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THE OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO

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**LAW No. 04/L-033
ON THE SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO
ON PRIVATIZATION AGENCY RELATED MATTERS**

Assembly of Republic of Kosovo,

Pursuant to article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON THE SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON PRIVATIZATION AGENCY
RELATED MATTERS**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Special Chamber**

1. As of the effective date of this law:

1.1. the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters previously established by the Special Chamber Regulation is hereby re-named as the "Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo Related Matters"; and

1.2. the jurisdiction and competencies of the Special Chamber, as well as the rules governing its organization and operation and the appointment of judges to serve thereon, shall be as established by and provided for in the present law, which supersedes and replaces the Special Chamber Regulation.

2. The seat of the Special Chamber shall be in Pristina. If the Special Chamber or any panel thereof so decides, hearings on a particular matter may be conducted in another location.

3. The Special Chamber is a part of the Supreme Court of Kosovo, as provided by Article 21 of Law No.03/L-199 "On Courts".

**Article 2
Definitions and References**

1. Terms used in this law shall have the following meaning:

1.1. **Agency** - the Privatization Agency of Kosovo established by the Law on the Privatization Agency of Kosovo;

1.2. **Asset** - the meaning specified in Article 3 of the PAK Law.

1.3. **Comprehensive Proposal** - the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007;

1.4. **Corporation** - the meaning specified in Article 3 of the PAK Law.

1.5. **Decision** - any determination, other than a Judgment, made or issued by a court or a panel, subpanel or single judge of the Special Chamber and shall include, but not be limited to, any ruling or order;

1.6. **Enterprise** - the meaning specified in Article 3 of the PAK Law;

1.7. **International Judge** - every judge of the European Security and Defense Policy Mission that has been appointed in accordance with the provisions of the Comprehensive Proposal for the Kosovo Status Settlement.

1.8. **Judgment** - the final determination made or issued by a court or a panel, sub-panel or single judge of the Special Chamber establishing the rights and obligations of the parties in a case, even if such final determination is subject to appeal;

1.9. **KTA** - the Kosovo Trust Agency, the predecessor of the Privatization Agency of Kosovo;

1.10. **KTA Regulation** - UNMIK Regulation No. 2002/12 of 13 June 2002 on the Establishment of the Kosovo Trust Agency;

1.11. **Person** - a natural person, an undertaking or a public authority;

1.12. **Public Authority** - any governmental executive authority, public body, ministry, department, agency, or other such authority that exercises executive, legislative, regulatory, public administrative or judicial powers. The term "public authority" shall also include any otherwise private organization or establishment to that extent it exercises any of the afore-mentioned powers pursuant to a grant of authority under a law, regulation or sub-legal act or pursuant to a delegation of authority from another Public Authority;

1.13. **PAK Law** - Law No. 03/L-067, "On the Privatization Agency of Kosovo" of 15 June 2008, including the annex thereto;

1.14. **Shares** - the shares of, or other ownership interest in, an Enterprise or Corporation;

1.15. **Special Chamber** - the Special Chamber of the Supreme Court of Kosovo on Privatization Agency Related Matters;

1.16. **Special Chamber Regulation** - UNMIK Regulation 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; and

1.17. **Undertaking** - any enterprise, corporation, partnership, joint venture, legal person, association, project, branch, office, or any other organization or establishment (regardless of ownership, domicile or place of business or establishment).

2. Words of any gender used in the present law shall include any other gender and words in singular number shall be deemed to include the plural and the plural to include the singular.

3. Unless the context clearly requires another interpretation, any reference in this law to another law, an UNMIK regulation or a sub-legal act, or any specific provision(s) thereof, shall be interpreted as including any and all amendments thereto. If such a law, regulation or sub-legal act is repealed and replaced with successor legislation governing the same subject matter, such reference shall – unless the context clearly requires another interpretation – be interpreted as meaning such successor legislation and, where applicable, the analogous provision(s) thereof.

4. Beginning on the effective date of the present law any reference in any element of the law of Kosovo to the Special Chamber Regulation or any specific provisions(s) thereof, shall be interpreted as meaning the present law and, where applicable, the analogous provision(s) of this law.

CHAPTER II COMPOSITION AND ORGANIZATION OF THE SPECIAL CHAMBER

Article 3 Composition, Organization and Appointment

1. The Special Chamber shall be composed of up to twenty (20) judges, twelve (12) of whom shall be citizens of Kosovo and eight (8) of whom shall be international judges. At least two (2) of the judges who are citizens of Kosovo shall be from minority communities.

2. The President of the Republic of Kosovo shall appoint, re-appoint and dismiss the judges of the Special Chamber who are citizens of Kosovo upon the proposal of the Kosovo Judicial Council. The appointment, re-appointment and dismissal of the judges who are citizens of Kosovo shall comply with the same process and requirements as are applicable to the appointment, re-appointment and dismissal of judges of the Supreme Court.

3. The European Security and Defence Policy Mission shall appoint, re-appoint and dismiss the international judges of the Special Chamber in accordance with the internal rules and procedures of the European Security and Defence Policy Mission.

4. Any person who is a citizen of Kosovo and who is appointed to to serve as a judge on the Special Chamber shall be required to take the same oath as is required of the judges on the Supreme Court who are citizens of Kosovo.

5. The President of the Special Chamber shall be chosen by the judges of the Special Chamber.

6. All persons appointed to serve as judges on the Special Chamber shall have extensive and substantial professional legal education and experience in those legal subject areas covered by the various specialized panels of the Special Chamber.

7. With particular regard to the positions on the Special Chamber reserved for international judges, all candidates proposed for such positions shall be widely recognized by their respective legal communities for their competence and integrity. In addition, such candidates collectively shall have a broad range of extensive and substantial professional legal education and experience in the following areas:

7.1. property law;

7.2. the law of, and the jurisprudence relating to, the European Convention on Human Rights;

7.3. the bankruptcy and insolvency law of a jurisdiction that permits the debtor to remain in possession of, and to operate, an enterprise during reorganization proceedings;

7.4. the law of business organizations and corporate governance; and

7.5. commercial law.

8. The Special Chamber shall have five specialized panels and one appellate panel. The appellate panel shall have exclusive final appellate jurisdiction on all matters within the competence of the Special Chamber.

9. The President of the Special Chamber shall assign each specialized panel primary jurisdiction within the Special Chamber over one of the following subject areas:

9.1. claims and other matters related to the privatization process;

9.2. claims and other matters related to entitlements of employees under Article 10 of UNMIK Regulation No. 2003/13 or any successor legislation dealing with such entitlements;

9.3. general ownership and creditor claims;

9.4. claims and other matters related to the liquidation of an Enterprise conducted by the KTA pursuant to the KTA Regulation or by the Agency pursuant to the Law on the Privatization Agency of Kosovo; and

9.5. all claims and other matters arising under or within the scope of UNMIK Regulation No. 2005/48 or any successor legislation thereto, and all claims, matters, issues or proceedings arising in or related to a case under or within the scope of such regulation or successor legislation; this specialized panel may also be assigned to handle claims described in paragraph 9.4 above.

10. Each specialized panel shall be composed of one international judge and two judges who are citizens of Kosovo. For each specialized panel, the President of the Special Chamber shall, after consultation with the President of Kosovo and the European Security and Defence Policy Mission, appoint one judge to serve as its presiding judge. Any such presiding judge may, with the consent of the Presidium, temporarily delegate such function to another judge of the concerned specialized panel.

11. The Special Chamber shall have a Presidium. The Presidium shall be comprised of the President and the presiding judges of the five specialized panels. The Presidium shall assign the other members of each specialized panel.

12. The appellate panel shall be composed of five (5) judges, three (3) of whom must be international judges and two

(2) shall be citizens of Kosovo. The President of the Special Chamber shall serve as the presiding judge of the appellate panel. The four (4) other members of the appellate panel shall be assigned by the President of the Special Chamber after consultation with the President of Kosovo and the European Security and Defence Policy Mission.

13. The President of the Special Chamber shall act as the presiding judge of the appellate panel. The President of the Special Chamber may temporarily delegate such function to another judge.

14. The appellate panel shall have final and exclusive appellate jurisdiction over all appeals from Decisions or Judgments of a specialized panel or any court with respect to matters or cases that have previously been referred to such court by the Special Chamber.

15. If a judge fails or is unable to regularly discharge his duties, the President of the Special Chamber shall immediately inform the President of Kosovo, the European Security and Defence Policy Mission and the Kosovo Judicial Council.

16. In the event of the resignation or removal of a judge, the appointment process for his replacement shall follow the same procedural requirements as were applicable to the appointment of the judge being replaced.

Article 4 Jurisdiction

1. The Special Chamber shall have exclusive jurisdiction over all cases and proceedings involving any of the following:

1.1. a challenge to a decision or other action of the KTA or the Agency taken pursuant to, respectively, the KTA Regulation or the Law on the Privatization Agency of Kosovo.

1.2. a claim against the KTA or the Agency arising from the failure or refusal of the KTA or the Agency to perform an act or obligation required by law or contract;

1.3. a claim against the KTA or the Agency for financial losses alleged to have been caused by a decision or action taken by the KTA or the Agency pursuant to the administrative authority provided by the KTA Regulation or the Law on the Privatization Agency of Kosovo in respect of an Enterprise or Corporation;

1.4. a claim against an Enterprise or Corporation that is alleged to have arisen during or prior to the time that such Enterprise or Corporation is or was subject to the administrative authority of the KTA, the Agency;

1.5. a claim alleging a right, title or interest with respect to:

1.5.1. any asset or property over which the Agency or the KTA has or has asserted administrative authority;

1.5.2. the ownership of an Enterprise or Corporation;

1.5.3. the ownership of any capital of an Enterprise or Corporation; or

1.5.4. any property or asset in the possession or control of an Enterprise or Corporation if such right, title or interest is alleged to have arisen during or prior to the time that such Enterprise or Corporation is or was subject to the administrative authority of the KTA or the Agency;

1.6. a claim or complaint challenging any aspect of an official list of eligible employees of an Enterprise issued by the KTA or the Agency under Article 10 of UNMIK Regulation No. 2003/13 or any successor legislation governing the establishment of such a list;

1.7. a claim related to the liquidation of an Enterprise conducted by the KTA pursuant to the KTA Regulation or by the Agency pursuant to the PAK Law;

1.8. an application made by the KTA or the Agency pursuant to Article 21 of Annex A to the PAK Law for the voidance of a transaction of an Enterprise that has undergone or is undergoing liquidation by the KTA or the Agency.

1.9. enforcement of a right or authority of the KTA or the Agency if the KTA or the Agency has submitted an

application to the Special Chamber seeking such enforcement;

1.10. a case or proceeding arising under or within the scope of UNMIK Regulation No. 2005/48 or any successor legislation thereto, or a claim, matter, issue or proceeding arising in or related to a case under or within the scope of such regulation or legislation;

1.11. any application to review and decide the legality of, any Judgment or Decision issued by another court in Kosovo involving or relating to any claim or matter specified in this paragraph 1;

1.12. the review of a decision made by the international members of the Agency's Board of Directors to suspend a decision of the Board pursuant to Article 14. 9 of the PAK Law; and

1.13. such other matters as may be assigned to the Special Chamber by law.

2. The Presidium of the Special Chamber shall assign every case or claim falling within the scope of paragraph 1. of this Article to the appropriate specialized panel, and such specialized panel shall then have primary jurisdiction within the Special Chamber over such claim or matter. If a specialized panel has been assigned a case that involves a claim that it believes to be outside its jurisdiction or competency, such specialized panel shall request the Presidium to assign such claim to the specialized panel having the required jurisdiction or competency.

3. The appellate panel of the Special Chamber shall have exclusive jurisdiction to review and decide a matter involving a decision specified in sub-paragraph 1.12 of this Article, and shall conduct that review and issue that decision as a matter of urgency.

