

REGULATION NO. 2005/12

**ON THE APPROVAL OF THE KOSOVO CONSOLIDATED BUDGET
AND AUTHORIZING EXPENDITURES FOR THE PERIOD
1 JANUARY TO 31 DECEMBER 2005**

The Special Representative of the Secretary-General,

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

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

Having regard to the responsibilities of the Provisional Institutions of Self-Government under sections 5.1 (a) and (b) and section 5.2 (c) of UNMIK Regulation No. 2001/9 of 15 May 2001, as amended, on a Constitutional Framework for Provisional Self-Government in Kosovo.

Taking into account the final authority of the Special Representative of the Secretary-General under section 8.1 (c) of UNMIK Regulation No. 2001/9 of 15 May 2001, as amended, on the Constitutional Framework for Provisional Self-Government in Kosovo to approve the Kosovo Consolidated Budget,

Taking into account Annex II to UNMIK Regulation No. 2001/19 of 13 September 2001, as amended, on the Executive Branch of the Provisional Institution of Self-Government in Kosovo,

Taking into account the Law on Public Financial Management and Accountability adopted by the Assembly of Kosovo on 23 January 2003 (Law No. 2003/2), as promulgated by UNMIK Regulation No. 2003/17 of 12 May 2003,

Based on the 2005 Kosovo Budget proposal approved by the Assembly of Kosovo and having consulted the Economic and Fiscal Council,

For the purpose of approving the Kosovo Consolidated Budget and other related matters,

Hereby promulgates the following:

Section 1
Definitions

For the purposes of the present Regulation, the definitions, which are contained in the Public Financial Management and Accountability Law, as promulgated by UNMIK Regulation No. 2003/17, are included by reference, except for the following:

“Appropriation” means the legally authorized amount that may be made available for expenditure from the Kosovo Consolidated Fund for either an expenditure category within a specific program or purpose or, where a specific purpose is not identified, for an expenditure category for a Budget Organization, as set out in Schedule 2 of the present Regulation;

“Balances” means the amounts of unexpended commitments, unallocated appropriations, uncommitted allocations and any revenues in excess of the sum of expenditures and unexpended commitments carried forward from Fiscal Year 2004;

“Commitments” means contemplated expenditures, for which a Commitment Payment Order has been submitted to the Treasury and recorded in the Treasury Accounting Record, whether or not subject to a legal obligation;

“Expenditure categories” means Salaries and Wages, Other Goods and Services, Subsidies and Transfers, Capital Outlays, and Reserves;

“Expenditures” means payments of money from the Kosovo Consolidated Fund;

“Funds allocation” means the maximum amount of expenditures and commitments able to be made against a specified appropriation, as advised to a Budget Organization in an allocated funds notice issued by the Ministry of Finance and Economy;

“Kosovo General Budget” means the budget comprising the unconsolidated budgets for all Kosovo Budget Organizations in the sectors of government activity represented by the Provisional Institutions of Self-Government (including Municipalities) and the Reserved Powers, the appropriations for which are set out in Schedule 2 to the present Regulation;

“Reserved Power Budget Organizations” means the Budget Organizations receiving an appropriation under the indicated section of Schedule 2, Table B attached to the present Regulation;

“Retained Earnings” means the amount of unappropriated money that remains in the Kosovo Consolidated Fund as of December 31 of the previous fiscal year; and

“Treasury Accounting Record” means the accounting record established within the Treasury of the Ministry of Finance and Economy.

Section 2

Approval of the Kosovo Consolidated Budget for 2005

The Kosovo Consolidated Budget for 2005 as set out in Schedule 1 is hereby approved. The Budget may be amended by the Special Representative of the Secretary-General under an Administrative Direction, in conformity with the provisions of the Law on Public Financial Management and Accountability, as adopted by the Assembly as Law 2003/2 and promulgated by UNMIK Regulation No. 2003/17.

Section 3

Kosovo General Budget Appropriations

3.1 Appropriations from the Kosovo Consolidated Fund for the Fiscal Year 2005, as set out in Tables A, B and C of Schedule 2 attached to the present Regulation, and the expenditures itemized under the Kosovo General Budget for general Government purposes indicated and the amounts shown in Tables A, B and C of Schedule 2, are hereby authorized.

