

DHOMA E POSAÇME E  
GJYKATËS SUPREME TË  
KOSOVËS PËR ÇËSHTJE QË  
LIDHEN ME AGJENCINË  
KOSOVARE TË  
MIRËBESIMIT

SPECIAL CHAMBER OF THE  
SUPREME COURT OF KOSOVO  
ON KOSOVO TRUST AGENCY  
RELATED MATTERS

POSEBNA KOMORA  
VRHOVNOG SUDA  
KOSOVA ZA PITANJA  
KOJA SE ODNOSE NA  
KOSOVSKU  
POVERENIÇKU AGENCIJU

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Pursuant to UNMIK Regulation No. 2008/4 amending UNMIK Regulation No. 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters ("SCSC") and pursuant to UNMIK Administrative Direction No. 2008/6 amending and replacing UNMIK Administrative Direction No. 2006/17, implementing UNMIK Regulation No. 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters,

Hereby amending and replacing the Rules for the establishment of a Trial Panel and an Appellate Panel of the SCSC, for case allocation and additional rules of procedure, as adopted by the SCSC on 24 February 2009,

Taking into consideration that a Presidium, as foreseen in the above mentioned documents, has not yet been established,

Based on the agreement of the majority of the appointed and the already designated judges of the SCSC,

After thorough deliberations with the aforementioned judges,

Hereby limiting the powers vested in him by the named instruments,

**The President of the Special Chamber of the Supreme  
Court of Kosovo for Kosovo Trust Agency Related Matters**

Issues by way of decision the following

Establishment Panels and Case Allocation SCSC.doc

**Rules for the Establishment of a Trial Panel and  
an Appellate Panel of the SCSC, for Case  
Allocation and Additional Rules of Procedure**

**I. Court Structure**

**A. Trial Panel**

**1. Establishment of the Trial Panel**

In accordance with Sections 12.2 and 12.3 AD 2008/6, one Trial Panel is hereby established.

It consists of *Godwin Muscat Azzopardi, Anna Bednarek, Antoinette Lepeltier-Durel, Esma Erterzi, and Piero Leanza* as further international Judges, and *Gyltene Sylejmani* as Judge who is a habitual resident of Kosovo.

The Trial Panel sits in groups of Judges (Section 3.2 REG 2008/4,) composed as follows, presided by the first mentioned member:

*Godwin Muscat Azzopardi, Piero Leanza and Gyltene Sylejmani* (Group D)

*Godwin Muscat Azzopardi, Anna Bednarek and Gyltene Sylejmani* (Group F)

~~*Anna Bednarek, Antoinette Lepeltier-Durel and Gyltene Sylejmani* (Group H)~~

*Antoinette Lepeltier-Durel, Esma Erterzi and Gyltene Sylejmani* (Group I)

*Esma Erterzi, Piero Leanza and Gyltene Sylejmani* (Group J)

*Piero Leanza, Anna Bednarek and Gyltene Sylejmani* (Group K)

Groups A, B, C, E, G, as established on 24 February 2009, do no longer exist.

**2. In case of temporary absence, recusal or inability to act, the following rules apply:**

An international Judge will be substituted, by way of decision of the President, by one of the other international Judges not already sitting on the panel. This will be done on a rotating basis in alphabetical order of the family name, therefore beginning with *Godwin Muscat Azzopardi*.

For the time being, until another local Judge is appointed, *Gyltene Sylejmani* will not be substituted.

**B. Appellate Panel**

One Appellate Panel is hereby established. It consists of the President of the SCSC, *Richard Winkelhofer*, as the presiding Judge of the panel, Vice President *Torsten Koschinka* and *Eija-Liisa Helin* as international Judges, and *Gyltene Sylejmani* as Judge who is a habitual resident of Kosovo.

In case of temporary absence, recusal or inability of appeals Judges to act, the President may assign one of the first instance Judges to temporarily sit on the Appellate Panel, provided the first instance Judge has not taken part in the challenged decision of the Trial Panel. This will be done on a rotating basis in alphabetical order of the family name, therefore beginning with *Godwin Muscat Azzopardi*.

In cases of temporary absence or inability of the President to act, Vice President *Torsten Koschinka* is to preside over the Appellate Panel and, unless otherwise decided by the President, exercises the functions of the President (Section 8 AD 2008/6). Vice President *Torsten Koschinka* will be substituted by *Eija-Liisa Helin* accordingly.

