, the Presiding Judge shall postpone a hearing, if the party shows that it is prevented from appearing at the hearing for an important reason. The other party may be given an opportunity to comment on the request. The Presiding Judge shall decide on the postponement of the hearing and such decision shall be served on the parties. When granting a request for postponement, the Presiding Judge may order that the requesting party pay the costs which that party has caused the other party or parties to incur.

Section 47  
Proceedings at Hearings

47.1 A sub-panel of judges shall be presided over by an international judge, who shall discharge the duties conferred on the Presiding Judge by the present Administrative Direction. The Presiding Judge shall be responsible for the proper conduct of the hearing. At the beginning of each hearing, the Presiding Judge shall ascertain the attendance of the parties and their lawyers.

47.2 A party that is represented in a proceeding by a lawyer may address the Special Chamber only through its lawyer, unless a judge puts a question directly to a party.

47.3 After the opening of the first hearing, the Presiding Judge shall give a short introduction to the claim, giving particular regard to the facts in dispute. The parties may be given the opportunity to give a brief oral presentation of their arguments. The parties shall confine their presentations to facts and legal issues material to the claim.

47.4 After the parties have presented their arguments, the evidence that has been collected by the panel, or by an international judge or sub-panel delegated for that purpose, shall be examined by the full panel.

47.5 Following the examination of evidence, the parties shall be given an opportunity to present oral submissions on facts and law material to the claim. The Special Chamber may limit the period of time allocated to each party for such submissions.

47.6 Once the parties have presented their closing submissions, the oral proceedings shall end. Whenever possible, oral proceedings shall take place during

a single hearing. Additional hearings shall be scheduled only if all evidence and submissions could not be presented at one hearing.

47.7 The Registrar shall ensure that minutes of the hearing are drawn up. Such minutes shall be signed by the Presiding Judge.

47.8 Where an order has been made to dispense with the collection of testimony or other evidence pursuant to section 34.4 of the present Administrative Direction, the parties shall be given an opportunity to present oral submissions on the law material to the claim, and sub-sections 3 through 5 above shall not apply.

## **CHAPTER XI: JUDGEMENT**

### Section 48 Judgement

48.1 A decision of the Special Chamber adjudicating a claim shall be set forth in a judgement which shall meet the requirements of section 9.3 Special Chamber Regulation. The Special Chamber shall base a judgement upon an analysis of the facts presented during proceedings and the applicable law.

48.2 Any relief awarded by the Special Chamber shall not exceed the relief sought by the claimant.

48.3 If the respondent accepts the claim, the Special Chamber shall deliver a judgement in favour of the claimant.

48.4 An original of the judgement, signed by the Presiding Judge, or by the International judge or the judge presiding over the panel, to which the conduct of the hearing was delegated, and the Registrar, shall be stamped and deposited at the Registry. Each party shall be served with a copy of the judgement within thirty days of its adoption.

48.5 The judgement shall be in English and in the other language or languages used by the parties.

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

48.7 If a final judgement can be appealed, the Appellate Panel may upon application of the appellant postpone enforcement of such judgement until it has given its decision on the appeal.

Section 49  
Rectification of Clerical Errors

49.1 The Special Chamber may, upon its own initiative or upon application by a party made within two weeks of the service of a Judgement, rectify any clerical and calculation errors in the judgement.

49.2 A rectification order shall be attached to the original of the rectified Judgement.

Section 50  
Omissions

50.1 If the Special Chamber should omit to give a decision on a specific part of a claim or on costs, any party may, within one month of service of the judgement, apply to the Special Chamber to supplement its judgement.

50.2 The application for a supplement to the judgement shall be served on the opposing parties and the Presiding Judge shall prescribe a period within which the parties may file opposing arguments in writing, if any. After the expiry of the prescribed period, the Special Chamber shall decide on the application.

Section 51  
Publications of Decisions

The Registrar shall arrange for the publication of decisions of the Special Chamber, which shall be in English and in the other language or languages used by the parties.

**CHAPTER XII: DEFAULT JUDGEMENTS**

Section 52  
Default Judgement

52.1 If a respondent, on whom a claim has been duly served, fails to file a defence to the claim in the proper form within the time prescribed pursuant to section 29 of the present Administrative Direction, or if the respondent does not appear in a hearing for which it has been duly summoned, the Special Chamber *ex officio* or upon application of the Claimant may render a default judgement.

