

KOSOVO SPECIALIST CHAMBERS &
SPECIALIST PROSECUTOR'S OFFICE

2020 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 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 Federal 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 President, the Registrar and the Specialist Prosecutor.

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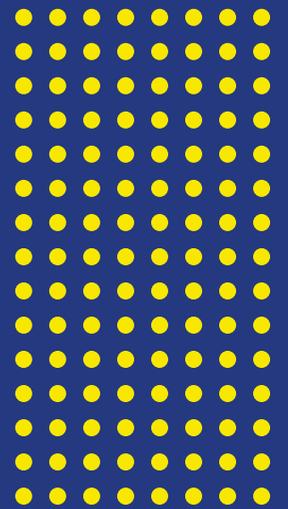


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Kosovo Specialist Chambers



Foreword

It is with great pleasure that we present the 2020 annual report of the Kosovo Specialist Chambers (KSC). The past year has been extraordinary in more ways than one. Not only have there been several important milestones for the KSC, including the commencement of judicial proceedings and the arrest of accused, but these milestones were achieved as the global pandemic unfolded, upending the manner in which we conduct ourselves both professionally and personally. Indeed, we cannot report on this year's increased activities without acknowledging the challenges posed by the COVID-19 pandemic. To this end, we wish to extend our sincere condolences to all those who suffered personal losses as a result of this pandemic and express our deepest appreciation for the resilience and professionalism displayed by all staff members in this respect.

Following intensified investigations and an increase of summonses in 2019, the Specialist Prosecutor, first in February and then in April 2020, notified the KSC President of his intent to initiate proceedings. With the filing of indictments by the Specialist Prosecutor, the KSC has entered a new and important phase. The two indictments charge individuals, from the then-President of Kosovo to the Commander of a Kosovo Liberation Army unit operating in Kosovo during the relevant time-period, with the commission of a variety of war crimes and crimes against humanity. A Pre-Trial Judge was assigned, who confirmed the two indictments and commenced pre-trial proceedings in both cases. As is apparent, the pace of the work during 2020 not only continued as before, but increased significantly, notwithstanding the challenges posed by COVID-19.

The safety and protection of witnesses are of paramount importance to the KSC, as is the integrity of our judicial proceedings. To this end, two individuals were arrested in Kosovo and transferred

to the KSC Detention Facilities in The Hague on suspicion of having committed crimes against the administration of justice. The indictment in this case was confirmed and pre-trial proceedings against them have commenced as well.

The KSC has seen other judicial activity as well. The KSC Judges held their annual plenary in April via video-conference, during which they elected Judge Charles Smith III as Vice-President and adopted amendments to the Rules of Procedure and Evidence. The Specialist Chamber of the Constitutional Court and a panel of the Court of Appeals were also engaged in a variety of judicial matters over the course of 2020.

Our outreach team has been no less productive, and quickly adapted to the new circumstances presented by the pandemic, organising a wide range of events through video-conference, meeting with a variety of different members of the Kosovo civil society. In this same spirit, the KSC hosted its fourth meeting with the Court Information Network. The 13 NGOs that attended provided important feedback on the content and effectiveness of the court's Outreach Programme.

The developments at the KSC over the past year have only further increased the interest in its activities. It is important to us that anyone interested in the KSC's work be able to easily access unbiased information and we remain committed to ensuring that we inform the public about any relevant developments in a transparent and efficient manner. To this end, the public hearings are streamed on the KSC website in the three official languages of the court. We very much value our existing relationships with communities in Kosovo and are grateful for the feedback we regularly receive from members of Kosovo civil society, whether in the form of questions from journalists or through feedback on our Outreach Programme.

Our Outreach Programme is made possible by the generous financial support of the government of Switzerland and we are very grateful to them in this respect.

It is thanks to the unwavering support of the Member States of the European Union and Third Contributing States that we were able to achieve all that we did over the course of 2020. We are similarly grateful to the European Union Rule of Law Mission in Kosovo for their invaluable support during complex operations and to the Kosovo police for their assistance in this respect.

We also wish to extend our sincere appreciation to our counterparts at the European External Action Service, 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 2020.

Judge Ekaterina Trendafilova
President of the Kosovo Specialist Chambers

The Hague, December 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 have had a busy year, filled with milestones, and are particularly grateful to our staff, who have continued to perform at the highest standards, notwithstanding the challenging circumstances presented by the COVID-19 pandemic. Their dedication and unwavering professionalism through it all has made our achievements possible.

We look forward to the year ahead, as the KSC embarks on this new phase of judicial proceedings, which it will continue to undertake in a secure, independent, impartial, fair and efficient manner, in accordance with its mandate.

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 Kosovo.

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, 199 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 in The Hague.

In **February** and **April 2020**, the Specialist Prosecutor filed the first indictments.

In **April 2020**, Registrar Fidelma Donlon is reappointed for another term of four years.

In **September 2020**, six new Judges are sworn in, the Specialist Prosecutor arrested the first accused, Mr Salih Mustafa, for alleged war crimes and the Specialist Prosecutor arrested Mr Hysni Gucati and Mr Nasim Haradinaj for alleged crimes against the administration of justice.

In **November 2020**, the Specialist Prosecutor arrested Messrs Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi for alleged crimes against humanity and war crimes.

In **December 2020**, President Ekaterina Trendafilova is reappointed for a term of four years.

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.



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.

Timeline

FEBRUARY AND APRIL 2020

The Specialist Prosecutor files the first indictments.



APRIL 2020

Registrar Fidelma Donlon is reappointed for another term of four years.



DECEMBER 2020

President Ekaterina Trendafilova is reappointed for a term of four years.

NOVEMBER 2020

The Specialist Prosecutor arrests Messrs Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi for alleged crimes against humanity and war crimes.



SEPTEMBER 2020

Six new Judges are sworn in and the Specialist Prosecutor arrests Mr Salih Mustafa for alleged war crimes and then Mr Hysni Gucati and Mr Nasim Haradinaj for alleged crimes against the administration of justice.



Wear face mask

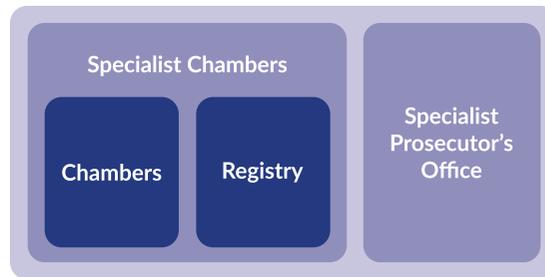
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The Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO) are two **independent** institutions established following an **Exchange of Letters** in accordance with Kosovo law through a **constitutional amendment** in 2015. The **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 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 for in the Law
- applying its **own rules of procedure and evidence**.

■ 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.

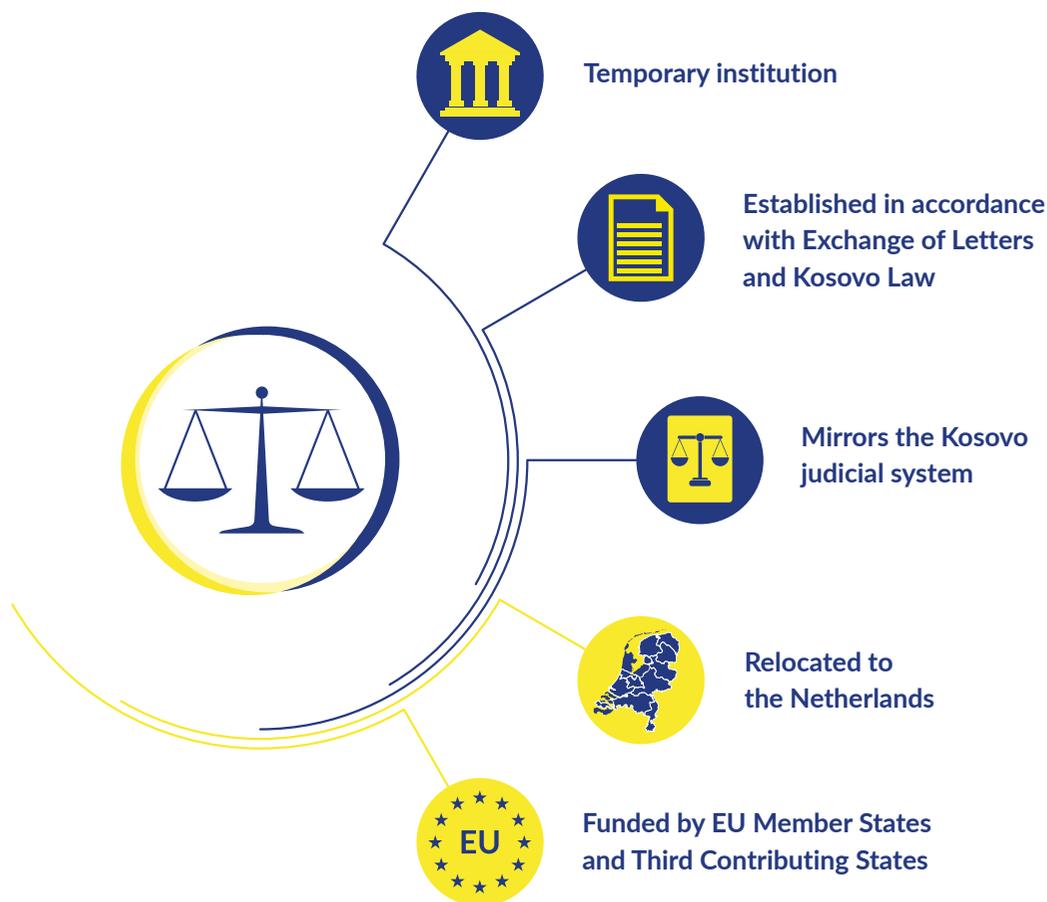
■ The **jurisdiction** of the KSC covers

- 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 cannot 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.
- The KSC has an **Ombudsperson**, who acts independently to monitor, defend and protect the fundamental rights and freedoms of persons **interacting with the KSC and the SPO**, including by
 - operating a complaints procedure, which individuals can make use of if
 - the complaint involves an interaction between the complainant and the KSC or the SPO
 - there is undue delay in a proceeding before the KSC
 - all other remedies have been exhausted
 - the complaint has been filed within six months of the alleged violation
 - entering and inspecting the KSC Detention Facilities to assess the conditions of detention at any time and without notice.