4. As of the effective date of this law, neither the Special Chamber nor any panel or judge of thereof, shall have any further authority to refer any specific claim, matter, proceeding or case falling within its primary jurisdiction to another court of Kosovo. For any claim, matter, case or proceeding (collectively hereafter referred to in this paragraph as a "matter") so referred prior to the effective date of the present law: (i) if the court to which the matter has been referred has, as of the effective date of this law, not taken any substantive Decision with respect to the matter, such court shall no longer have any jurisdiction over the matter and shall return all concerned documents and case files to the Special Chamber; (ii) if the court to which the matter has been referred has, as of the effective date of this law, taken or issued a substantive Decision with respect to the matter, such court shall continue to have jurisdiction over the matter, and its Decisions and Judgment with respect thereto shall be subject to the review of the Special Chamber upon the timely submission of an application by a party or an affected third party; (iii) if the court to which the matter has been referred has, as of the effective date of this law, issued a Judgment with respect to the matter, such Judgment shall be subject to review by the Special Chamber upon the timely submission of an application by a party or affected third party; provided, that, if the Special Chamber overturns such Judgment, in whole or in part, the concerned matter(s) shall be subject to re-litigation before the concerned specialized panel, and not the court that issued the Judgment. If the Agency is not named as a party to any matter that is properly pending before another court under this paragraph 4, the concerned court shall be required to name the Agency as a party, and the Agency shall have the right to fully participate in the case as an ex officio party and shall be immediately provided with a complete copy of all documents in the case file, and shall be immediately served with all written submissions, Decisions and Judgments filed or issued in the future in such case or proceeding. If a referred matter is pending before another court, such court shall not, and shall have no authority to, issue any Judgment or Decision that would violate or be inconsistent with the limits established by Article 11 of this law.

5. No court in Kosovo other than the Special Chamber shall have any jurisdiction or authority over any claim, matter, proceeding or case described in paragraph 1. of this Article except as specifically provide for in paragraph 4. above. If a court has exercised or has attempted to exercise jurisdiction or authority over a claim, matter, proceeding or case within the jurisdiction of the Special Chamber and such matter or claim is not within the jurisdiction of such court under paragraph 4:

5.1. any Judgment or Decision issued by such a court with respect to such a claim, matter, proceeding or case shall, as a matter of law, be invalid and unenforceable; and the Special Chamber shall, upon the application of any person or on its own initiative, issue an order to such effect;

5.2. the Special Chamber shall, upon the application of any person or on its own initiative, order such court to terminate its activities with respect to the concerned claim, matter, proceeding or case; and

5.3. the Special Chamber shall, upon the application of any person or on its own initiative, order the concerned court to transfer the claim, matter, proceeding or case to the Special Chamber in accordance with paragraph

7. of this Article.

6. Nothing in this Article shall prejudice the rights of any person to pursue outside the Special Chamber a matter not described in paragraph 1. of this Article; provided, however, that the Special Chamber shall have the exclusive authority to determine whether or not any specific matter falls within the scope of paragraph 1. of this Article.

7. The Special Chamber shall have the authority and jurisdiction, upon application by any interested person or upon its own initiative, to issue an order requiring any court of Kosovo to transfer any claim, matter or proceeding or case pending in such court to the Special Chamber if:

7.1. the subject matter of such claim, matter, proceeding or case is within the exclusive jurisdiction of the Special Chamber as specified in paragraph 1. of this Article; or

7.2. an Enterprise, Corporation or the Agency has been named as a party to the concerned case or proceeding or should have – under the law of Kosovo – been named as a party to the concerned case or proceeding.

Article 5 Claimants and Respondents

1. Claimants in proceedings before the Special Chamber shall be:

1.1. a person that claims ownership or possessory rights or interests in or to:

1.1.1. an Enterprise or Corporation or the capital of an Enterprise or Corporation;

1.1.2. assets owned by or in the possession of an Enterprise or Corporation, or

1.1.3. assets in the possession, or under the administrative authority or trusteeship, of the Agency;

1.1.4. a person that claims creditor, contractual or other legal rights:

1.1.5. against an Enterprise, a Corporation or the Agency;

1.1.6. in or to Assets owned by or in the possession of an Enterprise or a Corporation; or

1.1.7. in or to Assets in the possession, or under the administrative authority or trusteeship, of the Agency;

1.2. a person bringing a claim or complaint described in subparagraph 1.6 of Article 4 of this law;

1.3. the Agency;

1.4. an Enterprise;

1.5. a Corporation; and

1.6. any other person that the Special Chamber or any panel thereof deems necessary or appropriate to admit in order to ensure the full and complete adjudication of the concerned case or issue.

2. Respondents in proceedings before the Special Chamber shall be:

2.1. with respect to a claim described in subparagraph 1.1, 1.2, 1.3, 1.6 or 1.7 of Article 4 of this law: the Agency.

2.2. with respect to a claim described in subparagraph 1.4 or 1.5 of Article 4 of the present law: at the choice of the Agency, the concerned Enterprise/Corporation or the Agency acting on behalf of the concerned Enterprise/ Corporation;

2.3. with respect to a voidance application made or submitted by the Agency and described in subparagraph 1.8 of Article 4 of this law: the person(s) having a material interest in the transaction that is the subject of such

application;

2.4. with respect to an enforcement application submitted by the Agency and described in subparagraph 1.9 of Article 4 of this law: the person(s) who are the subject of such application; and

2.5. with respect to any case or issue before it: any person that the Special Chamber or any panel thereof deems necessary or appropriate to name or admit as a Respondent in order to ensure the full and complete adjudication of such case or issue.

3. Notwithstanding the foregoing provisions of this Article, in a case or proceeding described in subparagraph 1.10 of Article 4 of this law, the persons entitled to participate in such case or proceeding shall be those specified in UNMIK Regulation 2005/48 or the successor legislation thereto, whichever is then in effect.

Article 6

Period of Time to File a Claim Challenging Decisions or Actions of the Agency

1. Any person challenging a decision or action of the Agency that was taken prior to the effective date of the present law must file the concerned claim or complaint with the Special Chamber no later than nine (9) months after the date that such person knew or with reasonable diligence should have known of such decision or action. Any such claim or complaint must be accompanied by evidence that the person filing such claim or complaint has provided a written notice to the Chairman of the Board of the Agency, at least sixty (60) days prior to the date of filing, of such person's intention to file such claim or complaint. The Special Chamber shall not accept any such claim or complaint that is not accompanied by such evidence or that is filed after the referenced nine (9) month period has expired.

2. Any person challenging a decision or action of the Agency taken on or after the effective date of the present law must file the concerned claim or complaint with the Special Chamber no later than one hundred and twenty (120) days after the date on which the decision or action has been served on the concerned person or, if no such service is required by law or if such service has not been practicable or possible after a reasonable good faith attempt by the Agency, fully published in accordance with the Agency's operational policies and the requirements of Article 10.3 of the PAK Law. The Special Chamber shall not accept, and shall reject, any such challenge that is submitted after the expiration of the referenced one hundred and twenty (120) day period.

3. A person sued by the Agency or an Enterprise or Corporation may bring a counterclaim against the Agency or Enterprise or Corporation within the applicable time limits established by the law of Kosovo. The notice required by Article 30.2 of the PAK Law shall not apply to such counterclaim.

4. The foregoing provisions of this Article shall be inapplicable to claims and counterclaims falling within the scope of UNMIK Regulation 2005/48 or any successor legislation thereto. The requirements and time limits governing the filing of such claims and counterclaims shall be as provided for in that regulation or successor legislation, whichever is then in effect.

Article 7

Rules of Procedure before the Special Chamber

1. The rules of procedure of the Special Chamber shall be those provided for in the Annex to the present law. The Presidium of the Special Chamber shall have the authority to issue such additional procedural rules as it may deem necessary or advisable to facilitate the efficient and orderly conduct of proceedings; provided that such additional procedural rules shall be consistent with the present law and the Annex to the present law.

2. Notwithstanding paragraph 1. of this Article, the procedural rules governing proceedings under UNMIK Regulation 2005/48 or any successor legislation thereto shall be as specified in such regulation or successor legislation. The Presidium of the Special Chamber, after consultation with the specialized panel assigned to handle such proceedings, shall have the authority to issue such additional procedural rules as it may deem necessary or advisable to facilitate the efficient and orderly conduct of such proceedings; provided that such additional procedural rules shall be consistent with UNMIK Regulation 2005/48 or successor legislation, whichever is then in effect.

3. Any additional procedural rules issued by the Presidium under paragraph 1 or 2 of this Article shall also be consistent with the applicable procedural justice requirements established by the jurisprudence of European Court of Human Rights under the European Convention on Human Rights.

Article 8 Production of Evidence

In any proceeding, a trial judge or a panel of the Special Chamber shall have the authority to order any person to submit or provide testimonial, documentary or physical evidence, or to otherwise provide relevant information, if the trial judge or panel reasonably believes the required evidence or information is material or relevant to the adjudication of any case or matter that is the object of, or any issue that arises during, such proceeding.

Article 9 Conduct of Proceedings By a Sub-Panel or Single Judge

1. Any specialized panel of the Special Chamber may issue an order delegating to one of its members or to a sub-panel consisting of two of its members the responsibility and authority to conduct any or all proceedings for a case within its subject-matter jurisdiction. Judgments and Decisions issued by such a single judge or sub-panel shall be deemed to be issued by the concerned specialized panel.

2. A party shall have the right to appeal any Decision or Judgment of such a judge or sub-panel, and all such appeals shall be made directly to the appellate panel in accordance with the provisions of paragraph 6. of Article 10 of this law governing the filing of appeals.

Article 10 Judgments, Decisions and Appeals

1. A Judgment in a case shall be rendered and served on the parties in writing within sixty (60) calendar days after the date on which the concerned proceedings have been concluded.

2. The internal deliberations of any panel regarding any Judgment or Decision shall be restricted and shall not be disclosed.

3. All Judgments and Decisions of a panel shall be adopted by a majority vote.

4. Every Judgment and Decision shall be in writing and shall:

4.1. summarize the procedural background of the case or matter that is the object of such Judgment or Decision;

4.2. contain a statement setting forth all findings of fact that are material to the case or matter is the object of Judgment or Decision;

4.3. provide a clear and detailed explanation of the legal bases and reasoning used in reaching such Judgment or Decision; and

4.4. if such Judgment or Decision awards a remedy to any party, provide a clear and detailed separate explanation of the legal bases and reasoning used in making such award.

5. If a party has submitted a claim or complaint, and the concerned single judge, sub-panel or specialized panel determines, after assuming the truth of the allegations in the submission containing such claim or complaint, that no remedy can be awarded to such party on such claim or complaint as a matter of law, the concerned single judge, sub-panel or specialized panel shall issue, as appropriate, a decision dismissing such claim without conducting an evidentiary hearing or otherwise allowing or requiring the submission of evidence with respect to such claim.

6. A party shall have the right to appeal any Judgment or Decision of a single judge, sub-panel or specialized panel - or of a court having jurisdiction over a claim, matter, proceeding or case under paragraph 4. of Article 4 of the present law - to the appellate panel by submitting to the appellate panel and serving on the other parties its appeal within twenty-one (21) days. The appeal shall also be submitted to the court, specialized panel, sub-panel or judge that issued the concerned Decision or Judgment within such twenty-one (21) day period. The prescribed time limit shall begin to run at midnight on the day the single judge, sub-panel, specialized panel or court has provided the concerned Decision or Judgment to the parties in writing. The appellate panel shall reject the appeal if the party fails to file within the prescribed time period.

7. The concerned Judgment or Decision shall not be enforced or given effect until the twenty-one (21) day period

specified in paragraph 6. of this Article has expired and no written appeal has been submitted within that period. If an appeal is timely submitted in accordance with paragraph 6., the concerned Judgment or Decision shall not be enforced or given effect until the appellate panel issues a Judgment or Decision with respect thereto. The enforceability or effectiveness, in whole or in part, of the Judgment or Decision that is the subject of such an appeal shall be subject to any Judgment or Decision issued by the appellate panel on the appeal.

8. In the event a party submits an appeal within the time period prescribed by paragraph 6 of this article, any other party to the proceeding where the concerned Decision or Judgment was issued shall have twenty-one (21) days from the date it is served with the appeal to respond to such appeal or any aspect thereof by submitting to the appellant panel, and serving on the appellant and the other parties, its response to the appeal.

9. When the appellate panel receives an appeal, it shall first determine whether appeal merits review. If the appellate panel decides that the appeal does not merit review, it shall issue and serve upon the parties its written Judgment rejecting the appeal and a detailed explanation of the legal reasoning justifying such rejection; in such event, the Judgment or Decision that is the subject of the appeal shall become final and non-appealable, except as provided in paragraph 15. of this Article.

10. Where the appellate panel decides to accept an appeal, it may – subject to paragraph 11. of this Article - confirm, annul or alter, in whole or in part, the Judgment or Decision that is the subject of the appeal. The appellate panel may also remand the Judgment or Decision, in whole or in part, to the concerned court (if permitted by paragraph 4. of Article 4), specialized panel, sub-panel or single judge for further proceedings, including evidentiary proceedings. And the Appellate Panel may order the claim, matter, proceeding or case to be re-tried, in whole or in part, by the same court (if permitted by paragraph 4. of Article 4), panel, sub-panel or single judge that issued the concerned Decision or Judgment or by another specialized panel, sub-panel or single judge.