52.2 If a duly summoned claimant fails to appear at a hearing or otherwise abandons the proceedings, the Special Chamber upon application of the respondent may render a default judgement dismissing the claim and ordering the claimant to pay all costs of the proceedings.

52.2 Before granting a default judgement to a claimant, the Special Chamber shall consider whether the claim is admissible and whether facts submitted by the claimant support the claim.

52.3 Section 481 through 48.6 of the present Administrative Direction shall apply to a default judgement *mutatis mutandis*.

52.4 A default judgement shall be enforceable as a final judgement by the Special Chamber, according to the provisions of section 48.6, unless or until set aside pursuant to section 53 of the present Administrative Direction. A default judgement cannot be appealed.

52.5 The Special Chamber may postpone enforcement of a default judgement until it has given its decision on any application to set aside the default judgement.

### Section 53

#### Application to set aside a Default Judgement

53.1 Any party against whom a default judgement was entered by the Special Chamber may file an application with the Special Chamber to set aside the default judgement.

53.2 An application to set aside the default judgement must be made within one month of the date of service of the default judgement on the respondent. The application shall be served on the other parties.

53.3 After the application has been served, the Presiding Judge shall prescribe a period within which the other party may submit an opposing argument in writing, if any.

53.4 In a judgement of the Special Chamber on an application to set aside a default judgement the Special Chamber shall:

(a) Uphold the default judgement and reject the application to set it aside; or

(b) Annul the default judgement and order continuation of proceedings.

53.5 A judgement on the application to set aside a default judgement shall be attached to the original of the default judgement and a copy of the judgement shall be served on the parties.

53.6 A judgement on the application to set aside a default judgement can be appealed.

### **TITLE III PROVISIONAL REMEDIES AND COSTS**

#### **CHAPTER XIII: PROVISIONAL REMEDIES**

##### Section 54 Suspension of Enforcement of a Penalty

Upon application by a party to set aside a penalty imposed by the Agency pursuant to section 27.1 of UNMIK Regulation No. 2002/12, the Special Chamber may suspend the enforcement of the penalty, pending the final decision on the claim.

##### Section 55 Preliminary Injunctions

55.1 Upon application by a party, the Special Chamber may issue a preliminary injunction provided the applicant gives credible evidence that immediate and irreparable injury, loss, or damage will result to the party if no preliminary injunction is granted. The request for a preliminary injunction is to be submitted together with a claim, or if submitted subsequent to a claim that has been filed, shall refer to that claim.

55.2 The Special Chamber may decide on an application for a preliminary injunctive relief without a hearing after the other party has had an opportunity to file opposing arguments in writing. In exceptional circumstances the Special Chamber may decide on the application for a preliminary injunction without serving the application to the other party. Preliminary injunctions shall only be granted for a limited period of time and may be extended upon application.

55.3 Preliminary injunction decisions shall be in writing and shall:

(a) Summarise the factual and procedural background of the proceedings, as far as they relate to the preliminary injunction;

(b) State the injury or damages the applicant party is likely to suffer if the preliminary injunction is not granted and why it will be irreparable;

(c) Indicate the findings of fact and reasons in law upon which the preliminary injunction is granted; and

(d) Indicate the time when the preliminary injunction will expire.

55.4 The Special Chamber before issuing a preliminary injunction may require the applicant to deposit with the Special Chamber a security, in such sum as the Special Chamber deems appropriate for the reimbursement of such costs and damages as may be incurred or suffered by any party subject to the preliminary injunction who may be subsequently found to have been wrongfully subjected to the injunction.

55.5 A decision granting injunctive relief to a party shall be binding upon all parties involved. If a Trial Panel issues such decision, it may be appealed.

## **CHAPTER XIV: COSTS**

### Section 56

#### Decision on Costs

56.1 A final judgement on a claim shall include a decision on costs if they have been applied for in the successful party's pleadings.

56.2 The unsuccessful party shall be ordered to pay such costs as determined in the final judgement. If there are several unsuccessful parties, the Special Chamber shall decide on how the costs are to be shared.

56.3 Where each party succeeds on some claims and fails on others, or in exceptional circumstances, the Special Chamber may order that the costs be shared or that the parties bear their own costs.