COVID-19 Measures

In early March of 2020, shortly after the Specialist Prosecutor notified the President of his intent to initiate proceedings, triggering the assignment of a Pre-Trial Judge to review the indictment, the COVID-19 pandemic struck. Immediately, a Kosovo Specialist Chambers (KSC) and a Specialist Prosecutor's Office (SPO) COVID-19 taskforce, chaired by the Registrar, was formed, and met daily, to assess and address the institutional consequences of the unprecedented outbreak. The pandemic presented a truly inimitable emergency, rendering any previously drafted emergency planning not fully adequate to the task. Further exacerbating the situation was the timing of the outbreak, which coincided with the critical work leading up to the start of public proceedings.

In response, the Registry, Chambers and the SPO embarked upon the drastic restructuring of their daily work as a court. The rapid spread, together with the known and unknown dangers of COVID-19, required the KSC to re-examine the nature of its obligations to witnesses, suspects, accused and staff alike. After a thorough examination, KSC management adopted comprehensive risk mitigation measures to ensure fulfilment of its duty of care obligations without interruption to its work. Given the dynamic nature of the COVID-19 pandemic, these measures are constantly evolving to reflect industry best practices, always aiming to reduce risk to the lowest reasonably practicable level.

The guidelines and preventative measures adopted by KSC management are always in line with those of the Host State and seek to ensure the safety, health and wellbeing of all individuals that interact with the KSC and the SPO. These precautions regulate the office environment, communal areas, public areas, courtroom, Detention Facilities and facilities abroad, including in Kosovo. In that regard, multiple regulations embody COVID-19 best practices, including the Rules of Detention, the procedures for

security and transfer operations and the Operational Instruction on premises management during COVID-19. In addition to the regulations themselves, physical modifications to the layout of many aspects of the court's buildings were carried out.

As a result, the KSC remained fully operational for all judicial and administrative functions throughout the COVID-19 pandemic. At the KSC premises, only the President, the Pre-Trial Judge, the Specialist Prosecutor, the Registrar and a small group of staff were deployed, with all others working remotely. Wearing of facemasks was mandatory in all public spaces and additional sanitary measures were implemented. Host State advice regarding travel was regularly communicated to all staff and testing and quarantine was required and observed in accordance with guidance from the Host State.

COVID-19 had minimal effect on court operations in 2020. All public proceedings occurred with most parties present in the courtroom, some members of the Defence joining via video-conference and members of the public present in the gallery. The proceedings were conducted in the three official languages of the court and live streamed directly through the KSC website. Despite the increased remote usage of the court software, performance remained optimum for all web users.

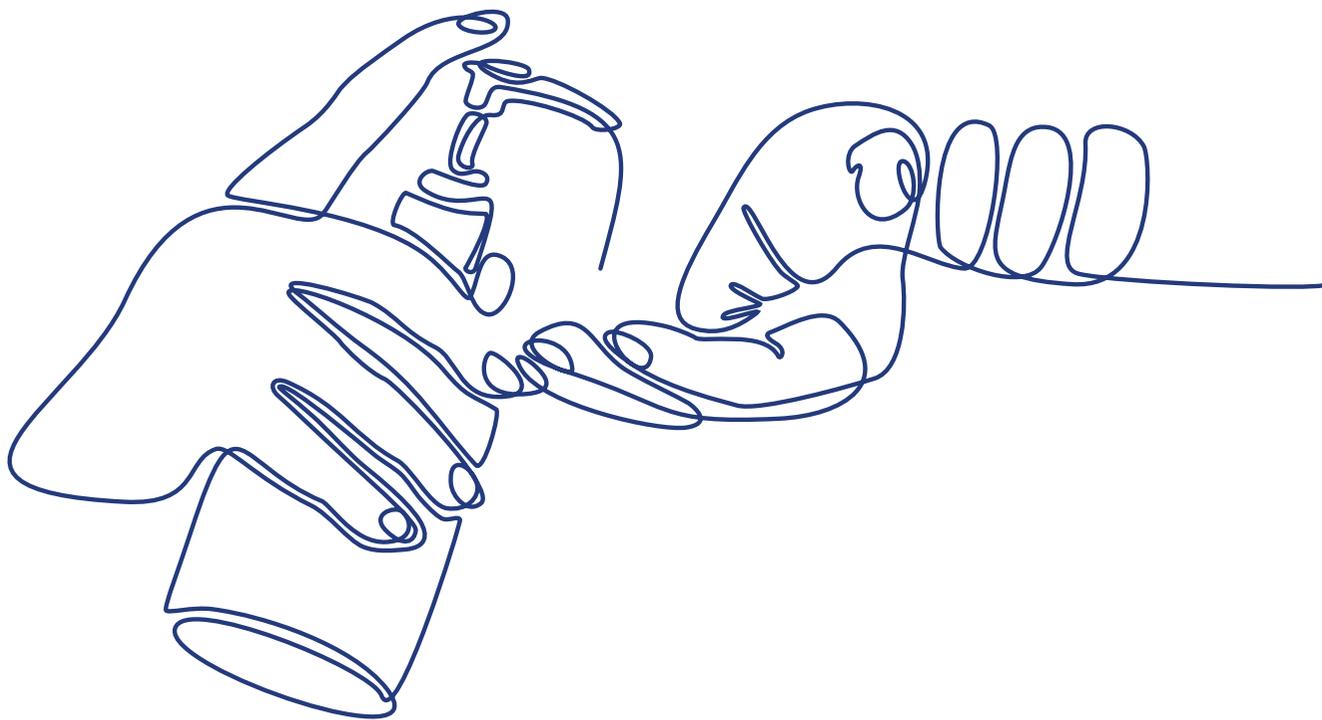
In large part due to the ingenuity and dedication of the Information Technology Services Unit (ITSU) team, technical solutions for remote working as well as outreach meetings with civil society groups in the region had been in place and were quickly scaled to meet the additional demands. Over the course of a single weekend in March, the ITSU launched its remote work environment in a manner that both minimised interruptions in work and maintained security. The Information Governance team (InfoGov) raised awareness on information asset management across the organisation, and provided numerous briefings via video-conference.

The wellbeing of the staff during the COVID-19 pandemic has been of paramount importance. Support has been offered throughout 2020 to assist staff facing challenges related to remote work, balancing family and work, caring for loved ones and mourning their loss. The President, the Registrar and the Specialist Prosecutor sent weekly messages to all employees of the KSC and the SPO sharing important developments in their work in an effort both to support and to maintain commitment and motivation.

Staff across the KSC and the SPO have contributed to keeping morale high. In order to maintain some degree of normalcy and connection to colleagues,

a group of staff members came together during the spring to set up virtual programmes for all employees to enjoy and to stay socially connected. The most popular has been FriDri, a virtual end of the week meet-up for music and activities that has been organised nearly every Friday since the beginning of the implementation of COVID-19 measures. FriDri's popularity extends throughout the staff, all the way up to the Principals and was even joined on occasion by other tribunals in The Hague.

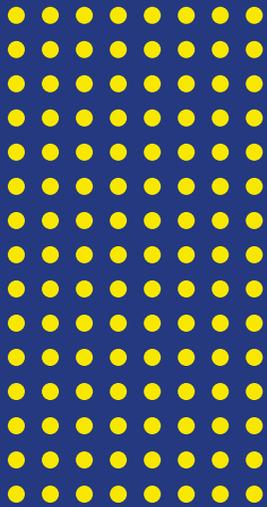
In this way, while KSC management is firmly resolved to keep health and safety measures in place for as long as necessary, our commitment to the human component of the situation must always keep pace.







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 indictments filed by the Specialist Prosecutor's Office (SPO).

PROCEEDINGS BEFORE THE PRE-TRIAL JUDGE

The past year has been marked by several milestones when it comes to judicial proceedings before the KSC. Following the filing of indictments in February and April involving allegations of crimes against humanity and war crimes, the President assigned a Pre-Trial Judge, Judge Nicolas Guillou, to decide whether to confirm the indictments and to handle any pre-trial proceedings as a result thereof. The Pre-Trial Judge was further engaged in a case that arose as a result of charges involving offences against the administration of justice, pursuant to which the Specialist Prosecutor filed an indictment in October. The Pre-Trial Judge has thus been actively engaged with his devoted legal support team in judicial proceedings involving three different cases with seven accused throughout 2020.

Over the course of 2020, 67 public decisions and orders were issued by the Pre-Trial Judge in the three different cases, including decisions on the confirmation of indictments in all three cases, decisions regarding the detention of the accused and decisions setting forth the modalities of victims' participation. Fourteen hearings were held in these cases in the KSC courtroom between the end of September and December alone, ranging from first and initial appearances to status conferences. These hearings were attended by all parties, whether in person or via video-link. This enormous increase in judicial activity, a large portion of which is classified as confidential and can thus not be reported on, has taken place uninterrupted, notwithstanding the measures imposed as a result of the pandemic.

The Pre-Trial Judge is thus currently actively engaged and taking all measures for the expeditious preparation of the three cases for trial, in accordance with Rule 95(2) of the Rules.

I.

Specialist Prosecutor v. Salih Mustafa

On 12 June, the Pre-Trial Judge confirmed the first indictment, which charges Mr Salih Mustafa with four counts of war crimes (arbitrary detention, cruel treatment, torture and murder) committed in April 1999. According to the indictment, Mr Mustafa was the commander of a guerrilla unit within the Llap operational zone of the Kosovo Liberation Army (KLA) during the relevant period.

Mr Mustafa was arrested in Kosovo and transferred to the KSC Detention Facilities on 24 September and attended his initial appearance before the Pre-Trial Judge on 28 September. On 28 October, Mr Mustafa pleaded not guilty to all charges against him in the indictment.



Initial appearance of Mr Salih Mustafa, 28 September 2020

II.

Specialist Prosecutor v. Hashim Thaçi et al.

On 26 October, the Pre-Trial Judge confirmed the indictment against Mr Hashim Thaçi, Mr Kadri Veseli, Mr Rexhep Selimi and Mr Jakup Krasniqi, charging them with ten counts of war crimes and crimes against humanity.

During the time period covered by the indictment, Mr Thaçi was allegedly a founding member of the KLA General Staff and the Head of the Political and Information Directorates of the KLA. According to the indictment, Mr Thaçi was Prime Minister of the Provisional Government of Kosovo (PGoK) and KLA Commander-in-Chief by the end of March 1999. Mr Veseli was allegedly a founding member of the KLA

General Staff and a member of the KLA Political Directorate and Head of the KLA Intelligence services. The indictment alleges that by late March 1999, following the formation of the PGoK, Mr Veseli became chief of the Kosovo Intelligence Services and PGoK Minister of the Intelligence Services. Mr Selimi was allegedly a founding member of the KLA and Head of the KLA Operational Directorate. In July 1998, he purportedly was KLA Inspector General and in early April 1999, upon the formation of the PGoK, he became Minister of Public Order. Mr Krasniqi was allegedly a member of the KLA General Staff and a member of the KLA Political Directorate and the official KLA spokesperson.



