



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**CODE OF JUDICIAL ETHICS FOR JUDGES  
APPOINTED TO THE ROSTER OF INTERNATIONAL JUDGES  
OF THE KOSOVO SPECIALIST CHAMBERS**

(adopted on 14 March 2017)

## CODE OF JUDICIAL ETHICS FOR JUDGES APPOINTED TO THE ROSTER OF INTERNATIONAL JUDGES OF THE KOSOVO SPECIALIST CHAMBERS

PREAMBLE .....	1
CHAPTER 1 GENERAL PROVISIONS.....	2
<b>Article 1 Adoption of the Code</b> .....	2
<b>Article 2 Use of terms</b> .....	2
CHAPTER 2 MAIN PRINCIPLES.....	2
<b>Article 3 Independence</b> .....	2
<b>Article 4 Impartiality</b> .....	2
<b>Article 5 Integrity</b> .....	2
<b>Article 6 Confidentiality</b> .....	3
<b>Article 7 Diligence</b> .....	3
<b>Article 8 Conduct During Proceedings</b> .....	4
<b>Article 9 Public Expression and Association</b> .....	4
<b>Article 10 Other Activity</b> .....	4
<b>Article 11 Decorations and Honours</b> .....	4
<b>Article 12 Observance of the Code</b> .....	5
CHAPTER 3 MISCONDUCT .....	5
<b>Article 13 Serious Misconduct</b> .....	5
<b>Article 14 Misconduct of a Less Serious Nature</b> .....	6
CHAPTER 4 DISCIPLINARY PROCEDURE .....	6
<b>Article 15 Complaints</b> .....	6
<b>Article 16 Right to Be Heard</b> .....	7
<b>Article 17 Summary Dismissal of Complaints</b> .....	7
<b>Article 18 Disciplinary Board</b> .....	7
<b>Article 19 Suspension</b> .....	8
<b>Article 20 The Plenary</b> .....	9
<b>Article 21 Dismissal from the Roster</b> .....	9
<b>Article 22 Disciplinary Measures</b> .....	9
CHAPTER 5 CLOSING PROVISION .....	10
<b>Article 23 Classification of Proceedings</b> .....	10

## Preamble

The Judges appointed to the Roster of International Judges of the Kosovo Specialist Chambers ('Judges' and 'Roster', respectively);

Recalling that Judges shall be persons of high moral character, impartiality, and integrity as required by Article 27(1) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ('Law');

Recalling the principles of judicial independence, impartiality and proper conduct specified in Articles 27 and 31 of the Law;

Recalling that Article 31(4) of the Law provides that a Judge can be dismissed if the Judges appointed to the Roster, by absolute majority sitting in Plenary, find that he or she has ceased to fulfil the requirements of Articles 27 and 31 of the Law;

Noting that the following principles apply irrespective of whether or not a Judge has been assigned to a Panel from the Roster;

Noting the solemn declaration required by Article 36 of the Law;

Recognising that the independence and impartiality of Judges is fundamental to the protection of the rights of the accused and to ensuring public confidence in a fair and transparent judicial process;

Recognising that Judges are members of a collegial body, with all Judges pursuing the same objective of ensuring the achievement of fair and impartial justice;

Recognising the need for guidelines of general application to contribute to promoting and guaranteeing judicial independence and impartiality and with a view to ensuring the legitimacy, integrity, effectiveness and transparency of the judicial process before the Kosovo Specialist Chambers and thereby enhancing public confidence in the Specialist Chambers;

Having regard to Chapter VII of the Constitution of the Republic of Kosovo, the United Nations Basic Principles on the Independence of the Judiciary (1985), the Bangalore Principles of Judicial Conduct (2002), Recommendation CM/REC (2010) 12 of the Committee of Ministers to Member States on "Judges: Independence, Efficiency and Responsibilities", and other international and domestic rules and standards relating to judicial conduct and the right to a fair trial;

Have agreed as follows:

## Chapter 1

### General Provisions

#### Article 1

##### Adoption of the Code

This Code has been adopted by the Judges pursuant to Article 19(6) of the Law and in accordance with Article 31(4) of the Law and shall be read subject to the Constitution of the Republic of Kosovo, the Law and the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ('Rules').

#### Article 2

##### Use of terms

For the purpose of the present Code of Judicial Ethics, the terms employed herein shall have the meaning given to them in Rule 2 of the Rules. The singular shall include the plural, and *vice versa*.

## Chapter 2

### Main Principles

#### Article 3

##### Independence

- (1) In the exercise of their judicial functions, Judges shall be independent of any authority and influence.
- (2) Judges shall uphold the independence of their office and the authority of the Specialist Chambers and shall conduct themselves accordingly in carrying out their judicial functions.
- (3) Judges shall not engage in any activity which is likely to interfere with their judicial functions or to affect confidence in their independence and respect for their judicial office.