56.4 The Special Chamber may order a party, even if successful, to pay costs which the Special Chamber considers that party to have unreasonably or vexatiously caused another party to incur.

56.5 If costs are not claimed by the successful party or the Special Chamber has not otherwise decided, each party shall bear its own costs. Where a claim does not proceed to judgement the costs shall be apportioned as agreed between the parties, or if not agreed, at the discretion of the Special Chamber.

56.6 If the respondent accepts the claim no later than two weeks after the claim has been served on it pursuant to section 25.6, the costs shall be borne by the claimant, unless the claimant can prove that it sought relief from the respondent prior to filing a claim.

Section 57  
Calculation of Costs

57.1 The calculation of costs shall include court fees, reasonable lawyer fees, compensation for loss of earnings of witnesses, reasonable fees of experts, reasonable travel and other reasonable expenses of witnesses and experts, as incurred.

57.2 The Ministry of Justice shall draw up a schedule of court fees. In the absence of such schedule the Special Chamber may establish a temporary schedule.

**TITLE IV**  
**APPEAL**

**CHAPTER XV: APPEAL PROCEEDINGS**

Section 58  
General Provisions

58.1 Decisions or Judgements of Trial Panels may be appealed to the Appellate Panel.

58.2 The rules of procedure and evidence that govern proceedings in the Trial Panels shall apply mutatis mutandis to proceedings in the Appellate Panel. The Presiding Judge of the Appellate Panel may issue practice directions, in consultation with the Presidium, addressing detailed aspects of the conduct of proceedings before the Appellate Panel.

58.3 A decision of a court

(i) to which a matter has been referred by the Special Chamber pursuant to section 4.2 Special Chamber Regulation, or

(ii) that has decided a claim for which primary jurisdiction lies with the Special Chamber,

may be appealed:

(a) To the Special Chamber, in accordance with the procedures set out below; or

(b) To another competent court in Kosovo, if the Special Chamber so directs, provided that an appeal against a decision by a court on a matter for which the Special Chamber has primary jurisdiction shall always be heard by the Special Chamber.

#### Section 59 Filing of Appeal

59.1 An appeal shall be filed with the Special Chamber within two months of the service of the judgement on the party appealing.

59.2 Notice of the appeal shall be served on the Trial Panel or the court against the decision of which the appeal is brought and all parties to the proceedings before the Trial Panel or the court against whose decision the appeal is brought.

59.3 Upon receipt of the notice of the appeal, the Trial Panel shall transmit the case file to the Appellate Panel. If the notice of appeal was served on a court against the decision of which the appeal is brought, the court shall transmit the case to the Special Chamber upon receipt of the notice of appeal.

#### Section 60 Content of Appeal

60.1 The appeal shall state:

(a) The name and address of the appellant;

(b) The names of the other parties to the proceedings before the Trial Panel or the court against the decision of which the appeal is brought;

(c) The legal arguments on which the appeal is based; and

(d) The remedy sought by the appellant.

60.2 The decision of the Trial Panel or the court against the decision of which the appeal is brought shall be attached to the appeal. The appeal shall state the date on which the decision was served on the appellant.



60.3 The appeal may seek to set aside, or to modify, in whole or in part, the decision of the Trial Panel or the court against the decision of which the appeal is brought

60.4 The subject matter of the proceedings before the Trial Panel or the court against the decision of which the appeal is brought may not be changed in the appeal.

Section 61  
Response to Appeal

61.1 Any party to the proceedings before the Trial Panel or the court against the decision of which the appeal is brought may file a response within two months of service on it of the notice of appeal. The time-limit for filing a response may be extended in exceptional circumstance by the Special Chamber.

61.2 The response shall contain:

- (a) The name and address of the party filing it;
- (b) The date on which notice of the appeal was served on it;
- (c) The legal arguments on which the response is based; and
- (d) The remedy sought by the respondent.

61.3 The response may seek:

- (a) To dismiss, in whole or in part, the appeal or to set aside, in whole or in part, the decision of the Trial panel or the court against the decision of which the appeal is brought; or
- (b) To uphold the decision of the Trial Panel or the court against the decision of which the appeal is brought,;
- (c) The remedy, in whole or in part, sought before the Trail Panel or the court against the decision of which the appeal is brought.

