

DHOMA E POSAÇME E
GJYKATËS SUPREME TË
KOSOVËS PËR ÇËSHITJE QË
LIDHEN ME AGJENCINË
KOSOVARE TË
MIRËBESIMIT

SPECIAL CHAMBER OF THE
SUPREME COURT OF KOSOVO
ON KOSOVO TRUST AGENCY
RELATED MATTERS

POSEBNA KOMORA
VRHOVNOG SUDA
KOSOVA ZA PITANJA
KOJA SE ODNOSE NA
KOSOVSKU
POVERENIÇKU AGENCIJU

Pursuant to UNMIK Regulation No. 2008/4 amending UNMIK Regulation No. 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters ("SCSC") and pursuant to UNMIK Administrative Direction No. 2008/6 amending and replacing UNMIK Administrative Direction No. 2006/17, implementing UNMIK Regulation No. 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters,

Taking into consideration that a Presidium, as foreseen in the above mentioned documents, has not yet been established,

Based on the agreement of the majority of the appointed and the already designated judges of the SCSC,

After thorough deliberations with the aforementioned judges,

Hereby limiting his own powers vested in him by the named instruments,

**The President of the Special Chamber of the Supreme Court of Kosovo
for Kosovo Trust Agency Related Matters**

Issues by way of decision the following

**Rules for the establishment of a Trial Panel and
an Appellate Panel of the SCSC, for case allocation
and additional rules of procedure**

I. Court Structure

1. Trial Panel

In accordance with AD No. 2008/6, sections 12.2 and 12.3, one Trial Panel is hereby established.

It consists of *Godwin Muscat Azzopardi*, who is hereby appointed as presiding judge of the panel, *Piero Leanza*, *Olavi Snellman*, *Anna Bednarek* and (temporarily) *Linn Slattengren*, as further international judges, and *Gyltene Sylejmani* and *Muhamet Shala* as judges who are habitual residents of Kosovo.

The Trial Panel sits in seven groups of judges (RE No. 2008/4, section 3.2) composed as follows:

Godwin Muscat Azzopardi, Olavi Snellman and Muhamet Shala (Group A)

Godwin Muscat Azzopardi, Piero Leanza and Muhamet Shala (Group B)

Godwin Muscat Azzopardi, Olavi Snellman and Gyltene Sylejmani (Group C)

Godwin Muscat Azzopardi, Piero Leanza and Gyltene Sylejmani (Group D)

Godwin Muscat Azzopardi, Anna Bednarek and Muhamet Shala (Group E)

Godwin Muscat Azzopardi, Anna Bednarek and Gyltene Sylejmani (Group F)

Linn Slattengren, Godwin Muscat Azzopardi and Gyltene Sylejmani (Group G)

III

Group G will only exist as long as *Linn Slattengren* exercises the functions of an international judge of the SCSC. During the sessions of this group of judges, *Linn Slattengren* will act as presiding judge.

In case of temporary absence, recusal or inability to act, *Gyltene Sylejmani* will be replaced by *Muhamet Shala* and vice versa. *Olavi Snellman* will be replaced by *Piero Leanza*, *Anna Bednarek* by *Olavi Snellman* and *Piero Leanza* by *Anna Bednarek*. *Godwin Muscat Azzopardi* will be replaced by the other international judge not already sitting on the panel; in this case the other international judge regularly sitting on the panel will act as presiding judge.

2. Appellate Panel

One Appellate Panel is hereby established. It consists of the President of the SCSC, *Richard Winkelhofer*, as the presiding judge of the panel, *Eija-Liisa Helin* and *Torsten Koschinka* as international judges, and *Gyltene Sylejmani* and *Muhamet Shala* as judges who are habitual residents of Kosovo.

In case of temporary absence, recusal or inability of appeals judges to act, the President may assign one of the first instance judges to temporarily sit on the Appellate Panel, provided the first instance judge has not taken part in the challenged decision of the Trial Panel. This will be done on a rotating basis in alphabetical order of the family name, therefore beginning with *Godwin Muscat Azzopardi*.

In cases of temporary absence or inability of the President to act, *Torsten Koschinka* is to preside over the Appellate Panel and, unless otherwise decided by the President, exercises the functions of the President (AD No. 2008/6, section 8). *Torsten Koschinka* will be substituted by *Eija-Liisa Helin* accordingly.