11. When the appellate panel has accepted and is deciding on an appeal, the following rules shall be strictly observed:

11.1. the appellate panel shall not modify, annul, reverse or otherwise change, in any manner, any finding of fact made by a court, specialized panel, sub-panel or single judge unless the appellate panel determines that such finding of fact is clearly erroneous. A finding of fact shall not be determined to be clearly erroneous if such finding of fact is supported by any reasonable interpretation of the record of the trial proceedings and the evidence submitted during such proceedings; and

11.2. the appellate panel shall conduct a de novo review of each issue of law raised by the appellant or a respondent in their written submissions.

12. If a court, specialized panel, sub-panel or single judge fails to issue a Decision or Judgment within the time period established by law or, if no such time period has been established by law, within a reasonable time, the appellate panel shall, upon the application of any party, order the concerned court, specialized panel, sub-panel or single judge to issue the concerned Judgment or Decision within ten (10) business days. If a court having jurisdiction over a claim, matter, proceeding or case in accordance with paragraph 4. of Article 4 of the present law fails to comply with such an order, the appellant panel shall, upon the application of any party or on its own initiative, order such case to be immediately transferred to back to the Special Chamber.

13. All Judgments and Decisions shall be in writing and made available to the public. If a court, panel, sub-panel or single judge makes an oral ruling or issues an oral order ruling, any party shall have the right to require such ruling or order to be put in writing and served on the parties.

14. All Judgments and Decisions of the appellate panel are final and not subject to any further appeal.

15. Nothing in the present law shall be interpreted or applied as limiting or attempting to limit the constitutional right of any person to petition the Constitutional Court of Kosovo, in accordance with the law and procedural rules governing such a petition, to review the constitutionality of any Decision or Judgment issued by the Special Chamber or another court.

Article 11 Remedies

1. The power and authority of the Special Chamber to award remedies and other relief relating to any Enterprise, any Corporation, any Asset in the ownership or possession of an Enterprise or Corporation, or any other Asset previously or currently under the administration of the KTA or the Agency pursuant to the authority established by the KTA

Regulation or the PAK Law shall be subject to the limitations set out in this Article.

2. The Special Chamber shall, as of the effective date of the present law, observe and comply with the principle stated in Annex VII, footnote 5, point 3 of the Comprehensive Proposal that “the principle of compensation instead of physical restitution shall continue to be applied.” When determining the remedy to be awarded in any particular case, the Special Chamber shall also take due account the applicable provisions of the PAK Law, including the public purposes served by that law as set out in its preamble.

3. Where the Special Chamber determines that a party has a right, title or interest in or to any share(s) of, or ownership interest in, an Enterprise or Corporation, an Asset in the possession of an Enterprise or Corporation or another asset over which the KTA or the Agency has asserted its administrative authority, and the concerned share(s), ownership interest or Asset (or any right or interest therein) have been transferred to a third party by the KTA or the Agency pursuant to a good faith and reasonable exercise or discharge of its administrative authority and responsibilities under the KTA Regulation or the PAK Law:

3.1. such transfer shall, as a matter of law, nevertheless be valid and binding, and no aspect of such transfer shall be affected by such determination; and

3.2. such party shall be entitled solely to an award of adequate monetary compensation for the loss of such right, title or interest. The amount of such award shall be determined on the basis of the value of the transaction conducted by the KTA or the Agency involving the concerned share(s) or Asset; and the satisfaction of such award shall be subject to the applicable provisions of the PAK Law.

4. For the purposes of paragraph 3, if the KTA or the Agency – pursuant to a good faith and reasonable exercise or discharge of its administrative authority and responsibilities under the KTA Regulation or the PAK Law – has transferred the share(s) of, or the ownership interest(s) in, an Enterprise or Corporation to a third party, all Assets in the possession of the Enterprise or Corporation at the time of such transfer shall be deemed to be the lawful property of such Enterprise or Corporation as of the date of such transfer unless such possession has been acquired pursuant to the terms of a written contract that clearly indicates that the Asset is not the property of the Enterprise or Corporation.

5. No person shall be entitled to or granted any remedy or relief that would require or involve the rescission, nullification, impairment or modification of a transaction or contract (or any right, benefit or obligation arising from or based on a transaction or contract) concluded or entered into with a third party by the KTA or the Agency pursuant to the good faith exercise of the authority provided by the KTA Regulation or the PAK Law.

6. Awards against the Agency acting directly in its own capacity shall be subject to the provisions of Article 18 of the PAK Law.

7. Notwithstanding any other provision of the present law, it is expressly provided that if an Enterprise or Corporation is subject to proceedings under UNMIK Regulation 2005/48 or any successor legislation thereto, the remedies and relief that may be awarded or imposed by the Special Chamber with respect to such Enterprise or Corporation, or any Asset owned or in the possession of such Enterprise or Corporation, shall be limited to the remedies and relief specified in such regulation or successor legislation.

Article 12

Costs

Each Judgment issued by a single judge, specialized panel or sub-panel shall allocate the costs of the concerned proceedings among the parties as may be just and reasonable under the circumstances. The costs so allocated may include court costs and the reasonable attorney's fees and other costs reasonably incurred by a party in connection with the pursuit or defense of a claim, counterclaim or other matter in the concerned proceedings. Such allocation may require an unsuccessful party to pay the costs reasonably incurred by the prevailing party in pursuing or defending such a claim, counterclaim or other matter. In addition to the provisions on the calculation and allocation of costs contained in the procedural rules set forth in the Annex to the present law, the Presidium may issue more detailed rules on costs pursuant to the authority provided by Article 7 of the present law.

CHAPTER III TRANSITIONAL AND FINAL PROVISIONS

Article 13 Extensions of Specified Time Limits

Any panel, sub-panel or single judge, may, but only in highly exceptional circumstances and only for very good cause shown, extend any time limit or period provided for in this law or in the Annex attached hereto for any period of time that is reasonable under the circumstances.

Article 14 Repeal of Prior Legislation; Conflicts; Interpretation

1. The law repeals and replaces the Special Chamber Regulation and all secondary legislation issued pursuant thereto, which – as of the effective date of this law - shall not have or be given any further force or effect; provided, however, that if a case pending before the Special Chamber on the effective date of this law has reached an advanced procedural stage and the proper adjudication of that case requires the continued application of procedural provisions of the Special Chamber Regulation or of the secondary legislation issued pursuant thereto, then the Special Chamber may apply such procedural provisions to the extent necessary to achieve such proper adjudication.

2. The provisions of the present law shall prevail over any inconsistent provision in any other regulation, law or piece of secondary legislation; including, but not limited to, Law No. 03/L-053 "On the Jurisdiction, Case Selection and case Allocation of Eulex Judges and Prosecutors in Kosovo"; provided, however, that in the event of any conflict between the present law and UNMIK Regulation No. 2005/48 or any successor legislation thereto, UNMIK Regulation No. 2005/48 or its successor legislation, whichever is then in effect, shall prevail.

3. Executive Decision No. 2008/34 "On a Temporary Suspension of All Activities Relating to the Kosovo Trust Agency" issued by the Special Representative of the Secretary General of UNMIK shall have no further force or effect as of the effective date of this law.

4. In interpreting and applying this law, where necessary to resolve a procedural issue not sufficiently addressed in this law, the Special Chamber shall apply, mutatis mutandis, the relevant provision(s) of the Law on Contested Procedures.

Article 15 Entry into Force

This law enters into force on 1 January 2012

**Law No. 04/L-033
31 August 2011**

Promulgated by Decree No.DL-026-2011, dated 31.08.2011, President of the Republic of Kosovo Atifete Jahjaga.

**ANNEX OF THE LAW No.04/L-033
OF THE SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON PRIVATIZATION AGENCY
MATTERS**

**RULES OF PROCEDURE OF THE SPECIAL CHAMBER OF THE SUPREME COURT OF KOSOVO ON
PRIVATIZATION AGENCY MATTERS**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Scope of Application**

The rules of procedure set forth in this Annex shall govern the proceedings of the Special Chamber of the Supreme Court of Kosovo on Privatization Agency Matters conducted in connection with cases and matters within its jurisdiction as specified in Article 4 of the Special Chamber Law.

**Article 2
Definitions and References**

1. For the purpose of interpreting and applying this Annex the terms and associated definitions provided in Article 2 of the Law on the Special Chamber of the Supreme Court of Kosovo on Privatization Agency Matters shall be applied.

2. In addition, the following defined terms shall have the indicated meaning:

2.1. **Appellate Panel**, shall mean the appellate panel of the Special Chamber established pursuant to paragraph 7 of Article 3 of the Special Chamber Law;

2.2. **Claimant**, shall mean a person referred to in paragraph 1 of Article 5 of the Special Chamber Law who has filed a claim or complaint with the Special Chamber;

2.3. **Party**, shall mean a Claimant or Respondent;

2.4. **President**, shall mean the President of the Special Chamber chosen in accordance with paragraph 4 of Article 3 of the Special Chamber Law;

2.5. **Presidium** shall mean the Presidium of the Special Chamber established pursuant to paragraph 10 of Article 3 of the Special Chamber Law;

2.6. **Presiding Judge** shall mean: with respect to the Appellate Panel, the President of the Special Chamber as provided for in paragraph 12 of Article 3 of the Special Chamber Law or the international judge to whom such function has been temporarily delegated pursuant to the second sentence of that paragraph; and, with respect to a Specialized Panel, the international judge appointed as the presiding judge of such Specialized Panel pursuant to paragraph 9 of Article 3 of the Special Chamber Law or the international judge to whom such function has been temporarily delegated pursuant to the third sentence of that paragraph;

2.7. **Single Judge**, shall mean a single international judge to whom a specialized panel has delegated, pursuant to paragraph 1 of Article 9 of the Special Chamber Law, the responsibility and authority to conduct proceedings for a case within its subject matter jurisdiction;

2.8. **Special Chamber Law**, shall mean the law to which this Annex is attached;

2.9. **Specialized Panel**, shall mean a specialized panel of the Special Chamber established pursuant to paragraph 7 of Article 3 of the Special Chamber Law;

2.10. **Sub-panel**, shall mean a sub-panel of Specialized Panel to which the Specialized Panel has delegated, pursuant to paragraph 1 of Article 9 of the Special Chamber Law, the responsibility and authority to conduct proceedings for a case within its subject matter jurisdiction;

2.11. **Respondent**, shall mean a person referred to in paragraph 2 of Article 5 of the Special Chamber Law; and

2.12. **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.

3. Words of any gender used in this Annex shall include any other gender and words in singular number shall be deemed to include the plural and the plural to include the singular.

4. Unless the context clearly requires another interpretation, any reference in this Annex to another law or UNMIK regulation or any specific provision(s) thereof, shall be interpreted as including any and all amendments thereto. If such a law or regulation is repealed and replaced with successor legislation governing the same subject matter, such reference shall – unless the context clearly requires another interpretation - be interpreted as meaning such successor legislation and, where applicable, the analogous provision(s) thereof.

5. Beginning on the effective date of the Special Chamber Law any reference in any element of the law of Kosovo to UNMIK Administrative Direction No. 2008/6 or any specific provisions(s) thereof, shall be interpreted as meaning this Annex and, where applicable, the analogous provision(s) of this Annex.

6. Any reference in this Annex to “successor legislation” shall mean legislation adopted by the Assembly of the Republic of Kosovo and promulgated in accordance with the Constitution of the Republic of Kosovo.

CHAPTER II JUDGES OF THE SPECIAL CHAMBER

Article 3 Judges of the Special Chamber

The judges of the Special Chamber, including its President shall meet the minimum requirements for professional competence and expertise established by paragraphs 5 and 6 of Article 3 of the Special Chamber Law.

Article 4 Incompatibilities and Recusal

1. A judge of the Special Chamber shall not hold any other public or administrative office. A judge of the Special Chamber shall not hold any office or position in any political party or engage in any political activities or activities of a political party. A judge of the Special Chamber shall not engage in any other activity or occupation of a professional nature, regardless as to whether such activity or occupation is compensated, or otherwise engage in any activity that is incompatible with his or her functions.

2. No judge of the Special Chamber may take part in any case or proceedings in which he or she:

2.1. has previously taken part as an agent or advisor;

2.2. has previously been employed by, acted for or provided services to one of the parties;

2.3. has, except as judge of the Special Chamber, previously participated as a member of a court, tribunal, or commission of inquiry, or has acted in another similar capacity;

2.4. is related by blood or marriage to a party or, in the case of a party that is an undertaking, is related by blood or marriage to any person who is an owner or creditor of such undertaking or any person who is a member of the board or management of such undertaking; or

2.5. has or acquires a direct or indirect interest in any undertaking that is a party to the case or proceedings or in any entity seeking an ownership interest in an undertaking that is party to the case or proceedings; or

2.6. is subject to any other real or apparent conflict of interest that would impair, or appear to impair, his/her ability to professionally and objectively adjudicate the case or proceedings.

