

UNMIK/DIR/2001/12
31 July 2001

ADMINISTRATIVE DIRECTION NO. 2001/12

**IMPLEMENTING UNMIK REGULATION NO. 2000/13
ON THE CENTRAL CIVIL REGISTRY**

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. 2000/13 of 17 March 2000 on the Central Civil Registry,

Taking into account UNMIK Regulation No. 2000/21 of 18 April 2000, as amended by UNMIK Regulation No. 2000/65 of 19 December 2000 on the Establishment of the Central Election Commission,

Having promulgated UNMIK Administrative Direction No. 2000/5 of 6 April 2000 Implementing UNMIK Regulation No. 2000/13, UNMIK Administrative Direction No. 2000/8 of 27 April 2000 Implementing UNMIK Regulation No. 2000/13 and UNMIK Administrative Direction No. 2000/9 of 6 May 2000 Implementing UNMIK Regulation No. 2000/13 and UNMIK Regulation No. 2000/21,

For the purpose of setting out the necessary provisions relating to civil registration and establishment of the voters' lists for elections in Kosovo,

Hereby issues the following Administrative Direction:

Section 1
Definitions

For the purposes of the present Administrative Direction:

1.1 "Applicant" means a person who applies to be registered as a habitual resident or who applies to be included on the voters' lists outside of Kosovo;

1.2 "Applicant's consent" means a free and informed agreement given by an applicant in respect of the collection and processing of data relating to him or her;

1.3 "Biometric data" means information collected from applicants by means of digital fingerprint processing;

1.4 “Central Civil Registry” means the office established under UNMIK Regulation No. 2000/13 which is responsible for civil registration;

1.5 “Central database” means the compilation of all data collected in the database of the Central Civil Registry in Pristina, including biographic, biometric and photographic data, stored in any form, including but not limited to ZIP cartridges, main server, optical disk and floppy disk;

1.6 “Civil eligibility” means eligibility to be included on the register of habitual residents of Kosovo;

1.7 “Civil Registrar” means the official appointed by the Special Representative of the Secretary-General in accordance with UNMIK Regulation No. 2000/13 to head the Central Civil Registry;

1.8 “Civil registration” means a continuous process which gathers, screens, documents, files, secures, corrects, updates and establishes information on the occurrence of vital events as they relate to the civil status of persons for the purpose of their registering as habitual residents of Kosovo;

1.9 “Controller” means the person responsible for the safeguarding and proper use of personal data collected under civil registration;

1.10 “Data processing” means any operation or set of operations performed on the central database, including the collecting, collating, storage, retrieval, organization, reporting, filtering, querying, updating or modification, merging, or disseminating in magnetic, printed or other media;

1.11 “Data subject” means an identified or identifiable natural person whose data has been collected and stored under UNMIK Regulation No. 2000/13 and the present administrative direction;

1.12 “Director of Election Operations” means the official who directs the work of the Voter Service Centers and is responsible for establishing the voters’ lists for eligible voters both inside and outside of Kosovo;

1.13 “Election Complaints and Appeals Sub-Commission” means the body established by the Central Election Commission Electoral Rule No. 2/2001 in accordance with section 4.3 of UNMIK Regulation No. 2000/21, as amended;

1.14 “FRY” means the Federal Republic of Yugoslavia;

1.15 “Habitual resident” means a person who meets the criteria set forth in section 3 of UNMIK Regulation No. 2000/13;

1.16 “Initial registration period” means the period of time in the year 2000 when civil and voter registration was conducted by the Joint Registration Taskforce;

1.17 “Joint Registration Taskforce” means the body that was responsible for conducting civil and voter registration during the initial registration period for the 2000 Municipal Elections in Kosovo;

1.18 “Municipal civil registration center” means the UNMIK Civil Registration Center, located in each municipality in Kosovo, which provides on-going civil registration services;

1.19 “Personal data” means any information relating to data subjects which has been collected and stored during the process of civil registration;

1.20 “Photographic data” means information collected from applicants by means of digital or other photographic imagery;

1.21 “Recipient” means a natural or legal person, public authority, agency or any other entity to which personal data is disclosed;

