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REGULATION NO. 1999/22

UNMIK/REG/1999/22

15 November 1999

ON THE REGISTRATION AND OPERATION OF NON-GOVERNMENTAL ORGANIZATIONS IN KOSOVO

The Special Representative of the Secretary-General,

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

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

For the purpose of regulating non-governmental organizations in Kosovo,

Hereby promulgates the following:

Section 1

SCOPE OF THE REGULATION

- 1.1 The present regulation shall govern the founding, registration, activities and dissolution of legal persons organized as Non-Governmental Organizations in Kosovo.
- 1.2 The term Non-Governmental Organization (“NGO”) as used in the present regulation shall encompass domestic associations and foundations as defined in section 2 of the present regulation, and foreign and international organizations as defined in section 3. The present regulation does not seek to limit the right of individuals to freedom of association.
- 1.3 An NGO shall not distribute any net earnings or profits as such to any person. The assets, earnings and profits of an NGO shall be used to support the not-for-profit purposes of the organization and shall not be used to provide benefits, directly or indirectly, to any founder, director, officer, member, employee or donor of the NGO. This section does not preclude the payment of reasonable compensation to such persons for work performed for the organization.

Section 2

ESTABLISHMENT OF ASSOCIATIONS AND FOUNDATIONS IN KOSOVO

- 2.1 A domestic NGO is an association or foundation established in Kosovo to accomplish any lawful purpose, whether for public benefit or mutual interest.

2.2 An association is a membership organization. An association may be established by at least three domestic or foreign legal or natural persons (“persons”), at least one of whom has a residence or seat in Kosovo.

2.3 A foundation is an organization without members established to manage properties and assets. A foundation may be established by one or more persons, at least one of whom has a residence or seat in Kosovo.

2.4 An association or foundation shall be established by a founding instrument that shall contain the following information:

- (a) The official name of the organization and any official acronym;
- (b) Its organizational form (association or foundation);
- (c) The organization’s address;
- (d) The organization’s purpose;
- (e) The names and addresses of the founders; and
- (f) The name, address and other contact information of the individual or individuals in Kosovo authorized to represent the organization and to receive official notices and inquiries.

2.5 A foundation may also be established by a will, bequest or legacy if it includes the information set forth in section 2.4.

2.6 An association or foundation shall have statutes containing the following information:

- (a) The name of the organization;
- (b) The purposes of the organization and a general description of proposed activities;
- (c) If the NGO is an association, the procedures for selecting and removing members, the conditions for membership, and, if the organization is to have a Board, the procedures for electing and removing members of the Board and the allocation of powers and responsibilities between the general meeting of members and the Board;
- (d) If the NGO is a foundation, the procedures for electing and removing members of the Board;
- (e) The powers of the highest governing body to delegate authority and responsibilities to other internal organs of the NGO, and the procedures for such delegations;
- (f) The authority and responsibilities of officers, if any;
- (g) Quorum and voting rules for the highest governing body and any other internal organ of the NGO;
- (h) Rules and procedures for amending the statutes, and for merging, splitting up, or dissolving the organization and provisions regarding the distribution of any assets remaining after such dissolution.

Section 3

FOREIGN AND INTERNATIONAL NGOs

3.1 A foreign or international NGO is a legal person established outside of Kosovo under legislation that substantially meets the requirements mentioned in section 3.2 of the present regulation.

3.2 Foreign and international NGOs are subject to the provisions of sections 1, 3, 4.1, 4.3, 4.4, 4.5, 4.6, 5, 6.2, 8 and 9 to 14 of the present regulation.

Section 4

REGISTRATION

4.1 An NGO shall apply for registration with UNMIK in order to operate as a legal entity in Kosovo.

4.2 A foundation or association registers by filing with UNMIK an application form, founding instrument and its statutes.

4.3 A foreign or international NGO registers by filing:

- (a) An application form;
- (b) Proof that it is a legal person in another country;
- (c) The organization's address in Kosovo; and
- (d) A written statement from an authorized representative of the NGO's headquarters stating:
 - (i) The purposes of the NGO;
 - (ii) A general description of the activities that the NGO is planning to carry out in Kosovo; and
 - (iii) The name, address and other contact information of the individual or individuals in Kosovo authorized to represent the NGO and to receive official notices and inquiries.

4.4 An NGO shall inform UNMIK within thirty (30) business days of any material change with respect to documents submitted for registration. Amendments to registration shall be subject to procedures, standards and time limits equivalent to those applicable to initial registration. Amendments accepted by UNMIK shall be recorded, registered and publicly available under section 4.5 of the present regulation.

4.5 UNMIK shall maintain a register of NGOs. The register shall state the name, address, organizational form and purposes of each NGO, as well as the name, address and other contact information of its authorized representative(s). The register shall also indicate if an NGO has public benefit status pursuant to section 10 of the present regulation. The register shall be available to the public in a central location during regular business hours to be established by the registering authority.

4.6 UNMIK shall issue to an NGO a registration certificate or a written decision denying registration within sixty (60) business days of receiving an application to register, unless UNMIK requests in writing further information or clarification. If registration is denied, UNMIK shall include an explanation of the grounds upon which registration was denied.

