



UNMIK/DIR/2003/3
31 January 2003

ADMINISTRATIVE DIRECTION NO. 2003/3

**IMPLEMENTING UNMIK REGULATION NO. 1999/1, AS AMENDED, ON THE
AUTHORITY OF THE INTERIM ADMINISTRATION IN KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority under Section 1.1 of UNMIK Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

For the purpose of enhancing investigative capacities and providing effective tools to combat financial crimes and crimes involving corruption,

Hereby issues the following Administrative Direction:

Section 1
Definition

For the purpose of the present Administrative Direction, "financial crime or crime involving corruption" means:

(a) Any criminal offence defined in the applicable criminal law as a criminal offence against the economy or against property or against official duty, in which there has been either abuse of official position or duty for the purpose of financial or other personal gain or abuse of public funds; or

(b) An act of attempting, aiding, inciting or organizing a criminal association to commit a criminal offence under sub -paragraph (a).

Section 2
Financial Investigation Unit

The Financial Investigation Unit shall be the specialized unit responsible for investigating the activities of entities funded from the Kosovo Consolidated Budget which may be involved in financial crime or crime involving corruption in Kosovo.

Officers of the Financial Investigation Unit shall have the powers and responsibilities that law enforcement authorities have under the applicable law.

Section 3 Powers of the Financial Investigation Unit

3.1 The Financial Investigation Unit shall have the power to conduct investigations in accordance with the applicable law where there are grounds to suspect that a financial crime or a crime involving corruption has been committed.

3.2 The Financial Investigation Unit shall also have the power to conduct administrative inspections consisting of searches of offices and premises utilized by entities funded from the Kosovo Consolidated Budget, including documents found on such premises, for the purpose of determining the lawfulness of the actions and transactions of such entities and persons employed by them, prior to any determination that there are grounds for suspicion that a criminal offence has been committed.

3.3 Once there are grounds to suspect that a financial crime or a crime involving corruption has been committed, the Financial Investigation Unit or other units of UNMIK Police shall proceed in accordance with the applicable law on criminal procedure.

Section 4 Administrative Inspections

4.1 An administrative inspection by the Financial Investigation Unit shall require prior authorization by the Special Representative of the Secretary-General. A request for such authorization shall be submitted through the Deputy Special Representative of the Secretary-General for Police and Justice, and shall specify in detail the premises to be searched and the purpose of the search.

4.2 An administrative inspection lies outside the scope of the applicable law on criminal procedure. During such a search the Financial Investigation Unit does not have the power to require any person to make a statement or to search personal documents or other items of a personal nature.

4.3 An administrative inspection shall be conducted in the presence of at least one employee of the entity utilizing the office or premises which are being searched.

4.4 During an administrative inspection, if an employee of the entity utilizing the office or premises which are being searched asserts that a document or item is personal, the Financial Investigation Unit may seek a written determination on the basis of an on-the-spot assessment from the competent district public prosecutor as to whether such document or item is personal. If the document or item contains or consists of at least one personal document or item and one or more other documents or items that are not personal, the determination shall specify in respect of each document or item whether or not it is personal. The Financial Investigation Unit may not search a document or item, if the public prosecutor determines that it is personal.

4.5 In making an assessment under section 4.4, the public prosecutor shall only perform actions that are necessary for making a determination as to whether the document or item, which is the subject of the assessment, is personal. He or she shall record in the determination such actions as he or she has taken. On completion of the assessment, the public prosecutor shall give copies of the determination to the Financial Investigation Unit and to the employee who has asserted that the document or item is personal.

4.6 During an administrative inspection, the Financial Investigation Unit may take possession of any document or item which is not personal, if the document or item may serve as evidence in any subsequent criminal proceedings and there is a danger that such a document or item will be concealed, destroyed or tampered with in some way.

4.7 At the time of taking possession of the document or item under section 4.6, the Financial Investigation Unit shall give the relevant official in charge of the entity utilizing the offices or premises being searched a receipt which shall specify the document or item, the date on which the Financial Investigation Unit took possession of it and the officer of the Financial Investigation Unit responsible for taking possession of it.

4.8 The Financial Investigation Unit shall return the document or item of which it has taken possession under section 4.6 to the entity concerned at the end of the inspection, unless there are grounds under the applicable law on criminal procedure for its temporary confiscation.

Section 5 Entry into Force

The present Administrative Direction shall enter into force on 31 January 2003 and shall remain in force for an initial period of six (6) months. Upon review this period may be extended by the Special Representative of the Secretary-General.

Michael Steiner
Special Representative of the Secretary-General