3. A judge shall have an absolute duty to apply for recusal if any of the conditions specified under paragraph 2. are

present.

4. The Presidium of the Special Chamber in pursuance of its authority under Article 10 of this Annex may recuse any judge of the Special Chamber from taking part in the adjudication of a case or proceeding, 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 conduct of the case or proceedings.

5. 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 the request for recusal is made by the Presiding Judge it shall be addressed directly to the Presidium. If the Presidium grants a recusal request, the judge concerned shall be replaced for the particular case or proceedings by a substitute judge, who shall be transferred for this purpose from the ranks of serving judges. The substitute for an international judge shall be an international judge, and the substitute for a local judge shall be a local judge.

CHAPTER III REGISTRY

Article 5 Registry

1. The Special Chamber shall have its own Registry separate from the registry of the Supreme Court of Kosovo.
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.
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 Presidium.
4. The Registry of the Special Chamber may request and shall be granted assistance from any other court in Kosovo for the fulfillment of its duties.

Article 6 Duties of the Registrar of the Special Chamber

1. The Registrar and the Deputy Registrar shall be selected and appointed by the Kosovo Judicial Council.
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 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 of Kosovo on Privatization 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."
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.
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.
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. 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.
7. The Presidium of the Special Chamber may require other employees working for the Special Chamber to take an oath or make a solemn declaration in accordance with paragraph 2. of this Article.

CHAPTER IV ORGANIZATION OF THE SPECIAL CHAMBER

Article 7 Organization; Permanent Session

The Special Chamber shall be organized in accordance with the requirements of Article 3 of the Special Chamber Law and shall remain permanently in session.

Article 8 Administration Subject to Direction of Presidium

The Presidium of the Special Chamber shall direct the administration of the Special Chamber and, unless otherwise provided in this Annex, its judicial business.

Article 9 The Presiding Judges

Every Specialized Panel and the Appellate Panel of the Special Chamber shall have a Presiding Judge pursuant to paragraphs 9 and 12 of Article 2 of the Special Chamber Law. Presiding Judges shall direct the judicial business of the panel and preside at hearings and deliberations except as may be otherwise specifically provided in this Annex.

Article 10 The Presidium of the Special Chamber

1. The Presidium shall:

- 1.1. issue rules for and make determinations on the allocation of cases to Specialized Panels as far as this is not determined by the provisions of the Special Chamber Law, Law No. 03/L-053 "On the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo", or this Annex;
- 1.2. issue instructions on the substitution of judges, decide on applications to recuse a judge and lay down criteria to be followed by a Specialized Panel when assigning the conduct of proceedings to a Sub-panel or Single Judge;
- 1.3. in accordance with paragraph 1 of Article 7 of the Special Chamber Law, adopt and issue additional rules and practice directions; in particular with respect to special proceedings under Articles 68 through 70 of this Annex;
- 1.4. issue procedural rulings for matters or issues not expressly covered by this Annex which clarify or supplement this Annex or those issued under sub-paragraph 1.3 of this Article; and
- 1.5. perform the other functions assigned to the Presidium by the Special Chamber Law.

2. Procedural rules on the manner in which cases are distributed to Specialized Panels in accordance with sub-paragraph 1.1 shall be issued for each calendar year by the Presidium at the beginning of that calendar year. Such rules shall only be amended during the calendar year if a Specialized Panel becomes unduly burdened due to the long-term absence from duty of one or more of its judges.

3. The Presidium shall take decisions by a simple majority of a quorum. A quorum shall exist if three or more members of the Presidium are present. 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.

4. A determination made by the Presidium on the manner in which case are distributed between the Specialized 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.

5. Procedural rulings of the Presidium under sub-paragraph 1.4 of this Article shall take the form of a procedural Judgment issued by Special Chamber which may not be appealed.

6. The Registrar shall immediately publish on the Special Chamber's web-site any additional rules, procedural rulings or practice directions issued by the Presidium pursuant to subparagraphs 1.3 or 1.4 of this Article.

Article 11 **Sub-Panels and Single Judges**

1. A claim, complaint or matter that is filed with the Special Chamber shall be allocated immediately to the most appropriate Specialized Panel in accordance with Article 12 of this Annex and the procedural rules issued by the Presidium pursuant to Article 10 of this Annex. The Presiding Judge shall determine whether the conduct of the proceedings is to be delegated to a Sub-panel or Single Judge in accordance with Article 9 of the Special Chamber Law. If, after observing the criteria specified in sub-paragraph 1.2 of Article 10 of this Annex, the Presiding Judge decides to assign the proceedings to a Sub-panel or Single Judge, the Presiding Judge shall issue an order setting out the extent of the responsibilities and authority of the Sub-panel or the Single Judge, including an indication of the extent of the authority of the Sub-panel or Single Judge to issue Decisions and Judgments in the assigned proceedings.

2. In a Sub-panel, the international judge shall act as Presiding Judge. All Decisions and Judgments issued by a Sub-panel shall be adopted by consensus. If a consensus cannot be reached, either member of the Sub-panel may refer the matter to the full Specialized Panel.

3. A Single Judge may issue such Decisions and Judgments as may be within his/her authority as specified in the order of the Presiding Judge assigning the concerned proceedings to the Single Judge.

4. Any Judgment or Decision of a Sub-panel or a Single Judge shall be considered the Judgment or Decision of the concerned Specialized Panel and shall be subject to appeal to the Appellate Panel in accordance with the relevant provisions of this Annex or, if applicable, the additional rules issued pursuant to subparagraph 1.3 of Article 10 of this Annex.

CHAPTER V **PRIMARY COMPETENCE OF SPECIALIZED PANELS**

Article 12 **Primary Competences and Case Allocation**

1. A case shall be assigned to the Specialized Panel having primary competence over such case as set out in paragraph 8. of Article 3 of the Special Chamber Law. Following this competence:

1.1. cases involving a claim or complaint arising from or related to the conduct of the privatization process by the KTA or the Agency shall be referred to the Specialized Panel having competence for privatization-related matters;

1.2. cases involving a claim or complaint related to entitlements of employees under Section 10 of Regulation No. 2003/13, or any successor legislation thereto, or general employment matters of an Enterprise or Corporation shall be referred to the Specialized Panel having competence for employee entitlement matters;

1.3. cases involving a general ownership or creditor claim with respect to an Enterprise or Corporation not falling within the scope of subparagraph 1.1 of this Article shall be referred to the Specialized Panel having competence for general ownership and creditor claims;

1.4. cases involving a complaint or other matters related to or arising in connection with the liquidation of an Enterprise or its assets shall be referred to a Specialized Panel having competence for matters related to the liquidation of Enterprises; and

1.5. cases involving the reorganization or restructuring of an Enterprise pursuant to Regulation No. 2005/48, or any successor legislation thereto, shall be referred to the Specialized Panel having competence for the reorganization and restructuring of Enterprises.

2. Cases involving a claim or complaint over which no Specialized Panel has primary competence or for which a Specialized Panel has not yet been established at the time when the claim or complaint is filed, shall be dealt with by a Specialized Panel as determined under the additional rules established pursuant to subparagraph 1.3 of Article 10 of

this Annex.

3. The additional rules established by the Presidium pursuant to subparagraph 1.3 of Article 10 of this Annex may permit the allocation of a case to a Specialized Panel other than that designated under paragraph 1 of this Article if special circumstance warrant such allocation, and such special circumstance are specified in detail in such additional rules.

CHAPTER VI GENERAL POWERS OF THE COURT

Article 13 The Powers of Case Management

1. The powers given to the Special Chamber or any Panel, Sub-panel or Single Judge under this Annex are in addition to any powers provided thereto by any other element of the law of Kosovo.

2. Except where this Annex specifically provided otherwise, any Panel, Sub-panel or Single Judge may take any of the following actions in connection with any case or proceeding being handled or conducted by such Panel, Sub-panel or Single Judge:

2.1. where compelling circumstances exist justifying such action: extend the time for compliance with a Decision, even if an application for extension is made after the time for compliance has expired;

2.2. adjourn or bring forward a hearing;

2.3. require a party or party's legal representative to attend the court;

2.4. during a hearing, receive evidence by telephone or by using any other method of direct oral communication;

2.5. direct that parts of any proceedings to be dealt with as separate proceedings or consolidate separate proceedings;

2.6. where compelling circumstances exist justifying such action: stay a case or proceeding or the applicability of any Decision or Judgment either generally or until the occurrence of a specified date or event;

2.7. try more than one claim on the same occasion;

2.8. direct a separate trial on any matter;

2.9. decide the order in which matters are to be tried;

2.10. exclude a matter from consideration;

2.11. dismiss or adjudicate any claim after having made a Decision on a preliminary matter;

2.12. order any party to file and serve an estimate of costs; and

2.13. make any Decision or take any other step for the purpose of managing the case and furthering the overriding objective.

3. When any Panel, Sub-panel or Single Judge issues a Decision, it may

3.1. make such Decision subject to such conditions as may be necessary or appropriate under the circumstances, including a condition to pay an amount of money into court; and

3.2. specify the consequences of a failure to comply with the Decision or any aspect thereof.

4. Any Panel, Sub-panel or Single Judge may order a party to pay an amount of money into court if that party has,

without good reason, failed to comply with a Decision or Judgment. When exercising its power under this paragraph 4. of this Article, the Court shall take into account the amount in dispute, the costs which the parties have incurred so far or may incur further, and the financial abilities of the parties involved. Where a party pays money into court in compliance with such an order, the money so paid shall be security for any sum that is or may be payable by that party to another party.

Article 14 Sessions and Deliberations

1. The dates and times for sessions of a Specialized Panel and the Appellate Panel shall be fixed by the concerned Presiding Judge. A Panel may decide to hold one or more sessions in a place other than that in which the Special Chamber has its seat.
2. All Panels shall deliberate in closed sessions. The Registrar and other court staff may be present during deliberations, but only if the Presiding Judge of the Panel so permits.
3. All Judgments and Decisions by a Panel shall be decided by an affirmative vote of:
 - 3.1. in the case of a Specialized Panel, two judges; and
 - 3.2. in the case of the Appellate Panel, three judges.
4. The issuance of Judgments and Decisions by a Sub-panel or Single Judge shall comply with, respectively, paragraph 2 and paragraph 3 of Article 11 of this Annex.

Article 15 Referrals to Other Courts

Paragraph 4 of Article 4 of the Special Chamber Law shall govern all issues relating to the referral of claims and other matters to other courts.

Article 16 Transfer of Actions Pending in Other Courts in Kosovo

1. If the Special Chamber determines that another court in Kosovo is exercising or attempting to exercise jurisdiction over a claim, matter, proceeding or case involving subject matter within the jurisdiction of the Special Chamber in violation of paragraph 5 of Article 4 of the Special Chamber Law, the Special Chamber shall, upon the application of any person or on its own initiative, order the concerned court to transfer the claim, matter, proceeding or case to the Special Chamber in accordance with paragraph 7 of Article 4 of the Special Chamber Law.
2. An order issued by the Special Chamber pursuant to paragraph 7 Article 4 of the Special Chamber Law shall be final and binding on the concerned court and all parties to the concerned proceeding. The order shall be served on the concerned court, the parties and the Agency. The order shall require the concerned court to immediately transmit to the Special Chamber the complete case file, including, but not limited to, all orders, minutes, pleadings and other documents relating to the concerned claim, matter, proceeding or case.
3. The claim, matter, proceeding or case that is the subject of such an order shall be entered in the register of the Special Chamber. The concerned Specialized Panel shall have the authority to either initiate the case de novo or to resume the concerned proceedings in accordance with this Annex. In the latter case, the concerned Specialized Panel shall have the authority to take whatever actions, and issue whatever orders, as may be necessary or appropriate to remedy any substantive or procedural irregularities or errors that may have occurred at the transferring court prior to the date of transfer and to ensure the just and lawful disposition of the claim, matter, case or proceedings in accordance with the Special Chamber Law and this Annex.

CHAPTER VII SERVICE

Article 17 Address for Service

1. A Claimant shall provide in its claim or complaint the name and address of a person in Kosovo who is to serve as the authorized agent of the Claimant for the purposes of service. If the Claimant is a natural person resident in Kosovo, he/she may serve as his/her own agent.
2. A Claimant shall also provide in its claim or complaint the name of each person specifically identified as a Respondent. The Claimant shall also undertake reasonably diligent efforts to ascertain and provide the last known address of each such person and include such information in its claim or complaint.
3. Any person filing a response or otherwise seeking to participate as a party in proceedings before the Special Chamber shall provide the name and address of a person in Kosovo who is to serve as the authorized agent of such Respondent or person for the purposes of service. If such Respondent or person is a natural person resident in Kosovo, he/she may serve as his/her own agent.
4. A party may agree to the service of pleadings, notices and Decisions by telefax or other electronic means of communication. 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.

