



Decisions Summary Report

Eighth Assembly of the EULEX Judges

9 December 2009 in Prizren

Present

Judges:

Maria Giuliana Civinini, President of the Assembly of EULEX Judges
Guy Van Craen, Vice-President of the Assembly of EULEX Judges

Angela Kaptein
Anna Bednarek
Antoinette Lepeltier-Durel
Arkadiusz Sedek
Christine Lindemann-Proetel
Dragomir Yordanov
Emilio Gatti
Eija-Liisa Helin
Ferdinando Buatier de Mongeot
Francesco Florit
Gerrit-Marc Sprenger
Gianfranco Gallo
Hajnalka Karpati
Harri Katara
Klaus Huner
Johanna Schokkenbroek
Nikolay Entchev
Rositza Buzova
Torsten Koschinka
Vitor Pardal
Vladimir Kanev
Vergiinia Micheva-Ruseva

Legal Assistant to the President of the Assembly of the EULEX Judges:

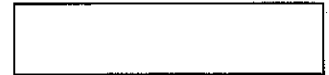
Caroline Charpentier

Office of the President of the Assembly of the EULEX Judges:

Andrea Chmieliński Bigazzi

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Gergana Arabadjeva
Kathinka Hewitt

LEGAL OFFICERS:

Juhani Pahio
Francesco Caruso
Ludvig Becking
Olivia Debaveye
Zane Ratniece

Absent

Judges

Esma Erterzi
Gabriele Gaube
Godwin Muscat Azzopardi
Klaus Jung
Malcolm Simmons
Norbert Koster
Piero Leanza
Richard Winkelhofer

Agenda

It has been timely disseminated to the EULEX Judges, and also to Legal Officers as per their information, in due time prior to the Assembly and in accordance with EJU Rules as they stand until today.

Discussion, decisions, assignments

Assembly commences at 10.15 am

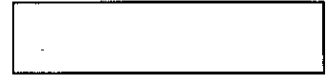
1) APPROVAL OF THE MINUTES OF THE 7TH ASSEMBLY ALREADY DISTRIBUTED VIA EMAIL.

PEJ: no modifications were requested by Judges upon dissemination of the final draft of the minutes.

The Assembly unanimously approves.

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2) Discussion related to the opportunity to have more EULEX Judges in the list of the selection panels. Decision to replace Judge Angela Kaptein since her EoM is coming soon. Candidates are Judges Ferdinando Buatier de Mongeot and Gerrit-Marc Sprenger.

- *Gerrit-Marc Sprenger is elected with: 20 votes in favor and 4 votes void.*
- *Ferdinando Buatier de Mongeot is elected with: 22 votes in favor and 2 abstentions.*

3) Discussion and approval of the amended version of the Rules on Case Selection and Case Allocation of Criminal Law Cases at Supreme Court level (ANNEX 3). Judge Emilio Gatti as Supreme Court Focal Point presents the document.

For the sake of making sure that the rotation among Judges will occur in a proportionate manner and equal distribution of tasks, it is proposed that at Article 2.2.4. will be added a system to make sure that there will be record of those who already served in the roster order even replacing absent or potentially disqualified colleagues who might have been called beforehand.

The proposal is to add: "The Judge who was replaced shall be appointed as member of the next panel".

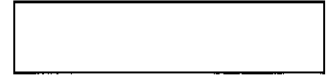
Adoption of the ANNEX 3 including the latter proposal: 20 votes in favor, 3 against, 1 abstention.

4) Discussion and approval of the Advise to the Courts of Kosovo on the establishment of a registration, evaluation and service system of appeals in criminal cases in compliance with Articles 407, 408, and 409 Paragraph 1 of the Kosovo Code of Criminal Procedure (KCCP) – (ANNEX 4).

It is proposed to include a formal deadline for the Prosecution side to submit its opinion. Page 3 line 4 there might be an additional line "The Presiding Judges should consider that in order to respect the principle of the reasonable time as foreseen under Article 6 of the ECHR, the Prosecution should be given an average time limit of 1 month to file its opinion unless for particularly complex cases for which the Presiding Judge can allow for a different deadline".

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The Assembly unanimously approves the Advise with the proposed amendment.

5) Discussion and approval of the Advise to the Courts of Kosovo on the establishment of a proper case allocation system (ANNEX 6).

It is proposed an amendment to correct the wording of the draft as follows:

“The present advice is addressed to the Presidents of the Courts of Kosovo in order to permit a more accurate and transparent court administration, and trustworthy monitoring of the flow of judicial and non-judicial documents. By improving an harmonious and unified cases allocation system for the cases, it will be established a practice in accordance with Kosovo law and European Best Practice also increasing the efficacy of justice in Kosovo.”

The Assembly unanimously approves the Advise with the proposed amendment.

6) Discussion and approval of the Advice to the Kosovo Judicial Council on how to resist and react to political interference (drafted by the President of the Assembly of the EULEX Judges Maria Giuliana Civinini).

The Assembly unanimously approves the Advise with some proposed amendments discussed during the Assembly, to be further circulated via email and the final draft to be approved by silence assent via email. Upon the expiry of the 12 January 2010 as given deadline the Advice is approved.

Next Assembly will be in Peje/Pec.

Assembly ends at 16.10 pm

Maria Giuliana Civinini

President of the Assembly of the EULEX Judges

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