Messrs Thaçi, Veseli, Selimi and Krasniqi during their initial appearances, November 2020

Messrs Thaçi, Veseli, Selimi and Krasniqi were arrested and transferred to the KSC Detention Facilities in The Hague on 4 and 5 November. During their initial appearances before the Pre-Trial Judge

on 9, 10 and 11 November, the accused pleaded not guilty to all the charges against them in the indictment.

III.

Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj

Following the disclosure of confidential information, including information identifying protected witnesses, Judge Nicolas Guillou, in his capacity as Single Judge, ordered on 24 September that Mr Hysni Gucati, Head of the KLA War Veterans Organisation, and Mr Nasim Haradinaj, Deputy Head

of the same organisation, be arrested on the grounded suspicion of attempted intimidation of witnesses, retaliation and violation of secrecy of proceedings and transferred to the KSC Detention Facilities in The Hague.



Mr. Haradinaj during his initial appearance, December 2020



Mr Gucati during his first appearance, October 2020

Mr Gucati's and Mr Haradinaj's first appearances before the Single Judge were held on 1 October and 29 September, respectively. Following Judge Guillou's assignment as a Pre-Trial Judge on 29 October, the Specialist Prosecutor submitted an indictment on 30 October.

Mr Gucati and Mr Haradinaj are charged with four offences against the administration of justice, namely obstructing official persons in performing official duties by serious threat, intimidation, retaliation and violating the secrecy of the proceedings.

On 18 December, Mr Gucati and Mr Haradinaj attended their initial appearance before the Pre-Trial Judge, during which Mr Gucati pleaded not guilty to all the charges against him in the indictment. Mr Haradinaj will be given the opportunity to admit guilt or plead not guilty to the charges on 8 January 2021.

PROCEEDINGS BEFORE THE COURT OF APPEALS CHAMBER

On 3 November, Mr Gucati appealed two decisions issued by Judge Guillou related to the legality of Mr Gucati's arrest warrant and the denial of his request to be released on bail. A Court of Appeals Panel comprising Judges Michèle Picard (Presiding),

Emilio Gatti and Kai Ambos was assigned on 4 November. On 9 December, the Appeals Chamber dismissed the appeal in its entirety. This was the first time the Court of Appeals was seised with a matter.

[...] the issuance of an arrest warrant by a Judge, in this case the Single Judge, offered Gucati rather more than less protection. The Court of Appeals Panel finds that by requesting the act of deprivation of liberty to be scrutinised and supervised by an independent judicial authority, the SPO went above and beyond what was required by the Law and acted in accordance with the very purpose of Article 5 of the European Convention on Human Rights, namely to protect the individual from arbitrariness.

KSC-BC-2020-07/IA/001/F00005, Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention, 9 December 2020, para. 39.

PROCEEDINGS BEFORE THE SPECIALIST CHAMBER OF THE CONSTITUTIONAL COURT

The Specialist Chamber of the Constitutional Court (SCCC) was also seised with a number of referrals throughout the course of 2020.

On 13 January, a panel of the SCCC found inadmissible a referral by an individual who was summonsed by the SPO and who challenged the legality of the interview process.

On 12 June, a panel of the SCCC issued a public redacted version of a decision rendered on 20 April. In this decision, the SCCC panel found that the applicant, a public-law entity in Kosovo, lacked standing to challenge a decision issued by the Single Judge and thus dismissed the referral.

The Chamber reiterates that, as far as criminal matters are concerned, the primary purpose of Article 31 of the Constitution and Article 6 of the Convention is to ensure that an accused receives, as a whole, a fair trial by a court competent to determine a criminal charge. Similarly, the minimums rights under Article 30(1), (3) of the Constitution and Article 6(3)(a),(b) of the Convention are not aims in themselves: their intrinsic aim is always to contribute to ensuring the fairness of the criminal proceedings as a whole.

KSC-CC-2019-07/F00013, Decision on the Referral of Driton Lajci Concerning Interview Procedure by the Specialist Prosecutor's Office, 13 January 2020, para. 21.

The Applicant is a public-law entity that exercises governmental authority. Hence, it is a 'governmental organisation' and, as such, is not entitled to assert the rights under the Convention as incorporated under Article 22(2) of the Constitution.

KSC-CC-2020-08/F00020/RED, Public Redacted Version of Decision on the Referral of [REDACTED] Further to a Decision of the Single Judge, 12 June 2020, para. 61.

On 26 November, a panel of the SCCC rendered its decision on the referral by the President of the Assembly of Kosovo regarding proposed amendments to the Constitution. The SCCC panel found that the amendments, which were proposed by then-President Hashim Thaçi in relation to the mandate of the KSC and the SPO, diminished the fundamental rights and freedoms guaranteed by Chapter II of the Constitution.

It clearly follows from the features of the Specialist Chambers and the SPO as envisaged in the 2014 exchange of letters that this exchange of letters intended, and with a view to the "proper administration of justice", that the Specialist Chambers and the SPO function in an autonomous manner. It also follows that the autonomous functioning is ensured principally through delegation of certain sovereign powers for the duration of the mandate, a corollary of which is also their own established legal framework.

KSC-CC-2020-11/F00015, Judgment on the Referral of Proposed Amendment to the Constitution of Kosovo, 26 November 2020, para. 63.

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 the Specialist Chambers and the Specialist Prosecutor's Office (Law), the Judges appointed to the Roster do not receive remuneration or other benefits by virtue of their appointment and only if they are assigned by the President to exercise official functions. Once assigned the Judges exercise their functions remotely insofar as possible.

ANNUAL PLENARY

The pandemic did not prevent Judges of the KSC from fulfilling their duties in 2020. On 29 and 30 April, in accordance with the Law, the Judges conducted their annual plenary via video-conference. During the plenary, Judge Charles Smith III was elected Vice-President. The Judges also adopted 30 amendments to certain Rules, which have been tested in the daily functioning of Chambers, the SPO and the Registry. The Rule amendments clarify several provisions and are generally aimed at ensuring more efficient and effective proceedings. The Judges further received updates from the Principals on matters relevant to the KSC and the SPO.

As required by the Law, the adopted amendments were reviewed by the SCCC for compliance with Chapter II of the Constitution. On 26 May, the SCCC issued its judgment, finding that all 30 amendments to the Rules adopted by the Judges during their plenary comply with Chapter II of the Constitution and they subsequently entered into force.

President Ekaterina Trendafilova is present at the seat of the KSC and is the only Judge who serves on a permanent, 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 KSC President by the Law and the Rules.

The Chamber recalls the principle established in its case law that, in its review of the Rules, the Chamber has as a starting point the requirement under Article 19(2) of the Law that the Rules "reflect the highest standards of international human rights law [...]". In that light, the Chamber acknowledges that the intention of the Judges sitting in plenary was to comply with the highest standards of international human rights law.

KSC-CC-PR-2020-09, Judgment on the Referral of Amendments to the Rules of Procedure and Evidence Adopted by the Plenary on 29 and 30 April 2020, 22 May 2020, para. 14.

APPOINTMENT OF SIX NEW JUDGES TO THE ROSTER OF INTERNATIONAL JUDGES

In September, the Appointing Authority, Ambassador Lars-Gunnar Wigemark, after having received the recommendations of the independent Selection Panel, appointed six new Judges to the Roster of International Judges (Roster) in accordance with Article 28(4) of the Law. The Judges, Mr Gilbert Bitti (France), Mr Daniel Fransen (Belgium), Mr Fergal M. Gaynor (Ireland), Ms Romina Incutti (Italy), Ms Nina H.B. Jørgensen (Norway), and Mr Roumen H. Nenkov (Bulgaria) join the 17 Judges on the Roster.

The Appointing Authority further specifically appointed Judge Antonio Balsamo and Judge Nenkov to serve as Judges on the SCCC and appointed Judge Incutti to serve as reserve Judge of the SCCC. Per his request, Judge Roland Dekkers is no longer a Judge of the SCCC, but remains on the Roster, allowing him to be assigned to any Chamber other than the SCCC.

Aside from Judge Nenkov, who was sworn in early on 27 September to take up his duties on the SCCC, the new Judges were sworn in during an online ceremony on 2 October in the presence of the KSC Judges, the Specialist Prosecutor, the Deputy Specialist Prosecutor and the Registrar, who administered the solemn declaration.



Swearing-in ceremony, 27 September 2020

REAPPOINTMENT OF PRESIDENT EKATERINA TRENDAFILOVA

On 30 October, the Appointing Authority reappointed Judge Ekaterina Trendafilova as President of the KSC for a term of four years in accordance with Article 30(4) of the Law, effective 15 December.

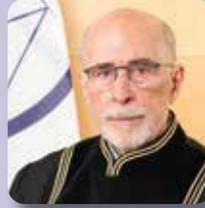
President Trendafilova expressed her appreciation for “the confidence that has been placed in [her] to continue to serve the KSC as it moves into a new phase and prepares to commence criminal proceedings”.

President Ekaterina, KSC, October 2020.

Judges on the Roster of International Judges



Judge Ekaterina Trendafilova
President
(Bulgaria)



Judge Charles L. Smith III
Vice-President
(United States of America)



Judge Vidar Stensland
Constitutional Judge
(Norway)



Judge Antonio Balsamo
Constitutional Judge
(Italy)



Judge Roumen Nenkov
Constitutional Judge
(Bulgaria)



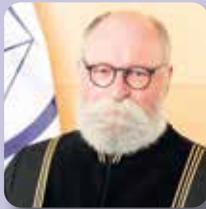
Judge Romina Incutti
Reserve Constitutional Judge
(Italy)



Judge Christine van den Wyngaert
(Belgium)



Judge Michèle Picard
(France)



Judge Thomas Laker
(Germany)



Judge Emilio Gatti
(Italy)



Judge Roland Dekkers
(Netherlands)



Judge Michael Bohlander
(Germany)



Judge Kai Ambos
(Germany)



Judge Kenneth Roberts
(Canada)



Judge Mappie Veldt-Foglia
(Netherlands)



Judge Christoph Barthe
(Germany)



Judge Vladimir Mikula
(Czech Republic)



Judge Guénaél Mettraux
(Switzerland)



Judge Nicolas Guillou
(France)



Judge Gilbert Bitti
(France)



Judge Daniel Franssen
(Belgium)



Judge Fergal Gaynor
(Ireland)



Judge Nina Jørgensen
(Norway)

3 | President's External Activities

Over the course of 2020, President Trendafilova ensured that members of the public as well as stakeholders were kept abreast of the KSC's activities. To this end, the President met representatives of EU institutions, EU Member States, the Host State and Third Contributing States.

