



**ADMINISTRATIVE DIRECTION NO. 2007/1**

**IMPLEMENTING UNMIK REGULATION NO. 2005/48 ON THE  
REORGANISATION AND LIQUIDATION OF ENTERPRISES AND THEIR  
ASSETS UNDER THE ADMINISTRATIVE AUTHORITY OF  
THE KOSOVO TRUST AGENCY**

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,

In conformity with United Nations Interim Mission in Kosovo (UNMIK) Regulation No. 2001/9 of 15 May 2001, On the Constitutional Framework for Provisional Self-Government in Kosovo,

Having promulgated UNMIK Regulation No. 2005/48 of 21 November 2005 on the Reorganization and Liquidation of Enterprises and their Assets under the Administrative Authority of the Kosovo Trust Agency,

For the purpose of establishing procedures to be followed in the liquidation of Enterprises and their assets by the Kosovo Trust Agency,

Hereby issues the following Administrative Direction:

**Section 1**  
**Scope of Application**

This Administrative Direction sets forth the procedures to be followed by the Agency and Liquidation Committees appointed by the Agency for the liquidation of Enterprises under the administrative authority of the Agency.

Section 2  
Definitions and References

2.1 The definitions in Section 2 of UNMIK Regulation No. 2005/48 on the Re-organization and Liquidation of Enterprises and their Assets under the Administrative Authority of the Kosovo Trust Agency (hereinafter referred to as the Regulation) shall apply to this Administrative Direction. In addition, the following definitions shall apply:

“Creditors Committee” means for the purpose of the present Administrative Direction such committee of creditors as is established in accordance with section 6.3;

“Creditors Meeting” means such meeting of creditors of an Enterprise in liquidation that is called by the Liquidation Committee in accordance with section 6.1;

“UNMIK/REG/2002/13” refers to UNMIK Regulation 2002/13 of 13 June 2002, on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters, as amended from time to time;

“UNMIK/REG/2002/12” refers to UNMIK Regulation No. 2002/12 of 12 June 2002 on the Establishment of the Kosovo Trust Agency, as amended from time to time;

“UNMIK/REG/2003/13” refers to UNMIK Regulation 2003/13 of 9 May 2003 on the On the Transformation of the Right of Use to Socially-owned Immovable Property, as amended by UNMIK Regulation 2004/45 of 10 November 2004;

“UNMIK/AD/2003/13” refers to UNMIK Administrative Direction No. 2003/13 of 9 June 2003, Implementing UNMIK Regulation No. 2002/13, as amended from time to time, setting out Rules of Procedure for the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related Matter;

2.3 The headings in this Administrative Direction are included for convenience only and shall not affect the construction of this Administrative Direction.

2.4 Words denoting the singular shall include the plural and vice versa. Words denoting gender shall include the other gender. Words denoting persons shall include bodies corporate, unincorporated associations and partnerships.

2.5 References to any form or document, including any UNMIK Regulation or Administrative Direction, shall refer to such form or document as amended, supplemented or replaced from time to time.

2.6 References to Annexes, Chapters, Sections and Sub-sections are references to Annexes, Chapters, Sections and Sub-sections of the present Administrative Direction.

2.7 References to the Agency shall include its successors.

Section 3  
The Agency Acting through Liquidation Committees

The Agency exercises its powers to liquidate Enterprises in accordance with UNMIK/REG/2002/12 and UNMIK/REG/2005/48 through Liquidation Committees that are appointed for this purpose by the Agency's Board of Directors.

Section 4  
Powers and Responsibilities of the Liquidation Committee

Liquidation Committees appointed by the Agency's Board of Directors exercise such powers of the Agency which are vested in them by the applicable law. Liquidation Committees are responsible exclusively to the Agency's Board of Directors and shall not be liable to any other party.

Section 5  
Effects of Appointment and Immediate Actions by the Liquidation Committee

The Agency's Board of Directors has authority to extend the deadline within which a Liquidation Committee has to prepare an inventory of the assets and liabilities of an Enterprise in accordance with Section 12.4 of the Regulation. Any party aggrieved by the Agency's decision to extend such deadline may apply to the Special Chamber of the Supreme Court of Kosovo on KTA Related Matters in accordance with UNMIK/Reg/2002/13, and UNMIK/AD/2003/13 as amended.

