

## **Decisions Summary Report**

### **Ninth Assembly of the EULEX Judges**

**11 March 2010 in Peje/Pec**

#### **Present**

#### **Judges:**

Maria Giuliana Civinini, President of the Assembly of EULEX Judges  
Gerrit-Marc Sprenger, Vice-President of the Assembly of EULEX Judges

Anna Bednarek

Arkadiusz Sedek

Charles Smith (who has to leave temporarily at 11.33 and returns at 12.20 –  
the decisions adopted in the meantime had legal number still)

Gabriele Gaube

Emilio Gatti

Esma Erterzi

Francesco Florit

Guy Van Craen

Harri Katara

Klaus Jung

Klaus Huner

Johanna Schokkenbroek

Laura Plesa

Nikolay Entchev

Piero Leanza

Richard Winkelhofer

Rositza Buzova

Torsten Koschinka

Vitor Pardal

Vladimir Kanev

Verginia Micheva-Ruseva

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

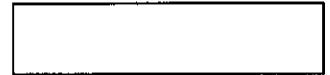
Andrea Chmieliński Bigazzi

Gergana Arabadjeva

Kathinka Hewitt

#### **EULEX Kosovo**

Presidency of the Assembly  
of the EULEX Judges  
Supreme Court of Kosovo  
Luan Haradinaj street  
Police Avenue  
P.O. Box: 268, 10000  
Pristina, Kosovo  
[www.eulex-kosovo.eu](http://www.eulex-kosovo.eu)  
[info@eulex-kosovo.eu](mailto:info@eulex-kosovo.eu)



## **LEGAL OFFICERS:**

Alice Pisapia  
Chiara Rojek  
Holger Engelmann  
Noora Aarnio  
Olivia Debaveye

## **Absent**

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

Caroline Charpentier

## **Judges**

Antoinette Lepeltier-Durel  
Dragomir Yordanov  
Eija-Liisa Helin  
Ferdinando Buatier de Mongeot  
Gianfranco Gallo  
Hajnalka Karpati  
Malcolm Simmons  
Norbert Koster

## **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 10.00 am*

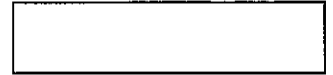
1) APPROVAL OF THE MINUTES OF THE 8<sup>TH</sup> ASSEMBLY  
ALREADY DISTRIBUTED VIA EMAIL.

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) Decision on the replacement of Judge Christine Lindemann-Proetel from the Selection Panels list and the Disciplinary Board.

**Selection Panel** member: *Judge Arkadiusz Sedek is elected with 12 votes, 2 white, while 9 votes go to the other candidate.*

**Disciplinary Board** member: *Judge Esma Erterzi is elected with 18 votes, while 5 votes go to the other candidate.*

Judges Sedek and Erterzi are elected *“for 1 year or end of Mission whichever occurs first”*.

- 3) Consolidation of the appointment of the Judges members of the Selection Panels into two main groups, one for the selection of Civil Law and SCSC candidates, and one for the selection of Criminal Law candidates.

Rationalization and consolidation into two main groups: Criminal Law Judges and Civil Law/SCSC Judges. *The Assembly unanimously approves to consolidate those two groups. The Assembly unanimously approves that all the sitting panel members within the Selection Panels and the Disciplinary Board are extended “for 1 year or end of Mission whichever occurs first”.*

- 4) Appointment of the Secretary to the Disciplinary Board as a non-voting member, as foreseen under Point 8.7.2 of the Annex N to the OPLAN.

The President communicates to the Assembly her *decision to appoint Ms. Kathinka Hewitt*, for 1 year or end of Mission whichever occurs first, who accepts.

- 5) Recommendation on the definition of “property related cases” as drafted by the EULEX Civil Law Judges, Legal Officers, and Legal Advisors (ANNEX 1).

*The Assembly unanimously approves the resolution.*

- 6) Study paper related to the MMA activity of Civil Law Judges, Legal Officers, and Legal Advisors in respect to complaints on civil law matters (ANNEX 2).

*The Assembly also discusses and agrees that it is not necessary to restrict the Unit itself to MMA on “property related cases” but on a discretionary basis it*

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will be possible to exercise MMA on “non-property related cases” when deemed relevant as for the matter at stake in specific circumstances.

7) Resolution on Supreme Court, civil law cases, jurisdiction and composition of panels dated 11<sup>th</sup> January 2010 (ANNEX 3.1 and ANNEX 3.2 for the longer document which forms the basis for the resolution).

*The Assembly unanimously approves the resolution as presented by Judge Gaube which contains the recommendation.*

8) Amendment of the latest version of the Rules on Case Selection and Case Allocation of Criminal Law Cases at Supreme Court level adopted at the last Assembly, Point 2.2.4. (ANNEX 5).

*The Assembly unanimously approves the motion and the amendment.*

9) Establishment of a mixed WG to update the Organizational Guidelines for EULEX Court Teams as approved at the 2<sup>nd</sup> Assembly.

10) Discussion on a possible Advice or recommendation on the signatures of the judgments and the enacting clauses by all members of the Panel or by just the Presiding Judge.

The Assembly decides on adopting a Recommendation to the extent that all EULEX judges will sign any decision for an initial homologation of internal procedures (including enacting clauses): *approved with 22 votes in favor and 1 abstention*

11) Discussion on a possible Advice on management of evidence in criminal procedure.

*The Assembly unanimously approves the motion to work on an Advice on this topic.*

Next Assembly will be in Gjilan/Gnjilane.

*Assembly ends at 17.30 pm*