On 5 June, the President gave a presentation to the German Working Group on International Criminal Law, wherein she briefed the Working Group on the structure and mandate of the KSC and touched upon the unique features of the court.



On 25 September, the President appeared before the Council of Europe Committee of Legal Advisors on Public International Law via video-conference, during which she spoke about the mandate, the jurisdiction and the work of the KSC, discussed the external and internal structures governing the KSC and touched on some of the unique features of the KSC's legal framework.

The President further appeared in person before the EU Political and Security Committee on 29 September in Brussels, during which she briefed the Member States on the KSC's judicial activities, responded to questions posed by them and discussed some of the challenges currently facing the KSC.

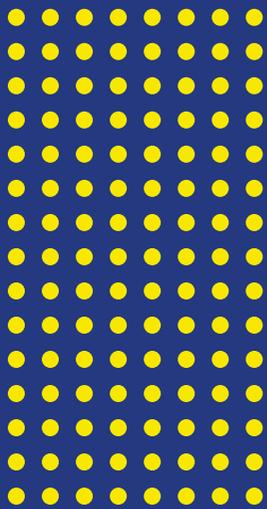
To further strengthen the KSC's relationship with other external stakeholders and with civil society, the President conducted meetings (mostly via video-conference) with members of the diplomatic, legal, journalistic and academic communities. The President further gave interviews, during which she touched upon the mandate and the work of the KSC.

Justice – whether domestic or international – is one of the most fascinating and rewarding fields in our society, whereby one may face different challenges ranging from enormous amounts of work, few vacation periods and exhaustion, to frustration at the lack of or slow moving pace of results obtained. However, the reward of delivering justice to the victims of the crimes committed, to holding accountable those responsible for these very crimes, is what makes it all worth it.

President Trendafilova, Interview for the Peace Palace Library Newsletter, November 2020.



External Relations



External Relations

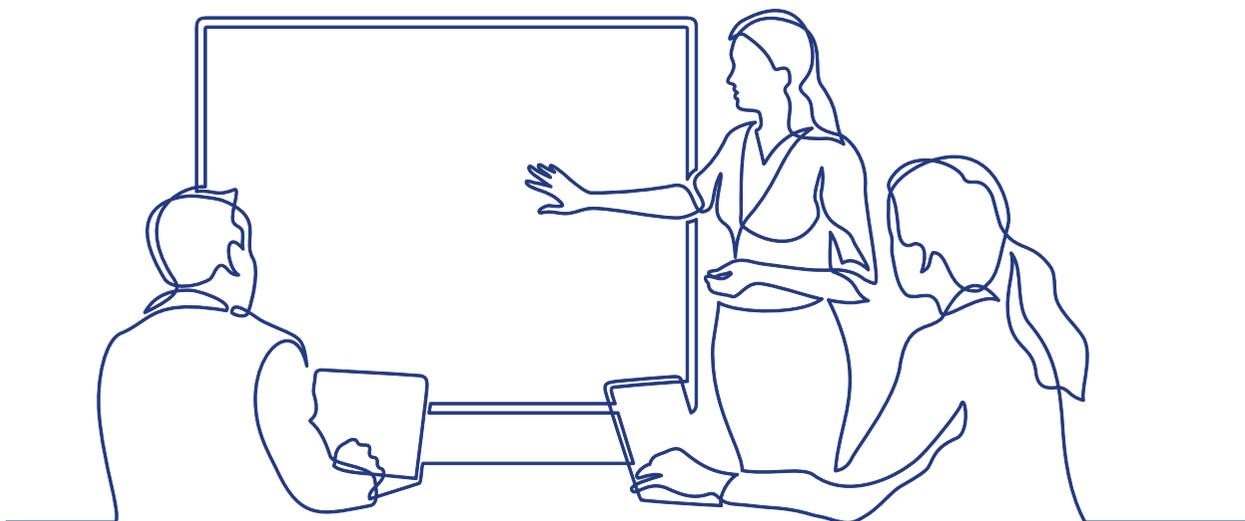
The Principals held various bilateral engagements related to cooperation with the Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO).

In February, the Principals bid farewell to the outgoing European Union Civilian Operations Commander, General Vincenzo Coppola, and thanked him for his support to the KSC and the SPO. On 9 July, the three Principals updated EU Member States and Third Contributing States via video-conference on the developments at the KSC and the SPO, including the initiation of proceedings by the Specialist Prosecutor. The EU Member States and Third Contributing States reiterated their strong support for the work of the institutions, for which the Principals were grateful.

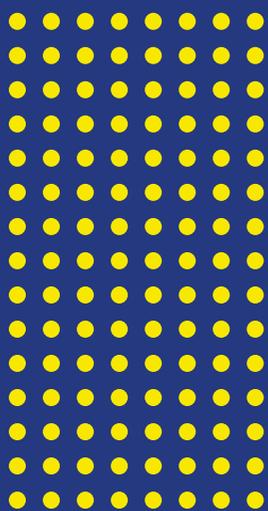
The Principals further met with Ms Viola von Cramon-Taubadel, member of the European Parliament and the European Parliament's Rapporteur for Kosovo, at the premises and provided her with an update on the KSC's and the SPO's most recent activities.

The Principals met with the EU Civilian Operations Commander on several occasions over the course of 2020. On 10 November, the Principals met with the new Commander, General de División Francisco Esteban Pérez, who visited the KSC and the SPO in The Hague and attended one of the hearings in the public gallery.

The President, together with the Specialist Prosecutor and the Registrar, updated EU Member States based in Pristina on 7 December and EU Member States and Contributing Third States based in The Hague via video-conference on the work of the KSC and the SPO during their annual briefing on 8 December.



Registry



Registry

The Registry, under the leadership and strategic management of the Registrar, is responsible for the administration and servicing of the Kosovo Specialist Chambers (KSC) and all necessary and affiliated functions. The Registrar is independent in the performance of her functions, while consulting with the President and the Specialist Prosecutor on institutional matters.

The administrative support functions, which the Registry provides to both Chambers and the Specialist Prosecutor's Office (SPO), include budget, financing, procurement, information technology, facility management, human resources and security. The judicial support functions include protection and support for witnesses, administration of the Lists of Counsel, provision of legal aid and the victims' participation process, translation and interpretation services, court management and management of the KSC Detention Facilities.

Dr Fidelma Donlon was reappointed Registrar in April 2020. She is, on behalf of the KSC, the signatory to the grant agreement with the European Union, the main source of funding for the court. The Registrar has also signed grant agreements on behalf of the KSC with the governments of Norway and Switzerland, which support the refurbishment of the KSC and the SPO premises, as well as outreach activities in Kosovo, respectively.

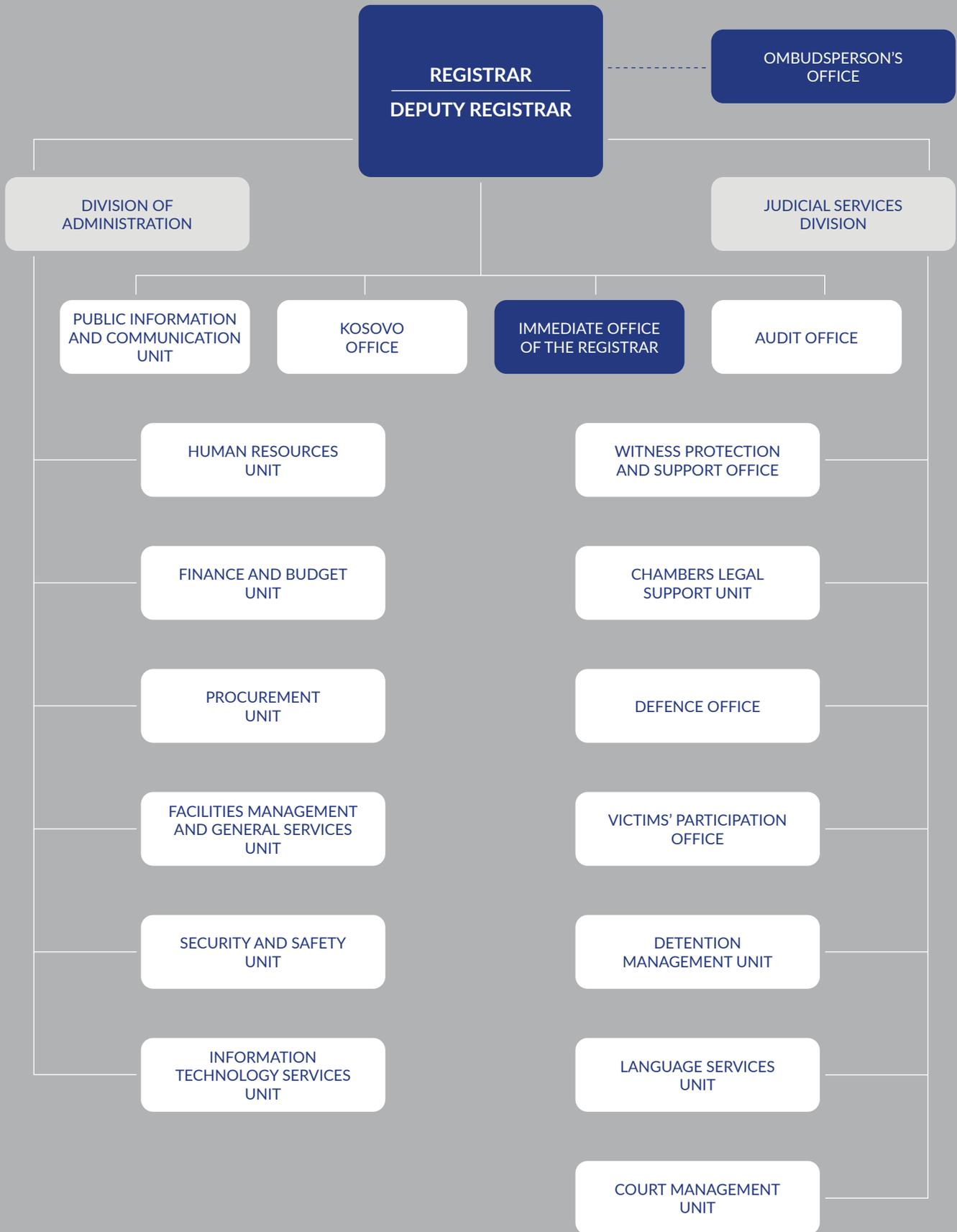
2020 saw the completion of several key objectives. The legal team of the Immediate Office of the Registrar (IOR) focused on the drafting of the Rules of Detention package and the Legal Aid Regulations, both of which were adopted by the Registrar following consultations with the President. The Regulations exemplify best practices in legal aid standards, guaranteeing compliance with fair trial principles while ensuring the sound financial management of the legal aid scheme's resources. The Rules of Detention meet or even exceed the highest international standards. The Registrar has further overseen the safe and secure transfer of seven persons to the Detention Facilities.