Section 6  
Creditors Committees and Creditors Meetings

6.1 For the purposes of better ascertaining creditors' interests which are to be taken into consideration during the liquidation process, the Liquidation Committee, if it considers it necessary, may call a meeting of creditors.

6.2 A Creditors Meeting shall be convened with at least 21 days notice by sending notifications to all creditors who have submitted claims. A form of proxy shall be attached to the notification together with an instruction on how to complete the form.

6.3 The chairperson of the Liquidation Committee shall act as chairperson of the Creditors Meeting. The creditors may appoint a committee of creditors to further assist the Liquidation Committee. The Creditors Committee shall comprise a minimum of 3 and a maximum of 5 creditors. No remuneration is payable to members of the Creditors Committee.

6.4 Voting in the Creditors Meeting shall be done by a show of hands unless a poll is requested by any creditor. In that event the chairperson shall determine the amount of entitlement of each creditor that constitutes the creditors voting rights.

6.5 The Liquidation Committee shall keep minutes of every Creditors Meeting convened under this section. Notwithstanding any motions that may have been passed during a Creditors Meeting, the Liquidation Committee shall not be compelled to take any specific course of action.

### Section 7

#### Registration and Evaluation of Claim

Where a Liquidation Committee is considering whether a claim has been properly made within the relevant limitation period, it shall treat registration or delivery of claims to the Agency as suspending the running of the limitation period from the date on which the same was registered or delivered to the Agency.

### Section 8

#### Challenges to Decisions on Claims

8.1 If a Liquidation Committee rejects, in whole or in part the amount of a claim submitted, it shall notify as soon as practical the affected creditor in writing, giving a reasoned explanation for the rejection or reduction of the claim.

8.2 Within twenty (20) Business Days of the delivery of such notice by the Liquidation Committee and upon payment of a fee to be determined by the Agency, the affected creditor shall be entitled to apply to the Agency for review of the Liquidation Committee's decision. The fee shall be repaid partially or in total if upon review the decision made by the Liquidation Committee is adjusted in favour of the creditor. The affected creditor shall be entitled to provide such further evidence and such further submissions as it considers appropriate in support of the claim. Failing such application the creditor shall be precluded from objecting further to the Liquidation Committee's decision.

8.3 The delivery of a notice under section 8.1 above shall be served by certified mail. The delivery is deemed to have taken place ten (10) Business Days after the notice was mailed. Where mail is undeliverable or returned as undelivered, notice of the decision of the Liquidation Committee shall be given by public announcement to notify any affected creditor. Affected creditors shall have twenty (20) Business Days from the date of the public announcement to apply for review of the Liquidation Committee's decision.

Section 9  
Review Committee and Review Procedure

9.1 The Agency shall establish one or more committees (Review Committee) to review the work of Liquidation Committees conducting internal review procedures jointly with Liquidation Committees pursuant to section 66 of UNMIK/AD/2003/13, as amended. The Review Committee shall review such decisions and actions taken or not taken by the Liquidation Committee which are challenged by an aggrieved party. The final decision shall be based on the recommendations of the Review Committee and shall be issued by the Liquidation Committee in accordance with section 66 (5) of UNMIK/AD/2003/13, as amended.

9.2 The review of the decision of the Liquidation Committee shall take into account the original evidence and submissions together with any further evidence and submissions provided by the complainant, who has to be an aggrieved party affected by the decision or action of the Liquidation Committee. A review shall be undertaken no later than 15 days after submission of an application by the complainant and the Review Committee shall issue its recommendation giving reasoned justifications in law and fact forming the basis for the final decision by the Liquidation Committee to be made as soon as reasonably practical, but no later than 60 days after the review process has commenced.

9.3 If for reasons beyond its control the Liquidation Committee is not able to complete the review within 60 days after the review process has commenced, it has the power to extend this time for a period of 30 days. It shall notify the complainant accordingly.

9.4 If, on review, the decision of the Liquidation Committee is confirmed or the complainant otherwise rejected, the complainant may apply to the Court in accordance with section 66 of UNMIK/AD/2003/13, as amended.