#### Article 4

##### Impartiality

- (1) Judges shall exercise their functions impartially and ensure the appearance of impartiality.
- (2) Judges shall avoid any conflict of interest, as well as any situation which might reasonably be perceived as giving rise to a conflict of interest.

#### Article 5

##### Integrity

- (1) Judges shall conduct themselves with probity and integrity, consistent with the high moral character required for their judicial office.

- (2) Judges shall not directly or indirectly accept, offer, or provide any gift, advantage, privilege or reward that may reasonably be perceived as being intended to influence the performance of their judicial functions.
- (3) Judges shall treat other Judges, Parties, participants in the proceedings, staff members and others with dignity and respect, and shall not engage in any form of discrimination, harassment, including sexual harassment, and abuse of authority.
- (4) Judges shall act at all times towards one another in a spirit of collegiality and professionalism.
- (5) Judges shall be mindful at all times of their duty to uphold the standing and reputation of the Specialist Chambers.
- (6) Any Judge who is the subject of any disciplinary or workplace investigation, procedure or sanction relating to possible misconduct before any jurisdiction shall immediately provide full disclosure thereof to the President. If such a case is still at the investigatory stage, the Judge shall inform the President of any development in a timely fashion.

## **Article 6**

### **Confidentiality**

Judges shall exercise utmost discretion and respect the confidentiality of consultations relating to their judicial functions, the secrecy of deliberations and the confidentiality of information acquired in the course of their duties, other than in public proceedings.

## **Article 7**

### **Diligence**

- (1) Once assigned to a Panel, Judges shall give precedence to their judicial duties over all other activities. In such cases, Judges shall act diligently in the exercise of their duties and shall devote their professional activities to those duties.
- (2) Judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for judicial office.
- (3) Judges shall perform all judicial duties properly, efficiently and expeditiously and shall not engage in conduct incompatible with the diligent exercise of their duties.
- (4) Judges shall deliver their decisions and any other rulings fairly, with reasonable promptness and without undue delay.
- (5) Judges shall act at all times with the view of ensuring the effectiveness of the Specialist Chambers.

**Article 8****Conduct During Proceedings**

- (1) In conducting judicial proceedings, Judges shall maintain order, act in accordance with commonly accepted decorum, remain attentive, patient, dignified, respectful and courteous towards all participants in the proceedings and members of the public present, and require them to act likewise.
- (2) Judges shall exercise vigilance in controlling the manner of questioning of witnesses or victims in accordance with the Rules and shall give special attention to the rights and interests of participants in the proceedings. Judges shall exercise particular vigilance in respect of vulnerable witnesses, including victims of sexual and gender based violence and children.
- (3) Judges shall, to the extent possible, ensure that any person participating in the proceedings refrains from comments or conduct which are degrading.

**Article 9****Public Expression and Association**

- (1) Judges shall exercise their freedom of expression and association in a manner that is compatible with their office and that does not affect or appear to affect judicial independence or impartiality.
- (2) While Judges are free to participate in public debate on matters pertaining to legal subjects, including academic publications, the judiciary or the administration of justice, they shall not comment on pending cases, shall ensure that nothing in their conduct evidences disrespect for the views of another Judge or staff member and shall avoid expressing views which may undermine the standing and integrity of the Specialist Chambers.
- (3) When exercising their freedom of expression, Judges shall avoid public statements or comments that may undermine the authority of the Specialist Chambers or give rise to reasonable doubt about their impartiality.
- (4) Judges shall seek prior approval of the President for any communication with press or media on any matters related to the Specialist Chambers.

**Article 10****Other Activity**

In accordance with Article 26(4) of the Law, any activity undertaken by Judges other than that before the Specialist Chambers shall be compatible with their judicial functions and the efficient and timely functioning of the Specialist Chambers.

**Article 11****Decorations and Honours**

Judges may accept decorations and honours only where such acceptance does not give rise to a reasonable doubt as to their independence or impartiality. The President shall be informed before any such acceptance.

**Article 12****Observance of the Code**

- (1) The principles embodied in this Code apply to the Judges at all times, and continue to apply to former Judges where relevant, for instance in maintaining the confidentiality of deliberations or not disclosing confidential documents.
- (2) In case of doubt as to the application of these principles in a given situation, a Judge shall consult the President.
- (3) Nothing in this Code is intended in any way to limit or restrict the judicial independence of the Judges.