61.4 Upon receipt of the appeal, the Special Chamber shall review it to determine whether it conforms to the requirements of the present Administrative Direction.. If the Special Chamber decides that the appeal does not satisfy these requirements, it shall order the appellant forthwith to supplement its appeal accordingly and within a reasonable time, failing which the application shall be dismissed and the appeal shall be rejected.

Section 62  
Reply and Rejoinder

62.1 The appeal and the response may be further supplemented by a reply and a rejoinder if the Presiding Judge, on application made by the appellant within seven days of service of the response, considers such further pleading necessary and expressly allows the submission of a reply in order to enable the appellant to put forward further arguments, including points of law, or to provide a basis for the decision on the appeal. The Presiding Judge shall prescribe the date by which the reply is to be submitted and, upon service of that pleading, the date by which the rejoinder is to be submitted.

62.2 Where the response seeks to set aside or to uphold, in whole or in part, the decision of a Trial Chamber or court against the decision of which the appeal is brought, on a legal argument that was not raised in the appeal, the appellant may submit a reply to that legal argument alone within one month of the service of the response in question. The Presiding Judge shall prescribe the date by which any rejoinder is to be submitted.

62.3 Written proceedings are closed:

(a) If the appellant does not make an application under paragraph 1 of the present section seven days after service of the response;

(b) If the appellant makes an application under paragraph 1 of the present section and the Presiding Judge finds that further pleading is unnecessary on that date;

(c) At the expiry of the period prescribed by the Presiding Judge for filing a reply, if no reply is filed;

(d) On the date when the rejoinder is filed; or

(e) At the expiry of the period prescribed by the Presiding Judge for filing a rejoinder, if no rejoinder is filed.

62.4 All references to the Presiding Judge in this section shall apply *mutatis mutandis* to the Judge- Rapporteur or to the sub-panel to which the case is delegated pursuant to section 11 of the present Administrative Direction.

Section 63  
Oral Appeal Proceedings

63.1 Sections 34 and 47 of the present Administrative Direction shall apply *mutatis mutandis* to the presentation of a report by the Judge Rapporteur and the conduct of oral proceedings.

63.2 The Appellate Panel, acting on a report of the Judge-Rapporteur, may decide to dispense with the oral part of the proceedings. The Appellate Panel shall take into account any application for oral proceedings submitted by any of the parties setting out the reasons for which it wishes to be heard. The application shall be submitted with the notice of appeal or the response.

Section 64  
Submission of Additional Evidence

64.1 A party may apply to present to the Appellate Panel additional evidence which was not available to the party at the first instance proceedings. Such application must be in written form, served on the other party and filed with the Registrar not less than fifteen days before the date of the hearing.

64.2 The Appellate Panel shall authorize the presentation of such evidence if it considers it to be in the interests of justice. The Appellate Panel may also authorise the presentation of evidence that was available to the party at the time of the first instance proceedings, if it deems the presentation of such evidence essential for a full consideration of the case, and the party was through no fault of its own prevented from presenting the evidence earlier.

Section 65  
Disposal of Appeal

The Special Chamber may:

(a) Uphold or set aside, or modify, in whole or in part, the decision of the Trial Panel or the court against the decision of which the appeal is brought;

(b) Amend any order made by the Trial Panel or the court against the decision of which the appeal is brought; or

(c) Order the retrial of the claim, in whole or in part before the same or another Trial Panel or before the same or another court in Kosovo.

Section 66  
Costs

66.1 In its decision on the appeal, the Appellate Panel shall make a decision as to costs, both as to the proceedings at first instance and at appeal. The provisions of section 56 and 57 shall apply *mutatis mutandis*.

66.2 In its decision on costs the Appellate Panel shall calculate separately costs for the proceedings at first instance and at appeal.

**TITLE V**  
**SPECIAL PROCEEDINGS**

**CHAPTER XVI: COMPLAINTS BROUGHT UNDER UNMIK  
REGULATION NO. 2003/13**

Section 67  
Complaints related to List of Eligible Employees

67.1 The procedure for complaints brought under section 10.6 of UNMIK Regulation 2003/13 of 9 May 2003 (“section 10.6 complaints”) shall be governed by the present Administrative Direction, which shall apply to section 10.6 complaints *mutatis mutandis*.

