



UNMIK/DIR/2005/8
24 June 2005

ADMINISTRATIVE DIRECTION NO. 2005/8

**IMPLEMENTING UNMIK REGULATION NO. 2005/16, AS AMENDED, ON
THE MOVEMENT OF PERSONS INTO AND OUT OF KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under section 25 of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2005/16 of 8 April 2005, as amended, on the Movement of Persons Into and Out of Kosovo,

For the purpose of establishing procedures for the regulation of the movement of persons into and out of Kosovo,

Hereby issues the following Administrative Direction:

Section 1

Nationals of the Republic of Albania and the former Yugoslav Republic of Macedonia

1.1 The presentation by a national of the Republic of Albania (Albanian national) or a national of the former Yugoslav Republic of Macedonia (national of the FYR of Macedonia) of his or her national passport shall be sufficient for the requirement set forth in section 4 of UNMIK Regulation No. 2005/16 of 8 April 2005, as amended, on the Movement of Persons Into and Out of Kosovo (the Regulation) to be deemed satisfied. In exceptional circumstances, the relevant UNMIK authorities may request an Albanian national or a national of the FYR of Macedonia to produce such additional documentation as may be required to verify the *bona fide* purpose of travel.

1.2 A stamp shall not be placed inside a travel document of an Albanian national or a national of the FYR of Macedonia.

1.3 Where an Albanian national or a national of the FYR of Macedonia is denied authorization to enter Kosovo on the basis of section 5.2 of the Regulation, the UNMIK authorities shall immediately inform the relevant national authorities.

Section 2

The Ombudsperson and international staff of the Ombudsperson Institution

Taking into account section 13.2 of UNMIK Regulation No. 2000/38, as amended, the Ombudsperson and international staff of the Ombudsperson Institution shall be treated as members of UNMIK personnel for the purposes of section 2.3 of the Regulation.

Section 3

Persons who are enrolled in a study programme in Kosovo

The presentation of an identification card from the relevant institution, a letter confirming enrolment or other similar document establishing that the person concerned is enrolled in a study programme in Kosovo shall be sufficient to satisfy the requirements of section 4(b) of the Regulation.

Section 4

Persons who are employed or have legitimate business interests in Kosovo

4.1 The presentation of a letter of offer, employment contract or other document confirming employment shall be sufficient to satisfy the requirements of section 4(c) of the Regulation in the case of a person who is employed in Kosovo.

4.2 The presentation of documentation indicating the purpose of the visit to Kosovo shall be sufficient to satisfy the requirements of section 4(c) of the Regulation in the case of a person who has legitimate business interests in Kosovo or is visiting Kosovo in the course of his or her employment or business.

Section 5

Documentary Proof of Authorization to Enter and Remain Temporarily in Kosovo

Where on granting authorization to enter and remain temporarily in Kosovo pursuant to section 6.1 of the Regulation, an officer does not place a stamp inside the applicant's travel document but issues some other documentary proof of authorization to the applicant, such documentary proof shall include:

- (a) The person's full name, date of birth, and gender;

- (b) The number of the person's travel document;
- (c) The date and point of entry; and
- (d) The date on which the authorization expires.

Section 6 Multiple Entry System

6.1 UNMIK Police, who shall be deemed to include the United Nations International Police and the Kosovo Police Service, shall issue an identification document to a person who needs to enter and exit Kosovo frequently. Such identification document shall include:

- (a) The full name, gender, date and place of birth and address of the person in Kosovo;
- (b) A recent photograph of the person;
- (c) The document's period of validity;
- (d) The signature and title of the issuing officer; and
- (e) The place and date of issuance and the official stamp of the UNMIK Police.

6.2 The identification document issued under paragraph 1 of this section shall not lapse upon the holder's exit from Kosovo during the period of its validity.

6.3 The identification document issued under paragraph 1 of this section shall be valid for a period of up to one year. An application for an extension of the period of validity of the document shall be submitted at a designated police station at least fifteen (15) days before its expiry.

6.4 The travel document of a person holding the identification document shall not be stamped on entry or exit from Kosovo.

Section 7 Denial of authorization to enter Kosovo

7.1 A decision on denial of authorization to enter and remain in Kosovo under section 5.2 of the Regulation or to enter Kosovo under section 10 of the Regulation shall be duly

stamped and dated by the officer at the point of entry. The effective date and time of removal, the grounds upon which the person may apply for a review and the address of the competent District Court to which the person may apply for review shall be specified in the decision.

