



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-CC-PR-2017-03

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

**Registrar:** Dr. Fidelma Donlon

**Date:** 31 May 2017

**File Name:** Referral of the Revised Rules of the Rules of Procedure and Evidence pursuant to Article 19 (5) of the Law

**PUBLIC**

**With CONFIDENTIAL ANNEXES**

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**REFERRAL**

**of Revised Rules of the Rules of Procedure and Evidence  
to the Specialist Chamber of the Constitutional Court**

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**THE PRESIDENT** of the Specialist Chambers (the “President”), acting pursuant to Article 19(5) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (the “Law”), herewith refers the following revised Rules of the Rules of Procedure and Evidence (the “Revised Rules”) to the Specialist Chamber of the Constitutional Court (the “SCCC”):

- i. Rule 19;
- ii. Rules 30-39, 41 [former Rules 30-36, 38];
- iii. Rule 57 [former Rule 54];
- iv. Rule 137 [former Rule 134];
- v. Rule 161 [former Rule 158].

1. On 17 March 2017, the Rules of Procedure and Evidence (the “Rules”) were adopted by the Specialist Chambers Judges sitting in Plenary (the “Plenary”), except for the Judges of the SCCC. On 27 March 2017, in accordance with Article 19(5) of the Law, the President referred the adopted Rules to the Specialist Chamber of the Constitutional Court to ensure their compliance with Chapter II, including Article 55, of the Constitution of the Republic of Kosovo (the “Constitution”).<sup>1</sup>

2. On 26 April 2017, the SCCC rendered its “Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office” (the “Judgment”). The SCCC determined that nine Rules were not consistent with Chapter II of the Constitution, whilst it was unable to make a finding of consistency in respect of one additional Rule.<sup>2</sup>

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<sup>1</sup> Referral of the Rules of Procedure and Evidence to the Specialist Chamber of the Constitutional Court, File No. KSC-CC-PR-2017-01, 27 March 2017.

<sup>2</sup> Judgment, paras 215-216.

3. The President prepared a first draft of the Revised Rules, in view of the Judgment's findings and reasoning as well as relevant case law of the European Court of Human Rights. This draft was circulated to all Judges on 12 May 2017 for their consideration. Comments thereon were provided by all Judges on 17 May 2017, which were analysed and individually discussed with each Judge. On 26 May 2017, a further updated draft was again submitted to the Judges for a final consideration and voting. The Revised Rules were adopted by remote voting on 29 May 2017.

4. Annex I to this filing consolidates the Revised Rules as adopted on 29 May 2017 and includes brief explanatory notes for each Rule, setting out the relevant paragraphs of the Judgment and the Revised Rule accordingly. If it so wishes, the SCCC may consider this document for the purposes of assisting it in its work.

5. Finally, an updated version of the entire Rules is attached as Annex II to this filing, which implements:

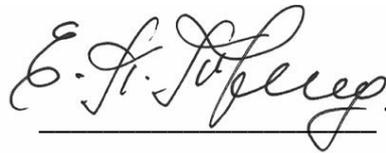
- a. the substantive revisions undertaken as a result of the Judgment in respect of the Revised Rules, as well as
- b. minor typographical errors, identified in the Rules adopted on 17 March 2017.

6. Annexes I and II are submitted confidentially in order to safeguard the deliberations of the Constitutional Court Panel. Additionally, the confidential classification is apposite given that the Rules have not yet entered into force and their content as adopted on 29 May 2017 differs in some respects from the text adopted on 17 March 2017. A public version of the Rules shall be made available upon the decision of the SCCC.

**FOR THESE REASONS**, and in performance of her responsibility for the judicial administration of the Specialist Chambers under Article 32(3) of the Law,

**THE PRESIDENT HEREBY**

**refers** the Revised Rules enclosed in confidential Annex I for review to ensure their compliance with Chapter II, including Article 55, of the Constitution of the Republic of Kosovo.

A handwritten signature in black ink, appearing to read 'E. Trendafilova', is written over a horizontal line.

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

Dated this Wednesday, 31 May 2017  
At The Hague, The Netherlands.