

KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE

# 2019 REPORT



KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE

The Kosovo Specialist Chambers and Specialist Prosecutor's Office were established pursuant to an international agreement ratified by the Kosovo Assembly, a Constitutional Amendment and the Law on Kosovo Specialist Chambers and Specialist Prosecutor's Office.

They are of temporary nature with a specific mandate and jurisdiction over crimes against humanity, war crimes and other crimes under Kosovo law, which were commenced or committed in Kosovo between 1 January 1998 and 31 December 2000 by or against citizens of Kosovo or the former Republic of Yugoslavia.

The Kosovo Specialist Chambers and the Specialist Prosecutor's Office have a seat in The Hague, the Netherlands. Their staff is international, as are the Judges, the Specialist Prosecutor and the Registrar.

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SPECIALIST PROSECUTOR'S OFFICE**

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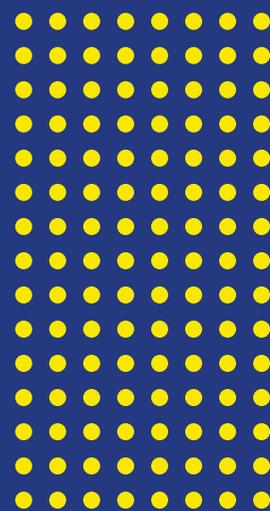


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# Kosovo Specialist Chambers



# Foreword

We are very pleased to present the 2019 annual report of the Kosovo Specialist Chambers. Over the course of the past year, our institution has matured into a court that has in place a robust and comprehensive legal and administrative framework, has at its disposal a new courtroom, as well as all the practical and logistical matters necessary to service and support any forthcoming proceedings before the Kosovo Specialist Chambers. These key achievements, along with many other developments that have taken place over the course of 2019, will allow the Kosovo Specialist Chambers to fulfil its mandate by conducting criminal proceedings in an independent and impartial, safe and secure, efficient and fair manner.

The present report highlights the institution's key achievements over the course of 2019 and succinctly sets forth what the various units and sections have accomplished during this year.

One of the main achievements in 2019 was the move to our new premises, where we have at our disposal a brand new courtroom to conduct any forthcoming proceedings. In keeping with its commitment to transparency, the Kosovo Specialist Chambers' courtroom has the ability to live-stream its proceedings in all three official languages, provides for various measures that will ensure the safety and security of victims and witnesses, and has in place a number of innovative features that will facilitate the conduct of efficient, fair, safe and secure proceedings. We also launched an electronic court management platform that enables users to disclose, view, analyse, and present evidence within a single integrated system. We would like to express our sincere gratitude to the Norwegian government in this regard, for providing the financial support for the renovations that enabled the move to the new premises.

During 2019, the Judges of the Kosovo Specialist Chambers were actively engaged in their preparations to ensure efficient and effective proceedings. The Specialist Prosecutor's increased engagement in investigations over the course of 2019 triggered certain judicial activity before the Kosovo Specialist Chambers and resulted in the Registry's undertaking of indigence enquiries in accordance with the Interim Legal Aid Regulations. In addition, the Registry supported a working group to form an Independent Representative Body of Specialist Counsel (IRB). We congratulate Counsel on the establishment of the IRB and are committed to fruitful cooperation and consultation with them.

Similarly, our Outreach Programme has continued to flourish over the course of 2019. In addition to the near-monthly visits to Kosovo, where the outreach team met with a wide range of audiences from civil society, the Kosovo Specialist Chambers also hosted for the second time 15 NGOs from the Court Information Network. During this two-day session, the NGOs provided the Kosovo Specialist Chambers with invaluable feedback on its Outreach Programme, thereby facilitating the accurate and transparent dissemination of information about the work and mandate of the Kosovo Specialist Chambers in the region.

We remain committed to ensuring that the people most affected by our institution are informed about the mandate of the Kosovo Specialist Chambers and, where appropriate, are kept abreast of any significant developments at our institution. We take very seriously the relationships that we have with communities in Kosovo and elsewhere, and will continue to invest in ensuring that these contacts are expanded and an active and open channel of dialogue with these communities is maintained. To this end, the Kosovo Specialist Chambers have produced informational leaflets, as well as videos about the structure and mandate of the court.

We wish to thank the government of Switzerland for their continued generous financial support, which has allowed us to expand upon and further strengthen our Outreach Programme.

The achievements of the Kosovo Specialist Chambers over the course of 2019 would not have been possible without the steadfast support of the Member States of the European Union and Third Contributing States, for which we are most grateful. Similarly, the dedicated involvement of the Host State was key in coming to a solution in regard to the detention facility of the Kosovo Specialist Chambers and the support of the Netherlands was crucial with respect to the completion of the renovation of the new premises.

We also wish to extend our sincere appreciation to our counterparts at the European Union External Action Services, the European Commission Service for Foreign Policy Instruments and the Civilian Planning and Conduct Capability for their assistance and cooperation with our institution over the course of 2019.

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

*The Hague, February 2020*

Our gratitude further goes to States, members of the diplomatic community as well as international and internationalised courts and tribunals in The Hague for their cooperation and regular constructive exchanges on organisational and administrative matters.

We are proud of all that we have accomplished over the course of 2019 and are particularly grateful to our staff, who have worked tirelessly to ensure not only the efficient functioning of the institution, but also that the transition to the new premises took place in a very professional and smooth manner, without delay to the work of the institution.

Having put in place a solid legal and regulatory framework and with a fully operational courtroom now at our disposal, as well as with the unfailing dedication of our staff, the Kosovo Specialist Chambers stands ready to conduct secure, independent, impartial, fair and efficient proceedings in accordance with its mandate and to serve as a model for other similarly situated institutions.

**Dr Fidelma Donlon**  
*Registrar of the Kosovo Specialist Chambers*

# KSC at a glance

In June 2008, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe appointed a special rapporteur to investigate allegations of serious crimes committed during and in the aftermath of the 1998-1999 conflict.

In January 2011, the Parliamentary Assembly of the Council of Europe, through Resolution 1782 (2011), adopted the report prepared by the special rapporteur (Council of Europe Report), which alleged that numerous crimes were committed against Serbs, Kosovo Albanians suspected of being collaborators, and other individuals.

Further to the Council of Europe Report, in May 2011, EU Member States considered the matter in the framework of the Political and Security Committee, a body dealing with the EU Common Foreign and Security Policy. Thereupon, the Special Investigative Task Force (SITF) was established and mandated to conduct an independent investigation into allegations of unlawful detention, deportation, inhumane acts, torture and killings, as well as any other crimes related to the Council of Europe Report. Based in Brussels, the SITF commenced its operations in September 2011.

Whilst this investigation was ongoing, in an Exchange of Letters between the President of Kosovo and the High Representative of the European Union for Foreign Affairs and Security Policy in April 2014, an international agreement was reached for the establishment and operation of separate judicial chambers and specialist prosecutor's office for the prosecution and adjudication of crimes arising from SITF investigations.

The Exchange of Letters provides that these dedicated and separate judicial chambers would be established in accordance with Kosovo law. These judicial chambers and the specialist prosecutor's office would be governed by their own statute and rules of procedure and evidence, while being staffed and managed by international staff only. The Exchange of Letters also states that the separate judicial chambers would have a seat in a third state and that sensitive proceedings, including hearing of witnesses, would take place outside Kosovo. The Exchange of Letters was ratified in April 2014 by the Kosovo Assembly with a two-thirds majority and incorporated into domestic law. It has superiority over the laws of Kosovo.

In July 2014, the SITF Chief Prosecutor issued a statement, concluding that the SITF "will be in a position to file an indictment against certain senior officials of the former Kosovo Liberation Army".

In March 2015, the President of the Kosovo Assembly referred to the Kosovo Constitutional Court a constitutional amendment proposed by the Kosovo government to implement the Exchange of Letters. According to the Constitution, the Kosovo Constitutional Court had to assess whether the proposed amendment diminished any of the rights and freedoms guaranteed by Chapter II of the Constitution. In April 2015, the Kosovo Constitutional Court held that the amendment proposal was in conformity with the Kosovo Constitution and held that "[t]he structure, scope of jurisdiction and functioning of the Specialist Chambers will be regulated by further laws in compliance with the Constitution".

This amendment was implemented through Article 162 of the Kosovo Constitution, adopted by the Kosovo Assembly in August 2015. At the same time, the Law on the establishment of both institutions was also adopted, which serves as the foundational instrument for the Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO).

In **April 2016**, Dr Fidelma Donlon was appointed Registrar of the KSC, marking the commencement of the work of the Registry in The Hague.

In **September 2016**, David Schwendiman was appointed Specialist Prosecutor.

In **December 2016**, Judge Ekaterina Trendafilova was appointed President of the KSC. She took office in January 2017.

On **1 January 2017**, the Host State Agreement between Kosovo and the Netherlands entered into force, allowing the KSC to conduct criminal proceedings in the Netherlands.

Subsequently, in **February 2017**, 19 Judges were appointed to the Roster of International Judges of the Kosovo Specialist Chambers. In **March 2017**, during the first Plenary, the KSC Judges adopted the Rules of Procedure and Evidence.

After a constitutional review by the Specialist Chamber of the Constitutional Court, the Rules of Procedure and Evidence entered into force in **July 2017**, rendering the KSC fully judicially operational.

In **November 2017**, the Registrar adopted the Directive on Counsel regulating matters such as the eligibility of lawyers to represent suspects, accused and victims before the KSC. Since then, 167 legal practitioners from Kosovo, Serbia and a number of other countries have been admitted to the Lists of Defence and Victims' Counsel.

In **May 2018**, Pietro Spera was appointed Ombudsperson of the KSC.

In **June 2018**, the Court Information Network comprising of local NGOs from Kosovo and Serbia was established.

In **September 2018**, Jack Smith succeeded David Schwendiman as Specialist Prosecutor.

In **March 2019**, the Judges of the KSC convened for the fourth plenary. In that same month, the Code of Professional Conduct for Counsel and Prosecutors before the KSC was adopted.

In **June 2019**, the KSC and the SPO moved to their new premises.

# Timeline



## **JANUARY 2011**

The Council of Europe (CoE) Parliamentary Assembly approves a Report on “Inhuman treatment of people and illicit trafficking in human organs in Kosovo”.

## **SEPTEMBER 2011**

The Special Investigative Task Force (SITF), established by the EU to conduct criminal investigations into the allegations of the CoE Report, commences its work.

## **APRIL 2014**

The Kosovo President and the High Representative of the EU for Foreign Affairs and Security Policy exchange letters on the establishment of “separate judicial chambers”.

## **AUGUST 2015**

The Kosovo Assembly adopts Article 162 of the Kosovo Constitution and the Law on Specialist Chambers and Specialist Prosecutor’s Office.

## **JANUARY 2017**

The Host State Agreement between Kosovo and the Netherlands enters into force, allowing the KSC to conduct criminal proceedings in the Netherlands.



## **DECEMBER 2016**

Judge Ekaterina Trendafilova is appointed President of the KSC.

