



UNMIK/REG/2005/2  
21 January 2005

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**REGULATION NO. 2005/2**

**ON THE ESTABLISHMENT OF THE INDEPENDENT COMMISSION FOR  
MINES AND MINERALS**

The Special Representative of the Secretary-General,

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

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

In conformity with section 8.1 (q) and (r) of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001), and having consulted members of the Economic and Fiscal Council and the Government,

Duly noting the responsibilities of the Kosovo Trust Agency under UNMIK Regulation No. 2002/12 on the Establishment of Kosovo Trust Agency,

For the purpose of establishing the Independent Commission for Mines and Minerals as an independent regulatory body responsible for regulating and monitoring the mining industry in Kosovo.

Hereby promulgates the following:

Section 1  
Independent Commission for Mines and Minerals

1.1 The Independent Commission for Mines and Minerals (hereinafter the "Commission") is hereby established as an independent body pursuant to section 11.2 of the Constitutional Framework with its headquarters in Pristina.

1.2 The Commission shall consist of the Governing Board (the “Board”) with five Board members including a Chairman, the Director of Mines (the “Director”), the Deputy Director of Mines (the “Deputy Director”), as well as other professional and clerical staff as set out in the present Regulation.

Section 2  
Powers and Responsibilities of the Commission

2.1 The Commission shall regulate and oversee:

(a) The orderly exploration and exploitation of mineral resources in Kosovo in accordance with the applicable law;

(b) The optimal utilization of mineral resources at all mining operations, and minimizing the environment impact of mining operations;

(c) The implementation of international standards for operations in mines and quarries;

(d) The safety of operations in all minerals extraction and processing facilities in accordance with the applicable law and required safety standards; and

(e) The general compliance of mining operations with the terms of licenses, permits agreements and other authorisation instruments.

2.2 The Commission shall be responsible for the performance of the following functions in accordance with the applicable law:

(a) The issuing, transfer, suspension and revocation of exploration and exploitation licenses and permits;

(b) The issuing, suspension and revocation of permits and licenses related to the use of explosives in mining operations;

(c) The conduct of investigation of accidents in mines and quarries and all necessary actions required therefore;

(d) The establishment and maintenance of a database of minerals titles and mining rights; and

(e) The provision of technical assistance to the Government in all matters related to mines and minerals in Kosovo.

2.3 The Commission shall issue regular reports to the Special Representative of the Secretary-General (“SRSG”) through the Deputy SRSG for Economic Reconstruction on all activities of the Commission, including its staffing and organizational and administration matters.

### Section 3 Governing Board

3.1 All powers of the Commission shall be vested in the Board. The Board may delegate certain functions to the Director in addition to those vested in the Director pursuant to the present Regulation.

3.2 Within ninety (90) days after the promulgation of the present Regulation, the members of the Board shall be appointed as follows:

(a) Three (3) members, including the Chairman, shall be appointed by the SRSG upon recommendation by the Deputy SRSG for Economic Reconstruction;

(b) Two (2) members shall be appointed by the SRSG upon recommendation by the Government and after approval by the Assembly.

3.3 The initial members of the Board shall be appointed for the following term:

(a) Two (2) years for the Chairman and one of the other members appointed pursuant to Section 3.2.a;

(b) Three (3) years for the other member appointed pursuant to Section 3.2.a; and

(c) Four (4) years for the two members appointed pursuant to Section 3.2.b.

3.4 Successive Board members shall all be appointed for renewable terms of four (4) years.

3.5 The Board shall begin to perform its functions and to exercise its authority as soon as at least three (3) members have been appointed as provided for in Section 3.2 or the passage of ninety (90) days from the promulgation of the present Regulation, whichever occurs later. Until the Board can perform its functions and exercise its authority, the Director shall perform such functions and exercise such authority.

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

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

(b) Has been excluded or suspended for serious professional misconduct, after due process in accordance with international standards, from the exercise of his profession;

(c) Has or acquires a direct or indirect interest in any business organization that is commercially engaged in the mining sector; or

(d) Has otherwise interests conflicting with his responsibilities under section 2 of the present Regulation.

3.7 Members of the Board are required to validly hold a university degree and to possess at least five (5) years of qualified professional work experience in mining, engineering, geology, market economics, management, accounting or law. At least two (2) members of the Board shall have substantial mining experience.