1.22 “Re-establishment of residency in Kosovo” within the context of section 2.2 of UNMIK Regulation No. 2000/13 is applicable to persons who have recently returned or arrived in Kosovo, and who apply for the status of habitual resident, provided they prove their actual physical presence in Kosovo and a demonstrable intent to live and work in Kosovo;

1.23 “Register of habitual residents of Kosovo” means a listing of individuals registered in the Central Civil Registry;

1.24 “Registrant” means a person who has been registered as habitual resident;

1.25 “Registration Appeals Commission” means the body established under section 7 of UNMIK Regulation No. 2000/13;

1.26 “Status decision” means the final administrative determination regarding the eligibility of an applicant to be registered as a habitual resident; and

1.27 “Voter Service Center” means any location used for performing voter services as assigned by the Director of Election Operations.

Section 2 General Provisions

2.1 UNMIK shall create a register of habitual residents of Kosovo, and shall issue identity cards to registrants confirming their status.

2.2 UNMIK shall establish a voters’ list of persons residing within Kosovo, which shall be extracted from the Central Civil Registry, for the purpose of elections conducted under the authority of UNMIK. A separate voters’ list of persons residing outside of Kosovo shall also be established in accordance with the present administrative direction.

2.3 The identity cards referred to in section 2.1 may be used, *inter alia*, as a basis for obtaining travel documents issued by UNMIK.

Section 3 Civil Registration and Establishment of the Voters' Lists

3.1 A person may apply at a Municipal Civil Registration Center to be registered as a habitual resident of Kosovo.

3.2 A person residing in Kosovo shall be included on the voters' lists provided he or she is registered in the Central Civil Registry established by UNMIK and meets the voter eligibility requirements. Persons from within Kosovo who were included on the register of habitual residents of Kosovo during the initial phase of registration shall be automatically deemed as eligible to vote. Any such persons from within Kosovo who did not register during the initial registration period shall be deemed as eligible to vote if he or she receives a polling station assignment.

3.3 A person residing outside of Kosovo who meets the criteria for civil eligibility under UNMIK Regulation No. 2000/13 and the voter eligibility requirements, but whose re-establishment of residency in Kosovo has not occurred, may apply for inclusion on a separate voters' list outside of Kosovo provided that such person left Kosovo on or after 1 January 1998.

3.4 The Special Representative of the Secretary-General may decide, in exceptional circumstances, to allow additional groups of persons residing outside of Kosovo who are not eligible to vote under section 3.3 to register to vote. Such decisions shall be given effect through the issuance of an administrative direction.

3.5 Persons currently residing outside of Kosovo who were formally recognized on or after 1 January 1995 as refugees as defined in the 1951 Convention Relating to the Status of Refugees and its Protocol of 1967, and who submit valid proof of such recognition, are eligible for inclusion on the voters' list.

3.6 Persons who left Kosovo on or after 1 January 1998, as established in UNMIK Regulation No. 2000/21, as amended, and eligible Convention Status refugees referred to in section 3.5, who have registered to vote shall have the right to vote in the elections without being obliged to return to Kosovo to vote.

3.7 No person who is serving a sentence imposed by the International Criminal Tribunal for the former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may be registered to vote for the elections in Kosovo.

3.8 On-site civil registration and voter services shall be conducted for persons incarcerated within Kosovo under administration of UNMIK.

Section 4

General Procedures for Inclusion on the Register of Habitual Residents of Kosovo and Voters' List

