

On the occasion of the Ninth Assembly of the EULEX Judges,
held in Peje/Pec on 11 March 2010

The Assembly composed of the following Judges: Maria Giuliana Civinini, Guy Van Craen, 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.

Adopts the DECISION

With XXXXXXXX, to approve the present Guidelines for case allocation for EULEX Judges in Criminal Cases at the Supreme Court of Kosovo.

DRAFT

Maria Giuliana Civinini

President of the Assembly of the EULEX Judges

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 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 and the case

number of the Supreme Court is “even”, 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 Court of Prishtinë/Priština and the case number of the Supreme Court is “uneven”, 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 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 fourth in the list attached as Annex 1.
- 2.1.5. 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 4.

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, and: kept by the President of the Assembly of the EULEX Judges, organized in alphabetical order by the first initial of the surname (progressive from A to Z), and updated on the basis of the deployment rotation (incoming/outgoing in the Mission) of EULEX Judges - which contains all names of EULEX judges at District Court level. The 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 the EULEX judge whose name is the next on the roster. The Judge who was replaced shall be appointed as member of the next panel.
- 2.2.5.** In case an EULEX judge is required as panel member during the on-call period, EULEX judges on call at the District Courts shall be assigned. The assignment shall be based on the following regional order:
1. Prishtinë/Pristina district Court, if not available
 2. Mitrovicë/Mitrovica District Court, if not available
 3. Gjilan/Gnjilane district Court, if not available
 4. Pejë/Pec District Court, if not available
 5. Prizren District Court.

3. Appeals in second instance against judgments:

3.1. Assignment of the presiding judge:

Cases in which the judgment is appealed in second instance at the Supreme Court of Kosovo 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 and the case number of the Supreme Court is “even”, 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 Court of Prishtinë/Priština and the case

number of the Supreme Court is “uneven”, 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.

- 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 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 fourth in the list attached as Annex 1.
- 3.1.5. 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 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 judge assigned to a District Court on a roster basis as set out in Article 2.2.4.

4. Appeals in third instance against judgments and extraordinary legal remedies:

4.1. Assignment of the presiding judge:

Cases in which the judgment is appealed in third instance and cases in which the appellant seeks an extraordinary legal remedy 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:

- 4.1.1.** If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “even”, 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.
- 4.1.2.** If the court of first instance has its seat within the territorial jurisdiction of the District Court of Prishtinë/Priština and the case number of the Supreme Court is “uneven”, 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.
- 4.1.3.** 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.
- 4.1.4.** 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 fourth in the list attached as Annex 1.

- 4.1.5. 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 4.1.1. through 4.

4.2. Assignment of panel members:

- 4.2.1. 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.
- 4.2.2. The assignment of these judges to the panels shall follow the alphabetical order by name.
- 4.2.3. 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.
- 4.2.4. 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 assignment of the panel member shall follow the alphabetical order by name.

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.

Annex 1**Individuation of the President of the panel****Appeals against rulings**

Guy Van Craen

Emilio Gatti

Norbert Koster

Gerrit-Marc Sprenger

Appeals in second instance against judgments

Guy Van Craen

Gerrit-Marc Sprenger

Norbert Koster

Emilio Gatti

Appeals in third instance against judgments and extraordinary legal remedies

Norbert Koster

Emilio Gatti

Guy Van Craen

Gerrit-Marc Sprenger

Annex 3

Buatier de Mongeot

Buzova

Entchev

Florit

Gallo

Huner

Jung

Kanev

Karpati

Micheva-Ruseva

Pardal

Schokkenbroek

Sedek

Simmons

Smith

Yordanov