

TO ALL REPRESENTATIVES OF THE PSC

TO AMBASSADORS OF CONTRIBUTING THIRD STATES

Subject: Call for Nominations of Judges to a Reserve List for the Roster of International Judges of the Kosovo Specialist Chambers

References: Council Joint Action 2008/124/CFSP of 4 February 2008 as amended by Council Decision 2014/685/CFSP of 29 September 2014, Council Decision 2016/947/CFSP of 14 June 2016 and Council Decision 2018/856/CFSP of 8 June 2018, Council Decision (CFSP) 2020/792 of 11 June 2020, Council Decision (CFSP) 2021/904 of 3 June 2021, Council Decision (CFSP) 2023/1095 of 5 June 2023

Excellency,

1. Background

On 4 February 2008, the Council adopted Joint Action 2008/124/CFSP on the establishment of the European Union Rule of Law Mission in Kosovo (EULEX KOSOVO), which was amended by Council Decision 2014/685/CFSP of 29 September 2014, Council Decision 2016/947/CFSP of 14 June 2016 and Council Decision 2018/856/CFSP of 8 June 2018, Council Decision (CFSP) 2020/792 of 11 June 2020, Council Decision (CFSP) 2021/904 of 3 June 2021, Council Decision (CFSP) 2023/1095 of 5 June 2023.

Article 3(a) of the Council Joint Action 2008/124/CFSP, as amended, stipulates that for the purposes of fulfilling its mandate, including its executive responsibilities as set out in Article 3(a) and (d), EULEX KOSOVO shall support re-located judicial proceedings within a Member

State, in order to prosecute and adjudicate allegations arising from the investigation into the incidents described in a report entitled “Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo” released on 12 December 2010 by the Special Rapporteur for the Committee on Legal Affairs and Human Rights of the Council of Europe.

The Head of Mission of EULEX KOSOVO appointed the Registrar in April 2016, the then-Specialist Prosecutor in September 2016, the President of the Specialist Chambers in December 2016 and 19 judges to the Roster of International Judges of the Kosovo Specialist Chambers (Roster) in February 2017. Five additional Judges were appointed in 2020 following the resignation of previously appointed Judges. The Head of Mission of EULEX Kosovo thereby supported the relocated judicial proceedings in accordance with Article 3(a) of the Council Joint Action 2008/124/CFSP as amended by Council Decision 2014/685/CFSP, 2016/947/CFSP and Council Decision 2018/856/CFSP of 8 June 2018, Council Decision (CFSP) 2020/792 of 11 June 2020, Council Decision (CFSP) 2021/904 of 3 June 2021, Council Decision (CFSP) 2023/1095 of 5 June 2023.

The Rules of Procedure and Evidence of the Specialist Chambers entered into force on 5 July 2017, marking the moment the Kosovo Specialist Chambers became judicially operational.

Pursuant to Articles 24 and 33 of the Law on Specialist Chambers and Specialist Prosecutor’s Office (Law), the Specialist Chambers are composed of: (a) a Basic Court Chamber (including individual judges performing the functions of a pre-trial judge or other functions required under the Law and Trial Panels composed of three judges and one reserve judge); (b) a Court of Appeal Chamber (with Panels composed of three judges); (c) a Supreme Court Chamber (with Panels composed of three judges); and (d) a Constitutional Court Chamber (with Panels composed of three judges and one reserve judge).

Currently 22 Judges are appointed to the Roster of International Judges and serve as judges at all levels in order to ensure the efficient and effective operations of the Specialist Chambers in accordance with Article 29 of the Law.

In September 2022, one Judge resigned from the Roster of International Judges (Roster). One or more Judges on the Roster have tentatively indicated that they may be resigning in the next year(s) for retirement purposes or to take up professional duties elsewhere. Following such possible resignations, and bearing in mind the need to ensure the efficient and effective operations, the President of the Specialist Chambers has requested that up to five judges for any panel be selected and recommended for appointment to the Roster. However, any appointment to the Roster will only be affected in the case that the number of Judges from the Roster of International Judges is insufficient. Until such time, the five selected Judges would not be placed on the Roster, but will be on a reserve list. This procedure ensures an immediate replacement of Judges in the eventuality of future resignations, without resorting to a new selection process.

Accordingly, I kindly invite the EU Member States to nominate qualified candidates by way of a supporting letter, for the position as listed in the Call for Nominations of Judges to a reserve

list for the Roster of International Judges of the Kosovo Specialist Chambers (Call for Nominations) (**Annex 1**).