7.2 When executing an order requiring a person to leave Kosovo, the UNMIK Police shall return the person to the last country from which he or she came.

Section 8

Procedures on the Denial of Application for Refugee Status

8.1 The competent authority shall provide a person denied refugee status under section 14.1 of the Regulation the decision under section 14.2 of the Regulation in writing.

8.2 This decision shall be duly stamped. The decision shall state, *inter alia*:

- (a) The reasons for the denial of refugee status;
- (b) An order to leave specifying the effective date and time of removal;
- (c) The grounds upon which the person may apply for review of the decision;

and

(d) The address of the competent District Court to which the person may apply for review.

8.3 The competent District Court shall serve copies of the decision on application for review under section 22 of the Regulation on the applicant or his or her counsel, the officer and the competent authority.

8.4 On receipt of the court decision confirming the competent authority's decision to deny refugee status, the competent authority shall remove its suspension of the order requiring the person to leave Kosovo and shall confirm the effective date and time of the departure. This court decision shall be attached to the order for departure and shall be forwarded to the person concerned and to the UNMIK Police.

Section 9

Procedures on the Termination of refugee status

The procedure set forth in section 8 above shall apply, *mutatis mutandis*, where the competent authority decides to terminate refugee status in accordance with section 15 of the Regulation.

Section 10
Ancillary Orders under section 19.1 of the Regulation

When issuing an order under section 19.1 of the Regulation, the officer may also order that the person permitted to remain temporarily in Kosovo under section 18 of the Regulation:

(a) Shall stay within a designated geographical area at the border or boundary crossing point, if permitted to remain for a period not exceeding twenty-four (24) hours; or

(b) Shall be accommodated at a location equipped with adequate facilities for a prolonged stay, if permitted to remain for a period exceeding twenty-four (24) hours.

Section 11
Detention Ordered under section 19 of the Regulation

11.1 An order for detention under section 19.3, 19.4 or 19.6 of the Regulation and an order for extension of detention under section 19.5 of the Regulation shall be in writing and shall specify:

(a) The effective date and time of commencement of detention ordered;

(b) The date and time of expiry of detention;

(c) The place of detention;

(d) The grounds upon which the person is being detained; and

(e) His or her rights under section 21 of the Regulation and the address of the District Court of competent territorial jurisdiction to which he or she may submit a written petition.

11.2 An application by an officer for detention under section 19.4 of the Regulation or for extension of detention under section 19.5 of the Regulation shall specify the grounds upon which the detention is sought, the facts and circumstances in support thereof and the period of detention requested. The application shall be signed, dated and stamped by the officer.

11.3 At least twenty-four (24) hours before the expiry of the existing period of detention, an officer may apply for an order for detention under section 19.4 of the Regulation or for extension of detention under section 19.5 of the Regulation.

11.4 The court shall convene a hearing within twenty-four (24) hours of receipt of the application for detention under section 19.4 of the Regulation or for extension of detention under section 19.5 of the Regulation. The court shall give notice of the date, time and place of the hearing to the detained person, the officer and the director of the place of detention.

11.5 At the hearing, the detained person and/or his counsel and the officer may present facts and evidence in support of their respective claims.

11.6 Upon rendering a decision on detention under section 19.4 of the Regulation or on extension of detention under section 19.5 of the Regulation, the court shall immediately serve copies of the decision on the detained person, the officer, and the place of detention.

11.7 Where the court denies an application for detention under section 19.4 of the Regulation or for extension of detention under section 19.5 of the Regulation, the court shall immediately order the release of the detained person.

11.8 The procedures set forth in sections 11.4-11.7 above shall apply, *mutatis mutandis*, to a hearing under section 21.2 of the Regulation.

Section 12 Arrangements for Detention and Rights of Detained Persons

12.1 A person detained pursuant to the Regulation shall not be held in the same room as persons arrested and/or detained pursuant to the Provisional Criminal Procedure Code of Kosovo.

12.2 The personal effects of the detained person shall be held at the place of detention until a release order is received. The detained person shall be registered at the time and date of arrival by the authorities of the place of detention who shall also record the date of expiry of the detention.

