

ANNEX 2a

11 September 2009

Rules on the Internal Organization of the Evaluation Panel - **INTRODUCTION**

The rules on the Internal Organization of the Evaluation Panel have been drafted by the Evaluation Panel working group pursuant to the authority given by Article 3 paragraph 3 of the EULEX Assembly of Judges Rules on the Evaluation of Judges and Legal Officers (ARE), as adopted by the 5th Assembly of EULEX Judges and amended by the 6th Assembly of EULEX Judges.

These rules are presented to the 7th Assembly of EULEX Judges for their adoption by the Assembly of EULEX Judges (**see Annex 3**).

The rules contain provisions on the internal organization of the Evaluation Panel, the procedure to be observed before the panel and the decision making process, and are kept short and simple, thereby allowing the Evaluation Panel room for manoeuvre in the evaluation of Judges and Legal Officers.

In the context of drafting these rules, the working group has come across the problem of the possible unavailability of the criminal law judge, due to a disqualification, sickness or recusal and the need for a criminal law judge substitute in order to continue the work of the Evaluation Panel; and the need to change Article 3 (1) of the ARE to take into account that possibility.

The working group therefore proposes that Article 3 (1b) be amended to read as follows:

“Rules on the election of the panel for the evaluation of judges and legal officers

a) A separate vote will be held for the election of each member of the panel and of the substitute.

b) The first member to be elected will be a criminal law judge. The second member to be elected will be a civil law judge; the third member to be elected will be a Supreme Court Special Chamber judge. The fourth member to be elected will be a reserve criminal law judge; the fifth member to be elected will be a reserve civil law judge or Supreme Court Special Chamber judge.

c) Each member of the Assembly is entitled to express one vote in each round of voting.

d) The candidate who receives the most votes is considered to be elected.

e) The Assembly of EULEX Judges will elect by secret ballot a representative of the legal officers to judges. The legal officers who are invited to the Assembly, will propose their candidate/s for the panel and as substitute.”

In addition, the working group has become aware of an inaccuracy in the internal numbering of Article 3 of the ARE, as amended at the 6th Assembly: It contains paragraph 1b without having 1a; see the current - consolidated - version of the ARE as amended at the 6th Assembly – **Annex 2b**.

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Furthermore, there is an inconsistency in terminology in the provisions ("civil law judge" and "criminal law judge" in paragraph 1, and paragraph 1b / 2 ("civil judge" and "criminal judge")), which should also be corrected.

In relation to the proposed amendment to Article 3, the working group therefore also recommends correcting the mistake in internal numbering and inconsistencies in the ARE.

Annex 2c contains the consolidated and modified version, including the proposed amendments to be adopted by the 7th Assembly as final.

Finally, the working group encourages the 7th Assembly to elect the reserve criminal law judge, as foreseen in the amended Article 3 (2) (= former Article 3 ([1b])).

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