

UNMIK/DIR/2001/20
3 December 2001

ADMINISTRATIVE DIRECTION NO. 2001/20

**IMPLEMENTING UNMIK REGULATION NO. 2001/32
ON THE ESTABLISHMENT OF A PLEDGE FILING OFFICE**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/32 of 6 November 2001 on the Establishment of a Pledge Filing Office,

Taking into account UNMIK Regulation No. 2001/5 of 7 February 2001 on Pledges,

Hereby gives the following Administrative Direction:

**Chapter I
General Provisions**

**Section 1
Definitions**

For the purposes of the present administrative direction:

“Aircraft” means a machine capable of deriving support in the atmosphere;

“Boat” means a vessel designed for transporting persons or things on water and that is propelled primarily by any power other than muscle power;

“Certification Date” means the date on which the Filing Office certifies that all Notification Statements and Subsequent Filings accepted by the Filing Office are available for public inspection;

“Filer” means a person who tenders a Notification Statement or Subsequent Filing to the Filing Office for filing, whether the person is a pledgeholder or an agent of a pledgeholder;

“Filing Number” means the unique number assigned to a Notification Statement by the Filing Office to identify the Notification Statement and any Subsequent Filings that relate to the Notification Statement;

“Mobile Home” means a structure, whether or not equipped with wheels, that may be towed or carried from one place to another for use as a personal dwelling or business accommodation;

“Motor vehicle” means a mobile device propelled primarily by power other than muscle power for transporting or drawing a person or thing, and designed for use on a road or natural terrain, or in the construction or maintenance of roads. The term includes a pedal bicycle with a motor attached, a combine, and a Tractor. The term does not include a device that runs on rails or machinery designed only for use in farming other than a combine or Tractor;

“Pledgeholder of Record” means a pledgeholder shown on the Filing Office information management system as having filed a Notification Statement and not having filed a termination statement, provided that the Notification Statement has not lapsed;

“Serial Numbered Goods” means a Motor Vehicle, a Trailer, a Mobile Home, an Aircraft, a Boat or an outboard motor for a Boat when these are not held for sale or lease in the ordinary course of business;

“Subsequent Filing” means an amendment, continuation notice, or termination statement that relates to a Notification Statement;

“Tractor” means a self-propelled vehicle designed for drawing other vehicles or machines; and

“Trailer” means a vehicle that is at any time drawn on a public road by a Motor Vehicle and is designed for the conveyance of goods, but does not include the Motor Vehicle by which it is drawn or a Mobile Home.

Section 2 Duties and Responsibilities

The duties and responsibilities of the Filing Office are exclusively of an administrative nature and by filing or refusing to file a Notification Statement the Filing Office does not:

- (a) Determine the legal sufficiency or insufficiency of the Notification Statement;
- (b) Determine that a pledge in collateral exists or does not exist; or
- (c) Determine, or create a presumption, that information in the Notification Statement is correct or incorrect, in whole or in part.

Section 3
Prior Filing of Notification Statement

A Notification Statement may be filed prior to the execution of a pledge agreement only upon written authorization of the pledgor.

Section 4
Copies of Records

4.1 Copies of specific Notification Statements and Subsequent Filings shall be made available to the public provided that the statement is identified by a Filing Number or by a search under the name of a pledgor or the serial number of Serial Numbered Goods.

4.2 Bulk copies of records from the pledge information management system shall be available to the public in magnetic media, in a standardized format adopted by the Filing Office.

Section 5
Forms of the Filing Office

5.1 The Filing Office shall prescribe and provide at no charge to the public the following forms:

- (a) Notification Statement;
- (b) Amendment;
- (c) Continuation notification;
- (d) Termination statement;
- (e) Search request; and
- (f) Notification of lien.

5.2 The Filing Office shall publish a guide containing instructions for completion of the forms, and may amend the guide from time.

Section 6
Electronic Records

6.1 The permanent and official records of the Filing Office shall be maintained in electronic form. The Filing Office is under no obligation to maintain paper records of Notification Statements and Subsequent Filings.

6.2 Where a Filer submits a Notification Statement or Subsequent Filing to the Filing Office on a paper form, the Filing Office shall create the necessary electronic record on behalf of the Filer.

Section 7
Authentication of Electronic Records

7.1 A Notification Statement or Subsequent Filing shall be deemed to be signed as required by section 15.1(e) of UNMIK Regulation No. 2001/5 if it contains a symbol executed or adopted by the Filer with intent to authenticate the Notification Statement or Subsequent Filing.

7.2 By signing a pledge agreement, a pledgor is deemed to have authorized the pledgeholder to file a Notification Statement or amendment under the name of the pledgor with respect to the collateral.

Chapter II
Filing; Criteria for Refusal to File

Section 8
Filing of a Notification Statement or Subsequent Filing

8.1 A Notification Statement or Subsequent Filing shall be deemed to be filed upon receipt by the Filing Officer with the filing fee, and shall be effective against third parties from the moment it is searchable by the public in the pledge information management system.