3.2 The Special Representative of the Secretary-General may issue an Administrative Direction amending Schedules attached to the present Regulation in conformity with the provisions of the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No. 2003/17.

3.3 The Minister of Finance and Economy shall maintain a record of all approved appropriations, appropriation transfers or other approved adjustments to appropriations made during Fiscal Year 2005 through the Treasury accounting record supplemented as necessary by other records. At least twice a year, for the 2005 mid-year Budget review and for a final report within three months of the close of the Fiscal Year 2005, and otherwise as requested by the Special Representative of the Secretary-General and/or by the Assembly, the Minister for Finance and Economy shall present to the Special Representative of the Secretary-General, the Government and the Assembly, a comprehensive report detailing and reconciling the originally approved Budget 2005 appropriations, all subsequent transfers and other changes and the final appropriations for the Fiscal Year 2005.

Section 4

Municipal Budget Appropriations

4.1 Notwithstanding section 3, appropriations in Schedule 2, Table C that are based on the "Municipal Own Source Revenues" are only authorized to the extent such revenues are deposited in the Kosovo Consolidated Fund and properly recorded in the Treasury Accounting Record.

4.2 In the event that revenue from co-payments, fees, charges or taxes collected by a municipality exceeds the revenue amounts appropriated in Table C of Schedule 2 for such municipality, a concomitant adjustment in the amounts appropriated in the

Budget for such municipality shall be made. Such excess revenue may not be allocated or expended until such an adjustment is made to the budget of such municipality by the Municipal Assembly in accordance with the procedures, as provided for in the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No. 2003/17. Every such adjustment to revenues and appropriations shall be recorded in the Treasury Accounting Record and incorporated into the next revision of the Budget Schedules approved by the Special Representative of the Secretary-General in accordance with sections 2 and 3.

4.3 Revenue from education fees and/or charges shall be separately recorded, and such revenue may only be appropriated and used by the municipality for education purposes. Revenue from primary health care co-payments shall be separately recorded, and such revenue may only be appropriated and used by the municipality for primary health care purposes.

4.4 Each Municipality specified in Schedule 3 shall allocate to non-majority communities of that Municipality, from their Own Source Revenues and General, Education and Health Grant received from the Kosovo General Budget, at least the proportion indicated in Schedule 3, which Schedule may be revised periodically in coordination with the Ministry of Health, Ministry of Education, Ministry of Finance and Economy and the Municipal Assemblies. Joint recommendations for any readjustment of, or reallocation of percentages shall be forwarded by the Deputy Special Representative of the Secretary-General for Civil Administration and the Minister of Finance and Economy to the Special Representative of the Secretary-General for approval.

4.5 Contingency expenditures shall not be included for the purpose of calculating fair share financing for the very reason of the definition. This shall not apply to contingency expenditures specifically authorised to assist a Municipality in meeting its fair-share financing responsibilities.

4.6 Within 15 days from the end of each quarter of the Fiscal Year 2005, each Municipality shall prepare and submit a financial report to the Ministry of Finance and Economy and the Office of Community Affairs on their fair-share financing and other relevant standards and benchmarks.

4.7 In the event that a Municipality does not meet the set proportion of fair share financing, or does not comply with other relevant standards and benchmarks, the Deputy Special Representative of the Secretary-General for Civil Administration having consulted the Grants Commission may recommend to the Special Representative of the Secretary-General the implementation of measures, which may include, but are not limited to:

(a) Holding back of future allocations from the Kosovo General Budget, including from Municipal Own Source Revenues until the assigned proportion has been fulfilled;

(b) Designation of criteria for Municipalities on expenditure of available funds;

(c) Carrying forward committed unexpended 2004 municipal funds, up to the level commensurate with the deficit in spending for non-majority communities in accordance with the percentages provided in Schedule 3 of UNMIK Regulation No. 2002/23, for specific non-majority community projects in 2005;

(d) Diversion of municipal funds directly to non-majority communities;

(e) De-certification of the Municipality in question; and

(f) Appointment of a Municipal Financial Administrator pursuant to Section 61 on the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No. 2003/17, as appropriate.

