

UNMIK/DIR/2001/17
22 October 2001

**ADMINISTRATIVE DIRECTION NO. 2001/17
IMPLEMENTING UNMIK REGULATION NO. 2001/8 ON THE
ESTABLISHMENT OF THE KOSOVO JUDICIAL AND PROSECUTORIAL
COUNCIL**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under section 9 of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/8 of 6 April 2001 on the Establishment of the Kosovo Judicial and Prosecutorial Council,

Taking into account section 1.2 of UNMIK Regulation No. 2001/8,

For the purpose of establishing an appropriate system of evaluating the performances of court presidents, judges, public prosecutors and deputy public prosecutors in Kosovo,

Hereby issues the following Administrative Direction:

Section 1
Definitions

1.1 For the purposes of the present Administrative Direction:

(a) “Initial evaluation” shall mean the evaluation of the performance of a court president, judge, public prosecutor or deputy public prosecutor conducted in accordance with section 3;

(b) “Final evaluation” shall mean the evaluation of the performance of a court president, judge, public prosecutor or deputy public prosecutor conducted in accordance with section 4;

(c) “Initial evaluator” shall mean the person who is in charge of conducting the initial evaluation, which in the case of:

- (i) A judge, shall be the president of the court where the judge serves;
- (ii) A deputy public prosecutor, shall be the public prosecutor of the public prosecutor’s office where the deputy public prosecutor serves;

- (iii) A president of a court, shall be the president of the court at the next level; and
 - (iv) A public prosecutor, shall be the public prosecutor of the public prosecutor's office at the next level.
- (d) "Final evaluator" shall mean the person who is in charge of conducting the final evaluation, which in the case of:
- (i) A municipal court president, shall be the president of the supreme court;
 - (ii) A judge, shall be the president of the court at the next level;
 - (iii) A municipal public prosecutor, shall be the public prosecutor for Kosovo; and
 - (iv) A deputy public prosecutor, shall be the public prosecutor of the public prosecutor's office at the next level.
- (e) "Knowledgeable third party" shall mean a person who has direct knowledge of the performance of the evaluated person and is consulted during a final evaluation, which in the case of:
- (i) A judge, may include a judge at the court at the next level who has worked with the evaluated judge or a judge presiding on a panel deciding on appeals of decisions made by the evaluated judge; and
 - (ii) A public prosecutor, may include another deputy public prosecutor in the public prosecutor's office at the next level.

1.2 The initial evaluator shall also be the final evaluator in the case of:

- (a) A president of a district court;
- (b) The president of the commercial court;
- (c) A judge of the high court for minor offences;
- (d) A judge of the supreme court of Kosovo;
- (e) A district public prosecutor; and
- (f) A deputy public prosecutor in the office of the public prosecutor for Kosovo.

Section 2
Purpose of the Evaluation System

An evaluation system of the performance of court presidents, judges, public prosecutors and deputy public prosecutors is established to provide the Kosovo Judicial and Prosecutorial Council (hereinafter the “Council”) with relevant information for advising the Special Representative of the Secretary-General, pursuant to section 1.2 of UNMIK Regulation 2001/8, on:

- (a) The extension of appointment of court presidents, judges, public prosecutors and deputy public prosecutors;
- (b) Matters related to the promotion and transfer of court presidents, judges, public prosecutors and deputy public prosecutors; and
- (c) Other issues related to the judicial system upon request of the Special Representative of the Secretary-General.

Section 3
Initial Evaluation

3.1 The initial evaluator shall conduct an initial evaluation by completing the form attached as Annex 1, after conducting an interview with the person evaluated.

3.2 The initial evaluator shall deliver the signed initial evaluation to:

- (a) The person evaluated; and
- (b) The final evaluator.

3.3 Within eight (8) days of receipt of the initial evaluation, the person evaluated is entitled to submit written comments to the final evaluator. In the case of persons referred to in section 1.5(a) – (f), any written comments shall be submitted to the initial evaluator.

3.4 No initial or final evaluation shall be conducted in respect of the president of the supreme court of Kosovo, the public prosecutor for Kosovo or the president of the high court for minor offences.

Section 4
Final Evaluation

4.1 The final evaluator shall conduct a final evaluation by completing the form attached as Annex 2, after considering additional information obtained from any source and, where appropriate, following the procedures set forth in section 4.2.

4.2 If the person evaluated has submitted written comments, pursuant to section 3.3, or if the overall initial evaluation of the person evaluated has been marked “Outstanding”, the final evaluator shall:

- (a) Seek the opinion of a knowledgeable third party;
- (b) Interview at least one judge or deputy public prosecutor working in the same court or office of the public prosecutor as the person evaluated; and
- (c) If appropriate, interview the person evaluated and/or the initial evaluator.

In the case of persons referred to in section 1.5(a) – (f), the initial evaluator shall follow the same procedures.

4.3 The final evaluation may confirm or modify the initial evaluation. Where the initial evaluation is modified, the final evaluation shall indicate the basis for the modification, including the source of any additional information.

4.4 The final evaluation shall become effective as soon as it is signed by the final evaluator. The final evaluator shall issue the final evaluation within thirty (30) days of the receipt of the initial evaluation.

4.5 The final evaluator shall deliver the final evaluation to:

- (a) The person evaluated;
- (b) The initial evaluator; and
- (c) The Council, which shall insert the final evaluation in the relevant personal files of the person evaluated.

Section 5 Periodic Evaluation

5.1 Each court president, judge, public prosecutor and deputy public prosecutor shall be evaluated before the end of October of each year. The evaluation shall cover the period since the last evaluation or, if the person concerned has not previously been evaluated, the date on which he or she was appointed. A court president, judge, public prosecutor or deputy public prosecutor shall not be evaluated if he or she has been in post for less than three (3) months.

5.2 If a final evaluation has not been conducted in the preceding three (3) months, the Council may request that an evaluation be promptly conducted, if:

- (a) The Council is considering the promotion or transfer of a court president, judge, public prosecutor or deputy public prosecutor; or
- (b) A complaint against a court president, judge, public prosecutor or deputy public prosecutor has been submitted to the Council.

Section 6
Entry into Force

The present administrative direction shall enter into force on 22 October 2001.

Hans Haekkerup
Special Representative of the Secretary-General