8.2 Upon receipt, the Filing Office shall index a Notification Statement or Subsequent Filing provided there are no grounds under section 9 to refuse acceptance.

Section 9
Criteria for Refusal of Notification Statement

The following shall be the sole criteria for the Filing Office to refuse to accept a Notification Statement or Subsequent Filing:

(a) Pledgor name. A Notification Statement or an amendment shall be refused if it fails to include a legible pledgor name;

(b) Pledgeholder name. A Notification Statement shall be refused if it fails to include a legible pledgeholder name. An amendment shall be refused if it fails to include a legible name of a Pledgeholder of Record;

(c) Filing Number or invalid Filing Number. A Subsequent Filing shall be refused if it fails to provide a valid Filing Number of a Notification Statement;

(d) Timeliness of continuation notice. A continuation notice shall be refused if it is not received by 17:00 hours on the day upon which the Notification Statement would lapse. A continuation notice may not be filed earlier than 90 calendar days before the date on which the continuation statement would lapse; or

(e) Filing fee. A Notification Statement or Subsequent Filing shall be refused if:

- (i) The Notification Statement or Subsequent Filing is accompanied by less than the full filing fee; or
- (ii) The Filer has not made provision for payment of the full filing fee in accordance with these rules, to the satisfaction of the Filing Office.

Section 10
Refusal Procedure

Within 24 hours of receipt of a Notification Statement or Subsequent Filing, the Filing Office shall determine whether criteria exist to refuse acceptance upon the grounds specified in section 9 and, if acceptance is refused, the Filing Office shall then return the Notification Statement or Subsequent Filing to the Filer with a refund of the filing fee and a brief explanation of the reason for refusal, citing the provision of section 9 that establishes the ground for refusal. A refund may be delivered with the Notification Statement or Subsequent Filing, or under separate cover. The explanation shall be delivered within 48 hours of the determination to refuse acceptance.

Chapter III
Searches, Errors, Record Management

Section 11
Search Requests and Reports

11.1 A search of forms filed at the Filing Office may be requested by a member of the public based on any one of the three following criteria:

- (a) Pledgor name;
- (b) Filing Number of Notification Statement; or
- (c) Serial number of serial numbered equipment.

11.2 Search requests shall contain the following information:

- (a) The name and address of the person requesting the search; and
- (b) The search criteria shall consist of the full name of a pledgor, as follows:

- (i) The full name of an individual shall consist of a full last name, full first name, and full middle name, if any;
- (ii) The full name of a corporate pledgor shall consist of the name of the corporate body as stated in the charter or articles of incorporation in the country or state of incorporation; and
- (iii) The first 25 characters of the serial number of serial numbered equipment.

11.3 In response to a search request, the Filing Office shall prepare a report that includes the following information:

- (a) Identification of the Filing Office;
- (b) The date the report was generated;
- (c) The Certification Date applicable to the report;
- (d) The search criteria used to generate the report;
- (e) Copies of Notification Statements and Subsequent Filings that correspond to the search criteria; and
- (f) Copies of any notices of tax liens or other interests in movable property filed pursuant to section 14.8 of UNMIK Regulation No. 2001/5 that correspond to the search criteria.

Section 12 Errors of the Filing Office

The Filing Office may correct the errors of Filing Office personnel at any time. If the correction is made after the Filing Office has issued a Certification Date that includes the filing date of a corrected document, the Filing Office shall proceed as follows:

- (a) An entry shall be made upon the record of the Notification Statement or Subsequent Filing stating the date of the correction and explaining the nature of the corrective action taken. The notation shall be preserved for so long as the record is preserved in the pledge information management system; and
- (b) A notice shall be mailed within one day of the correction to a Pledgeholder of Record and the pledgor on the Notification Statement or Subsequent Filing, explaining the error and the date and nature of the corrective action taken.

Section 13
Records Management

13.1 The Filing Office shall keep all records of Notification Statements and Subsequent Filings for three (3) years after the expiration of the Notification Statement.

13.2 The Filing Office shall implement and adopt a plan for recovery from any disaster that would destroy its records.

Chapter IV
Serial Numbered Goods

Section 14
Serial Numbered Goods

14.1 A pledge of Serial Numbered Goods shall be perfected only if a Notification Statement is filed containing a description of the Goods by serial number.

14.2 A buyer or lessee may take Serial Numbered Goods free of a pledge in the Serial Numbered Goods only if the buyer or lessee bought or leased without knowledge of the pledge and the Serial Numbered Goods were not correctly described by serial number in a Notification Statement.

14.3 With respect to serial numbered equipment, a Notification Statement is ineffective against a buyer or lessor if the serial number on the notice is incorrect.

Section 15
Entry into Force

The present administrative direction shall enter into force on 3 December 2001.

Hans Haekkerup
Special Representative of the Secretary-General