Registrar Fidelma Donlon

The Registrar also manages Host State affairs and diplomatic relations including negotiating cooperation agreements with States. The Registry focused on two main objectives over the course of 2020 in this regard: first, the continued encouragement for EU Member States and Third Contributing States to second candidates for KSC and SPO positions, and, second, requests for cooperation in the field of witness protection. Close coordination regarding Host State COVID-19 policies was essential. The collaboration has enabled the KSC to implement a business continuity plan that ensures that operations continued uninterrupted while also taking all steps to safeguard the staff's wellbeing, as well as others who are required to be present at the KSC.

In November, following the adoption of the new European Commission's Service Foreign Policy Instrument (FPI) Anti-Fraud Strategy and its specific action plan for the European Union Common Security and Defence Policy Missions, the Registrar issued the KSC Anti-Fraud Strategy, which reaffirmed the strong commitment of the KSC to detect and prevent fraud through abiding by strict ethical standards, fostering a recrimination-free culture for whistleblowing and maintaining a clear definition and allocation of implementation responsibilities. The Anti-Fraud Strategy notably includes specific requirements on reporting suspected cases of fraud and other irregularities to the European Anti-Fraud Office.



1 | Immediate Office of the Registrar

The IOR supports the Registrar in her work. The IOR's legal team provides advice on a diverse array of internal and external legal matters, including interpretation and application of various legal instruments, development of the Registry's internal legal framework, amending internal regulations to answer the challenges of the pandemic, cooperation with other organisations and entities, privileges and immunities issues, and cooperation with States. The IOR's legal team also prepares legal submissions on a wide scope of matters.

Other tasks coordinated by the IOR include the organisation of internal management meetings, diplomatic relations, reporting to the EU and the United Nations (UN) Security Council, and protocol support across the KSC and the SPO. In 2020, the protocol function had an active role related to the public hearings, offering support to family members attending the hearings and facilitating video teleconference visits to the Detention Facilities in lieu of in-person visits in order to ensure the safety of detainees and others in the Detention Facilities during the COVID-19 pandemic.

The InfoGov within the IOR provides advice on the secure management of the information, records and archives of the KSC, and the protection of sensitive information.

During 2020, InfoGov trained staff on the Administrative Directive on Information Asset Management and the Operational Instruction on Information Asset Protection, the latter containing instructions for handling classified information. InfoGov managed data protection requests and also continued to provide library services and research support to staff and appointed officials, including providing remote access to library resources.



2 | Public Information and Communication Unit

The Public Information and Communication Unit (PICU) communicates with journalists and the public in order to ensure that accurate information about the court and its activities reaches as wide an audience as possible. It administers a robust Outreach Programme, manages the KSC visitors' programme and facilitates visits to the court during public hearings.

With the publication of the indictments and the arrest of the first suspects and accused in 2020, the KSC's operations entered a new phase in which communications and outreach intensified.

In response to the COVID-19 risk mitigation measures, the Outreach Programme developed innovative approaches that allowed the KSC to continue its dialogue with the population in Kosovo and the broader region online, while disseminating information about the court and its activities through television and other media. All public hearings conducted in 2020 were streamed in Albanian, English and Serbian through the KSC website, allowing anyone to watch proceedings online in any of the three official languages of the court.



The President and the Registrar presenting at the CIN Meeting, October 2020

2.1 | Media Relations

Starting with the filing of the first indictment by the Specialist Prosecutor in February, the interest of media both in Kosovo and internationally in the work of the KSC increased dramatically over the course of 2020. In response, the Principals increased their direct engagement with the media. For example, in November, President Ekaterina Trendafilova published an op-ed in the Kosovo media on the rights of the accused and suspects appearing before the KSC and the protection of witnesses and victims, as well as an interview in the Serbian media in December.

In 2020, the KSC spokespersons responded to hundreds of media queries, gave a number of on-camera interviews and carried out several online roundtables with journalists from Kosovo and the

region to provide media with background information to facilitate objective reporting on the proceedings.

The premises of the KSC include a dedicated media centre from which journalists can work, while following and recording public proceedings from individual workstations, as well as a press briefing room. In response to the limitations on travel created by COVID-19, the press briefing room was fully equipped to allow for press conferences with journalists participating both at the premises and remotely from Kosovo or indeed anywhere in the world, with simultaneous translation. Both spaces were altered as part of the KSC COVID-19 response and journalists made use of both spaces during numerous hearings throughout 2020.



2.2 | Outreach

Establishing and maintaining a dialogue with people in Kosovo about the mandate and work of the KSC has been a pillar of the KSC communication strategy from the very beginning.

In 2020, the Swiss government extended its support with a generous two-year grant for the second phase of the Outreach Programme, which includes maintaining a regular dialogue through outreach events and increasing awareness of the KSC among the general public of Kosovo through greater engagement with the mainstream media. The Swiss government has supported the outreach activities of the KSC since 2018.

In response to the limits imposed by the global pandemic on travel and public gatherings, the KSC Outreach team, in cooperation with NGO partners, moved its interactive events online in April 2020 reaching out to audiences in both Kosovo and Serbia. This included holding several virtual journalist roundtables in order to disseminate timely

information on public proceedings before the KSC and to give follow-up interviews to interested media.

In 2020, the KSC continued to receive invaluable feedback and recommendations on its outreach and communications activities from the Court Information Network (CIN), a forum established by the KSC in 2018, consisting of a group of 15 NGOs from Kosovo and Serbia. In early 2020, the CIN met in Pristina for a consultative workshop in which the NGO members provided input on specific informational material, including the first television clips produced by the court on its mandate and the victims' participation process. Over the course of the year, the KSC Outreach team carried out several other online consultations with its partners. Following the start of public proceedings, the President and the Registrar addressed the CIN in an interactive online discussion about the start of proceedings and its impact on future communication needs.

Outreach event with Youth Initiative for Human Rights (YIHR), April 2020

Outreach Highlights

- In response to the COVID-19 pandemic, interactive outreach events with audiences in Kosovo and Serbia moved online. In 2020, 91% of the participants stated afterwards that they would like to attend more outreach events organised by the KSC in the future.
- In 2020, the Outreach team conducted 20 events engaging young people, civil society, law students, journalists and minority representatives throughout Kosovo. 450 participants from Kosovo joined an outreach event in person or remotely.
- The KSC produced several informative video clips on victims' participation, the KSC Ombudsperson and protective measures for witnesses. TV clips were broadcast during prime time on several channels in Kosovo and Serbia in Albanian and Serbian.



Outreach event at American University, Kosovo, February 2020

2.3 | Visits to the KSC

In early 2020, the KSC welcomed several groups of students and legal professionals through its visitors' programme to the premises for organised visits and presentations about the institution. As of March, in-person visits were suspended due to the COVID-19 pandemic and instead student groups and others were accommodated through virtual visits. The KSC also participated in the annual The Hague International Open Day programme in October, which was held online this year, with information about the court posted on the Open Day website, including a virtual tour of the courtroom and a webinar open for the public.

Though organised group visits to the KSC were suspended in the spring of 2020, individual visitors were able to pre-register to follow public court proceedings from a limited number of seats in the public gallery adjacent to the courtroom. As part of the implementation of COVID-19 risk mitigation measures, the public gallery was modified to allow for social distancing and other public health measures.



FEDI University Bordeaux visit, February 2020



The Hague Academy International, January 2020

2.4 | Public Information about the KSC

As part of its Outreach Programme, the KSC increased its production and broadcasting of informative video clips in the three official languages of the court during 2020. The short informational videos on topics ranging from the mandate of the KSC, to witness protection and victims' participation, were shown 246 times on 12 channels in Kosovo in Albanian and Serbian, 45 times on two channels in Serbia and are also available on the KSC website and YouTube channel.

Following the first indictments and arrests, the KSC website was updated with a number of new features and content connected to the proceedings.

A live update section and a court calendar on the KSC homepage provide the latest information on scheduled hearings and new case information pages provide further background on ongoing proceedings. Following their activation in September, the streaming pages that allow visitors to watch the KSC public proceedings held so far in all three official languages were viewed more than 85,000 times.

More than 113,000 persons visited the KSC website during 2020 with almost 800,000 page views, out of which 80% were new and 20% returning visitors. The month of September alone had more than 117,000 page views.



Communication Highlights

- With the start of proceedings in three cases, high quality video streaming allowed people around the world to follow 14 public hearings online in Albanian, Serbian or English. The streaming pages that allow visitors to watch the KSC's public proceedings were viewed more than 85,000 times in the period September-December 2020.
- The KSC website was expanded with important new features and content, including a live update section, court calendar and case information pages and new content on victims' participation, legal aid and detention.
- The web audience grew by more than 150%, gathering almost 800,000 page views in 2020. A major increase has occurred since public proceedings commenced in September: 20,000 persons visited during that month, which is twice the previous monthly average.
- The KSC Principals engaged directly with media, including through an op-ed by the President in November.

3 | Ombudsperson of the Kosovo Specialist Chambers

The Ombudsperson of the KSC acts independently to monitor, defend and protect the fundamental rights and freedoms of persons interacting with the KSC and the 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 the KSC and the SPO.

The KSC Ombudsperson is Pietro Spera, an Italian Judge, who was appointed in May 2018. The Ombudsperson's mandate and official functions are detailed in Amendment No. 24 to the Kosovo Constitution, in the Law on Specialist Chambers and Specialist Prosecutor's Office, the Rules of Procedure and Evidence and the Rules of Procedure for Specialist Chamber of the Constitutional Court (SCCC).



