

**On the occasion of the Tenth Assembly of the EULEX Judges, held in
Gjilan/Gnjilane on 1 June 2010**

The Assembly composed of the following Judges:

Maria Giuliana Civinini, President of the Assembly of EULEX Judges; Gerrit-Marc Sprenger, Antoinette Lepeltier-Durel, Arkadiusz Sedek, Charles Smith, Dragomir Yordanov, Eija-Liisa Helin, Emilio Gatti, Esma Erterzi, Ferdinando Buatier de Mongeot, Francesco Florit, Gabriele Gaube, Gianfranco Gallo, Guy Van Craen, Hajnalka Karpati, Harri Katara, Laura Plesa, Martti Harsia, Nikolay Entchev, Piero Leanza, Richard Winkelhofer, Riku Jaakkola, Rositza Buzova, Torsten Koschinka, Veriinia Micheva-Ruseva, Vitor Pardal, Vladimir Kanev, Witold Jakimko.

Adopts the DECISION

27 Judges present to the votation, and 1 Judge absent: with *25votes in favor*; and 2 abstentions, to approve the present Guidelines for case allocation for EULEX Judges in Criminal Cases at the Supreme Court of Kosovo.



Maria Giuliana Civinini

President of the Assembly of the EULEX Judges

**GUIDELINES FOR CASE ALLOCATION FOR EULEX JUDGES IN
CRIMINAL CASES AT THE SUPREME COURT OF KOSOVO**

I. Legal background

Case allocation of the EULEX judges will be carried out in accordance with the Law on the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo (Law No. 03/L-053), hereinafter LoJ.

II. Principles of a case allocation system

- **Transparency**

Case allocation has to be transparent to parties and the public.

- **Objectivity**

Everyone should know in advance by which judge s/he will be tried (judges will not select cases).

- **Flexibility**

The specific working conditions, the small numbers of EULEX judges at the Supreme Court and the rules on disqualification as stipulated in the PCPCK have to be taken into account.

- **Sustainability**

The system of case allocation has to be an example of proper judicial administration to which local judges can adhere in order to achieve the goals of an independent, transparent and efficient judicial system.

- **Equality of the workload of judges**

III. Case allocation system

1. General Provisions:

- 1.1.** Criminal cases at the Supreme Court of Kosovo shall be allocated to EULEX criminal judges at the Supreme Court as presiding judges based on a regional distinction. There are five (5) regions in Kosovo: Prishtinë/Priština, Gjilan/Gnjilane, Prizren, Pejë/Peć and Mitrovicë/Mitrovica.

1.2. The disqualification rules as stipulated in the PCPCK require a further distinction between appeals against Rulings, appeals against Judgments, extraordinary legal remedies and other appeals.

1.3. The alphabetical order in the following provisions refers to the last name. Prefixes (e.g. Van, Du) are not considered as part of the last name.

2. Appeals against Rulings:

2.1. Assignment of the presiding judge:

Cases of appeals against Rulings shall be assigned to the EULEX judges at the Supreme Court, except the President of the Assembly of EU judges, according to the following order:

2.1.1. If the court of first instance has its seat within the territorial jurisdiction of the District Courts of Pejë/Peć or Mitrovicë/Mitrovica, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the first in the list attached as Annex 1.

2.1.2. If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “even”, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the second in the list attached as Annex 1.

2.1.3. If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “uneven”, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the third in the list attached as Annex 1.

2.1.4. If the court of first instance has its seat within the territorial jurisdiction of the District Courts of Prizren or Gjilan/Gnjilane, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the fourth in the list attached as Annex 1.

2.1.5. If the judge to whom the case has to be assigned is not available due to disqualification, absence on the day of hearing/session or other important reasons, the case shall be assigned to the President of the Assembly of EU judges. If the President of the Assembly of EU judges is not available due to disqualification, absence on the day of hearing/session or other important reasons inter alia emergency or workload, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the next in the list attached as Annex 1 after the name of the EULEX judge at the Supreme Court the case should be assigned to pursuant to Article 2.1.1. through 4.