## **SEPTEMBER 2016**

David Schwendiman is appointed Specialist Prosecutor.



## **APRIL 2016**

Dr Fidelma Donlon is appointed Registrar of the KSC, marking the commencement of the work of the judicial institution in The Hague.



### FEBRUARY 2017

19 Judges are appointed to the Roster of International Judges.

### MARCH 2017

Judges adopt the Rules of Procedure and Evidence, subject to review by the Specialist Chamber of the Constitutional Court.

### JULY 2017

Following the constitutional review conducted by the Specialist Chamber of the Constitutional Court, the Rules of Procedure and Evidence enter into force and the KSC becomes judicially operational.

### NOVEMBER 2017

The Registrar adopts the Directive on Counsel regulating matters such as the eligibility of lawyers to represent suspects, accused and victims before the KSC. By the end of 2019, 167 legal practitioners have been admitted to the Lists of Defence and Victims' Counsel.



### JUNE 2019

The KSC and the SPO move to their new premises.



### SEPTEMBER 2018

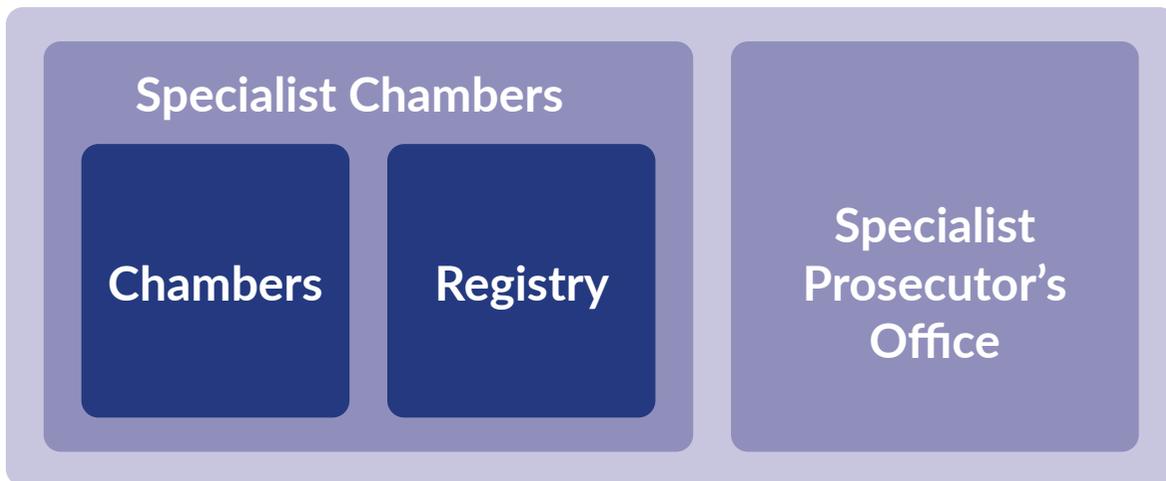
Jack Smith succeeds David Schwendiman as Specialist Prosecutor.



### MAY 2018

Pietro Spera is appointed Ombudsperson of the KSC.

The Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO) are two **independent** institutions established following an **Exchange of Letters** in accordance with Kosovo law via a **constitutional amendment** in 2015. The **Law on Specialist Chambers and Specialist Prosecutor's Office (Law)** was adopted by the Kosovo Assembly in August 2015.



- The **mandate** of the KSC is
  - “To ensure secure, independent, impartial, fair and efficient criminal proceedings in relation to allegations of grave trans-boundary and international crimes committed during and in the aftermath of the conflict in Kosovo, which relate to those reported in the Council of Europe Parliamentary Assembly Report [...] and which have been the subject of criminal investigation by the Special Investigative Task Force” (Article 1 of the Law).
- The KSC is a **temporary** judicial institution
  - it will only be in existence for the time necessary to deal with charges presented by the Specialist Prosecutor and until Kosovo is notified by the EU Council that investigations and proceedings have concluded.
- The KSC is established in accordance with the **Exchange of Letters and Kosovo law**
  - having the **same court levels** as the Kosovo judicial system (basic, appeal, supreme, constitutional)
  - having a **seat outside Kosovo**
  - having Judges and staff who are citizens of **EU Member States or Third Contributing States**
  - applying **international customary law** and **domestic substantive criminal law** as provided in the Law
  - applying its **own rules of procedure and evidence**.

- The **jurisdiction** of the KSC covers
  - crimes against humanity, war crimes and other crimes under the applicable criminal law at the time the crimes were committed
    - that occurred between 1 January 1998 and 31 December 2000
    - either commenced or committed in Kosovo, or committed by or against persons of Kosovo/Federal Republic of Yugoslavia citizenship
  - certain crimes against the administration of justice when they relate to its official proceedings and/or officials.
- The KSC deals with **individual criminal responsibility only** - groups or organisations will not be put on trial.
- The KSC allows **victims' participation** in proceedings.
- The KSC and the SPO are funded by EU Member States and Third Contributing States, and are independent in the fulfilment of their mandate and work.
- The official languages of the KSC and the SPO are Albanian, Serbian, and English.





← Dronovs  
Wallemaat 2

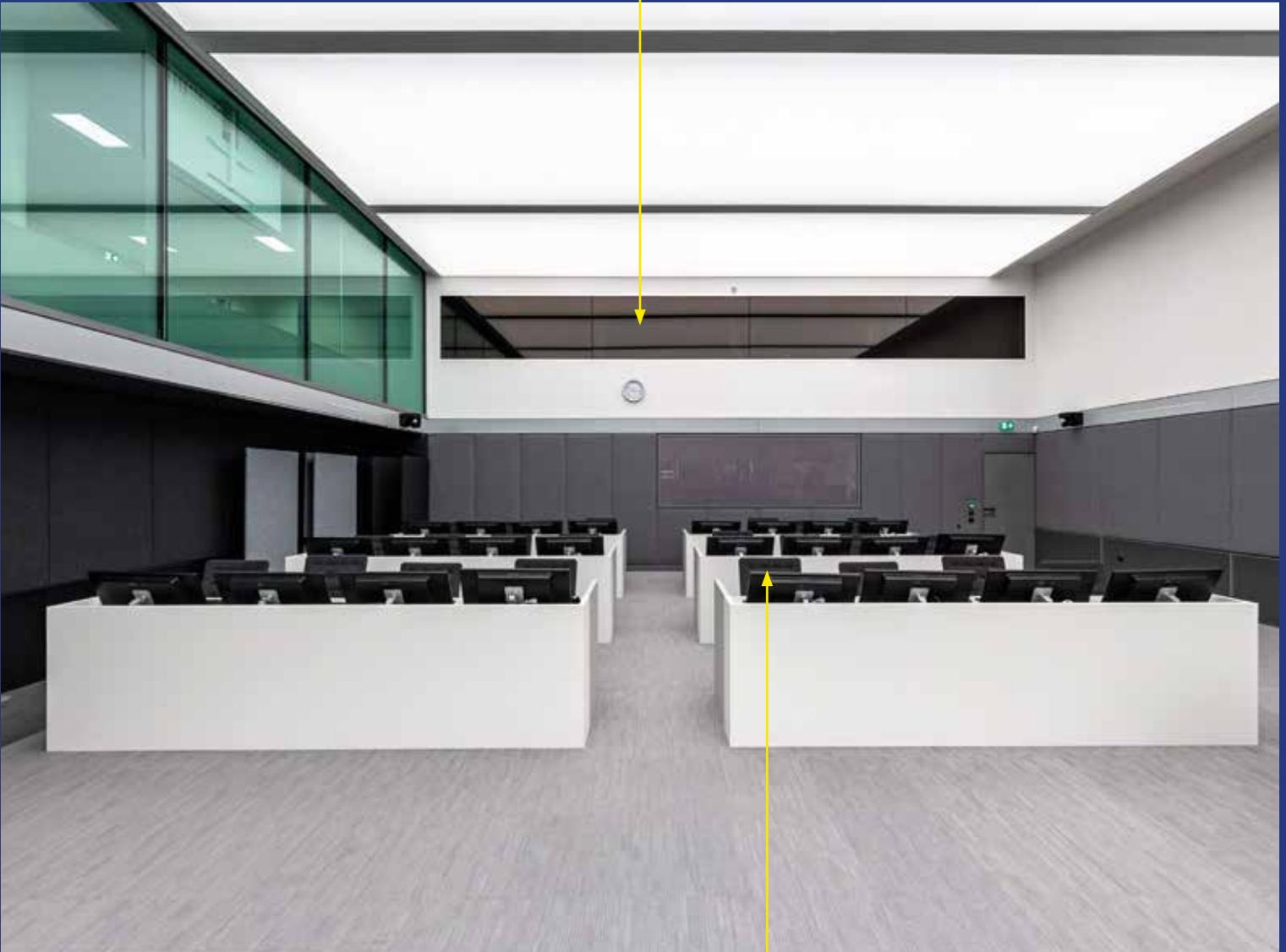
← Katwijk 18



# COURTROOM



The proceedings are simultaneously interpreted into Albanian, Serbian, English or another language, as required, and are live-streamed in all the three languages of the court.



Prosecution.