Ombudsperson Pietro Spera

In 2020, the Ombudsperson received six complaints. Five of these complaints have been finalised by the Ombudsperson. All of the finalised cases were deemed inadmissible on the basis that it had not been argued or demonstrated by the complainant in any of the cases that either the KSC or the SPO were involved in any capacity with the matters complained of. Each complainant was notified of the outcome of their complaint by the Ombudsperson and was provided with a full reasoning of the decision.

As part of his monitoring function, the Ombudsperson continued constructive engagement with the KSC and the SPO throughout the year with the aim of ensuring strict compliance with the highest human rights standards.

In February 2020, the Ombudsperson conducted a familiarisation visit to the KSC Detention Facilities where he was provided with an overview of the facilities and its operation by the Head of the Detention Management Unit of the KSC.

In October 2020, following the referral of a proposed Constitutional amendment by the President of the Kosovo Assembly to the SCCC, the Ombudsperson was invited by the SCCC to provide the submissions on the admissibility and merits of the proposed amendment. The submissions are published on the KSC webpage in the Public Court Records.

Despite the impact of COVID-19, the Ombudsperson's Office has continued to engage in its outreach programme throughout the year. With the assistance of the Public Information and Communications Unit of the Registry, the Ombudsperson's Office has taken part in a number of online outreach activities with civil society in the region.

4 | 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.

Throughout 2020, the Division focused on the completion of several regulatory packages and ensuring that the necessary human and technical resources were in place for the beginning of public proceedings.

Proceedings this year occurred across a variety of panels, including a Constitutional Court Panel, an Appeals Panel, a Pre-Trial Judge and a Single Judge overseeing three separate proceedings encompassing five accused and two suspects (now accused). Various units within the Division supported all aspects of these proceedings, including translation into the three official languages of the court and in the technical aspects required for their livestream broadcast through the KSC website.

4.1 | Court Management Unit

The Court Management Unit (CMU) manages the KSC's judicial records, including all filings and evidence and assists in the facilitation of proceedings.

The work of the CMU over the course of 2020 focused on the finalisation of the courtroom and the refining and expanding of the electronic court management system, Legal Workflow. Improvements to the software itself included harmonisation with the language service software, as well as enhancements to simplify the electronic disclosure process. In connection with the start of proceedings, Defence teams were provided access to the software and both Specialist Counsel and KSC staff were provided training on the use of the software.

In the absence of more general access of visitors to the public gallery during the COVID-19 pandemic, the streaming of the proceedings on the KSC website gained in significance. The technical aspects of the

CMU's broadcasts, particularly the placement of cameras, realisation, video mix, colours and lighting have been recognised as exemplifying industry best practices.

During 2020, there were seven initial appearance hearings, one joint further initial appearance and status conference, two first appearances, four status conferences and one closed session ex parte hearing. Classifications of certain documents were changed to allow for their publication online and overall the number of filings increased significantly. In total 807 filings and their translations, excluding annexes, were processed, as well as 45 transcripts in the three official languages of the KSC.

In 2020, the CMU processed a total of 807 filings and their translations, nearly 1,500 translation requests, 70 regulatory framework documents and three staff appeals filings.

4.2 | Language Services Unit

The Language Services Unit (LSU) provides interpretation and translation in the KSC's three official languages. The work of the LSU occurs not only at the seat of the court in The Hague, but during missions abroad, and through virtual media across the world. The LSU's work also spans institutions, providing services to Chambers, the SPO and the Registry.

In 2020, the LSU translated a variety of material, including filings, outreach material, several packages of fundamental normative documents, documents related to the victims' participation process and other court publications.

The LSU also provided increased support to the SPO over the course of 2020. Together with the CMU and a software expert, the LSU assisted in the development of a software tool automating translation requests.

With the start of proceedings, the Unit has not only provided simultaneous translation in all three official languages, but has also assisted in the extensive technical testing of the courtroom and media room.

In 2020, the LSU translated over 8,200 pages into Albanian, Serbian, English and other languages.



4.3 | Defence Office

The Defence Office (DO) administers a system of legal aid for representation of indigent or partially indigent suspects and accused. As part of this function, it administers a List of Counsel eligible to practice before the KSC as Specialist (Defence) Counsel. The most recently updated List of Specialist Counsel eligible to practice before the KSC was published in November. The current list contains 105 Specialist (Defence) Counsel and the application process remains open.

The DO is neutral and plays no role in the actual conduct of cases before the KSC. In September, the Registrar, following consultation with the President, adopted the KSC's Legal Aid Regulations.

With the beginning of public proceedings in 2020, the DO ensured that all persons transferred to the KSC Detention Facilities had access to Counsel as soon as possible. Once each accused or suspect had been received, the Head of the DO met with the detainee and explained their right to Counsel and legal aid. It was also explained to detainees that they have the right to representation by Duty Counsel until they have selected and had Counsel of their choice appointed or assigned to them by the Registrar.

For the public proceedings, the Registrar has appointed five Counsel to five accused and has approved eight Co-Counsel in Counsels' teams. Appointed Counsel are paid by the accused through

their own means. Additionally, the Registrar has provided legal aid to two accused and has subsequently assigned two Counsel and approved one Co-Counsel in one of the Counsels' teams. Assigned Counsel and their Co-Counsel are paid through the legal aid system of the KSC. These assignments are conditional, pending the outcome of the ongoing indigence assessment. Currently all defence teams are recruiting team members.

Throughout 2020, the DO received a number of requests for assignment or appointment of Counsel from suspects who were to be interviewed by the SPO. The Registrar has appointed 16 Counsel and approved two Co-Counsel to these suspects. Appointed Counsel and Co-Counsel are paid by the suspects through their own means. Furthermore, the Registrar has assigned two Counsel and approved one Co-Counsel. Assigned Counsel are paid through the legal aid system of the KSC. These assignments are conditional, pending the outcome of the ongoing indigence assessment.

The DO, together with the Victims' Participation Office, has finalised processes to ensure that Counsel and their teams transition with ease to the KSC system, including by providing access to the electronic court management system, Legal Workflow. Additionally, the DO, together with InfoGov and the ITSU, has set up a page for Counsel on the KSC intranet, which provides comprehensive aid for their defence preparation.

The Legal Aid Regulations encapsulate the core principles set forth in the Law and the universal standards in criminal justice, ensuring the right of an accused to a fair trial, which includes the right to effective Counsel.

Legal Aid Regulations

The Regulations exemplify best practices in legal aid standards, guaranteeing compliance with the fair trial principles enshrined in the Constitution of Kosovo and the Law while ensuring the sound financial management of the legal aid scheme's resources.

Suspects or accused before the KSC who demonstrate that they cannot afford to pay for their defence and who do not receive legal aid through other means will be provided, in full or in part, with legal aid to pay for Counsel of their choosing who is qualified to be on the KSC List of Counsel. This legal aid covers the remuneration of Counsel and members of their team and is paid directly to Counsel.

The legal aid is calculated by the Registrar, in consultation with the competent panel and Counsel, taking into account the complexity level of the case and the services to be provided by Counsel during each stage of the proceedings, which include pre-indictment, pre-trial, trial, second instance appellate, and third instance appellate stage. Additionally, any costs that may arise during the course of investigations or as a result of the need for translations may be covered up to a defined amount.

The Regulations transparently set out how to apply for legal aid and which documents must be provided to the DO. More specifically, a declaration of means must be submitted as part of a request for legal aid. The Office conducts a thorough assessment of the financial means of the applicant to decide whether full or partial legal aid should be provided. Where an applicant does not cooperate or provides false information, the request for legal aid will be denied. If the applicant is not satisfied with the decision of the Registrar, he or she has the right to appeal that decision before a panel of Judges.

The Regulations specify the maximum fees and other eligible costs that may be paid upon presentation of an invoice. The procedure for oversight and monitoring by the DO of the spending of the legal aid is also contained in the Regulations.

The Regulations also provide the system of payment for Victims' Counsel and team members and apply *mutatis mutandis* to Victims' Counsel.

4.4 | Victims' Participation Office

The Victims' Participation Office (VPO) administers the system of victims' participation. To facilitate this function, it maintains a List of Specialist (Victims') Counsel who are eligible to appear before the KSC and administers a system of payment for legal representation of participating victims. The current public list contains 92 Counsel who are qualified to represent victims. The VPO also provides assistance and advice to victims in relation to the proceedings in which they participate.

Throughout 2020, the VPO continued to conduct outreach activities, primarily virtually, adapting to the challenges posed by COVID-19. These efforts included online round tables with journalists, the creation and publication of a video on the victims' application process and the launch of its page on the KSC website which contains information on the application process for victims. For two weeks, the video on the victims' application process was broadcasted during peak times on 12 TV channels in Kosovo.

The confirmation of the first indictment before the KSC and its publication in September, marked the beginning of the process for victims to apply to participate in future proceedings. The publication of one further indictment has expanded the group of eligible victims. The VPO has received official applications in both cases, as well as several inquiries about the process.

Victims who participate in proceedings before the KSC have certain rights, including the right to notification, acknowledgement and reparation. Participating victims in proceedings at the KSC will form one or more groups. Each of these groups participates through their Victims' Counsel. Victims' Counsel may be present at court hearings and will keep the victims informed throughout the proceedings. Victims' Counsel will seek victims' views, hear their concerns and bring these to the attention of the relevant Judges.

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 of a participating victim at the KSC.

When an indictment is confirmed and becomes public, persons may apply to be admitted as a participating victim by the Pre-Trial Judge or Trial Panel.

4.5 | Witness Protection and Support Office

The Witness Protection and Support Office (WPSO) is responsible for protecting the safety, physical and psychological wellbeing, dignity and privacy of witnesses, victims participating in the proceedings and, where appropriate, others at risk on account of testimony given by witnesses. The WPSO also assists and facilitates their safe and timely appearance before the KSC whenever required. This entails providing all necessary administrative and logistical assistance to witnesses appearing before the KSC, including informing witnesses about any matter relating to their security and safety, the nature of the courtroom proceedings, the courtroom layout and the participants and the role, rights and obligations of witnesses in the proceedings.

With the increase of activity in 2020, the WPSO saw an increase in operational workload across all its areas, including witness protection, psycho-social support and other assistance to witnesses. This is expected to continue with the progression of the judicial proceedings.

The WPSO's key objectives for 2020 included maintaining and consolidating its operational capacity to protect, support, and assist victims, witnesses and others at risk, and maintaining the ability to effectively protect individuals at heightened risk in cooperation with national and international counterparts when required.