67.2 Upon receiving the list of eligible employees pursuant to Section 10 UNMIK Regulation 2003/13, the Kosovo Trust Agency shall publish a provisional list of eligible employees together with a notice to the public of the right of any person to file a complaint within 20 days with the Agency requesting the inclusion in or challenging the list of eligible employees. Such request or challenge shall be substantiated by facts and contain a legal basis for the request or challenge.

67.3 The notice to the public shall contain a copy of a form for filing a request or challenge. Such form shall indicate that information shall be included which is necessary for the Kosovo Trust Agency to evaluate the request or challenge.

67.4 Upon receipt of any request or challenge relating to a list of eligible employees, the Kosovo Trust Agency shall require the submission of evidence and additional information if such is needed to properly evaluate such requests or challenge. The Agency may decide to conduct evidentiary hearings, which shall be duly recorded, for all who wish to give testimony. After all evidence has been submitted, the Kosovo Trust Agency shall allow any party or representing attorney to present arguments in support of the request or challenge.

67.5 After having duly addressed all requests and challenges, the Kosovo Trust Agency shall if necessary adjust the list of eligible employees accordingly, and by a decision of its Board of Directors in conformity with Section 10.2 of UNMIK Regulation 2003/13, which shall contain a reasoned justification for the inclusion or exclusion of each person on the list and the acceptance or refusal of other challenges to the list, officially establish the list of eligible employees. The list of eligible employees so established shall be published in conformity with Section 10.3 of UNMIK Regulation 2003/13.

67.6 A complaint made in accordance with section 10 of UNMIK Regulation 2003/13 to the Special Chamber shall be in writing and shall contain:

(a) The name or names of the individual or individuals in whose name the complaint is brought (the 'complainant(s)');

(b) The address for service of each complainant;

(c) The detailed legal and factual grounds for seeking inclusion in or challenging the list of eligible employees as established by the Agency or the distribution of funds from the escrow account provided for in section 10 of UNMIK Regulation 2003/13.

67.7 A copy of the complaint shall be served by the Special Chamber on the Kosovo Trust Agency within 3 days of the date of filing with the Registry.

67.8 The Agency, who is acting as Respondent to such complaints, shall file within 7 days of the date of service of the complaints written observations on the complaints together with its decision, minutes, testimony and all documents considered by the Kosovo Trust Agency in compiling the list, in English and in the language of the complaints.

67.9 The written observations filed by the Agency shall be served on the complainant within 3 days of the date of filing with the Registry.

67.10 An oral hearing shall be held, if requested in writing by a complainant or the respondent. The Trial Panel may in its own discretion decide that an oral hearing shall be held. If an oral hearing is to be held, the Trial Panel shall inform the complainant and the Agency of the date of such hearing by written notice.

67.11 The Special Chamber shall arrange, where necessary, for the translation into English of the complaint, any subsequent submissions and any supporting documents. Such translations shall be supplied to the complainant(s) and the Agency as soon as they are available, which shall be not later than 7 days before the oral hearing.

67.12 The decision of the Trial Panel, which may be appealed, shall be served on the complainant and the Agency as soon as possible after the decision is finalised, but in any event not later than 90 days of the date on which the complaint was filed with the Registry.

## **CHAPTER XVII: PROCEEDINGS UNDER UNMIK REGULATION NO. 2005/48**

### Section 68

#### Reorganization and Liquidation Proceedings

68.1 The procedure for challenges to decisions of the Kosovo Trust Agency, an Administrator, or a liquidation committee pursuant to UNMIK Regulation 2005/48 shall be governed by present Administrative Direction, which shall apply *mutatis mutandis*, provided that the Trial Panel with competence under section 3.2 (e) Special Chamber Regulation shall regularly delegate the proceedings pursuant to section 11.3 (a) of the present Administrative Direction to a Judge-Rapporteur that is specialised in such matters. The provisions of section 11.2 of the present Administrative Direction shall apply *mutatis mutandis*, provided that the Judge-Rapporteur may seek from the Trial Panel to issue Decisions or Judgements as the panel deems fit.