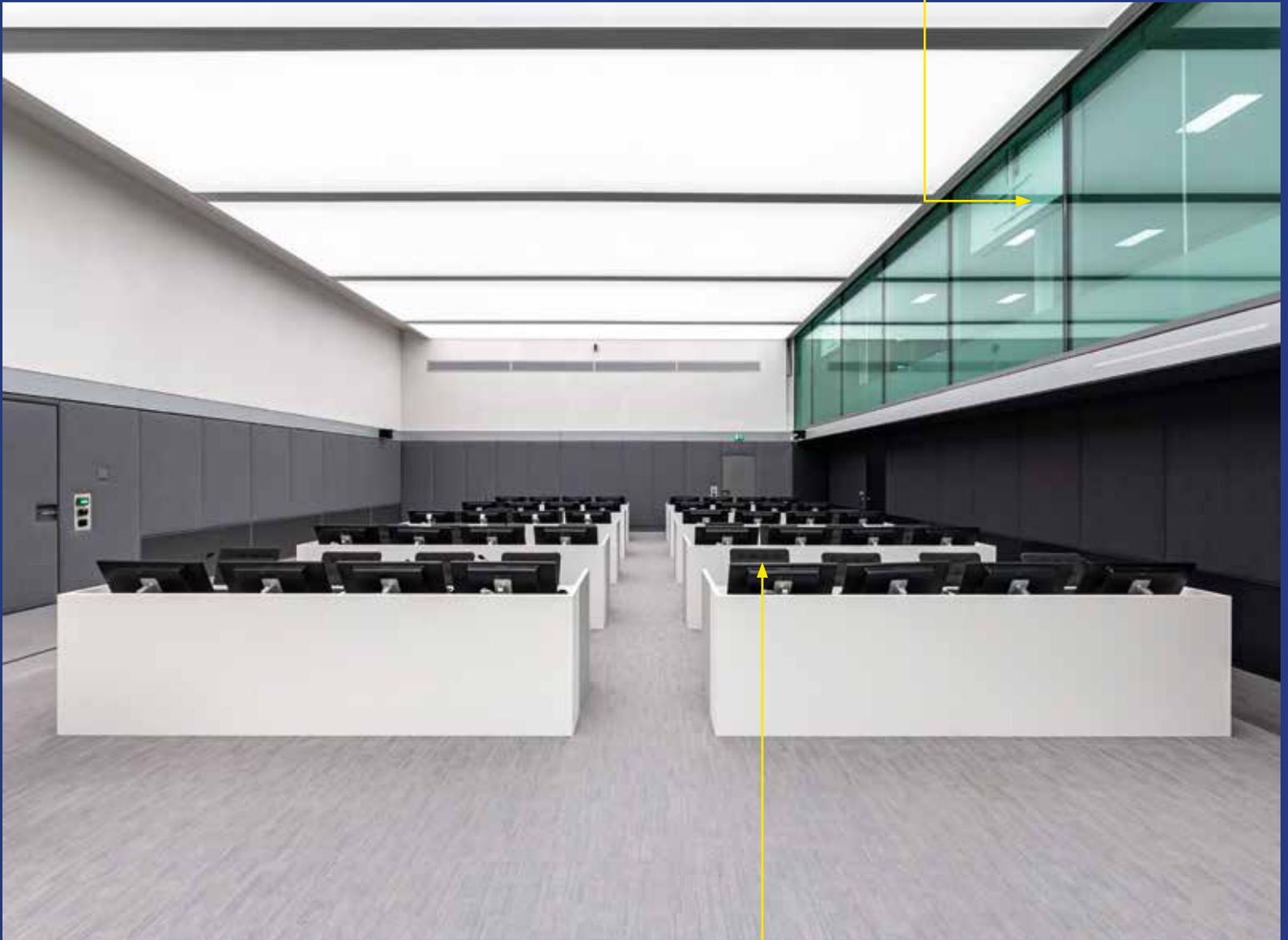
Counsel eligible to represent a group of participating victims also sit here.

The Judges on the Roster of International Judges are appointed to cases by the President who is the only Judge permanently present at the seat of the KSC.



An integrated electronic court management system, Legal Workflow, provides for secure and paperless proceedings.

The proceedings are open to the public, unless otherwise ordered by the panel of Judges.  
Protective measures ordered by the Judges, such as private and closed sessions, limit public access to the hearings.



Defence Counsel eligible to practice before the KSC. There is a legal aid system  
in place for representation of indigent suspects and accused.

This is where witnesses sit when they provide testimony, which is directly across from the Judges bench. The Judges can order various measures to protect the identity of the witness before, during, and after the proceedings.





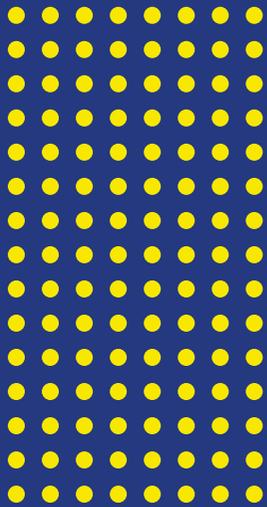
**THE KOSOVO SPECIALIST CHAMBERS  
INSIDE THE COURTROOM**



[Click here to see more of our courtroom](#)

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# Chambers



# 1 | Judicial Activities

The Kosovo Specialist Chambers (KSC) has been judicially operational since July 2017, with the entry into force of the Rules of Procedure and Evidence (Rules). From this moment onward, the Judges of the KSC have been ready to address any legal matter, including any potential indictment to be filed by the Specialist Prosecutor's Office (SPO). Whether and when to file an indictment, however, is a matter that falls within the discretion of the Specialist Prosecutor.

## PROCEEDINGS AS A RESULT OF SUMMONSES BY THE SPECIALIST PROSECUTOR'S OFFICE

Throughout 2019, the Specialist Prosecutor has been actively engaged in investigations and has issued a high number of summonses to interview individuals as witnesses or as suspects. These summonses, in turn, have triggered judicial activities before the KSC.

More specifically, on 15 January 2019, one of the individuals summonsed by the Specialist Prosecutor as a suspect filed a complaint before the **Specialist Chamber of the Constitutional Court (SCCC)**, alleging that his fundamental rights were violated by an order to produce documents and records. The applicant requested that the order be suspended, pending the resolution of his referral by the SCCC. Following the withdrawal of the summons by the Specialist Prosecutor, the SCCC rendered its decision in February 2019, finding the referral inadmissible.

*[...] having regard to the fact that the Applicant's constitutional rights to silence and to not incriminate himself have been preserved, the Chamber is satisfied that, as matters now stand, his complaints under Article 30(6) of the Constitution and Article 6(1) of the Convention are inadmissible for want of victim status.*

[KSC-CC-2019-05/F00012, Decision on the Referral of Mahir Hassani Concerning Prosecution Order of 20 December 2018, 20 February 2019, para. 33.](#)

On 23 February 2019, a summonsed individual appealed a decision of the Registrar denying him legal aid for the payment of his Defence Counsel during his interview with the SPO. In accordance with the KSC's legal framework, the President assigned this appeal to a Single Judge, who upheld the Registrar's decision denying legal aid to this individual.

*In light of the Registrar's obligations for the sound financial management of the Specialist Chambers, and based on an assessment of the totality of the information provided by the Applicant, the decision to deny legal aid on the basis inter alia of a lack of further explanation in respect of the Applicant's subsequent statement was not a manifestly unreasonable one.*

KSC-BC-2019-02/F00012/RED. Public Redacted  
Version of Decision on a Request for Review of a Legal Aid Decision of the Registrar, 25 March 2019, para. 61.

On 14 November 2019, another individual summonsed by the Specialist Prosecutor as a suspect filed a referral before the SCCC. The applicant broadly questioned the legality of the interview with the Specialist Prosecutor. The SCCC's final decision was still pending at the end of 2019.

## STAFF APPEAL PROCEEDINGS

Aside from judicial activity that forms part of the KSC's core mandate, the KSC and the SPO also have judicial activity arising out of their own internal staff appeals mechanism. This mechanism provides staff members with recourse to a **Judge for Staff Appeals** (as a first instance appeal) and a **Higher Judge for Staff Appeals** (as a second instance appeal) when dealing with matters related to their employment at the KSC and the SPO.

Over the course of the year, there have been a number of **staff appeals** related to the intended withdrawal by the United Kingdom (UK) from the European Union (EU).

The KSC and the SPO have immunity and are thus not subject to any legal proceedings before the Host State or elsewhere. These institutions therefore have their own internal staff appeals procedure, to ensure that staff members of these institutions have effective judicial recourse when challenging decisions taken by the Registrar of the KSC in relation to their employment at these institutions.

In all, there were 13 different proceedings in 2019, involving eight British staff members who filed appeals against the Registrar's decisions related to the termination or non-renewal of their contracts as a result of the UK's intended withdrawal from the EU. Both the Judge for Staff Appeals and the Higher Judge for Staff Appeals were called upon to adjudicate these appeals and rendered a number of decisions and orders in these cases. In all cases, the Registrar's decisions were upheld.

The public versions of the decisions have been made available on the website of the KSC.

To this end, the Registrar adopted the **Specialist Chambers and Specialist Prosecutor's Office Staff Rules**, which govern staff members' employment at these institutions, including a staff appeals procedure. The President, in turn adopted the **Rules of Procedure for Staff Appeals**, which set forth in detail how the staff appeals process takes place.

## 2 | Activities of the President and the Judges

The Judges of the KSC are appointed to a Roster of International Judges (Roster) and exercise their judicial functions as necessary and only at the request of the President. In accordance with Article 26 of the Law on Specialist Chambers and Specialist Prosecutor's Office (Law), the Judges appointed to the Roster do not receive remuneration or other benefits by virtue of their appointment and they exercise their functions remotely insofar as possible.



*KSC Judges*

President Ekaterina Trendafilova is present at the seat of the KSC and is the only Judge who serves on a full-time basis in view of the responsibilities for the judicial administration of the KSC and for a number of other critical functions conferred on the President by the Law and the Rules.

In 2019, the President and the Judges were involved in the adoption of legal documents and discussed developments at the KSC, prepared for upcoming

judicial activities and exchanged on best practices and internal policies. One such important legal document is the **Practice Direction on Files and Filings before the Specialist Chambers**, which the Registrar adopted on 17 May 2019, upon coordination with the President and following consultation with the Judges. This Practice Direction regulates the manner in which documents are filed at the KSC.

# Judges on the Roster of International Judges



**Judge Ekaterina Trendafilova**  
President  
(Bulgaria)



**Judge Keith Raynor \***  
Vice-President  
(United Kingdom)



**Judge Vidar Stensland**  
Constitutional Judge  
(Norway)



**Judge Roland Dekkers**  
Constitutional Judge  
(Netherlands)



**Judge Ann Power-Forde \***  
Constitutional Judge  
(Ireland)



**Judge Antonio Balsamo**  
Constitutional Judge Reserve  
(Italy)



**Judge Charles L. Smith, III**  
(United States of America)



**Judge Christine van den Wyngaert**  
(Belgium)



**Judge Michèle Picard**  
(France)



**Judge Thomas Laker**  
(Germany)



**Judge Emilio Gatti**  
(Italy)



**Judge Michael Bohlander**  
(Germany)



**Judge Kai Ambos**  
(Germany)



**Judge Kenneth Roberts**  
(Canada)



**Judge Mappie Veldt-Foglia**  
(Netherlands)



**Judge Christoph Barthe**  
(Germany)



**Judge Vladimír Mikula**  
(Czech Republic)



**Judge Guénaél Mettraux**  
(Switzerland)



**Judge Nicolas Guillou**  
(France)



**Judge Andres Parmas \***  
(Estonia)

*since resigned \**

In accordance with Rule 10 of the Rules, which provides that Plenaries shall be held at least once every calendar year, the Judges met in **Plenary** at the temporary premises of the KSC in the Netherlands in March 2019. During the Plenary, the Judges received updates from the three Principals and discussed matters relevant to their work as Judges of the KSC.



*Plenary, March 2019*

The President designated two Judges from the Roster to sit on the **Rules Committee** for a duration of one year in accordance with Rule 7(1) of the Rules. The Rules Committee is convened and presided over by the President of the KSC.

In principle, the Rules Committee examines proposed amendments to the Rules only insofar as they have been **tested**, for example, during the course of the Specialist Prosecutor's investigations.

Thereafter, the Rules Committee provides a report setting forth their views on the proposed Rule amendments, which will be discussed by the Judges during the annual 2020 Plenary. Proposals for Rule amendments shall be adopted by the Plenary by absolute majority of the participating Judges in accordance with Rules 7(5) and 11 of the Rules.

On 28 and 29 October 2019, the Siracusa International Institute for Criminal Justice and Human Rights hosted the Judges of the KSC for a two-day **workshop** in Siracusa, Italy, during which the Judges exchanged views on matters related to their work and the efficient functioning of the KSC.



