



Adoption of new Guidelines for Case Allocation in criminal cases at the Supreme Court of Kosovo

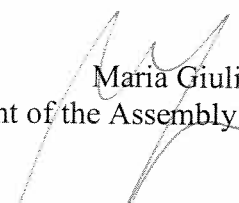
The Assembly of EULEX Judges, on the occasion of the 14th Assembly of EULEX Judges, held in Prizren on 24 March 2011, and composed of the following Judges:

Maria Giuliana Civinini, Charles Smith, Ingo Risch, Dariusz Sielicki, Lars Dahlstedt, Gerrit-Marc Sprenger, Tapio Vanamo, Torsten Koschinka, Piero Leanza, Anna Bednarek, Esma Erterzi, Antoinette Lepeltier-Durel, Laura Plesa, Roxana Comsa, Katerina Entcheva, Francesco Florit, Ferdinando Buatier de Mongeot, Karen Asphaug-Warg, Horst Proetel, Johanna Schokkenbroek, Verginiya Micheva-Ruseva, Dragomir Yordanov, Vitor Hugo Pardal, Rositza Buzova, Franciska Fiser, Witold Jakimko, Vladimir Kanev, Hajnalka Karpati, Nikolay Entchev, Christine Lindemann-Proetel, Alexey Ivanov, Tore Thomassen, Mariola Pasnik, Dean Pineles, Anne Kerber, Klaus Huener, Arkadiusz Sedek

with 28 votes in favour, 1 against, no abstentions and 8 judges not expressing their vote

DECIDES

to endorse new Guidelines for Case Allocation for EULEX Judges in criminal cases at the Supreme Court of Kosovo.


Maria Giuliana Civinini
President of the Assembly of EULEX Judges

ANNEX: new Guidelines for Case Allocation for EULEX Judges in criminal cases at the Supreme Court of Kosovo

EULEX Kosovo

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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 case allocation system

- Transparency

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

- Objectivity

Everyone should know in advance by which judge s/he will be tried (judges will not select cases). The presiding/reporting judge has to be determined immediately after the registering of the case according to these rules.

- Flexibility

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

- Sustainability

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

- Equality of work load of judges

The equality of the work load is the aim in courts. One way to estimate is the number cases. Even though the nature and the extent may vary the number of cases is one way to guarantee the equal work load in the long run.

III CASE ALLOCATION SYSTEM

General Provisions

Criminal cases at the Supreme Court of Kosovo shall be allocated to EULEX criminal judges at the Supreme Court as presiding judges based on the principle of equal work load between judges and according to the roster.

The same applies to the allocation of cases to judges as panel members. The urgency of criminal proceedings has to be taken into consideration. In urgent cases (such as appeals against the rulings) the civil judges of the Supreme Court can act as presiding judges and in less urgent cases as panel members (in case there is a lack of not disqualified EULEX judges).

Panel members shall preferably be 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 which contains the names of the judges at the Supreme Court assigned to criminal cases. The cases shall be allocated to the local judges on the basis of equal work load like to the EULEX judges.

(The PAEJ will act only as a panel member in cases belonging to group II and in extensive cases belonging to group III.)

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

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The various groups in case allocation

The cases are divided in three groups namely

- I** Appeals against the rulings
- II** Appeals in second and third instance against judgments
- III** Appeals in extraordinary legal remedies and all other appeals or legal proceedings

The follow-up of the work load

Records/rosters are kept on duties of judges both as presiding/reporting judges and as panel members in each above mentioned group (I, II or III). Similar rosters regarding the local judges are kept as well.

The judges in the roster are indicated as PAEJ, judge A, judge B, judge C etc. After the rotation of the Supreme Court judge the new coming judge will replace the outgoing judge (A, B, C etc) in the roster and continue the duties of the outgoing judge based on the workload at the moment of the shift. The same applies to the local judges.

The assignment of the presiding/reporting judge

The cases will be allocated to judges on the basis of equal work load (i.e. number of cases) so that every judge will have the equal number of cases in each group (I, II or III) as presiding/reporting judge and as panel member. Thus, an incoming case shall be allocated to the judge who has the lowest number of cases. After reaching the balance the cases shall be allocated to the judges starting with judge A. The same rules apply to the local judges.

(In the event that a case is particularly complex due to extensive material or other reasons, the PAEJ can decide after consulting with the presiding judge and Focal Point that this case corresponds to two or more ordinary cases when allocating new cases).

If a judge is disqualified or the case has to be processed urgently, the case shall be allocated to the judge who has the lowest number of cases. In case the judges have an equal number of cases, the case has to be allocated to other

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judges starting with Judge A. The balance has to be corrected when new cases arrive.

The case is considered as urgent if it appears that the judge in turn cannot finish the necessary actions without postponing his/her absence in office when this absence has been decided and approved.

The assignment of the panel members

The cases shall be allocated to judges as panel members equally and according to the roster.

The composition of the panel has to be ordered as early as possible. The panel members shall be determined after the presiding/reporting judge has prepared the case to the extent that the tentative date for session can be set. The presiding/reporting judge has to report to the Focal Point when the case is ready for setting the tentative date for the session.

The Focal Point shall select the panel member/s from among the not disqualified judges based on the roster.

After the appointment of the panel members the presiding/reporting judge has to communicate with the panel members assigned to his/her cases in order to find a tentative date for the session.

Entry into force

This decision enters into force at the beginning of the month following the month in which it has been adopted/approved by the Assembly.

Current list of EULEX judges

PAEJ

Judge A (Charles Smith)

Judge B (Gerrit-Marc Sprenger)

Judge C (Martti Harsia)

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Judge D (Lars Dahlstedt)

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