Section 5

GROUND FOR DENYING REGISTRATION

5.1 UNMIK may deny an application if (a) the registration documents do not comply with the requirements of the present regulation; (b) if the statutes of the NGO would violate the provisions of the United Nations Security Council resolution 1244 (1999), or of any UNMIK regulation; or (c) the organization seeking registration has the same name or one so similar to a previously registered or already established NGO that confusion is likely to result.

5.2 UNMIK may suspend or revoke a registration for violation of any provision of the present regulation. Except in the case of serious violations posing a threat of harm to the public, UNMIK shall give an NGO written notice of the violation and an opportunity to respond prior to suspending or revoking registration.

Section 6

LEGAL STATUS

6.1 NGOs shall have the status of a legal person in Kosovo upon registration pursuant to the present regulation.

6.2 Upon registration, foreign and international NGOs are authorized to operate as a legal person in Kosovo.

Section 7

INTERNAL GOVERNANCE OF ASSOCIATIONS AND FOUNDATIONS

7.1 The highest governing body of an association shall be the assembly of members. The assembly of members shall consist of all members of the association.

7.2 The highest governing body of a foundation shall be a Board of Directors. The Board of Directors shall consist of at least three members.

7.3 The highest governing body shall have ultimate responsibility for the policies and financial affairs of the organization and shall meet at least once a year, at which time it shall review and approve the assets, liabilities, income, expenditures and programs of the organization for the past year as well as anticipated assets, liabilities, income, expenditures and programs for the upcoming year.

7.4 Any member of a governing body shall recuse himself from the consideration or decision of any matter in which he has a personal or economic interest. Any transaction between the organization and its members, officers, members of the Board or employees must be concluded at fair market value or on terms more favorable to the organization.

Section 8

POLITICAL ACTIVITIES

NGOs may not engage in fundraising or campaigning to support political parties or candidates for political office, nor may they propose, register or in any way endorse candidates for public office.

Section 9

PROPERTY AND RESOURCES

9.1 The income of an NGO may include: donations of cash, securities, and in-kind contributions; bequests; membership fees; gifts; grants; real or personal property; and income generated from any lawful activities undertaken by the NGO with its property and resources.

9.2 An NGO may engage in economic activities for the purpose of supporting its not-for-profit activities subject to the requirements of section 1.3.

9.3 An NGO may own and manage property and assets for the accomplishment of its not-for-profit purposes.

Section 10

TAX AND FISCAL BENEFITS

10.1 Subject to the limitations described in section 10.2 below, an NGO registered under the present regulation may apply for public benefit status if the NGO is organized and operated to undertake one or more of the following as its principal activities: humanitarian assistance and relief, charity, education, health, culture, environmental conservation or protection, economic reconstruction and development, the promotion of human rights, the promotion of democratic practices and civil society, the promotion of gender equality or any other activity that serves the public benefit.

10.2 Education and health shall constitute public benefit activities only if significant benefits are provided free of charge or at less than fair market value to disadvantaged individuals or groups. Economic development shall constitute a public benefit activity only if it is undertaken primarily for the benefit of disadvantaged individuals or groups.

10.3 An NGO may apply for public benefit status upon initial registration by the NGO or thereafter. UNMIK shall grant public benefit status if the registration documents of the NGO demonstrate that the purposes and activities of the NGO satisfy the requirements of section 10.1. To retain public benefit status, the NGO shall prepare activity and financial reports pursuant to administrative directions issued by the Special Representative of the Secretary-General.

10.4 UNMIK may revoke the public benefit status of an NGO for violation of the present provision. The procedures for the granting and revoking of public benefit status shall follow the corresponding provisions in sections 4.6 and 5.2 of the present regulation.

10.5 Pursuant to conditions and procedures contained in administrative directions issued by the Special Representative of the Secretary-General, NGOs with public benefit status shall be entitled to tax and fiscal benefits, including exemption from customs duties, sales tax and other taxes except those which are essentially charges for public utility services.

Section 11 DISSOLUTION

11.1 An NGO may be voluntarily dissolved upon the decision of its highest governing body.

11.2 In the event of the dissolution of an NGO that received tax or fiscal benefits, donations from the public or government grants, any assets remaining after discharge of the NGO's liabilities shall be distributed to another NGO with the same or similar purposes. This NGO shall be identified in the NGO's statutes or through a decision of the NGO's highest governing body; otherwise, UNMIK will make this determination.

11.3 In all other cases, any assets remaining after the discharge of liabilities shall be distributed in accordance with the statutes or a decision by the highest governing body and in all cases in compliance with section 1.3 of the present regulation.

11.4 UNMIK shall remove dissolved NGOs from the register of active NGOs.

Section 12 IMPLEMENTATION

The Special Representative of the Secretary-General may give administrative directions and orders in connection with the implementation of the present regulation.

Section 13 APPLICABLE LAW

The present regulation shall supersede any provision in the applicable law relating to the registration and operation of non-governmental organizations in Kosovo which is inconsistent with it.

Section 14 ENTRY INTO FORCE

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

Bernard Kouchner
Special Representative of the Secretary-General