*Workshop Siracusa, October 2019*

### 3 | External Relations

Over the course of 2019, President Trendafilova has continued to ensure that members of the public as well as stakeholders are kept abreast of the activities of the KSC. To this end, the President met representatives of EU institutions, EU Member States, the Host State and Third Contributing States.



President Trendafilova

On 28 June 2019, the three Principals hosted the EU Political and Security Committee at the new premises in The Hague. President Trendafilova, alongside the Specialist Prosecutor and the Registrar, updated the Ambassadors on the work of the KSC and the SPO. The EU Member States reiterated their strong support for the work of the institutions, for which the Principals were grateful.

The President, together with the Specialist Prosecutor and the Registrar, updated EU Member States and Third Contributing States on the work of the institutions at the new premises of the KSC and the SPO on 10 December 2019. This was the third such briefing by the three Principals and was intended to ensure that members of the diplomatic community in The Hague are kept informed of the KSC's and the SPO's ongoing activities and current challenges in a transparent and efficient manner.

To further strengthen the KSC's relationship with other external stakeholders and with civil society, the President conducted meetings with members of the diplomatic, legal, journalistic and academic communities. The President further gave a number of interviews and served as the keynote speaker at a number of events, during which she touched upon the work and the mandate of the KSC.

*The fight against impunity, the fight to ensure that those responsible for any crime, whether organized crime or war crimes and crimes against humanity cannot be fought alone. It is a battle that must be waged at all levels of society; local, regional, and internationally, and it is a battle in which all of us have a stake. It is a battle that requires robust cooperation at all levels as well, including among States at the European level, as well internationally.*

President Trendafilova, Editorial, Tribute to Giovanni Falcone, April 2019

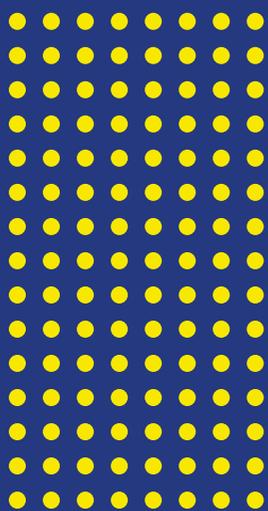




*EU Political and Security Committee visit, June 2019*

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# Registry



# Registry

The Registry, under the supervision of the Registrar, is responsible for the administration and servicing of the Kosovo Specialist Chambers (KSC) and all necessary and affiliated functions. In accordance with Article 34 of the Law on Specialist Chambers and Specialist Prosecutor's Office (Law), the Registrar may issue any necessary internal rules and instructions in this regard and is independent in the performance of her functions.

The Registry's judicial support functions include providing protection and support for witnesses, administering the Lists of Counsel, administering legal aid and victims' participation systems, translation and interpretation services, and court management. The administrative support functions, which the Registry provides to Chambers and the Specialist Prosecutor's Office (SPO), include budget, financing, procurement, information technology, facility management, human resources and security. Management of the KSC Detention Facility is also a function of the Registry.

In 2019, the Registry's functions transitioned from finalising the necessary services and the administrative framework of the KSC, to the implementation of the processes developed. These included among others the advancement of the establishment of the KSC Detention Facility, the implementation of the legal aid system and the roll out of the electronic court management system Legal Workflow to all users.

One of the major milestones reached in 2019 was the commencement of operations at the new premises in The Hague. This was the result of a refurbishment project that began in 2017 and that was completed through extensive collaboration throughout the institution, with the Host State and thanks to funding from the Norwegian government. With the move and refurbishment of the premises completed, the KSC now has a dedicated building fit for purpose.

The courtroom is the centre of the premises and all functions are designed around it to ensure a safe and secure environment conducive to the administration of fair and independent proceedings. Adjacent to it there are dedicated areas for witnesses, detained, public and the media. The press conference room is outfitted for simultaneous interpretation in the three languages of the court and next to it there is space for journalists to work. Sufficient office space for future defence teams is ensured at the premises from which they can work in furtherance of the proceedings.

On the administrative side in 2019, the Registry further increased its support to the SPO including in the areas of IT and language services, to ensure the Specialist Prosecutor could focus all his available resources on investigations.

In the course of 2019, the Registrar adopted a number of significant administrative acts. Most notably the Code of Conduct for Counsel and Prosecutors Before the KSC that was adopted after consultation with the President, the Specialist Prosecutor, Judges and Counsel representatives. Furthermore the Registrar adopted the Interim Legal Aid Regulations, Anti-Harassment Strategy, Standard Operation Procedure on the Disciplinary Process, as well as policies and instructions related to interpretation and translation services, and the Practice Direction on Files and Filings before the KSC.

Dr Fidelma Donlon is the Registrar of the KSC since her appointment in April 2016. She is the signatory to the grant agreement with the EU on behalf of the KSC and the SPO, and is responsible for the sound management of the funds allocated for their operations. Her responsibilities also entail external communications and diplomatic relations including negotiating cooperation agreements with States.

Throughout the year, there was extensive cooperation with the Host State with respect to the finalisation of the new premises as well as the detention services provided by the Host State to the KSC. Towards the end of the year, all pending details were finalised, allowing for the KSC to prepare for operations at its Detention Facility by early 2020.

Following the move to the new premises, the Registrar also reached out to the neighbourhood association where the building is located and also met with the municipal representative of the area.

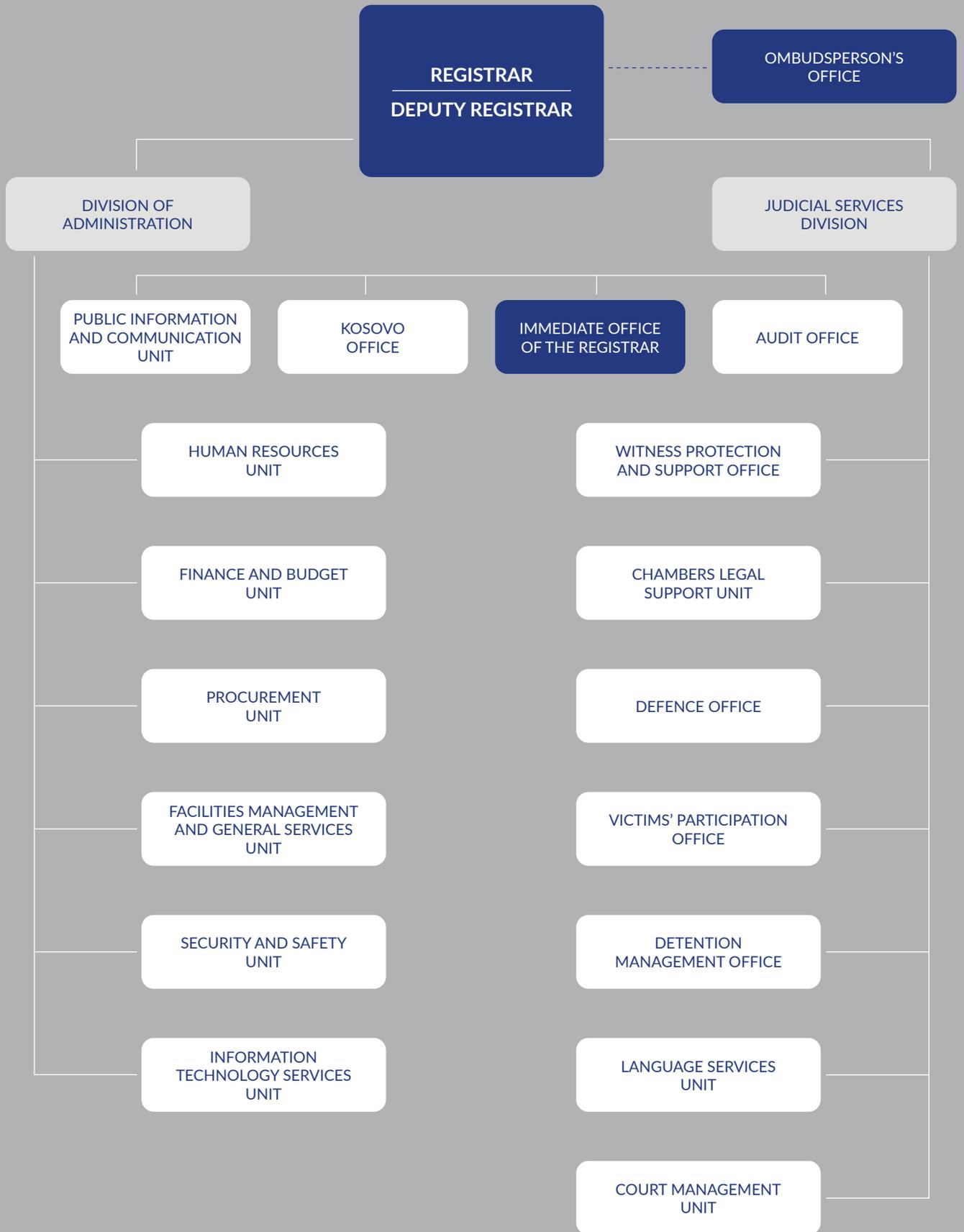
The Registrar met with a number of European Member State representatives on issues relating to the functioning of the court and to invite secondments of suitable staff for positions within the KSC. In addition to welcoming together with the President and the Specialist Prosecutor the EU

Committee of Civilian Aspects of Crisis Management in February, and the Ambassadors of the Political and Security Committee of the EU in June, the Registrar also met with the European Special Representative for Human Rights, Mr Eamon Gilmore, in November. In December, the three Principals provided updates on the latest developments to the EU Member States and Third Contributing States during the annual briefing in The Hague.

The Registrar spoke at a number of conferences and events during 2019 among others in Kyiv, Ukraine at the conference Accountability for Grave Crimes: The ICC and Complementarity Options for Ukraine, at the ICTJ briefing on the transitional justice process in Colombia, and at the IBA ICC & ICL organised Experts' Roundtable Seeing Justice Through: long-term issues in international justice.



*Registrar Fidelma Donlon*



# 1 | Immediate Office of the Registrar

The Immediate Office of the Registrar (IOR) supports the Registrar in her work and with the management of diplomatic relations with the Host State, EU Member States, Third Contributing States, and other States as well as international organisations. Information Governance (InfoGov) is also within the responsibility of the IOR.

The IOR provides legal advice on a variety of topics, including on the application of the Host State Agreement, internal documents such as the Staff Rules and the Code of Conduct for Staff Members, privileges and immunities, cooperation with States, and on the Registry's administrative governance regulations. The IOR also advises the Registrar in staff appeal proceedings before the Judge and Higher Judge for Staff Appeals. In 2019, 27 requests for review were filed by staff members with the Registrar. Fourteen of the decisions on review by the Registrar were appealed to the Judge for Staff Appeals who upheld the Registrar's findings. The Higher Judge for Staff Appeals confirmed the Decisions of the Judge for Staff Appeals in the seven appeals raised before him.

In 2019, the legal framework for the support of judicial proceedings and internal management regulations were further completed and strengthened. The latter particularly in the areas of anti-harassment and disciplinary proceedings, human resources management and finance.