4.8 The Minister of Finance and Economy, in close coordination with the Deputy Special Representative of the Secretary-General for Civil Administration and having consulted the Grants Commission may issue Administrative Instructions in relation to the administration of fair share financing by Municipalities.

Section 5

Central Budget Organization Own Source Revenues

5.1 All Own Source Revenues for Central Government organizations comprising but not limited to user fees and charges shall be deposited on a special account into the Kosovo Consolidated Fund. For the purposes of this Regulation, the term “user fees and charges” is defined as payments received by a Central Budget Organization for the delivery of goods and services to non-government institutions or individuals.

5.2 The Minister of Finance and Economy is authorized to sign a Memorandum of Understanding with a Budget Organization to address:

(a) The procedures for the collection, reconciliation and deposit of the revenue in the Kosovo Consolidated Fund; and

(b) The amount or proportion of the revenue that will be appropriated to the Budget Organization.

5.3 Budget Organizations shall be responsible for collecting, depositing and reconciliation with the Treasury, in accordance with the procedures in the approved Memorandum of Understanding. The amount of appropriation authorized shall not exceed the value of the specified revenue deposited in the Kosovo Consolidated Fund.

5.4 All changes in revenues and appropriations resulting from such Memorandum of Understanding shall be incorporated into the next revision of the Budget Schedules

approved by the Special Representative of the Secretary-General in accordance with sections 2 and 3.

Section 6

Appropriation and Re-Appropriation of Carried Forward Fund Balances

6.1 No later than thirty (30) days after issuance of full appropriations for 2005, the Government shall submit to the Assembly and to the Special Representative of the Secretary-General, a preliminary Schedule indicating the total amounts, sources and usage of the elements of the funds carried forward as balances from Fiscal Year 2004, including:

- a) Those funds identified from the 2004 Budget which are included in the 2005 Budget as carryforward funds in order to move to full cash appropriations in 2005;
- b) unexpended balances of Central Government Own Source Revenues;
- c) unexpended balances of Municipal Own Source Revenues;
- d) unexpended balances of Designated Donor Grants;
- e) unexpended balances from public money held by KTA in relation to its administration of Socially Owned Enterprises and related assets; and
- f) any funds that shall be kept as retained earnings.

6.2 Unexpended balances of "Municipal Own Source Revenues" from Fiscal Year 2004 and earlier, to the extent they have been deposited in the Kosovo Consolidated Fund and recorded in the Treasury Accounting Record as appropriations to a municipality, are appropriated and authorized for Fiscal Year 2005.

6.3 Unexpended balances of designated donor grants, which grants were actually received and recorded in the Treasury Accounting Record in 1999-2004 are appropriated and authorized for Fiscal Year 2005.

6.4 In accordance with the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No. 2003/17, all donor gifts, loans or grants shall be deposited into, and appropriately accounted for as part of the Kosovo Consolidated Fund, unless otherwise approved by the Special Representative of the Secretary-General. Upon completion of the procedures as issued by the Treasury Department of the Ministry of Finance and Economy, and after being deposited into the Kosovo Consolidated Fund unless otherwise approved by the Special Representative of the Secretary-General, such gifts, loans or grants shall be deemed to have been appropriated for the specified purpose or purposes, and may be allocated and expended for such purpose or purposes.

6.5 All public money held by KTA in relation to its administration of Socially Owned Enterprises and related assets, and any payments from the KTA Charter Capital are to be accounted for as part of the Kosovo Consolidated Fund in accordance with UNMIK Regulations No. 2002/12, 2002/13 and 2003/13. Such public money held by KTA shall be deemed to have been appropriated for the specific purpose(s)

authorized under the applicable law, and may be allocated and expended for such purpose(s).

Section 7
Limits on Commitments and Expenditures

7.1 An expenditure from or a commitment against the Kosovo Consolidated Fund shall only be made:

(a) From an amount that has been appropriated therefor; and

(b) In accordance with the other requirements of the present Regulation and section 8 of the Law on Public Procurement (Law No. 2003/17), as promulgated by UNMIK Regulation No. 2004/3, on 9 February 2004.

7.2 Each Budget Organization is required to ensure that the number of its staff does not at any time during Fiscal Year 2005 exceed the number specified in Schedule 2 attached to the present Regulation.

