



UNMIK/DIR/2002/3
26 February 2002

ADMINISTRATIVE DIRECTION NO. 2002/3

**IMPLEMENTING UNMIK REGULATION NO. 1999/16
ON THE ESTABLISHMENT OF THE CENTRAL FISCAL AUTHORITY
AND OTHER RELATED MATTERS**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under section 8 of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/16 of 6 November 1999, as amended, on the Establishment of the Central Fiscal Authority and Other Related Matters,

Taking into account UNMIK Regulation No. 1999/4 of 2 September 1999 on the Currency Permitted to be used in Kosovo, UNMIK Regulation No. 1999/3 of 31 August 1999, as amended, on the Establishment of the Customs and Other Related Services in Kosovo, UNMIK Regulation No. 1999/20 of 15 November 1999, as amended, on the Banking and Payments Authority of Kosovo, UNMIK Administrative Direction No. 1999/2 of 2 September 1999, as amended, implementing UNMIK Regulation No. 1999/4, and UNMIK Administrative Direction No. 2001/8 of 6 June 2001 implementing UNMIK Regulation No. 1999/16, as amended,

Having regard to the current process of conversion to the Euro currency and the need to deter actions that could undermine the stability of the financial system in Kosovo,

For the purpose of enhancing control over the movement of cash, securities and negotiable instruments into Kosovo,

Hereby issues the following Administrative Direction:

Section 1

Declaration of Money and Monetary Instruments

1.1 Any person, who carries, transports or conveys into Kosovo from any country or from another part of the Federal Republic of Yugoslavia (FRY) cash, traveller's

checks, bank checks and/or cashier's checks of any description (hereinafter "monetary instruments") having an aggregate value of more than ten thousand (10,000) Euro, shall be required to:

(a) Complete, sign and present to an authorized official at an authorized point of entry into Kosovo a declaration form stating the amount of monetary instruments being carried, transported or conveyed by the concerned person. The concerned person shall also state in writing on the declaration form the source of such monetary instruments; and

(b) Produce such monetary instruments for inspection if required to do so by an authorized official.

1.2 The authorized official may, in his/her discretion, require any or all persons traveling with a person to whom section 1.1 apply also to comply with requirements set out in this section.

Section 2

Failure to Declare Monetary Instruments

2.1 Any person who fails to comply with the requirements under section 1 commits an offence punishable by a fine of 25% of the aggregate value of the monetary instruments that are carried, transported or conveyed. However, where in the judgment of the authorized officials such non-compliance results from an error which is insignificant or is not made with intent to misrepresent, conceal or deceive, the authorized officials may require the person concerned to complete, sign and present a revised declaration. If such revised declaration is acceptable to the authorized officials, no action shall be taken against the person concerned.

2.2 The authorized official shall issue to a person who has committed an offence under section 2.1 a written notification on a standard form stating the nature of the offence and the fine imposed which shall be paid immediately.

2.3 If such person does not immediately pay such fine, the authorized official shall seize either (a) that portion of the aggregate value of all monetary instruments being carried, transported and/or conveyed by the concerned person that exceeds ten thousand (10,000) Euro or (b) that portion that equals 25% of the aggregate value of all monetary instruments being carried, transported and/or conveyed by the concerned person, whichever is the greater.

2.4 If the value of a monetary instrument is not divisible for the purpose of applying the provisions of section 2.3, the authorized officials may seize monetary instruments of sufficient value to cover the specific amount required.

2.5 Upon a seizure under section 2.3, the authorized officials shall issue to the concerned person a written receipt stating the relevant facts and the amount of the monetary instruments seized and retained.

2.6 The monetary instruments seized and retained in accordance with the present section shall where possible be held in a special non-interest bearing account in the name of UNMIK with the BPK or otherwise be held in safe custody with the BPK until such time as the fine is paid in full or as otherwise ordered by a court of competent jurisdiction or as otherwise provided in the present administrative direction.

2.7 If a person whose currency was seized pursuant to section 2.3 pays within 30 days after such seizure the fine that was originally due, the competent authority shall make arrangements for the return of the monetary instruments in question or the equivalent value thereof as appropriate. Such arrangements are to be made within 5 days from the date of receipt of payment of the fine.

2.8 If a person who pays the fine within the 30-day period specified in section 2.2 is unable to collect in person the seized monetary instruments, he or she may:

(a) Grant a power of attorney to another person authorizing such person to collect the seized monetary instrument on his or her behalf and/or provide the competent authority with a signed written and notarized document instructing the competent authority to return the monetary instruments to another named individual; or

(b) Submit a request in writing addressed to the BPK to deposit the monetary instruments in a special UNMIK account in the name of such person until such time as the monetary instruments are collected personally by the person concerned or by a person authorized to do so in accordance with section 2.8 (a).

2.9 If a fine is paid in full within the 30-day period specified in section 2.2, but the monetary instruments seized are not collected within 12 months from the date of the seizure, such monetary instruments shall be forfeited to UNMIK and deposited into the Kosovo Consolidated Budget.

2.10 If a person does not pay a fine imposed under section 2.1 within 30 days, the matter shall be referred to a competent court for determination in accordance with section 3.

2.11 A person against whom a fine under section 2.1 has been imposed or whose monetary instruments have been seized pursuant to section 2.3 shall have the right to contest the imposition of the fine or the seizure in a competent court within 30 days from the date of notification imposing the fine or the written receipt confirming the seizure.

Section 3
Court Proceedings

3.1 A competent court seized of a case pursuant to section 2.10 or 2.11 may:

(a) Confirm the fine and/or the seizure and where appropriate order the deduction of the fine and/or applicable costs from the seized monetary instruments. The balance thereof shall be forfeited to UNMIK and deposited into the Kosovo Consolidated Budget; or

(b) Set aside or reduce the amount of the fine, or set aside the seizure or reduce the amount of monetary instruments subject to seizure, if the court determines that the fine was assessed or the seizure was performed not in conformity with the present administrative direction or in violation of the applicable law. The monetary instruments of the value thereof shall be retained for up to 6 months from the date of the court order if the concerned person does not appear in the court or fails to collect them. On the expiration of this 6-months time limit, if the concerned monetary instruments are not claimed by the concerned person and no determination or order is made by a competent court, the monetary instruments of the value thereof shall be forfeited to UNMIK and deposited into the Kosovo Consolidated Budget.

3.2 The fine, seizure and retention effected pursuant to section 2 and contested in the court proceeding shall continue without restriction notwithstanding any contestation of such fine, seizure and retention in a competent court, unless otherwise ordered by such court or as may be otherwise provided in provided pursuant to the present administrative direction.

3.3 An authorized official shall not be personally liable or held accountable for damages or loss resulting from good faith acts or omissions in the course of his or her official duties under the present administrative direction.

Section 4
Administrative Arrangements

The present administrative direction shall be implemented under the overall authority and supervision of UNMIK by the officials of the Central Fiscal Authority, customs officials, police, security forces and any other authority designated by the Special Representative of the Secretary-General.

Section 5
Entry into Force

The present administrative direction shall enter into force on 26 February 2002

Michael Steiner
Special Representative of the Secretary-General