The IOR also engaged to further the working arrangement between the KSC and the SPO and the European Union Agency for Law Enforcement Cooperation.

InfoGov provides strategic advice on efficient and secure information governance and its effective implementation across the institution. Through effective management of the information, records and archives of the KSC, the security of sensitive information is protected.

During 2019, InfoGov continued to support staff in implementing the Operational Instruction on Information Asset Protection, which contains instructions for handling classified information. It offered training to staff of both the KSC and the SPO.

Information security controls were improved by providing monthly information security briefings to new staff and interns, managing permission changes, providing encryption/decryption services and conducting risk assessments. InfoGov also worked closely with the Chambers Legal Support Unit and administrative units to prepare for the secure remote work of Judges and continued to provide library services and research support to the KSC and the SPO.

## 2 | Public Information and Communication Unit

The Public Information and Communication Unit (PICU) manages the public communications and outreach of the KSC.

Interest in the KSC and its work intensified in 2019, in both international and regional media and among populations in Kosovo and Serbia affected by the activities of the institution. Building on lessons learned and work with civil society in 2018 as well as feedback from its network of civil society partners in the region, the court held regular outreach meetings and events throughout Kosovo in 2019. With the aim of reaching beyond those who attended KSC events, PICU developed short informational leaflets and video products about the court's mandate and activities in the three official languages of the court – Albanian, Serbian and English. Work with the media in 2019 included roundtables with journalists in Kosovo and an increase in the number of media interviews by KSC representatives.

### Media relations

The PICU actively responded to media queries and carried out consultations and roundtables with journalists in Kosovo to provide relevant background information on the KSC with the aim of increasing balanced reporting about the court and facilitating accurate trial reporting in the future.

In December 2019, the KSC hosted a group of journalists from Southeastern Europe organised by the Balkan Investigative Reporting Network (BIRN). Future communications between journalists and the KSC once proceedings begin was also discussed.



*BIRN visit, December 2019*

## KSC Visitors Programme

Over 600 students and legal practitioners from around the world visited the KSC and the SPO in 2019. In September, the KSC participated in the annual The Hague International Open Day, allowing interested members of the public to visit the new premises and providing information about the institution and its activities.



*The Hague International Open Day, September 2019*



*Student visit, July 2019*

## 2.1 | KSC Outreach Programme

Reaching out to populations affected by the work of the KSC has been a continuous priority since the initial planning phases of the court, and the Outreach Programme is a central element of the Communication Strategy adopted by the Registrar. Having in mind that the KSC is relocated to the Netherlands, it is vitally important that people in Kosovo and the region have access to accurate and transparent information about the mandate and activities of the court, and that they have the opportunity to ask questions, express concerns, and engage in a dialogue to clarify misunderstandings or misconception.

With a generous two-year contribution from the Swiss government, the KSC was able to steadily increase its outreach activities in Kosovo in 2018 and 2019. In 2019, PICU and representatives of other KSC units continued to conduct approximately monthly outreach visits to Kosovo. During each visit, up to four events were held in different communities and with varied target groups. Outreach meetings are generally organised through partner NGOs in Kosovo with the KSC sending speakers, often including senior staff members such as the Head of the Victims' Participation Office, the Legal Advisor to the Ombudsperson and the Head of Public Information and Communication.



*Outreach Event at University of Prizren, Kosovo, November 2019*

## Outreach Highlights

- 53 events held in 17 different communities in Kosovo in 2018-2019, reaching about 1,300 participants, in majority and minority areas.
- Dialogue established and maintained with civil society, community leaders, students and youth, associations of families of the missing and killed, and the professional legal communities of Kosovo and Serbia.
- Surveyed participants at outreach events indicated a high level of satisfaction with information provided and replies given to questions and concerns.
- Phase II of Outreach Programme commenced in late 2019 with the objective of disseminating key messages of the court to the general public, intensifying cooperation with stakeholders in Kosovo and informing about pre-trial and trial stages of the proceedings.

During the first phase, the Outreach Programme focused on establishing a dialogue with civil society and building a Court Information Network (CIN) consisting of 15 NGOs from Kosovo and Serbia. Key messages concentrated on basic information about the institution. In late 2019, the KSC began phase II of the Outreach Programme, implementing valuable feedback from the CIN. Outreach meetings moved from presentations with questions and answers to moderated discussions that could better respond to the concerns and needs of the relevant audience and the inclusion of media coverage of outreach activities was intensified. PICU also produced a video on the Outreach Programme that can be viewed on the KSC website and Youtube channel, as well as an extended interview with KSC staff produced in cooperation with a partner NGO during an outreach visit to Kosovo.



## Court Information Network

In July 2019, the KSC invited for the second time its Court Information Network (CIN) consisting of 15 NGOs from Kosovo and Serbia to its premises in The Hague. During the workshop, NGO partners took stock of activities and made suggestions for the future. While concluding that a solid basis had been built in regards to establishing a dialogue with civil society in Kosovo and encouraging active participation at events, the partners recommended increased engagement with media and increased presence on social media.

As part of the workshop, the KSC's information products were reviewed by the participants. Their advice to use simpler and less technical language was taken on board in the production of new information material developed in the latter part of 2019 on pre-trial proceedings, and the Ombudsperson.



*CIN meeting, July 2019*



KOSOVO SPECIALIST CHAMBERS  
DHOENIT E SPECIALIZUARA TE KOSOVES  
SPECIJALIZOVANA VECA KOSOVA

PROSECUTOR GENERAL  
OF THE KOSOVO SPECIALIST CHAMBERS  
PROSECUTOR GENERAL  
OF THE KOSOVO SPECIALIST CHAMBERS  
PROSECUTOR GENERAL  
OF THE KOSOVO SPECIALIST CHAMBERS



*Televised interview with KSC representatives in Kosovo, December 2019*

## Selected Outreach Events

- Presentation by the Head of the Victims' Participation Office and the Head of the Defence Office to members of the Serbian Bar Association – Belgrade, January 2019
- Roundtable with lawyers and civil society organisations, organised in cooperation with Advocacy Center for Democratic Culture – Mitrovicë/Mitrovica North, February 2019
- Youth workshop with high school and university students from Lipanj, organised in cooperation with the Youth Initiative for Human Rights – Prishtinë/Priština, February 2019
- Lecture with law students, organised in cooperation with the Humanitarian Law Centre Kosovo – Fushë Kosovë/Kosovsko Polje, April 2019
- Roundtable with associations of missing persons, associations of internally displaced persons and minority representatives, organised in cooperation with NGO AKTIV – Shtërpçë/Štrpce, June 2019
- Second meeting of the Court Information Network – The Hague, July 2019
- Roundtable with minority representatives and municipal officials, in cooperation with the European Centre for Minority Issues Kosovo – Prizren, August 2019
- Youth workshop with high school students, organised in cooperation with the Youth Initiative for Human Rights – Kaçanik/Kaçanik, September 2019
- Roundtable with journalists, organised in cooperation with the Humanitarian Law Centre Kosovo. – Prishtinë/Priština, October 2019
- Televised interview with representatives of the KSC discussing the mandate and work of the KSC, the Ombudsperson's Office, the system of victims' participation and outreach – Mitrovicë/Mitrovica North, December 2019

### 3 | Audit Office

The Internal Auditor contributes to the institutional governance and accountability of the KSC and the SPO by conducting audits on which she reports to the Registrar. In her work, the Auditor adheres to international professional standards of internal auditing and to the EU Financial Regulations, and advises on measures to improve governance.

During 2019, the Internal Auditor conducted six audits in accordance with the internal audit plan.

The focus of these audits was expenditure, contract management, emoluments, the provident fund, and the management of legal aid. In addition, six follow-up audits were conducted. Following the adoption of the “Anti-Fraud Strategy until June 2020”, the Internal Auditor organised fraud prevention trainings for the staff.

## 4 | Office of the Ombudsperson

The Office of the Ombudsperson of the Kosovo Specialist Chambers (KSC), though placed within the Registry, acts independently to monitor, defend and protect the fundamental rights and freedoms of persons interacting with the KSC and the Specialist Prosecutor's Office (SPO). The establishment of the Office of the Ombudsperson within the structure of the KSC and the SPO is distinctive in that it provides an additional layer of human rights protection for persons interacting with these institutions.



*Ombudsperson Pietro Spera*

The Ombudsperson of the KSC is Pietro Spera, an Italian Judge, and he was appointed to the role in May 2018.

As part of its function, the Office of the Ombudsperson operates a robust Complaints Procedure through which individuals who interact with the KSC or the SPO may raise complaints of alleged violations of their fundamental rights by the institutions. Once a complaint is received, the Ombudsperson will evaluate the complaint and, where appropriate, conduct inquiries into any alleged violations. Following the completion of an inquiry, the Ombudsperson will issue a final report with recommendations to the KSC President or the Specialist Prosecutor, where appropriate.

In 2019, the Ombudsperson received eight complaints. All of these complaints have been finalised by the Ombudsperson. Of the eight cases dealt with, six were deemed inadmissible on the basis that it had not been argued or demonstrated by the complainants in these cases that either the KSC or the SPO were involved in any capacity with the matters complained of. The other two cases were resolved through mediation to the satisfaction of the parties concerned.

During the year, the Ombudsperson's Office conducted a number of visits to Kosovo and the wider region and engaged in outreach activities which were designed to inform the public about the role and functions of the Ombudsperson of the KSC. Included in these outreach activities were engagement with civil society, NGOs and university students as well participating in TV interviews.

As part of his monitoring function, the Ombudsperson continued to provide advice to the KSC and the SPO with the aim of ensuring strict compliance with the highest human rights standards.

## 5 | Judicial Services Division

The Judicial Services Division provides legal and operational support to the KSC and the SPO through the offices and units that comprise the Division. These are the Court Management Unit, the Language Services Unit, the Defence Office, the Victims' Participation Office, the Witness Protection and Support Office, and the Detention Management Unit. The Chambers Legal Support Unit also sits within this Division.

In anticipation of future proceedings, the focus of the Division throughout 2019 has been to consolidate upon the significant work carried out

since the establishment of the KSC to ensure that the highest possible level of professional services are provided. This has included work towards finalising the legal and administrative framework regulating the Division's work and ensuring that the necessary human and technical resources are in place. Moreover, with two Constitutional Court Panel hearings held in 2019 as well as additional judicial activity related to the legal aid scheme and staff appeals, important elements of the Division's support to the KSC were successfully put into action in 2019.

## 5.1 | Court Management Unit

The Court Management Unit (CMU) manages the KSC's judicial records, including all filings and physical evidence. In the first six months of the year, the legal framework governing the main responsibilities of the Unit was set, with the issuance of, most notably, the Practice Directions on Files and Filings, and the Registry Instruction on Requesting Translation, Interpretation and Verification Services. Significantly, the start of judicial activities linked to the investigations, such as referrals to the Constitutional Court, legal aid issues and staff appeals, resulted in an increase in filings and the first hearings at the KSC.