7.3 The Minister of Finance and Economy may, with the advice of the Minister for Public Services, authorize an increase or decrease in the number of staff of a Budget Organization specified in Schedule 2 attached to the present Regulation. Authorization under this section does not also imply or authorize any change in the appropriation for wages and salaries. Such changes shall be incorporated into the next revision of the Budget Schedules approved by the Special Representative of the Secretary-General in accordance with section 3.

7.4 Failure to comply with the limits on staffing numbers is a breach of the present Regulation and of the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No. 2003/17. The penalties provided for by that law shall be strictly imposed on any individual responsible for such a breach.

Section 8
Contingent Expenditures

8.1 Funds for contingent expenditures are appropriated as:

(a) A "Reserve of the Minister of Finance and Economy" in Table A of Schedule 2; and

(b) A "Reserve of the Special Representative of the Secretary-General" in Table B of Schedule 2.

8.2 The amounts authorized for contingent expenditures may be used only for urgent and/or unforeseen requirements.

8.3 The Minister of Finance and Economy shall submit a quarterly report on the use of contingent expenditures to the Assembly.

8.4 Amounts may be transferred from the contingent expenditure appropriations in accordance with the following criteria:

(a) Transfers of amounts less than or equal to €250,000 from the “Reserve of the Minister of Finance and Economy” shall be authorized, on receipt of proper justification, by the Minister of Finance and Economy;

(b) Transfers of amounts greater than €250,000 from the “Reserve of the Minister of Finance and Economy” shall be authorized, on receipt of proper justification, by the Minister of Finance and Economy after receiving the approval of the Government; and

(c) Transfers of amounts from the “Reserve of the Special Representative of the Secretary-General” shall be authorized by the Special Representative of the Secretary-General.

Section 9

Transfer of Amounts Appropriated

9.1 The Special Representative of the Secretary-General may, following consultation with the Government, authorize a transfer of appropriated amounts between the Tables A, B and C of Schedule 2.

9.2 The Minister of Finance and Economy may, if provided with a valid justification by the head of a Budget Organization, authorize the transfer of part of one appropriation of that Budget Organization to another appropriation of that Budget Organization in accordance with section 27 of the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No 2003/17.

9.3 Notwithstanding section 9.2, the Special Representative of the Secretary-General may at the request of a head of a Reserve Power Budget Organization authorize the transfer of an amount greater than twenty percent (20%) of the negatively affected appropriation of that organization, having consulted the Minister of Finance and Economy.

9.4 Upon approval, an adjustment to the amounts appropriated in Schedule 2 shall be made by the Minister of Finance and Economy in the Treasury Accounting Record. Such changes shall be incorporated into the next revision of the Budget Schedules approved by the Special Representative of the Secretary-General in accordance with section 3.

Section 10
Credit to Designated Entities

In accordance with section 44.4 of the Law on Public Financial Management and Accountability, as promulgated by UNMIK Regulation No. 2003/17 and subsequently amended, the Minister of Finance and Economy shall provide a reimbursable credit or loan from the Kosovo Consolidated Fund to the designated entities specified under 3 and 4 in Schedule A of the Law. The amounts for each approved reimbursable credit or loan, as set out in Schedule 2, Table A, shall be duly allocated based on an agreement between the designated entity receiving the credit and the Minister of Finance and Economy.

Section 11
Lapsing of Appropriations and Allocations

Other than in those cases where the present Regulation provides for re-appropriation, appropriations and funds allocations made in Fiscal Year 2005 shall automatically lapse at midnight of 31 December 2005 unless otherwise authorized by the Special Representative of the Secretary-General in exceptional circumstances at the request of the Government.

Section 12
Entry into Force

The present Regulation shall enter into force on 1 March 2005.

Søren Jessen-Petersen
Special Representative of the Secretary-General

Schedule 1

Kosovo Consolidated Budget 2005
(As attached)

Schedule 2

Kosovo General Budget Appropriations 2005
(As attached)

Table A: Provisional Government Budget Organizations

Table B: Reserved Power Budget Organizations

Table C: Budget Organizations that are Municipalities

Table D: Summary of Appropriations

Table E: Central Government Budget Organizations

Schedule 3

Kosovo General Budget 2005
Fair Share Financing. Proposed Required Minimum Allocations
(As attached)