4.6 | Detention Management Unit

The Registrar is responsible for managing and administering the detention function and Detention Facilities of the KSC in line with international standards. The Registrar executes this function through the Detention Management Unit (DMU), which manages and administers the KSC Detention Facilities located within a Dutch prison in The Hague.

Another key task of the Unit is to ensure that the detainees in its custody are able to participate in proceedings before the KSC safely and securely. During the COVID-19 pandemic, this has included arranging for detainees to participate in proceedings remotely, from the Detention Facilities, when necessary.

The Rules of Detention were adopted in September and the Detention Facilities were acquisitioned through an agreement with the Dutch Prison Service and the Dutch Ministry of Foreign Affairs. By November, seven detainees were held in custody in the Detention Facilities.

The implementation of COVID-19 mitigation measures in the context of detention management was reflected both in the Rules of Detention and in the day-to-day management of the Detention Facilities.

The DMU ensures that anyone in KSC custody will be detained in accordance with the highest international standards, best practices and applicable law.



Rules of Detention

The Rules of Detention regulate detainee visits and communications between detainees and their Counsel and their families. They further include a disciplinary regime and a complaints procedure. The Rules of Detention meet or exceed the highest international standards, including, in particular, the European Prison Rules and the UN Standard Minimum Rules for the Treatment of Prisoners, more commonly referred to as the Nelson Mandela Rules.

The Rules of Detention were developed in consultation with the International Committee of the Red Cross, which may carry out regular, unannounced and independent inspections of the Detention Facilities in order to examine the conditions of detention and ensure compliance with human rights, international law and accepted standards of treatment. Likewise, the KSC Ombudsperson can enter and inspect, at any time and without notice, the Detention Facilities to assess the conditions of detention.

5 | Division of Administration

The Division of Administration provides expert, 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 Facility Management and General Services Unit, the Security and Safety Unit, the Finance and Budget Unit and the Procurement Unit.

In 2020, the work of the Division focused on the implementation of COVID-19 risk mitigation measures and the preparation for public proceedings.

Work in both of these areas spanned across all brick and mortar premises of the KSC, as well as the realm of the virtual and technical. Continued recruitment of staff to meet the operational needs of the organisation remained ongoing.

Critical work also occurred in the areas of finance and budget, procurement, the KSC Risk Register and preparation for the implementation of the institution's enterprise resource system.

5.1. | Human Resources Unit

The Human Resources Unit (HRU) provides support, advice and services to all personnel of the KSC and the SPO. During 2020, the HRU continued to honour its mandate by assisting with recruitment exercises, administering and advising staff on a variety of personnel matters ranging from compensation and benefits to welfare and health insurance, supporting staff and managers in the process of performance evaluation and facilitating learning and development opportunities for staff. The Unit also played an important role in providing support to staff during the pandemic.

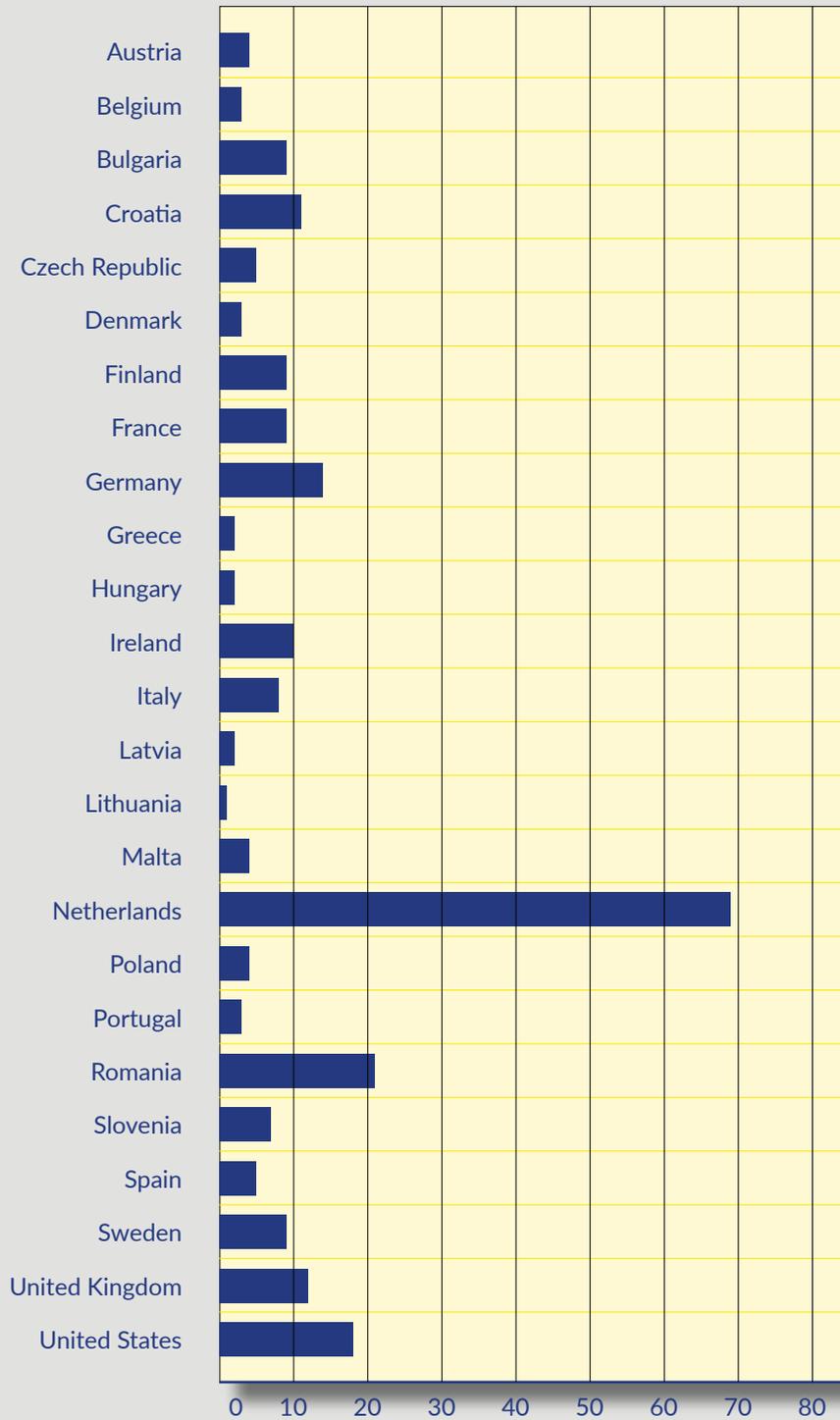
There were three Calls for Contributions over the course in 2020: the first was extended until early

February, the second closed in November and the third closed in October and related to internships. Overall, approximately 3,880 applications were screened, resulting in the deployment of 65 new staff members (32 male and 33 female) and 14 interns (13 male and one female) over the course of 2020. The total number of staff increased from 203 in 2019 to 244 by the end of 2020.

The number of seconded staff remained largely steady with a slight decrease from 14 to 12 staff members, representing seven EU Member States (Finland, Germany, Hungary, Ireland, Italy, Malta and the United Kingdom) as well as one Third Contributing State (United States of America).

National Balance of KSC and SPO staff

31 December 2020



Total KSC and SPO staff



Automation and new technologies are key to ensuring efficiency and accuracy in the work of recruiters. In October 2020, the KSC and the SPO advertised their first Calls for Contributions via the external advertisement platform, Goalkeeper, ensuring a partial automation of information flow for vacancies.

The HRU further organised or facilitated more than 20 learning and development courses in categories including management and leadership, prevention of psychological and sexual harassment, gender mainstreaming, performance management, staff wellbeing and IT development. In addition, Serbian

and Albanian language courses were offered. Furthermore, as part of its response to the increased remote working arrangements, the HRU obtained licenses for online development and training opportunities for all staff.

In line with its duty of care, the HRU also continued to provide staff wellbeing and psychological counselling services throughout the year. In coordination with the IOR, the HRU reviewed the Staff Rules and introduced several important changes including in management of absences and streamlining of entitlements.

5.2 | Information Technology Services Unit

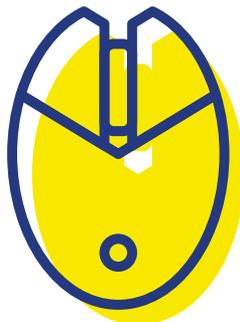
The Information Technology Services Unit (ITSU) provides secure IT and audio-visual services to support the work of the KSC.

In 2020, the ITSU faced the enormous challenge of virtually transitioning all staff to remote work securely due to the COVID-19 pandemic, as well as setting up necessary connections, hardware and customised applications to facilitate remote communications from and between the KSC premises, the Detention Facilities and private users. The work of the ITSU encompasses a wide range of daily engagements, including video meetings between staff, virtual visits between detainees and family members and the livestreaming of court proceedings through the KSC website.

The ITSU also played an important role in preparing the courtroom for the start of proceedings. Significant work occurred on the technical side with courtroom testing and improvements, including efforts to enhance website and streaming capacity and remote session participation. The ITSU also provided fit-for-purpose computers to detainees.

By the time that public proceedings began, the proceedings, along with press conferences and other announcements, could all be electronically transmitted in real time and in the three official languages of the KSC.

Over the course of a single weekend in March, in response to the COVID-19 pandemic, the ITSU managed to triple the number of staff given remote access from 60 to 180 staff. This infrastructure upscaling was conducted consistent with best practices in remote working environment security. By the end of 2020, the number of persons able to work remotely reached over 300, often with nearly 100 concurrent daily users.



5.3 | 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, working closely with the Security and Safety Unit and Protocol in this regard.

The FMGSU was another unit at the forefront of the implementation of the COVID-19 response. Though large portions of staff transitioned to working remotely, certain staff needed to continue to work in-person on premises. To facilitate this, the FMGSU worked with management to devise and implement appropriate risk mitigation methods, including

modifying the layout in many aspects of the buildings.

The mitigation measures and modifications implemented by the Unit were critical to the holding of multiple public hearings in the courtroom during the pandemic, which were attended by members of the public in the public gallery as well as by media in the specially designed media rooms.

Despite the need for constant response measures during the pandemic, the FMGSU still continued to improve and streamline processes to support wider objectives. In that vein, the Unit continued to strengthen working relationships at an operational level with the Host State, including the Central Government Real Estate Agency, culminating in the signing of an agreement for the continued service and maintenance of the KSC and the SPO facilities in the future.