### Launch of Legal Workflow

Following the issuance of two additional Registry instructions, the electronic court management system, Legal Workflow, was introduced across the institution. This system allows parties of the proceedings to manage case records electronically as well as view, analyse and disclose all evidence within one integrated system. Training sessions were organised for all new users of the system. Throughout 2019, several new features were introduced, aimed at increasing the efficiency and ease of retrieval of procedural information for all Legal Workflow users.

For example, a new module allows the Victim's Participation Office to complete all of their work processes within the system, while changes to the case analysis and categorisation tools make it easier for users to get a clear overview of their analysis of the material in each case.

Following the move in June 2019 to the new premises, the new courtroom was tested extensively over a period of two weeks. In total, around 60 people from across the institution assisted in this process. This work culminated in a mock trial session, with the participation of the SPO, Defence Office, Victims' Participation Office, Chambers Legal Support Unit, the Security and Safety Unit, and the Witness Protection and Support Office, as well as several volunteers from across the institution acting as witnesses and members of the general public.

The CMU supported and coordinated the conduct of two hearings of the Specialist Chamber of the Constitutional Court and one Staff Appeals hearing. In addition, the CMU also established an evidence vault, and worked towards the finalisation of policies and procedures governing the provision of support by the Registry in several areas including site visits, depositions and testimony through video-conference technology.

#### Statistics on Files before the Kosovo Specialist Chambers (including Staff Appeals files):

- 276 filings
- 17 Basic Documents, including their translations into the official languages
- 9 transcripts
- 526 translation requests

## 5.2 | Language Services Unit

The Language Services Unit (LSU) provides interpretation and translation in the three official languages of the KSC. In 2019, the LSU continued to deliver its services both at the seat of the court, as well as during missions to Kosovo and elsewhere. The Unit produced over 3,500 pages of translation in Albanian, Serbian, and English, as well as in other languages required to facilitate the smooth and effective operation of the KSC.

Of the total pages translated, 1,100 were official court translation in response to over 250 requests received. These included filings, internal regulations, such as the Interim Legal Aid Regulations, correspondence, and public information material. The level of support provided by the LSU to the SPO increased significantly during the year. The majority of all translation, over 2,500 pages, representing 620 documents, were produced for the SPO.

In order to provide clear guidelines on the scope and prioritisation of language services, as well as to streamline the process for requesting LSU services, two documents were adopted by the Registrar in 2019: the Registry Policy on Translation and Interpretation; and the Registry Instruction on Requesting Translation, Interpretation and Verification Services.

Shortly after moving into the new premises, the LSU staff assisted with the extensive technical testing of the courtroom and media room, providing evaluation of the interpretation booth facilities and equipment.

During 2019, the LSU participated in the testing and purchase of neural machine translation software for users across the institutions. This software enables users to have near-instantaneous machine translation of a document.

As part of its aim to create a roster of top freelance language professionals needed to augment the full-time staff of the Unit, the LSU launched in early 2019 two major tenders, for translation and revision services in Albanian, Serbian and English, as well as for court interpreters.

The LSU produced in 2019 over 3,500 pages of translation.

## 5.3 | Defence Office

The Defence Office (DO) administers a List of Counsel eligible to practice before the KSC as Specialist (Defence) Counsel. It also administers a system of legal aid for representation of indigent or partially indigent suspects and accused. The DO is neutral, and plays no role in the actual conduct of cases before the KSC. Keeping pace with the work of the Specialist Prosecutor, the legal aid system, including indigence testing, was put directly into practice in 2019.

### Legal Aid Regulations

Over the course of 2019, the DO conducted several legal aid inquiries on persons who had requested legal aid because they were summonsed by the SPO to appear for an interview.

These inquiries were processed under the Interim Legal Aid Regulations, adopted in 2019. The inquiries resulted in robust indigence testing ensuring sound financial management by the KSC. As a result, the Registrar determined that a number of persons qualified as indigent, and provided them with legal aid by assigning Counsel to them. Some applicants were denied legal aid on the grounds that the inquiries conducted by the DO revealed that they had sufficient means to secure legal representation for themselves.

In March 2019, the Registrar, upon approval by the President and after consultation with the Specialist Prosecutor, Judges and List Counsel, adopted the Code of Professional Conduct for Counsel and Prosecutors Before the Specialist Chambers. This document regulates standards of professional conduct in judicial proceedings before the KSC and ensures the integrity of the proceedings, as well as the fair and proper administration of justice. It also regulates the disciplinary regime in case of any allegations of misconduct.

### Establishment of the Independent Representative Body

A working group consisting of Counsel from the List of Specialist Counsel drafted with the support of the KSC, a draft Constitution for the Independent Representative Body of Counsel (IRB), as provided for in the legal framework of the KSC. The working group met in The Hague in late October and early November to finalise the Constitution, which was adopted in December by List Counsel in an online voting process. With the adoption of the Constitution, the IRB is formally established. It will allow for consultation and cooperation between the KSC and Counsel on changes to the legal framework of the KSC.

After the adoption of the Directive on Counsel in 2017, which sets out the requirements for Counsel to be admitted to the Lists of Counsel, a total of 167 lawyers from Kosovo and elsewhere have been admitted as Specialist and/or Victims' Counsel eligible to practice before the KSC.

The call for applications to the Lists of Counsel is open-ended. The DO and the VPO continued throughout 2019 to assess new applications.

## 5.4 | Victims' Participation Office

The Victims' Participation Office (VPO) administers the system of Victims' Participation, establishes a List of Victims' Counsel who are entitled to appear before the KSC and administers a system of payment for legal representation of participating victims.

Pursuant to the Law, victims may participate in one or more groups and exercise their rights through assigned Counsel.

During 2019, the VPO held information sessions with representatives of potential victims'

communities in order to raise awareness about the KSC, the role of the Office, the rights of participating victims, and the system of victims' participation. The VPO met with representatives of Roma, Ashkali, Egyptian communities and other minorities, as well with the Serbian communities and Orthodox Church in Kosovo. The VPO met with members of all four branches of the 'Association of Families of Kidnapped and Missing Persons in Kosovo' and informed them about the KSC and the system of victims' participation.

### Who is a participating victim before the KSC?

A person who has suffered physical, material, or mental harm as a direct result of a crime alleged in an indictment confirmed by the Pre-Trial Judge may receive the procedural status as a participating victim at the Kosovo Specialist Chambers.

When an indictment is confirmed and becomes public, persons may apply to the Victims' Participation Office in order to be admitted as a victim by the Pre-Trial Judge or Trial Panel.

## 5.5 | Witness Protection and Support Office

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The Witness Protection and Support Office (WPSO), is responsible for the provision of protection and support to witnesses, within the KSC's legal framework. In 2019 it set up a strong framework to implement security arrangements and protection measures.

The WPSO has experienced and specialised staff, and has the full capacity to provide protection and support to witnesses in line with international best practice and the requirements envisaged in the Law and the Rules of Procedure and Evidence before the KSC.

In 2019, the WPSO has developed standardised and systematic practices to increase operational readiness and cooperation with national and

international authorities, to manage witness information and meet operational requirements, and to facilitate the entry of witnesses and victims participating in the proceedings to the Netherlands.

The move into the KSC's new premises in June 2019 allowed for the establishment of a secure waiting area adjacent to the courtroom for the exclusive use of witnesses. The waiting rooms are fully equipped to provide a comfortable and private waiting area for witnesses.

The support functions of the WPSO were reinforced by ensuring that services are in place for witnesses who may be traumatised and vulnerable, taking their gender, culture and other special needs into account.

## 5.6 | Detention Management Unit

In accordance with Article 34(12) of the Law, the Registrar is responsible for managing and administering the detention function and facility of the KSC in line with international standards.

The Detention Management Unit (DMU) manages and administers the KSC Detention Facility and ensures that anyone detained in KSC custody will be held in accordance with the highest international standards, best practices and applicable law. A key task of the DMU is to ensure that the detainees under its custody are able to participate in proceedings before the KSC safely and securely.

### Detention Function

In 2019, the Detention Rules were prepared. The Rules regulate issues such as detainee visits and communications, complaints, discipline and also

ensuring full access of detainees to Counsel. They are drafted in adherence with applicable international standards, including in particular the European Prison Rules and the United Nations Standard Minimum Rules for the Treatment of Prisoners, more commonly referred to as the Nelson Mandela Rules.

In October, an agreement was reached with the Dutch Prison Service and the Dutch Ministry of Foreign Affairs on the set-up of the Detention Facility. By the end of 2019, the selection of detention officers was completed.

As stipulated in the Law and the Rules of Procedure and Evidence, the International Committee of the Red Cross (ICRC) and the Ombudsperson of the KSC have the right to inspect the facility. In January 2019, the agreement between the KSC and the ICRC on visits to detainees entered into force.

## 6 | Division of Administration

The Division of Administration provides administrative and technical support to the KSC and the SPO through the units that comprise the Division. These are the Human Resources Unit, the Information Technology Services Unit, the Facilities Management and General Services Unit, the Security and Safety Unit, the Finance and Budget Unit and the Procurement Unit.

In 2019, ensuring the commencement of operations at the new premises was a focus of the Division as

well as the continued recruitment of staff to meet the operational needs of the institution. Several units worked on the preparation of the premises to ensure its suitability for operations in accordance with the mandates of the KSC and the SPO, and the secure relocation of staff and operations. While this work culminated in the move in June 2019, fine-tuning and finalisation of all aspects of the premises continued throughout the year with a specific focus on the courtroom.

### 6.1 | Human Resources Unit

The Human Resources Unit (HRU) provides support, advice and services related to human resources for all personnel of the KSC and the SPO. It manages the recruitment and selection processes, the administration of salaries, health insurance, the provident fund and other benefits, staff welfare and training, as well as the performance evaluation process.

Based on the authority of the Registrar and due to considerations of efficiently managing staff resources and assigning staff according to workload requirements, a number of temporary assignments and organisational changes were approved in 2019. The selection of staff continued to be based on operational needs and took into account gender balance and regional distribution. Over the course of 2019, 52 new staff members joined the KSC and the SPO leading to an increase in staff from 180 on 31 December 2018, to 203 on 31 December 2019.