- 4.1 The Office of the Civil Registry shall publicize the locations of municipal civil registration centers and the dates and times they will accept applications.
- 4.2 Persons seeking inclusion on the register of habitual residents of Kosovo shall apply in person at the Municipal Civil Registration Center in the municipality in which they currently reside during the time period that the centers are accepting applications.
- 4.3 Applicants shall bring with them to the registration centers all available documents that will assist in proving their identity and civil eligibility, and shall present these documents to registration center staff for their inspection and review.
- 4.4 An applicant shall be interviewed by registration staff who shall assist the applicant in filling out an application form. The applicant shall also be asked to:
- (a) submit a digital fingerprint sample on equipment operated by registration center staff;
 - (b) have a digital photograph taken; and
 - (c) allow registration center staff to measure his or her height.
- 4.5 Information on the applicant, including the digitized fingerprint and photograph data, shall be sent to the central database for a check of the information and entry into the database.
- 4.6 An applicant who has produced sufficient documentation to establish his or her identity and civil eligibility shall be provided with a numbered receipt, and shall be informed as to where and when to collect his or her identity card.
- 4.7 Receipt of the identity card shall constitute confirmation that the applicant has been accepted for inclusion on the register of habitual residents of Kosovo.
- 4.8 An applicant who has not produced sufficient documentation to establish his or her identity and civil eligibility shall be advised by registration center staff accordingly.
- 4.9 An applicant whose civil eligibility is rejected after a check of the information at the central database shall be given written notice of the reasons for the decision, and be informed of procedures for challenging the decision.
- 4.10 Persons whose civil eligibility is approved may attend a Voter Service Center to receive a polling station assignment.

Section 5

Proving Identity

- 5.1 An applicant must prove his or her identity as a condition precedent to establishing civil eligibility.

5.2 An applicant may prove his or her identity by presenting to registration center staff any one of the following documents containing the applicant's photograph:

- (a) FRY Identity Card;
- (b) FRY Passport;
- (c) University Booklet;
- (d) Military Booklet;
- (e) FRY Driving License;
- (f) Foreign Identity Card;
- (g) Foreign Passport;
- (h) Foreign Driving License; or
- (i) Official Refugee Identification Document.

5.3 Registration centre staff shall review the documents listed in section 5.2, evaluate their validity and determine if they belong to the applicant. On the basis of this review and evaluation, registration center staff shall decide if the documents are sufficient to prove the identity of the applicant.

5.4 If an applicant is unable to present any of the items set forth in section 5.2, registration center staff may consider other documents, and statements of witnesses, as evidence of identity in accordance with Civil Registry procedures, consistent with section 4 of UNMIK Regulation No. 2000/13.

Section 6 Establishing Civil Eligibility

6.1 In order to be registered on the register of habitual residents of Kosovo, an applicant must meet one of the criteria set forth in paragraphs (a) to (d) of section 3 of UNMIK Regulation No. 2000/13.

6.2 Specifically, an applicant must prove one of the following:

- (a) The applicant was born in Kosovo;
- (b) At least one of the applicant's parents was born in Kosovo;
- (c) The applicant has resided in Kosovo for a continuous period of five years or more;

(d) The applicant, in the opinion of the Civil Registrar, was forced to leave Kosovo, and, for that reason, is unable to meet the residency requirement in the preceding sub-paragraph;

(e) The applicant is an otherwise ineligible dependent child under the age of 18 years of a person who has been accepted for inclusion on the register of habitual residents of Kosovo; or

(f) The applicant is an otherwise ineligible dependent child under the age of 23 years of a person who has been accepted for inclusion on the register of habitual residents of Kosovo, and is in full-time attendance at a recognised educational institution.

6.3 In determining whether an applicant has established civil eligibility under the criteria set forth in section 6.2 (a) to (f), the registration centre staff shall review and evaluate the documents presented by the applicant at the registration centre. Depending upon the criterion under which an applicant seeks to establish eligibility, acceptable documentation may include the documents listed in section 5.2 for proving identity, or other documents as appropriate, in accordance with Civil Registry procedures, consistent with UNMIK Regulation No. 2000/13.

6.4 In addition to the evaluation and review of documents presented by applicants at the registration centre, registration centre staff may consider the statements of witnesses.

6.5 In those cases where an applicant cannot prove his or her civil eligibility at the registration centre, an appeal pursuant to section 8 may be initiated.

6.6 The Civil Registrar may issue administrative instructions and guidelines for conducting the civil registration process.

Section 7

Civil Eligibility and Reconsideration by the Civil Registrar

7.1 An applicant shall be notified of the decision regarding his or her civil eligibility.

7.2 Issuance of an identity card shall constitute notice that the applicant has met the requirements for civil eligibility, and is included on the register of habitual residents of Kosovo.