2.2. Assignment of panel members:

2.2.1. Panel members shall be preferably local judges at the Supreme Court assigned to criminal cases. The local judges shall be assigned to the panels on the basis of a roster – attached as Annex 2 - which contains all names of judges at the Supreme Court assigned to criminal cases.

2.2.2. The assignment of these judges to the panels shall follow the alphabetical order by name.

2.2.3. If the local judge who should be assigned to the panel is not available due to disqualification, absence on the day of hearing/session or other important reasons, he or she shall be replaced by the local judge whose name is the next on the roster. The Judge who was replaced shall be assigned as member of the next panel.

2.2.4. If an EULEX judge is required as panel member, he or she shall be assigned to the panel on the basis of a roster – attached as Annex 3 - which contains all names of EULEX judges at District Court level. The assignment of the panel member shall follow the alphabetical order by name. If this judge is not available due to disqualification, absence on the day of hearing/session or other important reasons, he or she shall be replaced by the EULEX judge whose name is the next on the roster. The Judge who was replaced shall be assigned as member of the next panel.

2.2.5. In case an EULEX judge is required as panel member during the on-call period, EULEX judges on-call at the District Courts shall

be assigned. The assignment shall be based on the following regional order:

1. Prishtinë/Pristina district Court, if not available
2. Mitrovicë/Mitrovica District Court, if not available
3. Gjilan/Gnjilane district Court, if not available
4. Pejë/Pec District Court, if not available
5. Prizren District Court.

2.2.6. In the on-call period, the Presiding Judge will be a EULEX Supreme Court Judge identified based on the pre-established on-call schedule.

3. Appeals in second instance against judgments:

3.1. Assignment of the presiding judge:

Cases in which the judgment is appealed in second instance at the Supreme Court of Kosovo shall be assigned to the EULEX judges at the Supreme Court except the President of the Assembly of EU judges according to the following order:

- 3.1.1.** If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “even”, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the first in the list attached as Annex 1.
- 3.1.2.** If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “uneven”, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the second in the list attached as Annex 1.
- 3.1.3.** If the court of first instance has its seat within the territorial jurisdiction of the District Courts of Pejë/Pec or Mitrovicë/Mitrovica, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the third in the list attached as Annex 1.

- 3.1.4. If the court of first instance has its seat within the territorial jurisdiction of the District Courts of Prizren or Gjilan/Gnjilane, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the fourth in the list attached as Annex 1.
- 3.1.5. If the judge to whom the case has to be assigned is not available due to legal disqualification, absence on the day of hearing/session or other important reasons, the case shall be assigned to the President of the Assembly of EU judges. If the President of the Assembly of EU judges is not available due to absence on the day of hearing/session or other important reasons, the case shall be assigned to the EULEX judge at the Supreme Court whose name is next in the list attached as Annex 1 after the EULEX judge at the Supreme Court the case should be assigned to pursuant to Article 3.1.1. through 3.

3.2. Assignment of panel members:

- 3.2.1. Panel members shall be preferably local judges at the Supreme Court assigned to criminal cases. The local judges shall be assigned to the panels on the basis of a roster – attached as Annex 2 - which contains all names of judges at the Supreme Court assigned to criminal cases.
- 3.2.2. The assignment of these judges to the panels follow the alphabetical order by name.
- 3.2.3. If the local judge who should be assigned to the panel is not available due to disqualification, absence on the day of hearing/session or other important reasons, he or she shall be replaced by the local judge whose name is the next on the roster. The Judge who was replaced shall be assigned as member of the next panel.
- 3.2.4. If an EULEX judge is required as panel member, he or she shall be assigned to the panel on the basis of a roster which contains all names of EULEX criminal judges at the Supreme Court including the name of the President of the Assembly of EU judges. The assignment of the panel member shall follow the alphabetical order by name. If this judge is not available due to disqualification, absence on the day of hearing/session or other important reasons, he or she shall be replaced by the EULEX judge at the Supreme Court whose name is next on the roaster. The Judge who was

replaced shall be assigned as member of the next panel.