Article 18 Effecting Service

1. Where this Annex requires that a document be served on a party, the Registrar – or the party submitting the document - shall ensure that the document is delivered to 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 such copy against a receipt.
2. Where a party has agreed, in accordance with paragraph 4 of Article 17 of this Annex that service may be effected by telefax or other electronic means of communication, any procedural document other than a Judgment may 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 paragraph 1 of this Article 18 of this Annex, and a notice of such service shall be provided to the concerned party by telefax or other electronic means of communication.
3. Service shall be deemed to have been effected:
 - 3.1 in the case of dispatch of a copy of the document by registered mail pursuant to paragraph 1 of Article 18 of this Annex, on the day on which the addressee acknowledges 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;
 - 3.2. in the case of personal service of the document pursuant to paragraph 1 of this Article 18, on the day on which the addressee acknowledges receipt. If the addressee has refused to accept, or is avoiding receiving, the document or if the addressee has refused or is avoiding to sign the receipt, the date of service shall be the date of the actual or attempted service. In such event, the person charged with serving the document shall prepare a certificate of attempted service specifying the time, date and place of the attempted service and a description of the facts demonstrating that the addressee refused or avoided service and/or the signing of the receipt. The person charged with serving the document shall return the certificate of attempted service to the Registry;
 - 3.3. in the case of transmission of the document by using telefax or other electronic means of communication pursuant to paragraph 2 of this Article 18, 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.

4. After service of the initial claim is effected, a panel or sub-panel may require or permit a party to serve additional pleadings and documents on the other parties without the assistance of the court. In addition to the proof of service or

certificate of attempted service, the serving party shall always file with the court copies of any pleadings or documents served or attempted to be served on another party without the assistance of the court.

5. Where the specific identity and/or address of a party or necessary person cannot, after reasonably diligent efforts, be definitively ascertained, the Court shall allow for constructive service by such means as may be reasonable under the circumstances. Such means may include service by publication or service on a known relative or business associate.

Article 19 International Legal Cooperation

1. For the purposes of the present section, the term "International Legal Cooperation" means assistance relating to legal proceedings provided by Kosovo authorities to foreign authorities or provided by foreign authorities to Kosovo authorities.

2. A request by the Special Chamber - or by a court in Kosovo to which a claim, matter, proceeding or case has been referred by the Special Chamber - for international legal cooperation in matters falling within the primary jurisdiction of the Special Chamber shall comply with the following guidelines:

2.1. the request shall be sent in writing to the Minister of Justice, setting out clearly the nature of the request, the identities of the concerned foreign authorities, and the time by which a response is requested;

2.2. the Minister of Justice shall send the request, via official diplomatic channels, to the relevant foreign authorities outside Kosovo; and

2.3. the Minister of Justice shall transmit any and all responses received with respect to such request to the Special Chamber or the concerned court.

3. A request by a foreign court for international legal cooperation in matters falling within the primary jurisdiction of the Special Chamber shall be processed as follows:

3.1. 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 any materials provided in response to such request shall only be used for the purposes specified in the request;

3.2. the request shall be submitted to the Minister of Justice who shall forward the request to the Registrar of the Special Chamber. A request for mutual legal assistance received directly by any court in Kosovo from a foreign authority shall immediately be returned to the foreign authority with a letter advising the sender that the request must be submitted through the Ministry of Justice;

3.3. if the request relates to a claim that has been referred by the Special Chamber to another court of Kosovo, the Registrar shall transmit the request to that court for action; and

3.4. any response to such a request shall be submitted by the Special Chamber or the concerned court to the Registrar, who shall immediately forward such response to the Minister of Justice, and the Minister of Justice, shall then send the response, via official diplomatic channels, to the requesting foreign authorities.

CHAPTER VIII PERIODS AND TIME-LIMITS

Article 20 Calculation of Time Periods

1. A period of time prescribed by the Special Chamber Law or this Annex shall be calculated as follows:

1.1. where a period of time is to begin when a specific event occurs, the period of time shall begin at midnight on the day that such event occurs.

1.2. unless the concerned period is explicitly expressed in business days, the period shall include all calendar days.

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 business day.

Article 21 Expiry of Time Periods

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 or this Annex 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 or this Annex.

2. If a party seeks an extension of time, such party shall submit an application for the extension prior to the expiration of the concerned time period. The Presiding Judge may grant the extension if the application sets forth circumstances and reasons that the Presiding Judge considers sufficient to justify the extension and the Presiding Judge determines that no other party would be seriously prejudiced by the extension.

3. A party shall submit an application for an extension as soon as that party becomes aware of the circumstances and reasons that the party believes justify the extension. In no event may an application be submitted after the expiry of the prescribed time period. At the same time as it submits the application, the party shall provide all other parties with a copy of the application.

4. The Presiding Judge may grant the extension only for such additional time as the circumstances set forth in the application may warrant.

CHAPTER IX GENERAL PROVISIONS

Article 22 Proceedings

The proceedings before the Special Chamber shall be based on written filings and oral proceedings.

Article 23 Obligations of Parties in Proceedings

1. Each party shall set forth in its written submissions a comprehensive statement of facts that alleges all facts that the party knows or reasonably believes to be relevant or material to the concerned claim, matter, proceeding or case. The Special Chamber shall only conduct an *ex officio* investigation of the facts in exceptional circumstances.

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

3. In all stages of the proceedings the parties shall act in truthfully.

4. Each party shall set forth in its written submissions a detailed statement of the facts and the legal reasoning upon which it bases its positions and arguments.

5. Where a party alleges a fact, such party shall be required to produce evidence, physical and/or testimonial, supporting such allegation.

Article 24 Representation before the Special Chamber

1. Every Claimant and Respondent shall be represented by a member of a bar association or a chamber of advocates.

2. Notwithstanding the foregoing, a natural person may be permitted to represent himself or herself unless the Presiding Judge issues an order under paragraph 3 of this Article.

3. Upon application by any party or upon his or her own motion, the Presiding Judge may order that a natural person be represented by a member of a bar association or a chamber of advocates if the Presiding Judge is satisfied that such an order is required for the protection of that person's rights and interests or 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:

3.1. such person is reasonably able to afford legal representation; or

3.2. legal aid will be made available to that person 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.

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.

5. The Special Chamber shall immediately notify a party who is not represented by a lawyer of the provisions of this Article 24.

Article 25 **Filing of Pleadings**

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 complete and exact copies for the Special Chamber and one complete and exact copy for every other party to the proceedings. The Registrar shall immediately ensure that every other party to the proceedings are served with a copy.

2. When a document is filed, the Registrar shall make a note of the date of filing on the original.

3. Once a pleading is filed, with the Registry, any calculation of procedural time limits that commence as a result of the filing shall begin at midnight on the date of filing as required by Article 20 of this Annex.

4. If a party chooses to file a pleading by telefax or other electronic means with the Registry, the pleading so filed must be accompanied by all annexes referred to therein, and:

4.1. the filing party must simultaneously send a copy the entire pleading, including the annexes referred to therein, by the same means to all other parties;

4.2 the requirements of paragraph 1 of this Article must be satisfied within the next ten (10) days; and

4.3 If the requirements of this paragraph 4 are met, the date of filing shall be the date of electronic or telefax transmission; provided, however, if the time of electronic or telefax transmission is after 16:00 hours Kosovo time, the date of filing shall be the following business day.

5. The first pleading of an undertaking shall be accompanied by a document, signed by the person granting the power of attorney to the undertaking's lawyer, certifying that such person has the lawful authority to grant such power of attorney.

6. Except as specifically provided by paragraph 7 of this Article, any person shall have the unrestricted right to immediately obtain copies of any pleadings, documents, Judgments or Decisions filed or entered with respect to any claim, matter, proceeding or case before the Special Chamber or that has been referred by the Special Chamber to another court. The Special Chamber shall fix and publish a copying fee that shall be paid by any person obtaining such copies; such copying fee shall be on a "per page" basis and shall be no greater than .15 Euros.

7. The Special Chamber may, acting pursuant to a justified request of the filer of a pleading or document, but never on its own initiative, designate specific information contained in such pleading or document as confidential. Any request for confidential treatment of information in a pleading or document must be accompanied by a compelling written justification demonstrating that public access to such information would cause serious harm to the party or person submitting such information. When considering such a request, the Special Chamber shall give serious consideration to the compelling public interest in maintaining an open and transparent judicial process. The Special Chamber shall not grant such a request if the concerned information is readily accessible by the public elsewhere. If the Special

Chamber grants such a request, it shall ensure that public access is only restricted with respect to the specific concerned sensitive information, and the Special Chamber shall ensure that the publicly accessible files at the Special Chamber contain a redacted version of the concerned document or pleading. Judgments and Decisions shall never be designated as confidential.

8. Pleadings and supporting documents may be submitted in either the Albanian or Serbian language and accompanied by an English translation. Such translation shall be at the expense of the person or party submitting such pleading or document.

9. A natural person may submit an application to the Presiding Judge for assistance in developing the English 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 that the party wishes the Presiding Judge to take into account.

10. The Presiding Judge may direct that the translation of pleadings and supporting documents required by paragraph 8 of this Article 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 natural person. If the Presiding Judge rejects such an application, he or she shall so inform the natural person by decision in writing and shall order that person to provide English translations at such person'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 assessed against that person.

Article 26 **Withdrawal, Amendment, Acknowledgement and Settlement**

1. A Claimant may at any time withdraw its claim or complaint if the Special Chamber consents. In granting its consent the Special Chamber shall consider the interests of all other parties. A Decision consenting to the withdrawal may include an order requiring the withdrawing party to pay the costs of the proceedings incurred prior to the withdrawal. Such a Decision shall not preclude such party from re-filing the claim or complaint.

2. A party may, with the consent of the Presiding Judge, 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 and any harm that may be suffered by the other parties.

3. A Respondent may at any stage of the proceedings accept the claim or complaint filed against it in whole or in part.

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

CHAPTER X **WRITTEN PROCEEDINGS**

Article 27 **Initiation of Proceedings**

1. A claim or complaint shall be submitted to the Special Chamber in writing.

2. A claim or complaint shall state:

2.1. the name and address of the Claimant(s);

2.2. the name and address for service of the lawyer, if any, acting for the claimant;

2.3. to the extent required by paragraph 2 of Article 17 of this Annex, the name(s) and address(es) of Respondent(s);

2.4. the subject-matter and all material facts pertaining to the claim or complaint, the grounds for the primary jurisdiction of the Special Chamber over the claim or complaint, the legal arguments on which the claim or complaint is based and a list of the evidence that the claimant intends to produce;

2.5. where monetary compensation is 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; and

2.6. where non-monetary relief is sought, the Claimant(s) shall specify the nature of such relief, taking into account the provisions of Article 11 of the Special Chamber Law. The Claimant(s) shall also provide the amount of monetary compensation (supported by the schedule of damages required by subparagraph 2.5 of this Article) that it seeks in the event the Special Chamber determines it cannot or will not award such non-monetary relief.

Article 28 **Admissibility of Claim/Complaint**

1. Upon receipt and registration of a claim or complaint and its assignment to the competent Specialized Panel pursuant to Article 12 of this Annex, the Specialized Panel shall determine whether the claim/complaint is admissible.

2. A claim/complaint shall only be admissible if:

2.1. the Special Chamber has jurisdiction pursuant to Article 4 Special Chamber Law;

2.2. the Claimant has the right to initiate proceedings pursuant to paragraph 1 of Article 5 of the Special Chamber Law;

2.3. the claim/complaint is brought against a party who may be a Respondent in proceedings before the Special Chamber pursuant to paragraph 2 of Article 5 of the Special Chamber Law;

2.4. the claim/complaint has been filed within the period set forth in paragraph 1 of Article 6 of the Special Chamber Law;

2.5. the Claimant has given the notice required by paragraph 1 or paragraph 2, whichever is applicable, of Article 6 of the Special Chamber Law; and

2.6. the claim/complaint was filed in accordance with Article 25 of this Annex and conforms to the requirements of Articles 27 of this Annex.

3. If the Specialized Panel determines that the requirements set forth in paragraph 2 of this Article are not met, it shall reject the claim/complaint on the grounds of inadmissibility and shall specify with particularity the legal grounds for such rejection. If the claim/complaint is rejected solely for failure to comply with subparagraph 2.6 of this Article, the Specialized Panel shall issue an order to the Claimant specifying a reasonable period of time during which the Claimant may correct the concerned deficiencies and resubmit.

