UNITED NATIONS

United Nations Interim Administration Mission in Kosovo



NATIONS UNIES

Mission d'Administration Intérimaire des Nations Unies au Kosovo

> UNMIK/REG/2002/22 20 December 2002

REGULATION NO. 2002/22

ON THE PROMULGATION OF THE LAW ADOPTED BY THE ASSEMBLY OF KOSOVO ON THE ESTABLISHMENT OF AN IMMOVABLE PROPERTY RIGHTS REGISTER

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under Security Council resolution 1244 (1999) of 10 June 1999,

In conformity with sections 9.1.44 and 9.1.45 of the Constitutional Framework for Provisional Self-Government (UNMIK Regulation No. 2001/9),

Taking into account a communication from the President of the Assembly of Kosovo dated 21 October 2002, concerning the Law on the Establishment of an Immovable Property Rights Register, (Law No. 2002/5) adopted by the Assembly of Kosovo on 17 October 2002,

Noting that the Law does not make adequate provision for public notification prior to the registration of immovable property rights,

Recognizing the necessity for such notification to afford persons whose rights may be affected by the registration an opportunity to take action for the protection of their rights,

<u>Hereby promulgates</u> the Law on the Establishment of an Immovable Rights Register (Law No. 2002/5) attached to the present Regulation, subject to the condition that it will become effective once supplementary legislation providing for effective public notification and other necessary safeguards for the protection of persons whose rights may be affected by the registration, is adopted by the Assembly and duly promulgated.

Signed on this 20th day of December 2002.

Michael Steiner Special Representative of the Secretary-General

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ASSEMBLY OF KOSOVO

ASSEMBLY OF KOSOVO

LAW NO. 2002/05

ON THE ESTABLISHMENT OF AN IMMOVABLE PROPERTY RIGHTS REGISTER

The Assembly of Kosovo,

On the basis of Chapter 9, Article 9.1.26 of the Regulation 2001/9 of 25 May 2001, the Constitutional Framework for Provisional Self-Government in Kosovo.

Hereby adopts this Law, as follows

Section 1 Immovable Property Rights Register

- 1.1 The Immovable Property Rights Register (hereinafter the "Register") is hereby established as a mechanism to implement and validate immovable property rights in Kosovo under the Applicable Law.
- 1.2 The Kosovo Cadastral Agency (hereinafter the "KCA") shall have the authority for the overall administration of the Register in compliance with the provisions of the Applicable Law. The Municipal Cadastral Offices (hereinafter the "MCO") shall record immovable property rights in the register under the authority of the KCA and in compliance with the provisions of the present law and administrative guidelines issued by the KCA.
- 1.3 KCA shall determine the level of fees to be charged by the MCO's for the services of registration of immovable property rights.

Section 2 Immovable Property Rights

- 2.1 Immovable property rights, as regulated by the Applicable Law, pertaining to land, buildings and apartments (hereinafter the "immovable property") shall be recorded in the Register.
- 2.2 Immovable property rights include:
 - a. ownership;
 - b. mortgages;
 - c. servitudes; and
 - d. rights of use of socially owned property and state owned property.

Section 3 Registration of Immovable Property Rights

- 3.1 Requests for the registration of immovable property rights shall be made in writing to the MCO where the concerned immovable property is located. The MCO shall confirm the time and date of receipt of the request for registration.
- 3.2 The Applicant requesting the registration of a immovable property right shall attach to the request the documentation to support the immovable property right as required by the Applicable Law and subject to section 3.7 of the present law.
- 3.3 The MCO shall review the submitted documentation, and if the documentation submitted is not sufficient according to the Applicable Law the MCO may set a deadline for the Applicant to submit the complete documentation.
- 3.4 The MCO shall reject registration if the documentation submitted is not sufficient to prove that the Applicant is holder of the:
 - (i) claimed immovable property right;
 - (ii) the request and supporting documents contain apparent irregularities;
 - (iii) the validity of the request or any of the supporting documents is in question;
 - (iv) if documentation is so incomplete that it cannot form a basis for registration.
- 3.5 The MCO shall make its decision pursuant to sections 3.3 to 3.4 in writing.
- 3.6 Without prejudice to Sections 3.3 to 3.4 above, the MCO shall register the immovable property right no later than fifteen (15) days after the receipt of the request for registration and inform the Applicant immediately of its determination. Registration shall be effective as of the entry of the decision of the MCO into the register.
- 3.7 Without prejudice to Section 1.2 (b), UNMIK Regulation No. 1999/23 (on the Establishment of the Housing and Property Directorate and the Housing and

Property Claims Commission) the MCO shall only register a immovable property right in the register if the competent court has issued the appropriate documents in writing to the MCO for the registration of the immovable property right in the Register.

Section 4 Reconsideration

- 4.1 The Applicant may, within thirty (30) days after receiving written information by MCO on the rejection to register the immovable property right, request the MCO to reconsider its decision. The MCO shall confirm the time and date of the request for reconsideration.
- 4.2 The MCO shall make its decision whether or not to register the immovable property right within fifteen (15) days of the receipt of the request for reconsideration.
- 4.3 When the MCO determines that the Applicant has satisfied the criteria for registration, it shall make a record of such determination and shall register the immovable property right accordingly.

Section 5 Correction of the Register

- 5.1 Any person (hereinafter the "Objector") claiming that the registration of an immovable property right is not legally justified and that his/her own immovable property rights are adversely affected thereby may request the MCO to supplement the Register accordingly. The Register shall be supplemented by entering a caveat with respect to the registered immovable property right.
- 5.2 Filing of the caveat shall neither create nor diminish the legal rights of any person. In particular, it shall not operate as a bar to the sale or other transfer of the immovable property but any purchaser shall be deemed to have notice of the Objector's claim or interest in the registered immovable property.
- 5.3 The Objector's request shall be accompanied by the documents as required by Section 3.2 above. The procedure set out in Sections 3.3 to 3.5 shall apply *mutatis mutandis* for filling the caveat.
- 5.4 Upon adjudication of the claim by a court of competent jurisdiction or a determination by the Housing and Property Directorate, the Housing and Property Claims Commission, or any other competent body as may be established by subsequent legislation, the MCO shall correct the Register accordingly.

Section 6
Review of the Decisions by MCO

- 6.1 Within thirty (30) days from the receipt of the written decision by the MCO refusing to register the immovable property right, the Applicant may request the KCA to review the decision of the MCO.
- 6.2 The decision by the KCA pursuant to Section 6.1 above shall be subject to judicial review in accordance with the Applicable Law.

Section 7 Effect of Registration

- 7.1 Once the Register is established, no subsequent transfer of rights in immovable property shall be effective unless registered in accordance with the present law.
- 7.2 Entries in the Register of immovable property rights enjoy the presumption of accuracy, truthfulness, and legality until and unless corrected by means of the procedures established by this law. Entries in the Register shall be made accessible to the general public.

Section 8 Implementation

The Ministry of Public Services shall issue administrative instructions for the implementation of the present law.

Section 9 Applicable Law

The present law shall supersede any provision of the Applicable Law which is inconsistent with the provisions of this law.

Section 10 Entry into Force

This law shall enter into force the day is adopted by the Assembly of Kosovo and its promulgation by the Special Representative of the Secretary-General.