



On the occasion of the Seventh Assembly of the EULEX Judges, held in Prishtinë / Priština on 23 September 2009

The Assembly composed of the following Judges: Maria Giuliana Civinini, President of the Assembly of EULEX Judges; Guy Van Craen, Vice-President of the Assembly of EULEX Judges; EULEX Judges: Angela Kaptein; Antoinette Lepeltier-Durel; Arkadiusz Sedek; Christine Lindemann-Proetel; Dragomir Yordanov; Eija-Liisa Helin; Ferdinando Buatier de Mongeot; Francesco Florit; Gerrit-Marc Sprenger; Gianfranco Gallo; Hajnalka Karpati; Harri Katara; Klaus Jung; Piero Leanza; Richard Winkelhofer; Torsten Koschinka; Vitor Pardal; Vladimir Kanev.

Adopts the DECISION:

Unanimously, to amend the “Guidelines for Case Allocation for EULEX Judges in Criminal Cases at the Supreme Court of Kosovo” as follows.

After 2.2.4 of the “Guidelines for Case Allocation for EULEX Judges in Criminal Cases at the Supreme Court of Kosovo”, a new Paragraph will be inserted which reads as follows:

2.2.5. In case an EULEX judge is required as panel member during the on-call period, EULEX criminal and civil judges on call at the District Courts shall be assigned. The assignment shall be based on the following regional order:

- 1. Prishtinë / Priština District Court, if not available**
- 2. Mitrovicë / Mitrovica District Court, if not available**
- 3. Gjilan / Gnjilane District Court, if not available**
- 4. Pejë / Peć District Court, if not available**
- 5. Prizren District Court.**

The amended full text of the Guidelines follows.

Maria Giuliana Civinini

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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 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

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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, 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 Courts of Prizren

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or Gjilan/Gnjilane, 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 judge to whom the case has to be assigned is not available due to disqualification, absence 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 or other important reasons, 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 3.

2.2. Assignment of panel members:

2.2.1. Panel members shall be preferably local judges at the Supreme Court assigned to criminal cases. These 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 or other important reasons, he or she shall be replaced by the local judge whose name is the next on the roster.

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 criminal judges at District Court level. The assignment of the panel member shall follow the

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alphabetical order by name. If this judge is not available due to disqualification, absence or other important reasons, he or she shall be replaced by the EULEX judge whose name is the next on the roster.

2.2.5. In case an EULEX judge is required as panel member during the on-call period, EULEX criminal and civil judges on call at the District Courts shall be assigned. The assignment shall be based on the following regional order:

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

3. Appeals against judgments:

3.1. Assignment of the presiding judge:

Cases in which the judgment is appealed 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, 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 Courts of Prizren or Gjilan/Gnjilane, 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.

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3.1.3. 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.

3.1.4. If the judge to whom the case has to be assigned is not available due to legal disqualification, absence 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 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. These 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 shall 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 or other important reasons, he or she shall be replaced by the local judge whose name is the next on the roster.

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

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assignment of the panel member shall follow the alphabetical order by name. If this judge is not available due to disqualification, absence or other important reasons, he or she shall be replaced by an EULEX criminal judge assigned to a District Court on a roster basis as set out in Article 2.2.4.

4. Extraordinary legal remedies:

In cases where the appellant seeks an extraordinary legal remedy, the assignment of cases shall follow the principles as set out in Article 3 (appeals against judgments).

5. Other appeals:

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

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