4. Any Respondent may at anytime file a written pleading challenging the claim or complaint as failing, as a matter of law, to state a claim on which relief or compensation may be awarded. If such a challenge is filed, the Claimant shall have fourteen (14) days to file its written response thereto. The Specialized Panel shall then schedule an oral hearing on the issue.

5. If, after considering the written and oral arguments of the parties, the Specialized Panel determines that no relief or compensation can be awarded in respect of the claim/complaint as a matter of law, it shall issue a Judgment rejecting the claim/complaint on that basis. If the Specialized Panel determines that the claim or complaint does state a claim on which relief or compensation may be awarded as a matter of law, it shall issue a Decision dismissing the Respondent's challenge. Any such Judgment or Decision shall be appealable to the Appellate Panel in accordance with the rules governing such appeals.

Article 29 **Defense of the Respondent**

1. Within one month after the Respondent has been served with a claim/complaint, the Respondent may file a defense. The defense shall contain:

1.1. the name and address of the Respondent;

- 1.2. the name and address for service of the lawyer acting for the Respondent;
- 1.3. the Respondent's response to the facts alleged by the Claimant;
- 1.4. the Respondent's counter arguments to the legal arguments advance by the Claimant; and
- 1.5. the Respondent's response to the request for relief and/or compensation sought by the Claimant.

2. The one month period specified in paragraph 1 of this Article may be extended by a Decision issued by the Specialized Panel or, if applicable, the Single Judge or Sub-Panel, upon a reasoned application by the Respondent.

Article 30 **Claimant's Response and Respondents' Counter Response.**

1. The Claimant shall have fifteen (15) days after being served with a Respondent's defense to file Claimant's response to that defense.
2. A Respondent shall have fifteen (15) days after being served with the Claimant's response to the Respondent's defense to file its counter response thereto.

Article 31 **Counterclaims**

1. A Respondent must file any counterclaim(s) it may have within the same time period allowed for the filing of its defense.
2. Counterclaims shall be subject to the same admissibility requirements established by paragraph 2 of Article 28 of this Annex for claims/complaints. A Claimant against whom a counterclaim has been filed may apply to the Specialized Panel to sever the counterclaim from the proceedings on the grounds that the facts in dispute between the parties with respect to Claimant's claim/complaint do not materially relate to the counterclaim. The Specialized Panel shall grant such application if it determines that the interests of justice would be served thereby. Where the counterclaim is severed, it shall proceed as a new and separate case with a separate entry in the register, and:
 - 2.1. the counterclaim shall be deemed the claim/complaint in that new case;
 - 2.2. the Respondent in the original case shall be the Claimant in that new case; and
 - 2.3. the Claimant in the original case shall be the Respondent in the new case.

Article 32 **Closing of Written Proceedings**

1. Written proceedings are closed:
 - 1.1. if the Respondent has not timely filed a defense, at midnight on the date that such defense is due;
 - 1.2. if the Respondent has timely filed a defense but the Claimant has not timely filed a response to that defense, at midnight on the date such response is due;
 - 1.3. if the Claimant has timely filed a response to the defense, at midnight on the date the Respondent's counter response is due.

Article 33 **Procedural Directions on the Hearing of Claims**

1. At any time during the proceedings, the Special Chamber may order that two or more claims/complaints concerning the same subject matter be joined for the purposes of the written and/or oral proceedings or the Judgment. Prior to the issuance of a Judgment on all claims/complaints so joined, any of such claims/complaints for which a Judgment has not yet been issued may be severed.
2. At any time, the Special Chamber may order that one or more issues be adjudicated before the adjudication of any

other issue if the Special Chamber determines that this will serve the interests of justice, judicial economy or the speedy resolution of proceedings.

3. The Special Chamber may at any time summon the parties to an oral hearing for the purpose of issuing directions and/or schedules governing the further conduct of the proceedings.

Article 34 Preliminary Report of the Single Judge

1. If a Specialized Panel has delegated proceedings to a Single Judge pursuant to Article 11 of this Annex, the Specialized Panel shall establish a date on which the Single Judge is to present a preliminary report to the Specialized Panel. Such date shall be as soon as practicable but not later than thirty (30) days after closure of the written proceedings.

2. The preliminary report shall contain the Single Judge's summary of the case, the material facts that have been agreed or that appear not to be in dispute, the material facts and legal issues that are in dispute, the procedural status of the case, and the proposed schedule for its further conduct.

3. Based upon the preliminary report, the Specialized Panel may issue an order to dispense with the collection of evidence if it determines that there remain no genuine disputes of material fact necessary to decide the case or issue concerned.

4. Before issuing an order pursuant to paragraph 3 of this Article, the Specialized Panel shall inform the parties that it is considering issuing such an order and shall invite the parties to make submissions and present arguments on whether such an order should be issued. The Specialized Panel may issue such an order only if it determines that all parties have had a reasonable opportunity to make such submissions and present such arguments.

5. If an order to dispense with the collection of evidence is issued pursuant to paragraph 3 of this Article, the provisions of Chapter XI of this Annex shall not apply to the case or issue that is the subject of such order.

CHAPTER XI EVIDENCE AND HEARING

Article 35 Delegation of Collection of Evidence to Sub-Panels or Individual Judges

1. The collection of evidence may be delegated by the Presiding Judge to a Single Judge or a Sub-panel.

2. The collection of evidence by a Specialized Panel, Sub-panel or Single Judge shall proceed in accordance with this Annex.

Article 36 General Rules on Evidence

1. A party may submit evidence by:

1.1. producing, or requesting the judge(s) in the case or proceeding to order the production of, the original of a document that is relevant to one or more legal issues or factual allegations in the case or proceeding; the judge(s) may accept a copy of such a document in lieu of the original, but only if the submitting party provides an acceptable explanation as to why the original cannot be provided;

1.2. producing, or requesting the judge(s) in the case or proceeding to summon, witnesses to provide factual testimony or other evidence during the oral proceedings; however, if the party intends to produce such a witness, that party shall provide such judge(s) and the other parties with the name and address of each such witness at least five (5) days prior to the date on which such witness is to testify;

1.3. producing experts to provide expert reports and expert testimony during the oral proceedings; however, the party intending to produce any such expert shall provide the judge(s) in the case or proceeding and the other parties with the name and address of each such expert, and a description of his/her area(s) of expertise, at least five (5) days prior to the date on which such witness is to testify;

- 1.4. producing a physical item relevant to a factual issue in the case or proceeding;
- 1.5. producing treatises, articles and other written materials authored by persons having special expertise or knowledge on a subject matter that is material to a factual or legal issue in the case or proceeding;
- 1.6. requesting the judge(s) in the case or proceeding to order a visit to a site to or the inspection of an object; any such a request shall be accompanied by an explanation indicating the facts that such visit or inspection is expected to assist in establishing; and
- 1.7. producing any other evidence as may be permitted by the judge(s) in the case or proceeding, if the judge(s) first determine that the party has sufficiently demonstrated that such evidence may reasonably be expected to be material to a factual or legal issue in the case or proceeding.

2. The party alleging a fact or an event shall have the burden of proving the truth of such allegation through the submission or production of material evidence (documentary, physical and/or testimonial). Every other party shall be given a reasonable opportunity to challenge the legitimacy or veracity of such evidence through the submission or production of other evidence (documentary, physical or testimonial) tending to disprove the legitimacy or veracity of such evidence. Where evidence is produced by a party in the form of an affidavit or testimony, every other party shall be given a reasonable opportunity to question the person making such affidavit or providing such testimony either in court or at a deposition under oath that is video/audio-taped and transcribed.

3. A party alleging a fact or an event shall be given a reasonable opportunity to submit or produce material evidence in support of such allegation. If such party fails to submit or produce any such evidence, the party shall be determined to have not discharged its burden of proof with respect to that allegation.

4. The judge(s) shall have a duty to independently assess the credibility of any and all evidence (documentary, physical and testimonial) submitted or produced in a case or proceeding.

Article 37 **Orders Compelling the Appearance of Witnesses**

1. Upon application of a party, and for good cause shown in such application, the judge(s) in the case or proceeding shall order a person to appear in court or at a deposition for the purpose of providing testimony and/or producing documents (including documents in electronic form) or other items material to the case or proceeding.

2. Such an application shall contain the following information:

- 2.1. the name and last known address of such person and any other information available to the applicant that may assist in identifying the location of the person;
- 2.2. if the person is to testify, a general indication of the material facts about which the person is reasonably believed to possess knowledge;
- 2.3. if the person is believed to have material documents (including documents in electronic form) or other items in his/her possession, a general description of those documents; and
- 2.4. a commitment by the party making such application to pay the reasonable expenses of the person as determined in accordance with Article 41 of this Annex; if such party ultimately prevails in the case or proceeding, the judge(s) may order the other party to pay these expenses.

3. The judge(s) may, after considering the application, decide that the applying party has not shown sufficient cause for the order to be issued.

4. If the judge(s) decide to issue the order, either the Registrar or the applying party shall be directed to serve the order on the witness. However, if the witness is not physically present in Kosovo and does not maintain a residence in Kosovo, a request for the service of the order shall be made in accordance with paragraph 2 of Article 19 of this Annex.

5. A witness who is physically present in Kosovo at the time of service or who maintains a residence in Kosovo and who has been duly and timely served with such an order shall have a strict obligation to comply fully with such order. If the witness is unable to appear at the time specified in the order, the witness shall, prior to the time for appearance

specified in the order, submit a request to the judge(s) explaining why he/she cannot appear at that time and specifying the times he/she is available to appear. Upon the timely receipt of such a request, the judge(s) may modify the order accordingly and have that order served upon the witness.

6. If a witness fails to comply with an order, the judge(s) in the case or proceeding shall impose upon the witness a fine of not less than one thousand Euros (€ 1000) and not more than five thousand Euros (€ 5000). The judge(s) shall then issue a second order to be served upon the witness. If the witness fails to comply with the second order, the judge(s) shall impose an additional fine on the witness of five thousand Euros (€ 5000), find the witness to be in contempt of court, and issue an arrest warrant requiring the Kosovo Police Service to arrest the witness and bring the witness before the court.

7. A witness who is fined under paragraph 6 of this Article may request that the fine be reduced if the witness can demonstrate that the amount is disproportionate to his or her means.

Article 38 Testimony

1. A person who is to provide testimony shall not be present during any oral submissions or during the testimony or examination of any other witness, unless such person is a party.

2. The parties shall have the right to be present during the testimony and examination of witnesses.

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 shall be required to take an oath or solemn declaration that the testimony given by the witness is true.

4. After the witness has given his/her testimony, questions may be put to the witness by the judge(s). 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.

5. A witness may refuse to give evidence on:

5.1. statements made by or to the witness during a religious confession;

5.2. if the witness is a doctor of medicine, a lawyer or a licensed professional practitioner of some other occupation where the maintenance of confidentiality with respect to client communications is essential to the proper practice of that profession:

5.2.1. statements made to the witness by a patient/client or by the witness to a patient/client, whether orally or in writing, but only to the extent such statements are directly connected to the performance of professional services by the witness for the patient/client; and

5.2.2. information obtained by the witness about a patient/client if such information was obtained for a purpose directly connected to the performance of professional services by the witness for the patient/client;

5.3. information that would tend to incriminate the witness, the witness's spouse, or the children or parents of the witness or the witness's spouse.

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 paragraph 5 of this article.

7. Before giving evidence the witness shall take the following oath: "I, _____, solemnly declare that I shall speak the truth, the whole truth and nothing but the truth."

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.

Article 39

Appointment of Independent Experts

1. The judge(s) in the concerned case or proceeding may, on the judge(s)' own initiative or the application of a party, appoint an independent expert to prepare an expert report and to testify on factual matters that are material to the case or proceeding. 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 the concerned report.

2. A person may not be appointed or serve as such an independent expert in any case or proceeding if he or she:

2.1. has previously taken part, directly or indirectly, in such case or proceeding in any capacity;

2.2. has previously been engaged as an employee or contractor by one of the parties;

2.3. is related by blood or marriage to any of the parties or, in the case of a party that is an undertaking or other body, is related by blood or marriage to a person who is an employee, contractor or owner, who is a member of the board of such entity or who holds major managerial functions in such entity;

2.4. has or acquires a direct or indirect interest in any entity that has asserted a right or interest in an undertaking that is party to the proceedings; or

2.5. has any other identifiable relationship, affiliation, position or pecuniary interest that could reasonably be expected to impair his/her ability to discharge his/her expert duties in an independent, unbiased and professional manner.