## Chapter 3 Misconduct

**Article 13****Serious Misconduct**

- (1) Serious misconduct is a conduct which:
  - (a) is incompatible with official functions, and causes or is likely to cause serious harm to the proper administration of justice before the Specialist Chambers or the proper internal functioning of the Specialist Chambers, such as:
    - (i) disclosing facts or information that are acquired in the course of their duties as Judges or on a matter which is *sub judice* before the Specialist Chambers, where such disclosure is prejudicial to the judicial proceedings or to any person;
    - (ii) concealing or withholding information or circumstances of a nature sufficiently serious to have precluded the Judge from holding office;
    - (iii) abuse of judicial office in order to obtain favourable treatment from any authorities, officials or professionals; or
  - (b) is of a grave nature that causes or is likely to cause serious harm to the standing of the Specialist Chambers, such as:
    - (i) the commission of a criminal act which reflects adversely on the Judge's honesty and trustworthiness as a Judge;
    - (ii) the engagement in conduct involving harassment, abuse of authority, dishonesty, fraud, deceit or misrepresentation.
- (2) A Judge shall be dismissed from the Roster in accordance with Article 21 where he or she is found to have committed serious misconduct pursuant to paragraph (1).

**Article 14****Misconduct of a Less Serious Nature**

- (1) Misconduct of a less serious nature is a conduct which:
  - (a) causes or is likely to cause harm to the proper administration of justice before the Specialist Chambers or the proper internal functioning of the Specialist Chambers, such as:
    - (i) unduly attempting to influence another Judge, the President, the Specialist Prosecutor or the Registrar in the exercise of their functions;
    - (ii) repeatedly failing to comply with or ignoring requests made by the Presiding Judge or by the President in the exercise of their lawful authority;
    - (iii) any communication with press or media on any matters related to the Specialist Chambers without having sought prior authorisation from the President in this respect;
    - (iv) concealing or withholding information subject to disclosure pursuant to Article 5(6); or
  - (b) causes or is likely to cause harm to the standing of the Specialist Chambers.
- (2) A Judge shall be subject to disciplinary measures in accordance with Article 22 where he or she is found to have committed misconduct of a less serious nature pursuant to paragraph (1).

## Chapter 4 Disciplinary Procedure

**Article 15****Complaints**

- (1) Complaints concerning any conduct defined under Articles 13 or 14 may be submitted by a Judge, a staff member, a Party or a participant in the proceedings before the Specialist Chambers, the Registrar or any other person alleging that their rights or interests have been substantially affected by an alleged misconduct ('Complainant').
- (2) The President may also initiate disciplinary proceedings *proprio motu*.
- (3) Complaints under paragraph (1) shall be transmitted to the President. If a Complaint is brought against the President, the Vice-President shall assume the functions of the President for the purposes of this Chapter.
- (4) A Complaint shall be submitted within six months after the Complainant should have reasonably known about the existence or occurrence of the alleged misconduct. The Complaint may be pursued after these time limits if the matter is of general importance for the Specialist Chambers.



- (5) Any Complaint shall be in writing and shall:
- (a) identify the Complainant and the Judge against whom the Complaint is made (“Responding Judge”);
  - (b) include the legal provision(s) on which it is based, where possible;
  - (c) describe in sufficient detail the alleged misconduct of the Responding Judge; and
  - (d) include any relevant evidence.

## Article 16

### Right to Be Heard

The Responding Judge may be represented by counsel, at his or her own cost, during the entire disciplinary process. He or she shall be afforded an opportunity to make submissions, to present evidence and to supply answers to any questions put to him or her.

## Article 17

### Summary Dismissal of Complaints

- (1) If the Complaint is anonymous or the President considers that the Complaint is vexatious, misconceived, frivolous or lacking in substance or out of time, he or she shall summarily dismiss it as soon as possible and no later than two weeks after its receipt. The Complainant shall be notified of the dismissal, including the reasons therefor.
- (2) If the President does not consider that it is *prima facie* vexatious, misconceived, frivolous or lacking in substance, or when the President has initiated disciplinary proceedings *proprio motu*, the Complaint shall be transmitted to the Responding Judge no later than two weeks after its receipt or the *proprio motu* initiation of proceedings pursuant to Article 15(2). The Responding Judge may submit his or her views on the Complaint no later than two weeks from its receipt.
- (3) The President shall render his or her decision on the Complaint no later than two weeks after the receipt of the views of the Responding Judge. Where the President finds that the Complaint is manifestly ill-founded or is not substantiated, he or she shall summarily dismiss the Complaint. The decision shall be notified to the Complainant and the Responding Judge.
- (4) A decision under this Article is not subject to review.