4. Appeals in third instance against judgments and extraordinary legal remedies:

4.1. Assignment of the presiding judge:

Cases in which the judgment is appealed in third instance and cases in which the appellant seeks an extraordinary legal remedy shall be assigned to the EULEX judges at the Supreme Court except the President of the Assembly of EU judges according to the following order:

- 4.1.1. If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “even”, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the first in the list attached as Annex 1.
- 4.1.2. If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “uneven”, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the second in the list attached as Annex 1.
- 4.1.3. If the court of first instance has its seat within the territorial jurisdiction of the District Courts of Pejë/Peć or Mitrovicë/Mitrovica, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the third in the list attached as Annex 1.
- 4.1.4. If the court of first instance has its seat within the territorial jurisdiction of the District Courts of Prizren or Gjilan/Gnjilane, the case shall be assigned to the EULEX judge at the Supreme Court whose name is the fourth in the list attached as Annex 1.
- 4.1.5. If the judge to whom the case has to be assigned is not available due to legal disqualification, absence on the day of hearing/session or other important reasons, the case shall be assigned to the President of the Assembly of EU judges. If the President of the Assembly of EU judges is not available due to absence on the day

of hearing/session or other important reasons, the case shall be assigned to the EULEX judge at the Supreme Court whose name is next in the list attached as Annex 1 after the EULEX judge at the Supreme Court the case should be assigned to pursuant to Article 4.1.1. through 4.

4.2. Assignment of panel members:

4.2.1. Panel members shall be preferably local judges at the Supreme Court assigned to criminal cases. The local judges shall be assigned to the panels on the basis of a roster – attached as Annex 2 - which contains all names of judges at the Supreme Court assigned to criminal cases.

4.2.2. The assignment of these judges to the panels shall follow the alphabetical order by name.

4.2.3. If the local judge who should be assigned to the panel is not available due to disqualification, absence on the day of hearing/session or other important reasons, he or she shall be replaced by the local judge whose name is the next on the roster. The Judge who was replaced shall be assigned as member of the next panel.

4.2.4. If an EULEX judge is required as panel member, he or she shall be assigned to the panel on the basis of a roster which contains all names of EULEX criminal judges at the Supreme Court including the name of the President of the Assembly of EU judges. The assignment of the panel member shall follow the alphabetical order by name. If this judge is not available due to disqualification, absence on the day of hearing/session or other important reasons, he or she shall be replaced by the EULEX judge at the Supreme Court whose name is next on the roster, or in case of insufficiency of the roster by another EULEX Judge at the Supreme Court. The Judge who was replaced shall be assigned as member of the next panel.

5. Other appeals or legal proceedings:

In cases of appeals or legal proceedings which are not covered by the foregoing rules, the principles as set out in Article 3 (appeals against judgments) shall apply.

Annex 1

Individuation of the President of the panel

Appeals against rulings

Guy Van Craen / substituted by a N.N. judge as selected during the 11th CfC

Emilio Gatti / substituted by Martti Harsia from the 1st of July 2010

Norbert Koster

Gerrit-Marc Sprenger

Appeals in second instance against judgments

Guy Van Craen / substituted by a N.N. judge as selected during the 11th CfC

Gerrit-Marc Sprenger

Norbert Koster

Emilio Gatti / substituted by Martti Harsia from the 1st of July 2010

Appeals in third instance against judgments and extraordinary legal remedies

Norbert Koster

Emilio Gatti / substituted by Martti Harsia from the 1st of July 2010

Guy Van Craen / substituted by a N.N. judge as selected during the 11th CfC

Gerrit-Marc Sprenger

Annex 2

Avdi Dinaj

Valdete Daka

Enver Peci

Emine Mustafa

Annex 3 [last updated 22 June 2010]

Buatier De Mongeot

Buzova

Entchev

Florit

Gallo

Huner

Jaakkola

Jakimko

Jung

Kanev

Karpati

Klonowiekca – Milart

Micheva-Ruseva

Pardal

Schokkenbroek

Sedek

Simmons

Smith

Yordanov