

UNMIK/PR/708

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Regulation on Covert and Technical Measures of Surveillance and Investigation Signed

PRISTINA – SRSG Michael Steiner has signed Regulation 2002/6 on Covert and Technical Measures of Surveillance and Investigation that would help fight organized and other crime in Kosovo.

The regulation would enable law enforcement authorities to use technical measures such as interception of telecommunications, including a so-called “roving wiretap”, search of postal items, covert photography or video surveillance in private places, use of tracking or positioning devices, covert monitoring of conversations, interception of communications by a computer network, undercover investigations, metering of telephone calls and disclosure of financial data.

A measure under the regulation may only be implemented if a public prosecutor or an investigating judge orders it. The more intrusive measures will require an order from an investigating judge and can only be used when a case involves the commission of a serious criminal offence. In emergencies a public prosecutor may issue a provisional order, but it will cease to have effect if it is not confirmed within three days by an investigating judge.

The regulation obliges the implementing law enforcement authorities to make a record of their actions pursuant to an order under the regulation and to provide the judge or prosecutor who issued the order with a report every 15 days.

Under the regulation an investigating judge must issue a decision on the lawfulness of each order and its implementation and a party to the criminal proceedings may appeal this decision to a Surveillance and Investigation Review Panel. This panel will consist of three international judges and shall review complaints and order compensation for persons subject to orders which have been unlawfully issued or implemented

Each subject of an order under the regulation is to be notified that he or she has been the subject of an order except where to do so would jeopardize the security of investigations or the life or safety of an injured party, witness, informant or their family members.

Any evidence obtained lawfully under the regulation may be used as a basis for a judicial decision. This should facilitate the administration of justice in cases of serious criminal offences.

The regulation will be in force for an initial period of one year. At the end of that period, it will be reviewed. The regulation has been drafted so as to conform to international human rights standards and to ensure that there is significant protection for those subject to the orders issued under the regulation.