

REGULATION NO. 2001/22
UNMIK/REG/2001/22
20 September 2001

ON MEASURES AGAINST ORGANIZED CRIME

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,

Considering the escalation in violence, intimidation and corruption resulting from organized crime which constitute a threat to democracy, the rule of law, human rights, security and stability in Kosovo,

Recognizing the need to prevent and combat organized crime in Kosovo,

For the purpose of establishing a clear definition of organized crime consistent with international and regional standards, as set forth in the United Nations Convention on Transnational Organized Crime,

For the purpose of creating legislative measures for the prosecution and punishment of perpetrators of organized crime,

Hereby promulgates the following:

Section 1

Definitions

For the purposes of this regulation:

- (a) "Organized crime" shall mean the commission of a "serious crime" by a "structured group" in order to obtain, directly or indirectly, a financial or other material benefit;
- (b) "Serious crime" shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years; and
- (c) "Structured group" shall mean a group of three or more persons that:
 - (i) exists for a period of time and acts in concert with the aim of committing one or more serious crimes;

- (ii) is not randomly formed for the immediate commission of an offence;
and
- (iii) does not need to have formally defined roles for its members,
continuity of its membership or a developed structure.

Section 2

Penalties for Commission of Organized Crime Offences

2.1 The penalties provided in this section for committing an organized crime are to be added to the sentence imposed for committing the "serious crime" within the limits set out in Article 48 of the applicable Criminal Code.

2.2 Any person who commits an organized crime shall be liable upon conviction to imprisonment for a term of five years to 15 years and a fine of up to 500,000 DM.

2.3 Any person who aids, or attempts to aid, or incites the commission of an organized crime, as defined in section 1, shall be liable upon conviction to a minimum penalty of four years to seven years imprisonment, and a fine of up to 250,000 DM.

2.4 Notwithstanding the provision of Article 26 of the applicable law on the criminal responsibility and punishability of the organizers of criminal associations, any person who organizes, establishes, supervises, manages or directs the activities of a "structured group", as defined in section 1, shall be liable upon conviction to a penalty of 7 years to 20 years imprisonment, and a fine of up to 1,000,000 DM or 20 to 40 years imprisonment and a fine of up to 1,000,000 DM where the activities of that group result in death. However, if such person reports to the police or public prosecutor the existence, formation, and information of such group in detail to allow the police to arrest or the prosecutor to prosecute the group, he or she may be exempted from penalty if the report is done before such crime is committed.

2.5 Any person who intimidates, threatens, forces, offers or gives anything of value to, or influences another person, or otherwise tampers with evidence, for the purpose of causing the person to withhold information from, or to give false information or otherwise fail to state true information to a judge, or the public prosecutor or police, when that information is related to the commission of an organized crime, shall be liable upon conviction to a penalty of four to seven years imprisonment, and a fine of up to 250,000 DM.

Section 3

On the Imposition of Security Measures

3.1 The court may order that any person convicted of organized crime be deprived of the right to exercise a profession, independent activity, some or all duties related to dispositions, exploitation, management or use of property in trust, or safe-keeping of that property, if the person convicted of organized crime has abused his or her position, exercise of activity or duty in order to commit organized crime and, if there is probable cause that it can be expected that the exercise of such profession, activity or duty, could be misused to commit organized crime.

3.2 The court shall also determine the length of time that the measure taken according to section 3.1 will last, which may not be shorter than one year, nor longer than five years, starting from the day the decision enters into force, subject to the condition that any time served in prison, or in a medical institution for custody and medical treatment subsequent to the sentencing for the offence of organized crime shall not be calculated in the duration of this measure.

3.3 If any person violates a court order under section 3.1 of this section, he or she commits an offence and upon conviction shall be liable to a penalty of up to one year imprisonment.

Section 4 **Implementation**

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 5 **Applicable Law**

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 6 **Entry into Force**

The present regulation shall enter into force on 20 September 2001.

Hans Haekkerup
Special Representative of the Secretary-General