7.3 An applicant who has failed to prove his or her civil eligibility shall have the right to receive written notification of the status decision, and the reasons for the decision. An applicant so notified shall be provided with instructions on how to appeal or otherwise challenge the decision.

7.4 Notwithstanding an affirmative status decision under section 7.2, the Civil Registrar may reconsider a registrant's inclusion on the register of habitual residents of Kosovo if presented with new evidence that the decision was based on false, misleading or otherwise unsatisfactory evidence.

7.5 The Civil Registrar, in evaluating the new evidence, may make a final administrative determination that the registration of the registrant be revoked. In such cases, the Civil Registrar shall provide the person with written notification of the determination, and the reasons for the determination.

7.6 A registrant affected by a revocation determination of the Civil Registrar may lodge an appeal with the Registration Appeals Commission.

Section 8 Appeal of Status Decision

8.1 An applicant who has received a status decision that he or she has failed to meet the requirements for civil eligibility may lodge an appeal with the Registration Appeals Commission in accordance with the Civil Registrar's Rules of Procedure.

8.2 Notwithstanding an affirmative status decision under section 7.2, the Registration Appeals Commission may grant leave to appeal to third parties who can show by clear and compelling evidence that a registrant's inclusion on the register of habitual residents of Kosovo was based on false, misleading or otherwise unsatisfactory evidence.

Section 9 The Director of Election Operations

9.1 The Director of Election Operations shall be responsible for the establishment and functioning of Voter Service Centers and for the establishment of voters' lists for the purposes of conducting elections.

9.2 The Director of Election Operations may issue administrative procedures in connection with the establishment and functioning of Voter Service Centers and establishment of the voters' lists in accordance with applicable regulations and administrative directions.

Section 10 Voter Service Centers

The OSCE shall establish Voter Service Centers in or near Municipal Civil Registration Centers. The Voter Service Centers shall:

- (a) Confirm, update and correct a voter's information on the existing voters' list; and
- (b) Assign a polling station to new registrants who did not register as habitual resident during the initial registration period.

Section 11
Voter Eligibility - Applicants Residing within Kosovo

11.1 Current residents of Kosovo must be registered in the Central Civil Registry in order to have the right to vote in the elections to be conducted under the authority of UNMIK.

11.2 In order to exercise the right to vote, an applicant must present evidence that he or she is registered as a habitual resident.

11.3 Inclusion of an applicant on the published voters' list shall constitute *prima facie* evidence that the applicant has met the requirements for eligibility.

11.4 Persons who arrived in Kosovo on or after 1 January 2001 seeking temporary shelter and assistance and are registered as such by UNMIK to facilitate the provision of assistance to the persons concerned, shall not be eligible to be included in the voters' list for the 17 November 2001 elections in Kosovo.

11.5 If an applicant is not on the voters' list, he or she may appeal the omission to the Election Complaints and Appeals Sub-Commission. The Election Complaints and Appeals Sub-Commission shall not accept an appeal if the appellant has not established his or her eligibility for inclusion on the register of habitual residents of Kosovo.

Section 12
Voter Eligibility - Applicants Residing Outside of Kosovo

12.1 The OSCE shall register eligible voters residing outside of Kosovo to enable them to vote in the elections conducted under the authority of UNMIK.

12.2 In accordance with applicable regulations and administrative directions, only those persons meeting the criteria for civil eligibility may vote in the elections to be conducted under the authority of UNMIK.

12.3 The International Organization for Migration (IOM), under the direction of UNMIK, will conduct voter registration for applicants from outside of Kosovo, in accordance with applicable regulations and administrative directions. Both mail-in and in-person registration are to be conducted.

12.4 In those cases where an applicant registering to vote by mail out of Kosovo cannot prove that he or she resided in Kosovo on or after 1 January 1998, a review shall be automatically commenced pursuant to administrative procedures issued by the Director of Election Operations. An applicant who has been denied the inclusion on the voters' list after the review has been completed shall be notified in writing and may appeal the decision to the Election Complaints and Appeals Sub-Commission.

12.5 In those cases where an applicant registering to vote in-person out of Kosovo cannot prove that he or she resided in Kosovo on or after 1 January 1998, a review may be initiated by the applicant pursuant to administrative procedures issued by the Director of Election Operations. If an applicant has been denied inclusion on the voters' list after the

review has been completed, his or her case shall be automatically forwarded for review to the Election Complaints and Appeals Sub-Commission.