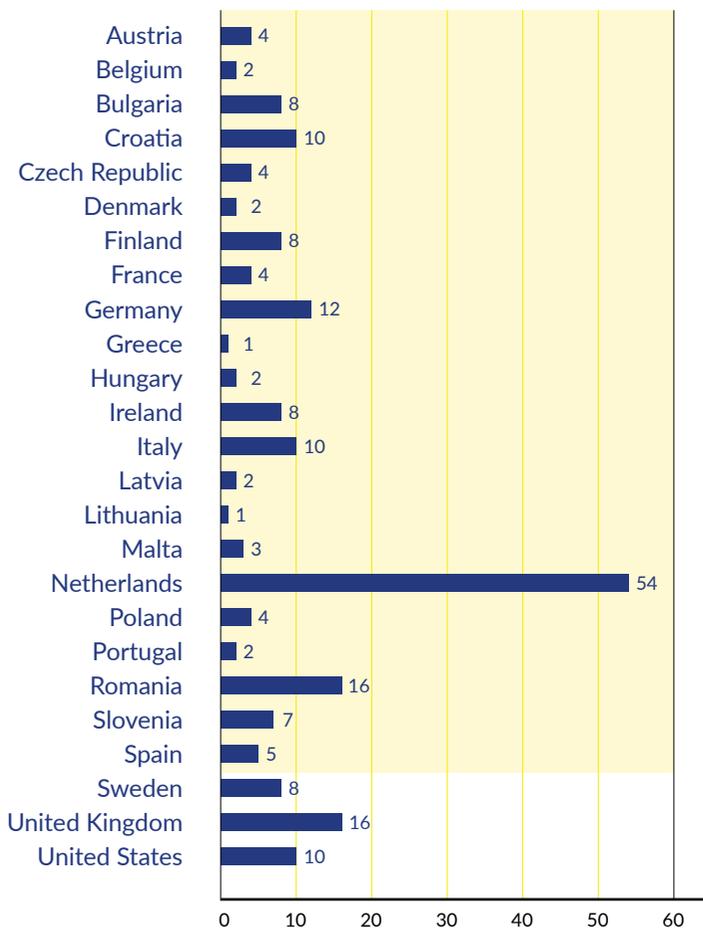
The KSC has a robust internship programme, which is run by the HRU and the Internship Coordinator in the Immediate Office of the Registrar and provides interns with relevant work experience and also offers workshops on useful topics in order to further their careers. These included presentations relevant to the mandate of the KSC, gender mainstreaming, intercultural competence, and career development. Over the course of 2019, 18 interns were offered places within the KSC and the SPO.

The KSC and the SPO engaged with EU Member States and Third Contributing States at the diplomatic level and actively encouraged the secondment of qualified persons. Over the course of 2019, the number of seconded staff ranged from 13 to 15 staff members, and on 31 December 2019 totalled 14 seconded staff members from eight different EU Member States (Bulgaria, Finland, Germany, Hungary, Italy, Ireland, Malta and the United Kingdom) and one staff member from a Third Contributing State (USA).

This reflected a steady increase not only in the number of seconded staff but also in the number of seconding States.

In 2019, the HRU developed and implemented revised administrative directives and standard operating procedures on such topics as performance appraisal and redeployment. Following the adoption of the Provident Fund Charter, the HRU, together with internal stakeholders, organised the first annual general meeting on the Provident Fund.

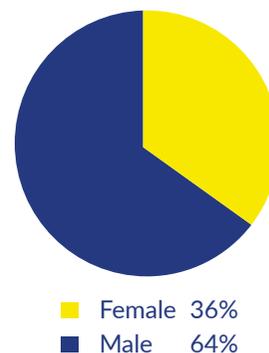
### National Balance of KSC and SPO staff 31 December 2019



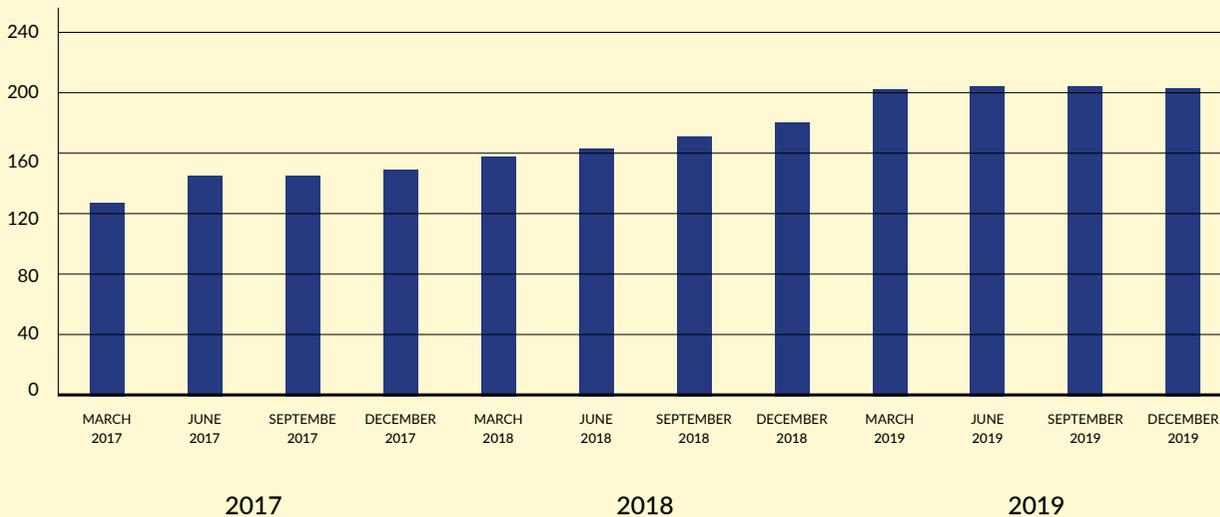
The HRU further organised more than 20 training activities at the court in 2019 on management and leadership, performance management and goal setting, and offered Albanian and Serbian language training. Through induction briefings, new staff members, interns and contractors were briefed on human resources-related matters, on the anti-fraud strategy, as well as the court's unwavering commitment to ensuring an inclusive workplace.

To continue supporting staff well-being, counselling services were available to staff throughout the year and the staff welfare programme was launched through a series of lunch talks, covering topics related to well-being and health issues.

### Gender Balance of KSC and SPO staff 31 December 2019



## Total KSC and SPO staff



## 6.2 | Information Technology Services Unit

The Information Technology Services Unit (ITSU) provides secure IT and audio-visual services to support the work of the KSC. In 2019, the Unit furthered the development and strengthening of the IT-infrastructure and software systems in order to support current and future judicial activities.

The ITSU was heavily involved in the preparation of the new premises of the KSC and the SPO. By June 2019, the Unit implemented the final IT-infrastructure and ensured a smooth transition into the new premises. Applications supporting the judicial processes have been integrated and continuous delivery of services assured. The ITSU continued to work closely with the Host State on the configuration and capabilities of the audio-visual systems in the KSC courtroom to ensure that the implemented technology will seamlessly support all envisaged courtroom activities.

Over the course of 2019, the ITSU moved from the phase of building up infrastructure to concentrating on continuous operations, focusing on strengthening its IT delivery processes and the quality controls necessary to ensure 24/7 system readiness. Moreover, the Unit ensured that the KSC Detention Facility has been set up with connections, hardware and the necessary customised applications, including audio-visual equipment to facilitate participation in court sessions remotely.

In 2019, the ITSU extended the KSC network and its services to cover the SPO as well. SPO staff can now access Legal Workflow, mail and folders from within the SPO premises.

## 6.3 | Facilities Management and General Services Unit

The Facilities Management and General Services Unit (FMGSU) is responsible for the efficient and effective delivery of support services to the KSC and the SPO. This includes real-estate management with the Host State, building maintenance and construction, and workplace planning with the objective of maintaining a quality work environment for staff and visitors to the organisation. The Unit is also responsible for services such as the provision of catering, hospitality and cleaning. It further manages mail and pouch services, transport, travel and logistics and works closely with the Security and Safety Unit and Protocol in this regard.

The KSC and the SPO move to the new premises in 2019 was the culmination of extensive planning, preparation and cooperation with the Host State over the past years. The FMGSU coordinated with the Host State to ensure the delivery of a fit for purpose building.

The transition to the new premises in June was achieved without any un-planned disruption to the operations of the KSC and the SPO, and the institutions were able to function seamlessly from day one.

Following the move, the temporary premises that had housed the court were delivered back to the Host State.

Once at the new premises, the Unit continued to test and refine the services provided at the new premises with a particular focus on the courtroom. This work mainly entailed further configuration of the courtroom systems and has not prevented the use of the courtroom. The FMGSU continues to work with the Host State and its partners to ensure that the building environmental management systems and building fabric run to optimum efficiency.

A significant achievement in 2019 was the successful completion of the transition project in which the FMGSU managed the move of the KSC and the SPO operations and systems from the temporary premises to the permanent premises at Raamweg 47 in The Hague.

## 6.4 | Security and Safety Unit

In 2019, the Security and Safety Unit (SSU) primarily engaged in the institutional relocation and operationalisation of the new premises. Effective planning and coordination with the competent authorities of the Host State ensured that the move of the KSC and the SPO from the temporary to the new premises in June was both securely and efficiently executed. Prior to the move, the Unit assumed responsibility of the premises in mid-May after a period of vocational training of a new contingent of security staff comprised of both seconded and contracted persons from diverse EU Member States. The Unit delivers 24/7 services at the new premises.

Compliance with applicable Host State safety legislation and building licencing was achieved through an extensive facility familiarisation programme for all staff and contractors and with the

approval by the Host State of emergency planning documents.

During the year, the SSU further provided support to external activities beyond the borders of the Host State and strengthened existing governance of risks relating to travel. The focus remained on ensuring a secure and safe working environment and the continued promotion of a fit for task security culture.

The SSU continues to develop and maintain effective collaboration with national and international partners contributing to effective threat monitoring, assessment, and specialist support to safeguard KSC and SPO core operations.

## 6.5 | Finance and Budget Unit

The KSC continued to manage funds received from EU Member States over the course of 2019 in line with the approved budget totalling EUR 86,250,000 for the period 15 June 2018 to 14 June 2020. This is the third budgetary period and the first time the European Council approved a two-year budget for the implementation of the mandates of the KSC and the SPO.

In addition to the funds granted by the EU, the KSC managed funds totalling NOK 80,000,000 from the Norwegian government, to support the relocation of proceedings to the new premises, and from the Swiss government, totalling EUR 181,200, for KSC outreach activities in 2018 and 2019.

In 2019, the Finance and Budget Unit (FBU) continued to support the Registrar in the financial management and implementation of the funds allocated to the KSC, in accordance with EU and internal financial rules and regulations. Under the direction of the Registrar, the FBU worked towards a lean and self-standing administration, by putting into place an array of systems, rules and procedures that ensure the proper use and the sound financial management of funds. In this regard, more than ten Administrative Directives were updated or issued by the Registrar during 2019, covering key aspects of the financial circuits of the KSC and the SPO.

Independent expenditure verifications of the financial accounts are performed regularly by an external audit firm in accordance with the Grant Agreement. In addition, and as an organisation financed by the EU, the KSC and the SPO are also indirectly audited by the European Court of Auditors and the Internal Audit Services of the European Commission. Over the course of 2019, all audits and expenditure verifications conducted identified no findings.

At the end of each budgetary reporting period, the closed accounts and expenditure verification reports are submitted to the Service for Foreign Policy

Instrument of the European Commission. In 2019, the first Grant Agreement signed between the Registrar and the European Commission for the period from 15 June 2016 to 14 June 2017 was successfully closed without any ineligibility being identified.

Endowed with robust financial rules and procedures, expenditure verifications to the KSC continue to identify no financial findings and the KSC has closed its first Grant Agreement with the EU without identifying any ineligibility.