68.2 An application by an Administrator for a waiver or for consent from the Special Chamber in accordance with sections 11 and 15 of UNMIK Regulation 2005/48, any filing of a reorganization plan, a Final Report to the Court, or of any other application requiring court approval, shall be accompanied by evidence that a copy of the application has been served on the Agency, the Creditor's Committee, any lien holder of and any title claimant to the affected property. Any interested person shall have the right to file with the Special Chamber a challenge to the application or any other submissions within seven (7) days of service. Any application by the Administrator hereunder shall be in written form with detailed legal and factual grounds for the application.

68.3 "Directions from the Court" under section 46 of UNMIK Regulation 2005/48 may be given by the Trial Chamber only in form of an order binding all parties to the proceedings. The order issuing directions shall be binding upon the applicant, the Administrator and any party that is directly affected by such order.

68.4 Any claimant challenging a decision of the Agency or the Administrator shall submit to the Special Chamber in written form the detailed legal and factual grounds for the challenge together with a copy of the decision challenged. A decision of the Agency or the Administrator can only be challenged before the Special Chamber if such decision was formally issued with reasoned justifications in law and fact.

68.5 A decision by the Agency or the Administrator directed to or affecting a third party has legal validity against such party only if it is formally issued in writing with reasoned justifications in law and fact.

Section 69  
Review of Liquidation Committee Decisions

69.1 The procedure before the Special Chamber for a challenge to the decision of a liquidation committee conducting the liquidation of a Socially-owned Enterprise pursuant to Section 9 of UNMIK Regulation 2002/12, as amended, shall be governed by the present section.

69.2 A Liquidation Committee may conduct evidentiary hearings on contested claims that are dealt within the liquidation procedure. The examined evidence shall be recorded and considered. After all evidence has been submitted, the Liquidation Committees shall allow any party or representing attorney to present arguments in support of the claim.

69.3 Upon completion of the collection of evidence, the Liquidation Committee shall issue a decision on inclusion or exclusion of claims in the schedule of debts. The decision shall be reasoned and notified to all claimants within thirty (30) days. The provisions of section 68.5 of the present Administrative Direction shall apply *mutatis mutandis*.

69.4 Any creditor who has made a claim before a Liquidation Committee may challenge the decision of the Liquidation Committees in conformity with section 39.7 of UNMIK Regulation 2001/6. The decisions of the Liquidation Committee can only be challenged if it refuses the claim in part or in full.

69.5 A challenge to a decision of a Liquidation Committee shall be submitted to the Special Chamber within one (1) month following notification of the final decision of the Liquidation Committee.

69.6 Any claimant challenging a decision of a Liquidation Committee shall submit to the Special Chamber in written form the detailed legal and factual grounds for the challenge together with a copy of the decision challenged. The claimant shall also serve a copy of the challenge to the Liquidation Committee which shall submit its observations and any other materials to the Special Chamber within (2) two weeks.

69.7 After considering the decision of the Liquidation Committee the Trial Panel may adjudge such decision to be correct or unfounded in fact or law, or unfairly prejudicial, and subsequently may uphold, set aside, or amend the decision of the

Liquidation Committee, or remand the decision to the Liquidation Committee for reconsideration.

## **TITLE VII FINAL PROVISIONS**

### Section 70 Applicable Law

70.1 For matters that are not expressly covered by the present Administrative Direction, the Special Chamber shall have authority to issue additional procedural rulings clarifying or complementing its procedural rules as set out in the present Administrative Direction.. Section 10 of the present Administrative Direction shall apply to the issuance of such procedural rulings.

70.2 The Registrar or Deputy Registrar shall arrange for the publication of procedural rulings and practise directions issued by the Special Chamber under the present Administrative Direction, and such publication shall be in English and in other languages used by the parties.

70.3 In interpreting the present Administrative Direction, or in considering any question which is not, in its judgement, answered sufficiently by the present Administrative Direction, the Special Chamber may have regard, with such modifications or qualifications as it considers necessary or appropriate in the circumstances, to:

(a) Any provision of the Law on Contested Procedure applicable in Kosovo; and

(b) Any provision of the applicable law on the powers of the Supreme Court of Kosovo relating to civil matters.

### Section 71 Entry into Force

The present Administrative Direction shall enter into force on 30<sup>th</sup> of June, 2008.

Joachim Rücker  
Special Representative of the Secretary-General