12.6 When examining cases pursuant to sections 12.4 and 12.5, the Election Complaints and Appeals Sub-Commission shall have discretion to review the totality of the documents and circumstances concerning such cases.

12.7 The Election Complaints and Appeals Sub-Commission shall include an applicant's name on the voters' list if it determines that he or she meets the voter eligibility requirements.

12.8 A person who was registered to vote outside of Kosovo and who has subsequently returned to Kosovo may cast his or her ballot in Kosovo in accordance with electoral rules issued by the Central Election Commission.

Section 13

Reconsideration by the Director of Election Operations

13.1 The Director of Election Operations may reconsider the inclusion of any person on the voters' lists if presented with new evidence that the inclusion was based on false, misleading or otherwise unsatisfactory evidence.

13.2 The Director of Election Operations, in evaluating the new evidence, may decide to revoke a person's inclusion on the voters' list. In such cases, the Director of Election Operations shall provide the person with written notification of the decision, and the reasons for the decision.

13.3 A person affected by a revocation under section 13.2 may lodge an appeal with the Election Complaints and Appeals Sub-Commission.

13.4 The Director of Election Operations may reconsider his or her decision regarding the exclusion of a person from the voters' lists if presented with new evidence that the decision was incorrect.

Section 14

Voter's Complaints

A person who claims that his or her rights have been violated during the process of establishing the voters' lists may submit a complaint to the Election Complaints and Appeals Sub-Commission.

Section 15

Confirmation and Challenge Period

15.1 The Director of Election Operations, in accordance with applicable administrative directions and relevant procedures, shall announce the dates for a confirmation and challenge period to be held subsequent to the period of establishing the voters' lists.

15.2 During the confirmation and challenge period, the voters' lists will be made available for public scrutiny at designated centers within Kosovo.

15.3 During the confirmation and challenge period, persons who have provisionally established their voter eligibility shall be provided with an opportunity to:

- (a) Confirm and verify the accuracy of their voter information;
- (b) Request that mistakes concerning the applicant's age and polling station on the voters' list be corrected; and/or
- (c) If their names have been left off the voters' lists, request that they be added.

15.4 If the applicant's request to be added to the list is rejected, he or she may appeal the omission to the Election Complaints and Appeals Sub-Commission. The Election Complaints and Appeals Sub-Commission shall not accept an appeal if the person has not established his or her eligibility for inclusion on the register of habitual residents of Kosovo.

15.5 During the confirmation and challenge period, a person on the voters' list may submit an application to have a name deleted from the voters' lists. An application made pursuant to this section shall be submitted in writing, be signed by the applicant and shall:

- (a) Clearly state the facts supporting the challenge and provide evidence;
- (b) Clearly state the legal grounds justifying the challenge; and
- (c) Be submitted by a deadline established by the Director of Election Operations.

15.6 For voters outside of Kosovo, the Director of Election Operations shall announce the dates for a confirmation period to be held subsequent to the period of establishing the voters' list. There shall not be a challenge period for voters outside of Kosovo.

Section 16 Information Period

The Director of Election Operations shall announce an information period for the verification of the voters' list within Kosovo. This period shall start after the confirmation and challenge period.

Section 17 Protection of Data

17.1 The Civil Registrar and all persons designated to act on behalf of the Central Civil Registry shall be authorised to collect and process personal data on persons who seek to be registered as habitual residents of Kosovo. The Director of Election Operations and all

persons designated to act on behalf of the Office of the Director of Election Operations shall be authorized to collect and process relevant personal data for the purpose of establishing the voters' list for eligible persons residing outside of Kosovo.

17.2 The Special Representative of the Secretary-General shall be the Controller of all personal data collected and processed. The Controller shall be responsible for the safeguarding and lawful use of such personal data.