## 6.6 | Procurement Unit

The Procurement Unit (PU) is responsible for all KSC and SPO procurement and the contracting of supplies, services and works. In addition, the Unit ensures that the institutions comply with EU regulations for its procurement actions. It also supports the institutions with contract administration and monitoring, as well as delivering regular in-house trainings to staff and budget holders regarding the procurement process and contract management responsibilities.

In 2019, the PU managed extensive procurement activities that were to a great degree related to the move to the new premises. Out of the nearly 200 procurement actions undertaken in 2019, a total of 135 resulted in contract awards with a combined value of about EUR 6.4 million.

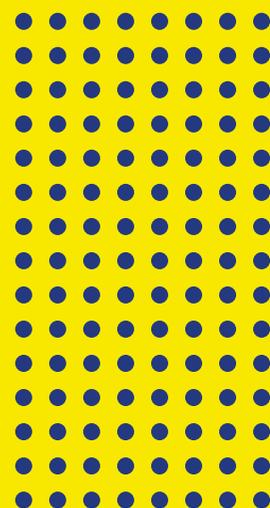
A significant number of the 135 contracts entered into in 2019 relate to the provision of consultancy services in different areas of expertise.

Throughout the year, the Unit delivered in-house training sessions to develop the knowledge and skills of KSC and SPO staff on procurement and contract management topics.

In 2019, the PU engaged in multiple activities in support of the successful move to the new premises and in preparation for intensified judicial proceedings.



# Specialist Prosecutor's Office



# Foreword

In the course of 2019, my staff have taken the investigation of the Specialist Prosecutor's Office (SPO) to the point where charging decisions can begin to be made. Our progress has been made possible only through the unwavering dedication and tireless commitment of SPO staff to our mission throughout the year.



*Jack Smith, Specialist Prosecutor*

All charging decisions will be based solely on the law and the facts. The SPO is an independent institution. It does not make political calculations and conducts its work objectively, professionally and impartially.

The sole focus of the SPO's work is accountability – individual accountability for crimes proven beyond reasonable doubt. The investigation I am leading is not a challenge to any particular historical narrative, but seeks only to hold individuals accountable for their actions during the period of the SPO's mandate.

I remain grateful to the European Union (EU), its Member States and Third Contributing States for making available the resources and support necessary to make this investigation possible. I am also beholden to our host state, the Netherlands, for the premises we moved into this year. And I am thankful for the efforts of colleagues in the Kosovo Specialist Chambers (KSC), in particular President Ekaterina Trendafilova and Registrar Fidelma Donlon, to create the court structures and procedures, which make our work possible.

I intend to repay the trust that has been placed in my team and myself to do justice in this important endeavour.

**Jack Smith**  
*Specialist Prosecutor*

*February 2020*

# Investigation

In the course of 2019, SPO prosecutors and investigators interviewed victims, witnesses and suspects in Kosovo, the wider region, the Netherlands and third countries.

In addition to collecting testimony, the SPO has also been reviewing evidence gathered since the beginning of the investigation to assess its value and relevance, as well as to ensure it will be admissible in court.

One manifestation of the investigation has been the issuing of summonses. This prosecutorial tool has also contributed to an increase of the SPO's visibility, both in Kosovo and the wider region.

The SPO has the authority, *inter alia*, to request the presence of and to question suspects, victims and

witnesses, collect and examine information and evidence, and take decisions on the initiation, and the continuation or termination of criminal proceedings. It seeks to hold individuals accountable for the crimes covered by its mandate.

SPO staff – which includes prosecutors, investigators, analysts, security professionals, witness-protection specialists and support workers – are all internationals.

Assistance from both EU Member States and the wider international community is essential to the investigation. The SPO has sought and continues to seek assistance from such authorities and institutions, domestic and international, to advance the investigation.



## SPO history

The Specialist Prosecutor's Office (SPO) was established on 1 September 2016 in The Hague, inheriting the staff and mandate of the Special Investigative Task Force (SITF).

The SITF had been formed in 2011 in Brussels as a unit within the European Union Rule of Law Mission in Kosovo to investigate allegations made in the Parliamentary Assembly of the Council of Europe's Report "Inhuman treatment of people and illicit trafficking in human organs in Kosovo" (CoE Report), that had been published at the beginning of 2011.

The SITF investigation was headed by Clint Williamson, a Prosecutor from the United States (US) and former US Ambassador-at-Large for War Crimes Issues.

The SPO draws its mandate from Amendment No. 24 of the Constitution of Kosovo and from the Law on Specialist Chambers and Specialist Prosecutor's Office (Law), adopted by the Kosovo Assembly in

August 2015, by which both the SPO and the KSC were created. This legislation grants the SPO authority to investigate and prosecute crimes committed in relation to conduct identified in the CoE Report and investigated by the SITF.

The crimes that fall within the jurisdiction of the SPO are those commenced or committed in Kosovo, or committed by or against persons of Kosovo/Federal Republic of Yugoslavia citizenship, in the three-year period between 1 January 1998 and 31 December 2000. It is also able to investigate and prosecute matters relating to obstruction of justice.

The SPO is an independent institution, with its independence guaranteed by the Law creating it.

In this way, the SPO is obliged to act independently from the KSC and all other prosecutors in Kosovo. The Law also instructs the Specialist Prosecutor and SPO staff not to seek or receive instructions from any government or other source.

## Indictment

**In accordance with Article 38(4) of the Law and pursuant to Rule 86 of the Rules of Procedure and Evidence, the Specialist Prosecutor must be satisfied that "there is a well-grounded suspicion that a suspect committed or participated in the commission of a crime within the jurisdiction of the Specialist Chambers" before an indictment can be filed.**

Once the Specialist Prosecutor files an indictment with the Specialist Chambers, the KSC President assigns a Pre-Trial Judge to review it. The Pre-Trial Judge may confirm the indictment, if satisfied that a

well-grounded suspicion in relation to the charges has been established. The Pre-Trial Judge also has the power to rule on any preliminary motions, including challenges to the indictment and jurisdiction, as well as to issue any order or decision to ensure the proper and expeditious preparation of the case for trial.

After the initial hearing and once preliminary issues have been resolved, including possible challenges against the jurisdiction of the KSC, the Pre-Trial Judge determines that the case is ready for trial.

## Diplomatic briefings

In the course of 2019, Specialist Prosecutor Jack Smith held a series of diplomatic briefings to update EU Member States and Third Contributing States on the SPO's work, obstacles the SPO was facing and ways in which the international community could help the SPO expedite its investigation.

Specialist Prosecutor Smith addressed the Political and Security Committee of the European Union both in The Hague in June, together with KSC President

Ekaterina Trendafilova and Registrar Fidelma Donlon, and alone in Brussels in October. And he addressed diplomats representing both EU Member States and Third Contributing States in December in The Hague, together with President Trendafilova and Registrar Donlon.

The support of the wider international community has been and remains critical to SPO operations.



*Specialist Prosecutor at annual briefing, December 2019*

# Staffing

The SPO has an allocation of 78 employees, including prosecutors, legal advisers, investigators, analysts, witness-security specialists and support staff. At the end of 2019, 58 of these posts – 74 % – were filled, with 19 nationalities represented from both EU

Member States and Third Contributing States. Of SPO staff, 52 were directly employed and six were seconded. Thirteen vacant positions had been advertised and the process of filling them was ongoing in December 2019.

## Senior Prosecution Staff

**Specialist Prosecutor Jack Smith heads a team of experienced prosecutors, most of whom, like the Specialist Prosecutor himself, have prosecutorial experience in both their domestic jurisdictions and international tribunals.**

The Deputy Specialist Prosecutor is Kwai-Hong Ip, who has served in that role since the creation of the SPO and before that, from 2012, as Deputy Lead Prosecutor of the SITF. Between 2010 and 2012, Mr Ip served as a prosecution trial counsel at the Special Tribunal for Lebanon in The Hague. And between 2005 and 2009, Mr Ip served as an international prosecutor in the Prosecutor's Office of Bosnia and Herzegovina, conducting the investigation and prosecution of those responsible for the Srebrenica Genocide in July 1995. In this capacity, he successfully prosecuted the first genocide case in Bosnia and Herzegovina and three other Srebrenica cases.

Earlier in his career, Mr Ip served as a legal officer in the United Nations (UN) Mission in Kosovo, as assistant legal adviser with the NATO-led Kosovo Force, a military prosecutor in the Royal Air Force (RAF) and as an RAF helicopter mission commander. Earlier this year, Mr Ip, a national of the United Kingdom, was appointed as an Officer of the Order of the British Empire for services to international criminal justice.

The SPO's Senior Prosecutor is Alan Tieger, a US national with extensive experience both from the US and the International Criminal Tribunal for the former Yugoslavia (ICTY). Mr Tieger was involved in both the ICTY's first trial, of Duško Tadić, and its final trial, of Ratko Mladić. He also served as senior prosecutor in the trials of Ante Gotovina, Radovan Karadžić, Momcilo Krajišnik, Darko Mrđa and Biljana Plavšić.

Mr Tieger served as a federal prosecutor in the Civil Rights Division Criminal Section of the US Department of Justice from 1987 to 1994, prosecuting cases of racial violence and police brutality nationwide, including the Rodney King case.



*Kwai-Hong Ip, Deputy Specialist Prosecutor*



*Alan Tieger, Senior Prosecutor*

He has a BA degree from the University of California at Los Angeles and a JD degree from Santa Clara University.

The SPO's Head of Investigations is Alex Whiting, a prosecutor of French and US nationality, with extensive experience of both domestic and international prosecutorial work, including spells at both the International Criminal Court (ICC) and the ICTY, as well as a distinguished academic career.

Mr Whiting, a graduate of Yale College and Yale Law School, came to the SPO from Harvard Law School, where he had been a professor of practice since 2013. At the ICC between 2010 and 2013, Mr Whiting was in the Office of the Prosecutor at the ICC where he served first as Investigations Coordinator, overseeing all investigations, and then as Prosecutions Coordinator, overseeing all prosecutions.

At the ICTY, between 2002 and 2007, Mr Whiting was lead prosecutor in the trial of Fatmir Limaj, Isak Musliu, and Haradin Bala, and lead prosecutor in the trials of Milan Martić and Dragomir Milošević.

Before joining the ICTY, Mr Whiting was a US federal prosecutor, first with the Criminal Section of the Civil Rights Division in Washington, DC, and then with the US Attorney's Office in Boston, Massachusetts, where he focused on organised crime and corruption cases.

Clare Lawson is the Legal Advisory Team Leader. An Irish national, Ms Lawson holds a degree from University College Dublin, including a year's specialisation in international law at the University of Melbourne, and an LLM from Columbia University. Prior to joining the SPO, Ms Lawson worked as a legal officer in the Trial Division at the ICC, in the Office of the Prosecutor at the ICTY, as a human rights adviser to the Irish government, and in private practice with a leading Irish law firm.

Ms Lawson has worked on a number of international criminal cases, including those arising from the Central African Republic, the Democratic Republic of Congo, Kenya and the former Yugoslavia. She has also led human-rights negotiations on behalf of the EU and at the UN.



*Alex Whiting, Head of Investigations*



*Clare Lawson, Legal Advisory Team Leader*



KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE

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