**II. Case allocation (in accordance with Section 10.1[b] AD 2008/6)**

**A. Case allocation among the Judges in charge of the Trial Panel**

**1. Cases, regardless of their legal nature, including applications for preliminary injunctions, appeals cases pursuant to Section 4.3 REG 2008/4 and applications pursuant to Section 4.6 REG 2008/4, pending on the date of entry into force of these rules**

a. All cases already assigned to *Godwin Muscat Azzopardi, Anna Bednarek, Piero Leanza* and *Gyltene Sylejmani*, at the date of entry into force of these rules, shall stay with them. Cases assigned to *Muhamet Shala* until 23 April 2009 and to his vacant department until the date of entry into force of these rules, are reassigned to *Esma Erterzi*.

All cases assigned to *Olavi Snellman* are reassigned to *Antoinette Lepeltier-Durel*.

b. For cases not assigned to Judges at the date of entry into force of these rules Rule II.A.2 applies.

**2. Cases filed after the date of entry into force of these rules**

These cases shall be distributed among the first instance Judges to the Judge in charge in a revolving manner as follows:

1. *Godwin Muscat Azzopardi*

2. *Anna Bednarek*

3. *Antoinette Lepeltier-Durel*

4. *Esma Erterzi*

5. *Piero Leanza*

6. *Godwin Muscat Azzopardi*

7. *Anna Bednarek*

8. - ∞. etc.

### **B. Case allocation among the groups of the Trial Panel**

Cases already assigned to *Godwin Muscat Azzopardi*, *Anna Bednarek*, *Piero Leanza* and *Gyltene Sylejmani*, at the date of entry into force of these rules, shall stay with the group already identified under the previous case allocation system established 24 February 2009, unless otherwise provided in the following paragraphs.

New cases assigned, according to the above mentioned rules, to *Godwin Muscat Azzopardi*, with odd last digits of the case number fall under the jurisdiction of group **D**, with even last digits of the case number under the jurisdiction of group **F**.

New cases assigned, according to the above mentioned rules, to *Anna Bednarek* with odd last digits of the case number fall under the jurisdiction of group **H**, with even last digits of the case number under the jurisdiction of group **K**.

New cases assigned, according to the above mentioned rules, to *Piero Leanza* with odd last digits of the case number fall under the jurisdiction of group **J**, with even last digits of the case number under the jurisdiction of group **K**.

New cases assigned, according to the above mentioned rules, to *Antoinette Lepeltier-Durel* with odd last digits of the case number fall under the jurisdiction of group **H**, with even last digits of the case number under the jurisdiction of group **I**.

The same rule applies to cases formerly assigned to *Olavi Snellman* and reassigned to *Antoinette Lepeltier-Durel* (II.A.1.a.).

New cases assigned, according to the above mentioned rules, to *Esma Erterzi*, with odd last digits of the case number fall under the jurisdiction of group **I**, with even last digits of the case number under the jurisdiction of group **J**.

The same rule applies to cases formerly assigned to *Muhamet Shala* or to his vacant department until the date of entry into force of these rules.

Counterclaims are assigned in accordance with the claims they belong to.

### **C. Case allocation for appeals against judgments or decisions of the Trial Panel**

Appeals cases – regardless of their legal nature, including appeals against preliminary injunctions - are distributed among all international Judges of the Appellate Panel in a revolving manner as follows:

1. *Eija-Liisa Helin*
2. *Torsten Koschinka*
3. *Richard Winkelhofer*
4. *Eija-Liisa Helin*
5. *Torsten Koschinka*
6. - ∞. etc.

Appeals in cases which have already been appealed before the Appellate Panel are assigned in accordance with these previous appeals.

Possible review cases ("SCC-R", see Section 13.4 AD 2006/17) concerning decisions of the SCSC delivered before 31 December 2008, are subject to the jurisdiction of the appellate panel, too.

#### **D. Exceptional provisions**

In the interest of efficiency, and in compliance with European Best Practices and International Human Rights Standards, and taking into account the principle of an equal distribution of the workload, the President can, for grounded reasons, deviate from the above mentioned rules.

Grounded reasons that allow such a deviation can be:

- Cases connected by the appearance of the same parties on one or both sides;
- Cases connected by the same factual or legal background;
- Similar reasons.

#### **III. Entry into force and publication**

These rules enter into force on 8 June 2009, and are valid until 31 December 2010.

They may be changed if special circumstances warrant it.

Sections I, II and IV of this document are to be published by the International Registrar.