Section 13 The Use of UNMIK Stamps in relation to the movement of persons into and out of Kosovo

13.1 The categories of UNMIK stamps to be used by officers in relation to the movement of persons into and out of Kosovo are:

(a) An UNMIK entry stamp, to be used pursuant to section 6.1 of the Regulation;

(b) An UNMIK exit stamp, to be used in the cases provided under section 11 of the Regulation; or

(c) A UNMIK stamp indicating denial of authorization to enter and remain in Kosovo to be used in the cases provided under section 5 of the Regulation, or denial of entry in Kosovo to be used in the cases provided under section 10 of the Regulation.

13.2 An UNMIK entry stamp shall include the date of entry of the person and the point of entry into Kosovo.

13.3 Except where otherwise indicated by the issuing officer, the UNMIK entry stamp shall be proof of authorization to enter and remain in Kosovo for ninety (90) days from the date on the stamp.

13.4 If a person is authorized to enter and remain in Kosovo for less than ninety (90) days, the officer shall write, with indelible ink, underneath the UNMIK entry stamp, the period of validity of the authorization, his initials and the official stamp of the UNMIK Police.

13.5 An UNMIK exit stamp shall include the date of exit of the person and the point of exit from Kosovo.

13.6 A denial of authorization to enter and remain in Kosovo pursuant to section 5 of the Regulation, or a denial of entry to Kosovo pursuant to section 10 of the Regulation, shall be recorded with an entry stamp crossed through with an "X" in indelible ink in the person's travel document.

13.7 Notwithstanding the foregoing, no stamp shall be placed in a travel document of:

- (a) A person covered by sections 2.1, 2.2 or 2.3 of the Regulation;
- (b) An Albanian national or a national of the FYR of Macedonia;
- (c) A holder of the identification document provided under section 6 above; or
- (d) A person entering Kosovo from Serbia and Montenegro.

Section 14Applications for Review of Decisions of Officers and the Competent Authority under section 22 of the Regulation

14.1 An application for review under section 22.1 of the Regulation shall contain the following:

- (a) A copy of the decision of the officer and/or the competent authority;
- (b) The grounds for challenging the decision of the officer and/or the competent authority as set out in section 22.2 of the Regulation;
- (c) The arguments in support of the application; and
- (d) The signature of the applicant.

14.2 If an application for review does not contain all the information under paragraph 1 above, the court shall request the applicant in writing to supplement it within a further prescribed period of time. The court shall issue an order to dismiss the application if the applicant does not comply with the request to supplement the application.

Section 15Procedure for Review of Decisions of Officers and the Competent Authority under section 22 of the Regulation

15.1 On receipt of an application for review the three (3) judge panel of the District Court shall notify the applicant or his or her counsel, the UNMIK Police and the competent authority.

15.2 The court shall issue a final written decision on an application for review within five (5) days of the conclusion of the hearing. The decision shall be signed by all the judges in the panel. A member of the panel may attach a dissenting or concurring opinion on a final decision rendered by the majority on the panel.

15.3 Once the court has disposed of the application pursuant to sections 22.4 and 22.5 of the Regulation, it shall inform the applicant or his or her counsel, UNMIK Police, and the competent authority of its decision on the application.

Section 16Procedure for a Hearing on the Review of a Decision concerning Refugee Status under section 22.3 of the Regulation

16.1 Notice of the hearing shall be sent to the applicant or his or her counsel, UNMIK Police, and the competent authority.

16.2 An applicant held in detention has a right to attend the hearing.

16.3 If the court has also received an application to extend the term of detention of a person under section 19.5 of the Regulation, the panel may schedule a public hearing to review both applications on the same day. The court shall summon the applicant or his or her counsel and the officer who filed the application to extend the detention to the hearing in accordance with section 19.5 of the Regulation.

16.4 If the applicant, who has been notified of the hearing, does not appear and cannot be located at the address given, the panel may hold the hearing in the applicant's absence.

16.5 The applicant and his or her counsel and any interested party may present evidence and facts at the hearing.

Section 17The Scope of Section 27.2 of the Regulation

Section 27.2 of the Regulation shall not be interpreted as requiring any person who is a habitual resident to apply for authorization to enter and remain in Kosovo

Section 18Entry into Force

The present Administrative Direction shall enter into force on 1 July 2005.

Søren Jessen-Petersen
Special Representative of the Secretary-General