II. Case allocation (in accordance with AD No. 2008/6, section 10.1(b))

A. Case allocation among the judges in charge of the Trial Panel

1. Cases, regardless of their legal nature, including applications for preliminary injunctions, appeals cases pursuant to RE 2008/4 section 4.3 and applications pursuant to RE 2008/4 section 4.6, pending on the date of entry into force of these rules

a. All cases already assigned to a judge on December 31, 2008, are hereby reassigned to judges as follows:

Cases assigned to *Godwin Muscat Azzopardi*, *Gyltene Sylejmani* and *Muhamet Shala* stay with them, except for the cases assigned to *Anna Bednarek*, according to Annex I. Cases assigned to *Linn Slattengren* will, with the exception of those mentioned in the following paragraph, be assigned to *Olavi Snellman*, *Piero Leanza* and *Anna Bednarek* as laid down in Annex I to this document.

The cases listed in Annex II to this document shall stay with Linn Slattengren. The cases listed in Annex III to this document shall stay with Muhamet Shala and be decided in group G.

The pending review cases ("SCC-R", see AD 2006/17 section 13.4) concerning decisions of the SCSC delivered before December 31, 2008, are subject to the jurisdiction of the appellate panel. Rule II.C applies.

b. For cases not assigned to a judge by December 31, 2008, Rule II.A.2 applies.

c. Cases in which hearings or deliberations have already taken place before December 31, 2008, by a group of judges who still serve on the SCSC, shall stay with this group. In case this group is not mentioned under Rule I.1, it is hereby established for this purpose only.

2. Cases filed after the date of entry into force of these rules

These cases shall be distributed among the first instance judges to the judge in charge in a revolving manner as follows:

1. *Anna Bednarek*
2. *Piero Leanza*
3. *Olavi Snellman*
4. *Muhamet Shala*
5. *Gyltene Sylejmani*
6. *Anna Bednarek*
7. - ∞. etc.

B. Case allocation among the groups of the Trial Panel

All cases assigned, according to the above mentioned rules, to *Olavi Snellman* with odd last digits of the case number fall under the jurisdiction of group A, with even last digits of the case number under the jurisdiction of group C; all cases assigned, according to the above mentioned rules, to *Piero Leanza* with odd last digits of the case number fall under the jurisdiction of group B, with even last digits of the case number under the jurisdiction of group D; all cases assigned, according to the above mentioned rules, to *Anna Bednarek* with odd last digits of the case number fall under the jurisdiction of group E, with even last digits of the case number under the jurisdiction of group F; all cases staying, according to the above mentioned rules, with *Godwin Muscat Azzopardi*, with odd last digits of the case number fall under the jurisdiction of group E, with even last digits of the case number under the jurisdiction of group F.

Cases assigned to Muhamet Shala fall under the jurisdiction of Group A, B or E, according to a revolving system, starting with Group A. Cases assigned to Gyltene Sylejmani fall under the jurisdiction of Group C, D or F, according to a revolving system, starting with Group C.

Counterclaims are assigned in accordance with the claims they belong to.

C. Case allocation for appeals against judgments or decisions of the Trial Panel

Appeals cases – regardless of their legal nature, including appeals against preliminary injunctions – are distributed among all international judges of the Appellate Panel in a revolving manner as follows:

1. *Richard Winkelhofer*

2. *Torsten Koschinka*

3. *Eija-Liisa Helin*

4. *Richard Winkelhofer*

5. *Torsten Koschinka*

6. - ∞, etc.

Appeals in cases which have already been appealed before the Appellate Panel are assigned in accordance with these previous appeals.

D. Exceptional provisions

In the interest of efficiency, and in compliance with European Best Practices and International Human Rights Standards, and taking into account the principle of an equal distribution of the workload, the President can, for grounded reasons, deviate from the above mentioned rules.

Grounded reasons that allow such a deviation can be:

- Cases connected by the appearance of the same parties on one or both sides;
- Cases connected by the same factual or legal background;
- Similar reasons.

III. Entry into force and publication

These rules enter into force on February 24, 2009, and are valid until December 31, 2009.

They may be changed if special circumstances warrant it.

This document is to be published by the Registrar.

The annexes to this document can be accessed at the Special Chamber.