3. A court-appointed independent expert shall receive a copy of the order, together with all evidence in the court's possession material to carrying out the expert's task. The expert shall be under the supervision of the judge(s) in the case or proceeding.

4. The judge(s) in the case or proceeding shall require the parties to pay a deposit with the Registry of the Special Chamber in an amount sufficient to cover the estimated reasonable fees and expenses related to the preparation of the report by the expert witness.

5. Court-appointed experts may give their opinion only on those factual issues that have been expressly referred to them by the concerned order.

6. A court-appointed expert shall submit copies of his/her written report directly to the concerned judge(s) and to the Registry, which shall immediately serve copies of such report on the parties.

7. The judge(s) shall require the expert to be examined at a hearing. The judge(s) may put questions to the expert witness. Subject to the control of the Presiding Judge, questions may also be put to the expert by the lawyers of the parties.

8. Before taking up their appointment, an expert witness shall be required to take or make the following oath:

"I, _____, solemnly declare that I shall conscientiously and impartially carry out my task; that I have no relationship, affiliation, position or pecuniary interest that will impair my ability to discharge my duties in an independent, unbiased and professional manner. 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 that I provide to the Court."

9. The selection of an expert witness by the judge(s) shall not be subject to the Law on Public Procurement of Kosovo. Nevertheless, the judge(s) shall select, from the available experts who are not ineligible under paragraph 2 of this Article, that expert who is most qualified to render the concerned opinion. The judge(s) shall also ensure that any arrangement with respect to the payment of the fees and expenses of the expert is reasonable.

Article 40

Objections against Witnesses and Expert Witnesses

1. Any party may object to the competence or eligibility of any proposed witness or expert by requesting the judge(s) hearing the concerned case or proceeding to bar the witness or expert from providing evidence, either entirely or on a

specific matter.

2. Any party may also object to any part of the testimony or other evidence given or produced by a witness or expert on the grounds that such testimony or evidence is not relevant or material or that the witness or expert is not competent to give such testimony or provide such evidence. Such an objection may be made either before or after the testimony is given or the evidence produced. If the objection is made before the concerned testimony is given or the evidence is produced, the judge(s) may – if they find the objection to be well-founded - bar the witness or expert from providing the concerned testimony or evidence. If the objection is made after the concerned testimony has been made or after the concerned evidence has been produced, the judge(s) may – if they find the objection to be well-founded - order that the concerned testimony and/or evidence to be disregarded and stricken from the record.

3. The party making such an objection shall be required to state its reasons for such objection. Every other party shall be given an opportunity to support or oppose the objection and to provide their reasons for such position; provided, however, that if the objection is raised during the conduct of an oral hearing, only the parties present at such hearing shall be given such opportunity.

4. An objection to a witness or to an expert must be raised promptly.

5. The judge(s) may, at any time, require the parties to make written submissions on an objection that has been raised. If the judge(s) take such action, the parties shall be given no more than five (5) business days to make such submissions. The objection shall be upheld until such time as the judge(s) issue a Decision on the objection, and such Decision shall be issued within five (5) business days after the deadline for the parties written submissions.

6. Except as provided in paragraph 5 of Article 38 of this Annex, if any person appears or is brought before the court to serve as a witness or an expert, and such person refuses to testify or produce evidence or answer a question when ordered by the court, or refuses to make an oath or solemn declaration when ordered by the court, the judge(s) in concerned case or proceeding shall impose upon such person a fine of not less than one thousand Euros (€ 1000) and not more than five thousand Euros (€ 5000), find the witness to be in contempt of court, and issue an arrest warrant requiring law enforcement to detain such person until such person agrees to comply with, and does comply with, the concerned order. This paragraph 6 shall not apply however where there is a reasonable basis to believe that the requirement to provide such testimony or evidence would, violate a constitutionally protected right of the witness

Article 41 **Reimbursement of Witnesses and Experts**

1. Witnesses and experts shall be entitled to reimbursement of their reasonable travel and other expenses. The judge(s) in the concerned case or proceeding may authorize the Registry to make advance payments to a witness or experts for such expenses.

2. Witnesses shall be entitled to compensation for documented loss of earnings, and experts shall be entitled to a reasonable fee for their services. Such compensation or fee shall be paid only after the judge(s) in the concerned proceeding or case have certified to the Registry that the witness or expert has fulfilled his/her obligations to the court and authorized the payment of such compensation or fee. The amount to be paid shall be determined by the judge(s) in the concerned case or proceeding and specified in the payment authorization provided to the Registry.

Article 42 **Production of Documents or other Physical Evidence**

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

2. If a party has or obtains a document that is material to the determination of a factual issue in the case or proceeding, that party is required to submit the original thereof – or if the party does not possess the original, a copy – to the court at the earliest practicable stage in the proceedings. Where a copy is submitted, the judge(s) in the case or proceeding may order the person in possession of the original, if known, to submit such original to the court or to appear at a hearing and to produce such original at the hearing.

3. If a party has or obtains a physical item, other than a document, that is material to the determination of a factual issue in the case or proceeding, that party is required to submit such item or a photograph thereof to the court at the earliest practicable stage of the proceedings. The judge(s) in the case or proceeding may order the party in possession of the item to produce such item at a hearing.

4. If evidence for a particular fact is contained in a document or physical item that a party believes is in the possession or control of another party or person, such party may make a written request to the court for an order compelling such other party or person to submit the document or item to the court or an affidavit under oath denying that such other party or person has possession or control of such document or item and providing any information that such other party or person may have with respect to the location of such document or item.

5. If a party or person fails to comply with an order issued under paragraph 4 of this Article fails to produce the document or item or to otherwise respond to the order within the time specified in the order, the court shall impose the applicable penalties specified in paragraph 6 of Article 37 and paragraph 6 of Article 40 of this Annex.

Article 43 **Site Visits or Inspection of Objects**

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.

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.

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.

Article 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.

Article 45 **Orderly Conduct at Hearings**

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.

2. Where a lawyer for a party is excluded pursuant to paragraph 1 of this Article, 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.

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.

Article 46 **Notice of Hearing**

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.

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.

Article 47 **Proceedings at Hearings**

1. A Sub-panel shall be presided over by an international judge, who shall discharge the duties conferred on the Presiding Judge by this Annex. 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.
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.
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.
4. The judge(s) shall then conduct evidentiary proceedings for the collection and examination of evidence.
5. 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.
6. Once the parties have presented their closing oral 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.
7. The Registrar shall ensure that verbatim minutes of all hearings are taken and recorded by the court reporter. Such minutes shall be signed by the Presiding Judge.
8. Where an order has been made to dispense with the collection of testimony or other evidence pursuant to paragraph 3 of Article 34 of this Annex, the parties shall be given an opportunity to present oral submissions on the law material to the claim, and paragraph 4 of this Article shall not apply.

CHAPTER XII **JUDGMENT**

Article 48 **Judgment**

1. A decision of the Special Chamber adjudicating a claim shall be set forth in a Judgment which shall meet the requirements of Articles 10 and 11 of the Special Chamber law. The Special Chamber shall base a judgment upon an analysis of the evidence and the written and oral submissions presented during proceedings and the law of Kosovo.
2. Any relief awarded by the Special Chamber shall not exceed the relief sought by the Claimant.
3. If the Respondent accepts the claim, the Special Chamber shall deliver a judgment in favor of the claimant.
4. An original of the Judgment, signed by the judge presiding over the case, shall be stamped and deposited at the Registry. Each party shall be served with a copy of the judgment within five (5) business days of its adoption.
5. The Judgment shall be in Albanian and Serbian and accompanied by an English translation.
6. The Judgment shall be binding from the day of its service on the parties, and shall be enforceable as a final judgment of the Supreme Court of Kosovo according to the provisions of the law of Kosovo.
7. If a final Judgment can be appealed, the Appellate Panel may upon application of the appellant postpone enforcement of such judgment until it has given its decision on the appeal.

Article 49 **Rectification of Clerical Errors**

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

2. A rectification order shall be attached to the original of the rectified Judgment.

Article 50 Omissions

1. If the Special Chamber omits to give a decision on a specific part of a claim or on costs, any party may, within fifteen (15) days of service of the judgment, apply to the Special Chamber to supplement its judgment.

2. The application for a supplement to the judgment 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.

Article 51 Publications of Decisions

The Registrar shall publish on the Special Chamber's web-site all Decisions and Judgments issued by any panel, Sub-panel or Single Judge. The publication shall be in Albanian and Serbian and an English translation.

CHAPTER XIII DEFAULT JUDGMENTS

Article 52 Default Judgment

1. If a Respondent on whom a claim has been duly served fails to file a defense to the claim in the proper form within the time prescribed pursuant to Article 29 of this Annex, or if the Respondent does not appear at a hearing for which it has duly and timely received notice, the concerned judge(s) may, acting *ex officio* or upon application of the Claimant, render a default Judgment against the Respondent.

2. If a duly summoned Claimant fails to appear at a hearing or otherwise abandons the proceedings, the concerned judge(s) may, upon application of the Respondent, render a default Judgment against the Claimant dismissing the claim and ordering the Claimant to pay all costs of the proceedings.

3. Before granting a default Judgment to a Claimant, the concerned judge(s) shall consider whether the claim is admissible and whether facts alleged by the Claimant support the claim.

4. A default Judgment shall be enforceable as a final Judgment, unless or until set aside pursuant to Article 53 of this Annex. A default Judgment cannot be appealed.

5. The Special Chamber may postpone enforcement of a default Judgment until it has given its decision on any application to nullify the default Judgment.

Article 53 Application to Nullify a Default Judgment

1. Any party against whom a default judgment was entered by the Special Chamber may file an application with the Special Chamber to nullify the default Judgment.

2. An application to nullify a default Judgment must be made within one month of the date of service of the default Judgment on the concerned party. The application shall be served on the other parties.

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.

4. In making its Decision on an application to nullify a default Judgment, the Special Chamber shall:

4.1. uphold the default Judgment and reject the application for its nullification; or

4.2. nullify the default Judgment and order the continuation of the proceedings.

5. A Decision on an application to nullify a default Judgment shall be attached to the original of the default Judgment and a copy of the Decision shall be served on the parties.

6. Any Decision on an application to nullify a default Judgment can be appealed.

CHAPTER XIV PROVISIONAL REMEDIES

Article 54 Suspension of Enforcement of a Penalty

Upon application by a party to set aside a penalty imposed by the Agency pursuant to Article 27 of the Law on the Privatization Agency of Kosovo, the Special Chamber may suspend the enforcement of the penalty, pending the final decision on the claim.

Article 55 Preliminary Injunctions

1. Upon application by a party, the Special Chamber may issue a preliminary injunction provided the applicant gives credible evidence that immediate and irreparable damage will result to the party if no preliminary injunction is granted. Damage shall only be deemed to be "irreparable" if it cannot reasonably be compensated with an award of monetary compensation. 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.

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. Where exigent circumstances exist requiring the Special Chamber to act on the application immediately, 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.

3. A Decision granting a preliminary injunction shall be in writing and shall:

3.1. summarize the factual and procedural background of the proceedings, as far as they relate to the preliminary injunction;

3.2. state the nature of the damage the applicant party will suffer if the preliminary injunction is not granted and the reasons why the Special Chamber determined such damage to be irreparable;

3.3. provide the Special Chamber's findings of fact and legal reasoning for granting the preliminary injunction; and

3.4. specify the time at which the preliminary injunction will expire.

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

5. A Decision granting injunctive relief to a party shall be binding upon all parties involved and may be immediately appealed to the Appellate Panel.

CHAPTER XV COSTS

Article 56 Decision on Costs

1. A final Judgment on a claim or complaint shall include a decision with respect to the allocation of the costs of the

case among the parties.

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

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.

4. The Special Chamber may order a party, even if successful, to pay any costs that the Special Chamber considers that party to have unreasonably caused another party to incur.

5. If costs are not claimed by the successful party or the Special Chamber so decides, each party shall bear its own costs. Where a claim does not proceed to Judgment the costs shall be apportioned as agreed between the parties, or if not agreed, at the discretion of the Special Chamber.

Article 57 Calculation of Costs

1. The calculation of costs shall include court expenses, 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.

2. The court expenses that may be imposed on the parties to a proceeding shall be established in a written schedule by the Presidium and submitted to the Kosovo Judicial Council for approval. The schedule shall not be effective until approved by the Kosovo Judicial Council.

CHAPTER XVI APPELLATE PROCEEDINGS

Article 58 General Provisions

1. As provided in paragraph 6 of Article 10 of the Special Chamber Law, a party shall have the right to appeal any Decision or Judgment of a Single Judge, Sub-panel or Specialized Panel – or of any court to which a claim, matter, proceeding or case has been referred pursuant to paragraph 4 of Article 4 of the Special Chamber Law - directly to the Appellate Panel.

