

Pursuant to the Instruction of the President in KSCPR-2018/CRSPD1, dated 28/09/2020, this filing has been reclassified as PUBLIC  
As per order in  
KSC-BC-2020-7/F00001,  
this filing is cross-filed as:



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

KSC-BC-2020-07/F00003/1 of 6

**In:** KSCPR-2018

**Before:** The President of the Specialist Chambers  
Judge Ekaterina Trendafilova

**Registrar:** Dr Fidelma Donlon

**Date:** 29 May 2018

**Language:** English

**File name:** Judicial Administration File for 2018

**Classification:** Strictly Confidential and *Ex Parte*

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## DECISION

### Assigning a Single Judge Pursuant to Article 33(2) of the Law

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#### Single Judge

Judge Nicolas Guillou

#### Acting Specialist Prosecutor

Kwai Hong Ip

**THE PRESIDENT** of the Specialist Chambers (the “President”), acting pursuant to Article 33(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (the “Law”), herewith assigns a Single Judge to consider any request for judicial authorisation and related matters submitted by the Specialist Prosecutor prior to the filing of an indictment and the ensuing assignment of a Pre-Trial Judge under Article 33(1)(a) of the Law.

## I. PROCEDURAL BACKGROUND

1. On 29 May 2018, the Acting Specialist Prosecutor submitted to the President a request to assign a Single Judge pursuant to Article 33(2) of the Law (the “Request”).
2. The Acting Specialist Prosecutor submits that a Single Judge is required to consider a forthcoming request for judicial authorisation and related matters submitted by the Specialist Prosecutor’s Office in respect of an investigative matter.

## II. APPLICABLE LAW

3. Article 25 of the Law sets out the composition of Chambers, which includes, *inter alia*, individual Judges performing the functions of a Pre-Trial Judge as well as individual Judges performing other functions required under the Law.
4. Pursuant to Article 33(1)(a), a Pre-Trial Judge is assigned upon the filing of an indictment pursuant to Article 38(4) of the Law.
5. Article 33(2) of Law provides that the President of the Specialist Chambers may assign a Single Judge from the Roster of International Judges (the “Roster”) in accordance with the Rules on the Assignment of Specialist Chambers Judges from

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the Roster (the "Rules on Assignment") to deal with a matter which, in the view of the President, requires the assignment of a Judge other than the Pre-Trial Judge.

6. Assignments pursuant to Article 33(2) of the Law shall be temporary in nature and shall cease as soon as the matter triggering them has been disposed of.

7. Article 33(4) of the Law dictates that a Judge assigned as Pre-Trial Judge or to a panel for a matter, may not sit on another panel at a different phase of the same matter.

8. Rule 3(1) of the Rules on Assignment provides that Judges appointed to the Roster shall be assigned to Panels by the President, pursuant to Article 33 of the Law. According to Rule 3(4), the President shall issue a public decision on the assignment of Judges to a Panel, which shall set out the criteria for assignment as specified in Rule 5(2) of the Rules on Assignment.

### III. ASSIGNMENT OF A SINGLE JUDGE

9. The request of the Acting Specialist Prosecutor is submitted prior to the filing of an indictment and the ensuing assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law.

10. Any request of the Specialist Prosecutor for judicial authorisation submitted prior to the filing of an indictment would thus fall outside the scope of Article 33(1)(a) of the Law.

11. According to Articles 25(1)(f) and 33(2) of the Law interpreted jointly, Chambers may include individual judges performing other functions required under the Law, to deal with matters which, in the view of the President, require the assignment of a Judge other than the Pre-Trial Judge. The purpose of these provisions is thus to capture those instances where an individual Judge needs to

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be assigned in order to deal with a specific matter without the conditions for the assignment of a Pre-Trial Judge under Article 33(1)(a) of the Law being triggered.

12. The Law and the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (the "Rules") provide several, non-exhaustive examples of such matters: application on the conditions of detention (Article 51(3) of the Law); request for terminating an investigation (Rule 47(2) of the Rules); request for variation of protective measures (Rule 81(3)(b) of the Rules); review of the records of proceedings and evidence for the purpose of reclassification (Rule 84(2) of the Rules); request for the testimony of a person in the custody of the Specialist Chambers (Rule 199(2) of the Rules); application for deferral of proceedings from other Kosovo courts to the Specialist Chambers (Rule 203(1) of the Rules).

13. Moreover, several provisions of the Rules envisage "a Panel" deciding on various requests for judicial authorisation which may implicitly entail the assignment of a Single Judge, *inter alia*: authorisation by a Panel to undertake investigative measures (Rules 31-41 of the Rules); issuing of arrest warrants, summonses, decisions or other orders (Rule 48(2) of the Rules); transfer to the Specialist Chambers (Rule 50(1) of the Rules); compensation for unlawful arrest or detention (Rule 51(2) of the Rules); application for order for information, cooperation and assistance (Rule 201(1) of the Rules).

14. Given the broad scope of Article 33(2) of the Law, a request for judicial authorisation submitted by the Specialist Prosecutor prior to the filing of an indictment would certainly fall under its purview.

15. Assignments under Article 33(2) of the Law shall be temporary in nature and shall cease as soon as the matter triggering them has been disposed of. In this case, the matter triggering the assignment of a Single Judge under Article 33(2) is any request for judicial authorisation submitted by the Specialist Prosecutor prior to the filing of an indictment.

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16. In order to ensure the expeditious and efficient resolution of any such request, a Single Judge shall be assigned to consider all future requests for judicial authorisation and related matters submitted by the Specialist Prosecutor prior to the filing of an indictment.

17. In accordance with Article 33(4) of the Law, the Single Judge hereunder assigned may not sit on a panel at a different phase of the same matter other than as a Pre-Trial Judge.

18. Unless otherwise decided by the President, the Single Judge hereunder assigned shall exercise official functions only for the purpose of and pending a ruling on each specific request for judicial authorisation or related matter and shall be remunerated accordingly.

#### IV. CRITERIA FOR ASSIGNMENT

19. Having taken in consideration all criteria provided by Rule 4(2) of the Rules on Assignment, the Single Judge is assigned on the basis of his relevant experience and expertise as well as his current and prospective availability.

20. While Rule 3(4) of the Rules on Assignment provides that the President must issue a public decision on the assignment of Judges to a Panel, setting out the criteria for the assignment, such a requirement cannot take precedence over the imperative considerations regarding the confidentiality of the investigations conducted by the Specialist Prosecutor's Office, which render the Request and this decision strictly confidential. Accordingly, both the Request and this decision may be reclassified at a later date, in accordance with Rules 82 to 84 of the Rules, if and when the reasons for their current classification cease to apply.

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**FOR THESE REASONS, THE PRESIDENT HEREBY ASSIGNS**

**Judge Nicolas Guillou**

as a Single Judge to consider any request for judicial authorisation and related matters submitted by the Specialist Prosecutor prior to the filing of an indictment and the ensuing assignment of a Pre-Trial Judge under Article 33(1)(a) of the Law.



**Judge Ekaterina Trendafilova,  
President of the Specialist Chambers**

Dated this Tuesday, 29 May 2018

At The Hague, the Netherlands.