2. Requirements

Governments are requested to consider Article 27 of the Law, which provides as follows:

- a) The Specialist Chambers judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective states for appointment to the highest judicial offices. They shall be independent in the performance of their functions and shall not accept or seek instructions from any government or any other source. The Specialist Chambers judges shall have established competence in criminal law and procedure or relevant parts of international law and constitutional law as appropriate, with extensive judicial, prosecutorial or defence experience in international or domestic criminal proceedings.
- b) In the overall composition of the Roster of International Judges for the Kosovo Specialist Chambers, due account shall be taken of the established competence and court experience of the judges in criminal law and procedure, international law and constitutional law as appropriate.
- c) Judges shall be fluent in English.

Governments are further requested to consider the requirements outlined in the Call for Nominations (**Annex 1**).

Governments shall consider the need to include judges with legal expertise in specific areas, including, but not limited to, international criminal law and trans-boundary crimes and importantly constitutional and human rights law.

The EU strives for improved gender balance in Common Security and Defence Policy operations in compliance with United Nations Security Council Resolution 1325. EU Member States are encouraged to take this into account when nominating candidates.

3. Procedure and Methodology

The nomination period shall run until 29 September 2023. An independent selection panel (Selection Panel) shall be responsible for the assessment of judicial candidates and the selection and recommendation for appointment to the Roster in accordance with Article 28(1) of the Law. Nominations submitted after the nomination period deadline will not be considered.

Nominations shall be accompanied by a statement of the Government/Representative, which sets forth in sufficient detail how the candidate fulfils the requirements as provided for in the Call for Nominations (**Annex 1**). Governments are encouraged to nominate more than one candidate.

Following consideration of qualified candidates, then interview and assessment of those found most suitable, the Selection Panel will finalise a list containing the names of those they recommend for appointment as a judge on the Roster pursuant to Article 28(3) of the Law. The Selection Panel will forward this list as its recommendations to the Head of EU Common Security and Defence Policy Mission as Appointing Authority.

Judges recommended for appointment will be placed on a reserve list for the Roster. In accordance with Article 26(2) of the Law, judges will only be present at the seat of the Specialist Chambers at the request of the President of the Specialist Chamber to exercise functions requiring their presence. As set forth in Article 26(3) of the Law, judges will not receive remuneration or other benefits for being on the Roster. Judges will receive adequate pro rata remuneration for their judicial services before the Specialist Chambers. Governments are therefore requested to nominate candidates who may be available at a short notice and, where circumstances require, on a temporary basis. Where the circumstances of an assignment so require, judges will have to commit to making themselves available on a full-time basis for the duration of that assignment.

Governments are requested to examine the Call for Nominations to ensure that:

- a) Nominated candidates meet the criteria set forth in the essential requirements and the specific job description in the Call for Nominations (**Annex 1**).
- b) Each candidate completes the Application Form (**Annex 2**) in English. Only applications using this form will be considered.

Nominated candidates need to satisfy in full the criteria set out in the Call for Nominations. The main criteria for suitability for judicial posts are professional and specific skills and experience. The failure to fill these positions could seriously jeopardise the ability of the objectives of the Kosovo Specialist Chambers to fulfilling its mandate.

Nominations shall be communicated through the diplomatic channel to the Civilian Planning and Conduct Capability (CPCC). The Secretariat would appreciate receiving digital versions of the nominations, the accompanying statements of Governments/Representatives and other supporting documentation. EU Member States and Contributing States are therefore respectfully requested to submit their nominations at their earliest convenience, **but no later than Friday, 29 September 2023, at 17:00 hours (Brussels time)**, to the following e-mail address:

schr@eeas.europa.eu

The CPCC will be responsible for notifying EU Member States and Contributing States of the outcome of the selection process.

Governments are reminded that the candidates will be subject to evaluation by the Selection Panel, composed of two international judges with substantial international criminal law experience and one international senior appointee. Candidates may be requested to make

themselves available for an interview and an assessment by the Selection Panel, as envisaged by Article 18 of the Law.

For any further information in relation to the nomination process, please contact:

Civilian Planning and Conduct Capability (CPCC)
schr@eeas.europa.eu

Yours sincerely,

Stefano TOMAT

cc: CivCom Delegates

Enclosures:

- Call for Nominations for Judge on a reserve list for the Roster of International Judges for the Kosovo Specialist Chambers (**Annex 1**)
- Application Form (**Annex 2**)