## Article 18

### Disciplinary Board

- (1) If the President does not summarily dismiss the Complaint pursuant to Article 17, the President shall designate a Disciplinary Board and transmit the Complaint to it.
- (2) The Disciplinary Board shall consist of three members, two of whom at least shall be from the judiciary, designated by the President either from judges of international or internationalised courts or judges of domestic courts with extensive experience in ethics or in the investigation of

- professional misconduct. The third member may be a senior appointee of the European Union. The President shall not be a member of the Board. The Disciplinary Board shall elect a chairperson.
- (3) The Disciplinary Board shall conduct an inquiry into the allegations contained in the Complaint transmitted by the President.
  - (4) In its inquiry the Disciplinary Board:
    - (a) shall invite the Responding Judge to submit written explanations and present evidence in response to the Complaint;
    - (b) may order the Responding Judge to:
      - (i) produce any books, documents, papers, accounts or records that are in his or her possession or under his or her control and that relate to the subject-matter of the Complaint; the Disciplinary Board may inspect and retain any record thus received for such period as it deems necessary for the purposes of the inquiry; or
      - (ii) otherwise assist in, or co-operate with, the inquiry into the Complaint in a specified manner;
    - (c) may conduct interviews with any person, as deemed necessary; a record shall be kept of any interview, including the identity of the interviewee; and
    - (d) may order the Registrar to provide access to electronic data and other records of the Kosovo Specialist Chambers related to the disciplinary allegations.
  - (5) No later than six weeks from the receipt of the Complaint, the Disciplinary Board shall transmit its preliminary conclusions to the Responding Judge and shall invite him or her to respond and present any additional evidence no later than two weeks after receipt of the preliminary conclusions.
  - (6) No later than ten weeks after receipt of the Complaint, the Disciplinary Board shall transmit to the President a detailed Report on the results of its inquiry. The Report shall include recommendations in respect of each allegation brought against the Responding Judge in the Complaint, including on the specific disciplinary measures to be imposed, if any.
  - (7) Any retaliation or threat of retaliation against any Complainant or person involved in the procedure in relation to the Complaint shall be recorded by the Disciplinary Board.
  - (8) The Report shall be transmitted to the Complainant and to the Responding Judge.

## **Article 19**

### **Suspension**

Where a Complaint transmitted to the Disciplinary Board raises an allegation of serious misconduct pursuant to Article 13, the President may suspend the Responding Judge from duty pending completion of the Disciplinary Board's inquiry or the decision of the Plenary pursuant to Article 21. Suspension from duty shall not affect any entitlement to emoluments and allowances.

**Article 20****The Plenary**

- (1) Where the Disciplinary Board has concluded that the Responding Judge has committed one or more of the allegations contained in the Complaint, the President shall immediately transmit the Report to the Plenary of Judges.
- (2) After deliberations on the allegations in the Complaint, Judges will proceed to vote. The decision of the Plenary shall be taken no later than four weeks after the transmission of the Report to the Plenary of Judges.
- (3) The Complainant, if a Judge, and the Responding Judge may participate during the Plenary, but shall not take part in the Plenary's deliberations and voting. The Responding Judge may be heard, answer any questions put to him or her and provide further clarifications.

**Article 21****Dismissal from the Roster**

- (1) Where Judges have concluded that one or more allegations pursuant to Article 13 have been established, the Plenary shall decide by absolute majority of the Judges on the Roster permitted to vote on the dismissal of the Responding Judge from the Roster, in accordance with Article 31(4) of the Law.
- (2) The dismissal from the Roster shall have immediate effect. The Responding Judge shall cease to be part of the Specialist Chambers, including with respect to any unfinished cases to which he or she was assigned.

**Article 22****Disciplinary Measures**

- (1) Where the Judges have concluded that one or more allegations pursuant to Article 14 have been established, the Plenary shall decide by absolute majority of the participating Judges permitted to vote on any disciplinary measure provided for in paragraph (2) to be imposed on the Responding Judge.
- (2) The following disciplinary measures may be imposed:
  - (a) a formal and written admonishment by the Plenary;
  - (b) report to the State which nominated and supported the application of the Judge to the Roster;
  - (c) suspension from assignment before the Specialist Chambers for an appropriate fixed period of time not exceeding one year;
  - (d) report to the professional bodies to which the Responding Judge might belong; and/or
  - (e) a pecuniary sanction that may not exceed EUR 2,000.

## **Chapter 5**

### **Closing Provision**

#### **Article 23**

##### **Classification of Proceedings**

- (1) Unless otherwise provided, all filings, decisions and orders in relation to above disciplinary regime shall be submitted confidentially in an official language of the Specialist Chambers. The record of any proceedings conducted under the above disciplinary regime shall be kept confidential. The Registry shall maintain all records for the purposes of this disciplinary regime.
- (2) After the completion of such proceedings, the President may, having heard the participants, order the reclassification of proceedings if the interests of justice so require.