#### Section 4 Organization of the Board and Voting

4.1 The Chairman shall represent the Board in public and shall manage and organize the work of the Board.

4.2 Board meetings shall be convened by the Chairman on a monthly basis, or when requested by two other members of the Board or by the Director.

4.3 The Board shall make decision by consensus and, if no consensus is reached, by a simple majority of affirmative votes of the Board members present. The Board has a quorum for making decision, if three (3) members are present throughout the meeting in which the decision is made or, where a decision is made outside a meeting, if three (3) of all members requested to decide affirm the decision in writing.

4.4 The Chairman shall chair the Board meetings. If it becomes necessary for the Board to meet in the absence of the Chairman, the Chairman shall authorize another member of the Board to chair the meeting.

4.5 The Board may establish additional procedural rules to govern its operations, which shall be published and provided to any person who requests a copy of such rules.

4.6 The staff of the Commission shall provide the secretariat support services to the Board.

### Section 5 Director

5.1 The Director and the Deputy Director shall be appointed by the SRSB upon recommendation by the Deputy SRSB for Economic Reconstruction. Sections 3.6 and 3.7 of the present Regulation shall apply accordingly to the Director and the Deputy Director.

5.2 The Director shall be the chief executive officer of the Commission and shall be responsible for the following:

- (a) Performing all functions delegated to him by the Board;
- (b) Conducting the ordinary business of the Commission in accordance with any decisions or instructions issued by the Board;
- (c) Organizing, appointing and dismissing staff (other than the Deputy Director) of the Commission in accordance with any decision made or instruction issued by the Board;
- (d) Preparing meetings of the Board and ensuring the proper implementation of decisions made by the Board.

5.3 The Director may attend meetings of the Board but shall have no vote.

5.4 The Deputy Director shall perform the functions of the Director when the Director is unable to perform his duties.

### Section 6 Liability

6.1 Claims for damages caused by a license-holder may only be addressed to the Commission if such claims could not be settled by the license-holder concerned, including his insurance company, and if the damaged party can establish that the Commission has at least partly caused the damage by acting intently or with gross negligence in contradiction with best administrative practices.

6.2 The Director, professional and administrative staff of the Commission shall not be liable to any party other than the Commission, for any failure to act action taken on behalf of the Commission and within the scope of the authority vested in Director, the professional or administrative staff by the present Regulation.

Section 7  
Accountability

7.1 The Board collectively and Director shall be accountable to the SRSG for compliance of the Commission at any time with:

(a) United Nations Security Council resolution 1244 (1999);

(b) The provisions of the present Regulation and any other regulation, administrative direction, administrative instruction or determination, which the SRSG may issue in relation to the present Regulation; and

(c) Any other law applicable in Kosovo.

7.2 The Special Representative of the Secretary-General may at any time:

(a) Repeal or modify any decision of the Commission if he/she determines such decision fails to comply with section 6.1; and

(b) Order any action of the Commission which he determines necessary to comply with section 6.1.

Section 8  
Financial Provisions

8.1 The Commission shall determine its operating expenses and estimated revenues yearly in advance and in the form of a budget plan provided to the Ministry of Economy and Finance by the Commission in time for the adoption and review of the Kosovo Consolidated Budget. The budget plan of the Commission shall be used Ministry of Economy and Finance in the budgetary process and may be updated regularly by the Commission in accordance with budgetary requirements.

8.2 The revenue derived from the royalties, license fees and other charges levied pursuant to the present Regulation and subsequent regulations, administrative directions or other legislative instruments shall be deposited into the Kosovo Consolidated Fund and appropriated for authorized purposes under the relevant budgetary category and in accordance with the budgetary process.

8.3 Designated donor funds for the Commission shall be appropriated in the Kosovo Consolidated Budget, properly recorded as such in the Treasury Accounting record, and shall be deemed authorized expenditures for the purposes of the Commission.

Section 9  
Implementation

The SRSG may issue Administrative Directions for the implementation of the present Regulation.

Section 10  
Applicable Law

This Regulation shall supersede any provision in the applicable law that is inconsistent with it.

Section 11  
Entry into Force

This Regulation shall enter into force on the 21st day of January 2005.

Søren Jessen-Petersen  
Special Representative of the Secretary-General