Section 10  
Proposals for Treatment of Claims Categories

The Review Committee may present proposals, including proposals made by a Liquidation Committee, for the treatment of categories of claims by Liquidation Committees to the Agency's Board of Directors. The Board of Directors shall decide on any such proposal balancing international legal principles and conventions as set out in UNMIK Regulation 1999/24 on the Law Applicable in Kosovo in a non-discriminatory manner, the interests of all the creditors in ensuring that amounts available for distribution are maximized against the objective of concluding the liquidation and distribution of proceeds expeditiously in order to promote economic development in Kosovo.

## Section 11 Secured Claims

11.1 A Liquidation Committee may apply to the Agency's Board of Directors in order to receive approval for the exercise of any powers over property or assets of the Enterprise which are subject to a security as set out in Section 34.1 of the Regulation. The Agency shall grant such approval if it is satisfied that any disposal of or exercise of the Liquidation Committee's powers over secured property or asset is necessary for an effective liquidation of the Enterprise. In such circumstances the Secured Claim of the creditor shall have the same priority over the value realized from the sale or further encumbrance of the secured property or assets as provided under Section 44 of the Regulation.

11.2 Any party aggrieved by the decision of the Agency's Board of Directors may challenge the decision in the Special Chamber of the Supreme Court of Kosovo on KTA Related Matters in accordance with the provisions under section 66 of UNMIK/AD/2003/13 as amended, which shall apply *mutatis mutandis*.

## Section 12 Final Claims List

The Liquidation Committee shall prepare the final list of claims as provided under Section 35 of the Regulation in accordance with the priorities set out in Section 44 of the Regulation.

## Section 13 Additional Liquidation Procedures

13.1 A notification given by the Liquidation Committee to the Special Chamber of the Supreme Court of Kosovo on KTA Related Matters accompanied by such evidence as required under Section 9.3 of UNMIK/REG/2002/12 shall have the effect of a moratorium for the Enterprise in liquidation as set out in Section 5.1 of the Regulation.

13.2 Upon the appointment of the Liquidation Committee, the Agency shall issue an appointment notice to potential creditors of the Enterprise requiring formal submissions in any reasonable, including electronic, format that the Agency deems appropriate of all claims and creditor information as required by the Liquidation Committee, including such information as listed under section 17.2 of the Regulation.

13.3 Any references to the Appointment Date in the applicable section of the Regulation shall be references to the date upon which the Agency appointed the Liquidation Committee.

13.4 Sections 6, 13.2, and 14 of the Regulation shall apply *mutatis mutandis* to the liquidation of Enterprises conducted by the Liquidation Committee.

Section 14  
Time Limits for Claims

14.1 The date after which no claim shall be receivable to be applied by Liquidation Committees is calculated according to Section 43.1 (d) (ii) of the Regulation.

14.2 Where a creditor provides sufficient justification for late filing of a claim, the Liquidation Committee shall admit the claim. The late claimant will only be entitled to enjoy distributions from the point in time that the claim is admitted.

Section 15  
Employees Entitlements

In the liquidation of an Enterprise, entitlements of employees under Section 10 of UNMIK/REG/2003/13, as amended, are held in escrow and shall not become part of such property and assets of the Enterprise which are subject to the liquidation process.

Section 16  
Interim Distributions

Where the Agency is satisfied that sufficient funds are available to satisfy all claims of a class as set out in Section 44 of the Regulation, it can authorize the Liquidation Committee to make such distributions, as the Liquidation Committee sees fit, to claimants within a lower class under this section.

Section 17  
Closure of the Liquidation Proceedings

For the closure of the liquidation proceedings in accordance with Section 45 of the regulation, the Liquidation Committee shall apply on behalf of the Agency to the Court for an order closing the proceedings.

Section 18  
Transitional Arrangements

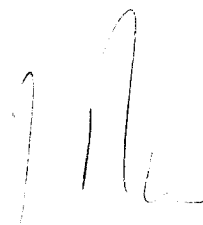
All liquidations commenced before the entry into force of the present Administrative Direction shall, so far as practicable, be conducted under the provisions of the present Administrative Direction.

Section 19  
Applicable Law

The present Administrative Direction shall supersede any provisions in the Applicable Law which may be inconsistent with it.

Section 20  
Entry into Force

The present Administrative Direction shall enter into force on the 3<sup>rd</sup> day of January 2007.

A handwritten signature in black ink, appearing to read 'J. Rücker', is centered on the page.

Joachim Rücker  
Special Representative of the Secretary-General