17.3 Personal data collected and processed shall be:

(a) Collected to assist in establishing the Central Civil Registry and the voters' lists, and used in accordance with the applicable law;

(b) Relevant for the purpose of establishing the Central Civil Registry and the voters' lists;

(c) Kept only as long as necessary for establishing and maintaining the Central Civil Registry and the voters' lists;

(d) Maintained accurately; and

(e) Used only for the purpose of establishing the Central Civil Registry, the voters' lists and for issuing travel documents, except where provided otherwise by a regulation issued by the Special Representative of the Secretary-General because of important public interests. However, further use of personal data for statistical purposes may be permissible if such statistics are used by a competent public body and if the data is not reused for any administrative or other decisions concerning the data subject.

17.4 Inaccurate personal data shall be corrected without unnecessary delay. However, if accuracy or inaccuracy, due to the phase of the processing of the data, cannot be established, a special notation indicating the provisional character of the personal data shall be made.

17.5 The categories of personal data to be collected are:

(a) The person's photograph and fingerprints in digital form; and

(b) The data specified in the registration form.

17.6 Personal data collected during the registration process shall not be disclosed to third parties, except where:

(a) The data subject asks the Controller to do so during the registration process in order to verify information necessary for registration;

(b) The data subject lodges an appeal with the Registration Appeals Commission;

(c) The data subject lodges an appeal with another body in order to verify information necessary for voter registration;

(d) The data subject applies for a travel document, a driving license or any other basic personal civil document and consents to the disclosure as part of the application process;

(e) Such data has become part of the Central Civil Registry and the voters' lists and is open to public access pursuant to a regulation or administrative direction issued by the Special Representative of the Secretary-General; or

(f) A regulation issued by the Special Representative of the Secretary-General provides for disclosure because of important public interests.

17.7 In order to protect personal data against accidental or intentional unlawful destruction, alteration or disclosure, the Office of the Civil Registry and, where appropriate, the Director of Election Operations shall take necessary organizational and technical measures, including the following:

(a) Announcing clear organizational rules about authority to give orders concerning the use of personal data;

(b) Instructing staff members about their duties in order to guarantee lawful data processing;

(c) Preventing physical and logical access to personal data by unauthorized persons; and

(d) Documenting all access to personal data files in order to control legitimate use of such files.

17.8 No person gaining access to data, while acting on behalf of the Controller or on behalf of an institution or body fulfilling the role of a processor for the Controller shall disclose or use such data, unless so directed by the Controller. The Controller and any processor acting on his or her behalf, shall inform their staff about the obligations arising under this paragraph and shall have these persons sign a written statement that they have understood the obligations and will act accordingly.

17.9 The Controller may employ other public or private institutions or bodies as service processors only after such institutions or bodies have entered into a written agreement with the Controller, stipulating, *inter alia*, that the service processor will:

(a) Use personal data only according to instructions given by the Controller or the Civil Registrar;

(b) Have in place all necessary data security measures and will employ only personnel bound to confidentiality by written agreement;

(c) Employ other service processors only with the express consent of the Controller;

(d) Return all personal data to the Controller after having performed the contractual tasks; and

(e) Furnish all information to the Controller which is necessary to evaluate and control the performance of the service processor.

17.10 The data subject shall have access to all his or her data processed by the Central Civil Registry and stored, whether electronically or in a manual file. However, access can be denied where necessary to protect the interests of another data subject. Such denials may be challenged by appealing to the Registration Appeals Commission.

17.11 A data subject has the right to demand correction of incorrect data.

17.12 A data subject has the right to demand that data be deleted because the storage is unlawful or no longer required for the purpose of inclusion on the Central Civil Registry and the voters' list.

17.13 In case of a dispute between the data subject and the Central Civil Registry about the accuracy of stored data or the obligation to delete such data, the data subject can appeal to the Registration Appeals Commission.

17.14 In order to ensure compliance with this section, the Civil Registrar and the Director of Election Operations shall each designate a Data Protection Officer who will be in charge of questions of data protection in their respective offices.

Section 18

Repeal

UNMIK Administrative Directions Nos. 2000/5, 2000/8 and 2000/9 are superseded by the present Administrative Direction and are hereby repealed.

Section 19

Entry into Force

The present Administrative Direction shall enter into force on 31 July 2001.

Hans Haekkerup
Special Representative of the Secretary-General