2. The rules of procedure and evidence that govern proceedings in the Specialized Panels shall apply mutatis mutandis to appellate proceedings before 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.

Article 59 Filing of Appeal

1. A party making an appeal shall submit and serve its appeal in the manner and within the time period prescribed by paragraph 6 of Article 10 of the Special Chamber Law within the time periods specified in that paragraph.

2. Upon receipt of the notice of appeal, the court, Specialized Panel, Sub-panel or Single Judge that issued the concerned Decision or Judgment shall transmit the case file to the Appellate Panel.

Article 60 Content of Appeal

1. The appeal shall:

1.1. identify the case or proceeding in which the Judgment or Decision that is the subject of the appeal was issued;

1.2. provide the name of the appellant and the name and address of the appellant's agent for service;

1.3. provide the names of the other parties and the names and addresses of the other parties' agents for service;

1.4. provide the date on which the appellant was served with the Decision or Judgment that is the subject of the appeal;

1.5. provide a very brief summary of the nature of the appeal;

1.6. attach a copy of the Decision or Judgment that is the subject of the appeal.

1.7. specify any case name and number that may have been assigned by the Appellate Panel to the appeal;

1.8. set forth in detail the issue(s) being raised in the appeal and appellant's legal arguments on those issue(s);

1.9. set forth in detail the nature of the relief sought by the appellant, taking into account the provisions of paragraphs 10 and 11 of Article 10 of the Special Chamber Law and Article 11 of the Special Chamber Law.

2. Within ten (10) days after receipt of the appeal, the Appellate Panel shall make the determination required by paragraph 9 of Article 10 of the Special Chamber Law. If the Appellate Panel decides that the appeal does not merit review, it shall reject the appeal by issuing and serving a Decision to that effect that complies with the requirements of paragraph 9 of Article 10 of the Special Chamber Law. If such a Decision is issued, the appellate proceedings shall terminate. If the Appellate Panel determines that the appeal merits review, it shall issue and serve a Decision to that effect on the parties.

Article 61 Response to Appeal

1. As provided in paragraph 8 of Article 10 of the Special Chamber Law, any party may submit a response to the appellant's appeal within twenty-one (21) days after such party is served with the appellant's memorandum of law.

2. Such a response shall:

2.1. specify any case name and number that may have been assigned by the Appellate Panel to the appeal;

2.2. provide the name of the respondent and the name and address of the respondent's agent for service;

2.3. provide the names of the appellant and the other parties and the names and addresses of their agents for service;

2.4. provide the date on which the respondent was served with the appeal;

2.5. set forth in detail the respondent's legal arguments that respond to those contained in the appeal;

2.6. set forth in detail the nature of the relief sought by the respondent, taking into account the provisions of paragraphs 10 and 11 of Article 10 of the Special Chamber Law and Article 11 of the Special Chamber Law.

Article 62 Appellant's Response and Respondent's Counter-Response

As provided in paragraph 8 of Article 10 of the Special Chamber Law, the appellant shall have twenty-one (21) days after being served with a response to its memorandum of law to submit and serve its own response to that response; and, if the appellant submits such a response, the concerned other party shall have twenty-one (21) days after being served with the appellant's response to submit such other party's counter-response thereto.

Article 63 Closing of Written Appellate Proceedings

1. Written Appellate Proceedings are closed:

1.1. if no party timely submits a response to the appellant's appeal, at midnight on the date occurring twenty-one (21) days after all other parties have been served with the appeal.

1.2. if one or more parties have timely submitted a response to the appeal, but the appellant has not timely submitted any response thereto, at midnight on the date occurring twenty-one (21) days after the appellant has been served with all timely responses to its appeal.

1.3. if the appellant has timely submitted a response to another party's response to its appeal, at midnight on the date after which no counter response may be filed.

Article 64 Oral Appellate Proceedings

1. The Appellate Panel shall, on its own initiative or the written application of a party, decide to whether or not to hold on or more oral hearings on the concerned appeal. The Appellate Panel shall take into account any application for oral proceedings submitted by any of the parties setting forth its reasons for requesting oral proceedings. Such an application must be filed prior to the closing of written appellate procedures.

2. During oral hearings, the appellate panel shall be presided over by its Presiding Judge. 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.

3. A party that is represented in a proceeding by a lawyer may address the Appellate Panel only through its lawyer, unless a member of the Appellate Panel puts a question directly to a party.

4. At the opening of the oral hearings, the Presiding Judge shall give a short introduction to the appeal, the legal issues in dispute and any finding of fact made by the issuer of the concerned Decision or Judgment that a party has alleged to be "clearly erroneous".

5. At an oral hearing, the parties shall be given the opportunity to give oral presentations of their legal arguments. The parties shall confine their presentations to the facts and evidence reflected in the record that are material to the appeal and to the legal issues that are material to the appeal. The Appellate Panel may impose a reasonable limit on the period of time allocated to each party for such presentations.

6. Except as specifically permitted pursuant to Article 65 of this Annex, the judge(s) shall not conduct evidentiary proceedings.

7. The Registrar shall ensure that verbatim minutes of all oral appellate hearings are taken and recorded by the court reporter. Such minutes shall be signed by the Presiding Judge.

Article 65 Submission of New Evidence

In exceptional circumstances and for good cause shown, the Appellate panel may permit a party to present to the Appellate Panel new evidence that was not available to the party during the evidentiary portion of the first instance proceedings. A written application for such permission must first be submitted to the Appellate Panel and served on the other parties not less than fifteen (15) days before the date of the hearing where such evidence is proposed to be presented. The Appellate Panel may authorize the presentation of such new evidence if it considers it to be in the interests of justice.

Article 66 Disposal of Appeal

The Appellate Panel may dispose of an appeal by taking any of the actions specified in paragraph 10 of Article 10 of the Special Chamber Law.

Article 67 Costs

1. In its Decision or Judgment on an 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 Articles 56 and 57 of this Annex shall apply *mutatis*

mutandis.

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

CHAPTER XVII
COMPLAINTS UNDER PARAGRAPH 1.6 OF ARTICLE 4
OF THE SPECIAL CHAMBER LAW

Article 68
Complaints Related to a List of Eligible Employees

1. The procedure for cases based on complaints falling within the scope of paragraph 1.6 of Article 4 of the Special Chamber Law shall, except as specifically provided in this Article 68, generally follow the other procedural rules set forth in this Annex, which the Special Chamber shall apply *mutatis mutandis* as the Special Chamber deems necessary and in the interest of justice.

2. Upon receiving a list of eligible employees pursuant to Section 10 UNMIK Regulation 2003/13, or any successor legislation governing the establishment of such a list, the Agency shall publish such list together with a notice to the public of the right of any person to file a complaint with the Agency within twenty (20) days after the date of publication requesting inclusion in such list and/or challenging the inclusion of one or more other persons in such list. The person filing any such request or challenge shall include therein a statement of the facts and the legal arguments supporting such request or challenge; such person shall have the burden of proving all facts alleged in the request and/or challenge.

3. The notice to the public referred to in paragraph 2 of this Article shall contain a copy of a form for filing a request and/or challenge. Such form shall indicate the information that must be provided to enable the Agency to evaluate the request and/or challenge.

4. Upon receipt of any request and/or challenge relating to a list of eligible employees, the Agency may require the submitter to provide such additional evidence and/or information as may be necessary to enable the Agency to properly evaluate the requests and/or challenge. The Agency may decide to conduct evidentiary hearings, which shall be duly recorded, for all who wish to give testimony or provide other evidence. After a reasonable opportunity has been provided for the giving of testimony and the submission of evidence, the Agency shall allow any person or his/her lawyer to present arguments in support of the request and/or challenge.

5. After having duly addressed all requests and challenges, the 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, or any successor legislation governing the establishment of such a list, the Agency shall officially establish its final list of eligible employees. Such decision shall contain a reasoned justification:

5.1. for the inclusion of each person on the list;

5.2. for the exclusion of any person who was on the list as originally published;

5.3. for any refusal to include a person who sought to be included on such list after its original publication; and

5.4. for any acceptance or refusal of any other challenges to the list.

6. The Agency shall publish its final list of eligible employees established pursuant to paragraph 5 of this Article in conformity with Section 10.6 of UNMIK Regulation 2003/13, or any successor legislation governing the establishment of such list, together with a notice to the public of the right of any person to file a complaint with the Special Chamber within twenty (20) days after the date of publication challenging such list and/or the Agency's distribution of escrow funds to the persons identified therein. The complainant(s) filing any such complaint shall include therein a statement of the facts and the legal arguments supporting such complaint; the complainant(s) shall have the burden of proving all facts alleged in the complaint.

7. Such a complaint shall be submitted to the Special Chamber in writing before the expiration of the referenced twenty (20) day period and shall:

- 7.1. provide the name or names of the person or persons submitting such complaint or on whose behalf the complaint is submitted;
 - 7.2. provide the name and address of each such person's agent for service;
 - 7.3. set forth a detailed statement of the facts supporting such complaint; and
 - 7.4. provide a detailed statement of the legal arguments supporting such complaint.
8. A copy of any such complaint shall be served by Registrar of the Special Chamber on the Agency within five (5) business days after it is submitted to the Special Chamber.
9. The Agency shall be a Respondent in any case or proceeding based on such a complaint. The Agency shall submit to the Special Chamber, within fifteen (15) business days after being served with such a complaint, its response to the complaint together with all documents in the possession of the Agency that directly relate to its establishment of such list. The Agency shall submit its response and such documents in the language of the complaint together with an English translation thereof.
10. A copy of the response and documents submitted by the Agency shall be served by the Registrar of the Special Chamber on the complainant(s) within five (5) business days after their submission to the Special Chamber.
11. The concerned Specialized Panel, acting on its own initiative or pursuant to a written request of the complainant(s) or the Agency, may decide to hold one or more oral hearings on the matter. If an oral hearing is to be held, the Specialized Panel shall cause the Registrar to serve on the parties, at least five (5) days in advance of such hearing, a written notice of the time and date of such hearing.
12. The Special Chamber shall arrange, if necessary, for the translation into English of the complaint and any subsequent submissions made by the complainant. Such translations shall be served on the complainant(s) and the Agency as soon as they are available. If a hearing is to be held where the concerned documents are to be discussed, such hearing shall be held no sooner than seven (7) days after the translations have been served on the parties.
13. The Judgment of the concerned Specialized Panel shall be issued and served on the complainant(s) and the Agency not later than ninety (90) days after the date on which the complaint was submitted to the Special Chamber. All Decisions and Judgments of such Specialized Panel shall be appealable in accordance with the applicable provisions of the Special Chamber Law and this Annex.
14. The Appellate Panel shall dispose of all such appeals as a matter of urgency.

CHAPTER XVIII REORGANIZATION AND LIQUIDATION PROCEEDINGS

Article 69 Reorganization and Liquidation Proceedings

The procedure for challenges to decisions taken by the Agency, its predecessor (the KTA), an Administrator, or a liquidation committee pursuant to UNMIK Regulation 2005/48 or any successor legislation thereto shall be governed by such regulation or successor legislation (whichever is then in effect). The conduct of cases or proceedings with respect to such challenges shall, in the first instance, be assigned to the Specialized Panel handling matters within the scope of subparagraph 8.5 of Article 3 of the Special Chamber Law. With respect to matters not covered in such regulation of successor legislation, the most appropriate provisions of this Annex shall be applied *mutatis mutandis*; and such Specialized Panel shall regularly delegate the conduct of the proceedings to a Single Judge who has special expertise in such matters.

Article 70 Review of Liquidation Decisions

1. The procedure before the Special Chamber for a challenge to the decision of a Liquidation Authority conducting the liquidation of an Enterprise or Asset pursuant to the Law on the Privatization Agency of Kosovo, shall be governed by this Article.

2. A creditor of the Enterprise who has timely filed a claim with the Agency and who is prejudiced by a decision of a Liquidation Authority may challenge such decision by filing a complaint against the Agency with the Special Chamber within thirty (30) days after being served with such decision. Any such complaint must be based on an allegation that the liquidation process has not complied with the Law on the Privatization Agency of Kosovo. The complainant shall comply with the requirements of paragraph 2 of Article 27 of this Annex and attach a copy of the decision being challenged.

3. The conduct of cases or proceedings with respect to such complaints shall, in the first instance, be assigned to a Specialized Panel handling liquidation matters.

4. The other general procedural provisions contained in Articles 13 - 67 of this Annex shall apply to cases and proceedings based on such complaints. The concerned panel, Sub-Panel or Single Judge may issue a Judgment upholding, invalidating or modifying the decision of the Liquidation Authority.