Announcement of COVID-19 measures at the court

5.4 | Security and Safety Unit

The Security and Safety Unit (SSU) carries the overall responsibility for the security and safety of the KSC staff and premises, including any other persons within KSC premises. The SSU staff also functions as court police, manages security arrangements during court hearings and executes transfer operations as directed by the Registrar.

Throughout 2020, the Unit was heavily engaged in the monitoring and implementation of Host State mitigation measures related to the COVID-19 pandemic. Ongoing efforts to mitigate operational and business continuity risk ensured that mandate related activities were fully realised.

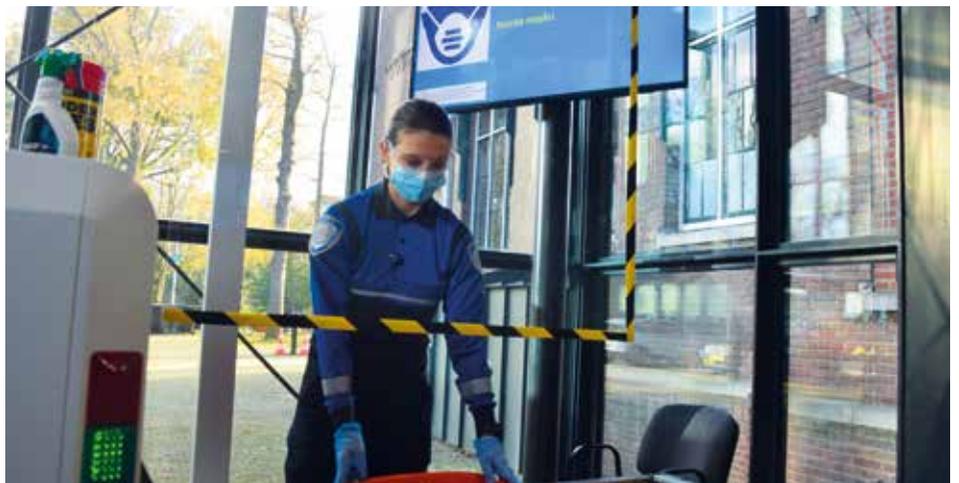
During 2020, the SSU executed seven successful transfers of detainees to the custody of the KSC at the Detention Facilities and subsequent appearances before a Pre-Trial Judge and a Single Judge, respectively. Coordination with the Host State and other States was extensive in these operations. Conducting these operations while maintaining full compliance with COVID-19 best practices was an additional challenge that was successfully met by the SSU. The professionalism of the SSU transfer teams was recognised by a number of detainees in court.

Staffing levels were increased over 2020 to accommodate the start of public proceedings and internal operating procedures were revised to ensure custodial tasks were fully compliant with both existing controls and best practice in relation to the COVID-19 pandemic.

Additionally, coordination activities in the area of official business travel continued unabated. In fact, the travel risk management framework was enhanced through the revision of internal governance relating to mandatory training requirements.

The SSU continued 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.

SSU escort teams are tasked with the safe and secure transfer of detainees in a manner consistent with human rights standards. Escort team members undergo specialised training to prepare for their essential work.



Screening measures when entering the court

5.5 | Finance and Budget Unit

The Finance and Budget Unit (FBU) supports 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.

During 2020, the FBU worked towards a lean and self-standing administration, by putting into place an array of systems, rules and procedures to ensure the proper use and the sound financial management of funds. In this regard, more than five administrative directives were updated or issued by the Registrar during 2020, covering key aspects of the financial circuits of the KSC and the SPO.

In response to the primarily remote work environment created by COVID-19, the FBU immediately adapted to facilitate electronic distribution and electronic signatures of financial documents.

The KSC continued to manage funds received from the EU over the course of 2020 in line with the approved budgets, totalling EUR 67,535,004 for the period 15 June 2018 to 14 June 2020, and EUR 42,900,000 for the period 15 June 2020 to 14 June 2021.

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 144,700, for KSC outreach activities in 2020 and 2021.

The KSC is endowed with robust financial rules and procedures. 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 organisations 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 2020, all audits and expenditure verifications conducted identified no irregularities. At the end of each budgetary reporting period, the closed accounts and expenditure verification reports were submitted to the FPI.

In 2020, the second Grant Agreement signed between the Registrar and the European Commission for the period from 15 June 2017 to 14 June 2018, and the Grant Agreement signed between the Registrar and the Swiss government for KSC outreach activities in 2018 and 2019, were successfully closed, without any ineligibility being identified. In addition, the final reports of the third Grant Agreement signed between the Registrar and the European Commission for the period from 15 June 2018 to 14 June 2020 and the Grant Agreement signed between the Registrar and the Norwegian government, to support the relocation of proceedings to the new premises, were prepared and distributed.

In 2020, the FBU continued to ensure the proper use and the sound financial management of funds.

5.6 | 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 PU ensures that the court complies with EU regulations for its procurement actions. It also supports the organisation 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.

Like many other units, central components of the PU's work in 2020 addressed implementation of COVID-19 mitigation measures and final preparations for and execution of public proceedings. With the introduction of remote work in mid-March, the PU was quick to adapt the procurement circuit to reflect the new situation.

During 2020, the PU was involved in over 340 procurement actions, of which more than 120 resulted in new contracts awards with a combined value of EUR 7.3 million. A significant portion of these contracts were related to the commencement of judicial proceedings. Overall, the number of contracts awarded in 2020 was higher than the previous year, while their combined value also increased.

In 2020, major progress was achieved on a variety of larger tender processes. The procurement actions for the integrated application of the enterprise resource planning were finalised, and the implementation contract was signed. In addition, the KSC's comprehensive insurance package was approved for tendering.

In 2020, the PU engaged in several processes in support of the operations leading up to the start of the public proceedings.

6 | Audit Office

The Internal Auditor is an integral part of the institutional governance and accountability of the KSC and the SPO. She conducts numerous audits, the findings of 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 2020, the Internal Auditor carried out eight audits in accordance with the internal audit plan. These included audits on the grants received from

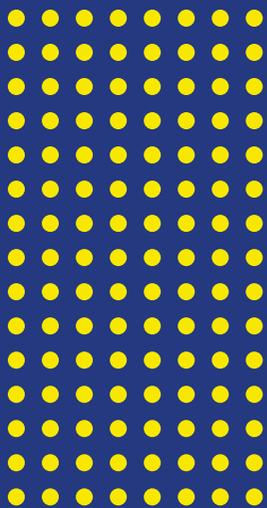
the Norwegian and the Swiss governments, contributions to the provident fund, as well as on expenditure. She also conducted eight follow-up audits during 2020.

In addition to the audit assignments, the Internal Auditor was engaged with the risk management exercises carried out in the KSC offices and units, as well as with the review of the Anti-Fraud Strategy.

The mission of the Audit Office is to support the Registrar in ensuring sound financial management. This is accomplished by independently and objectively evaluating the operations and internal controls within the institution and providing analyses, assessments and recommendations to further strengthen operations and controls.



Gender mainstreaming at the KSC and the SPO



Gender Mainstreaming at the KSC and the SPO

The Principals of the Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO) promote an environment of inclusive leadership and strive to ensure that all employees feel valued, are treated fairly and can professionally develop and be successful. Gender mainstreaming is an inclusive strategy used by the institutions to ensure that the interests and concerns of both women and men are

taken into account, with the ultimate goal of enhancing gender equality. The strategy is used to integrate a gender perspective into internal rules and regulations and also goes hand-in-hand with specific measures designed to increase the percentage of women working within the KSC and the SPO, for example in the traditionally underrepresented field of security.

1. | Gender Focal Point

In 2020, the appointment of the new Gender Focal Point, situated in the Immediate Office of the President, aimed at further strengthening the KSC's and the SPO's inclusive work environment by enhancing in-house expertise. The Gender Focal Point is the representative of the institutions at meetings with gender advisors and gender focal points at the European External Action Service, during which best practices are shared, views and ideas are exchanged and it is ensured that the KSC and the SPO stay abreast of the relevant policies and regulations in this respect.

To celebrate the 20th anniversary of the landmark UN Security Council Resolution 1325 on women, peace and security, the Gender Focal Point organised a special online event to bring the Principals and staff together to celebrate the inspiring women in our lives.

The Gender Focal Point further facilitates trainings on gender-mainstreaming. One such training was held over Zoom in December for KSC and SPO management on the topic of gender-mainstreaming. The Gender Focal Point will promote future recruitment processes by reaching out to

We are fortunate to work at this court and in this time. Our President, Judge Ekaterina Trendafilova, and our Registrar, Dr Fidelma Donlon, are true leaders in this field. Of all the international courts, there have been only a handful of female principals and to have two at the same time with no one noting demonstrates progress in this field, and it deserves noting.

Gender Focal Point, Commemoration twentieth anniversary UN Security Council Resolution, October 2020.

international and European organisations, universities and other relevant institutions to ensure that the institutions' job listings are circulated as widely as possible to assist in supporting gender parity at the KSC and the SPO. Finally, the Gender Focal Point has a dedicated page on the KSC's and the SPO's internal webpage, Kosmos, where she will share important resources and information related to gender-mainstreaming, make available presentations and will inform about relevant future internal and external presentations and training opportunities.

2. | Proactive Management by the KSC and the SPO on Gender Parity

To ensure the continuous monitoring and evaluation of the KSC's and the SPO's progress towards increasing the number of women working in the institutions, the Human Resources Unit (HRU) prepares monthly management reports on staff statistics, including gender balance. In addition, the HRU reports on the number of female applicants, short-listed and selected candidates, as well as the overall gender balance in the KSC and the SPO. Moreover, the HRU monitors the implementation of the Administrative Directive on Staff Selection, which requires that selection panels must consist of members of different nationalities and genders, except in well-justified cases.

The commitment and proactive steps taken by KSC and SPO management to implement measures to improve female representation has resulted in marked progress. For example, when the Security and Safety Unit (SSU) was created, the rough average of female representation in uniformed services (national police, military or other international organisations) was about 10-12%. Over the years, the low number of women applying for security posts (circa 10%) was a challenge to achieving higher female representation within the SSU. Nevertheless, the institutions remained committed to encouraging more female applicants in order to surpass the 12% average. The SSU now stands at 24% female staffing.

Two key management practices have helped the SSU achieve this higher proportion of female staffing. First, inclusivity in all tasks, and second, a rotational working system that minimises out of hours working as far as practicable and allows for stability in planning. In terms of inclusivity, from the outset there has been no differentiation in the duties undertaken by female and male operational security staff, including with respect to the escort of persons

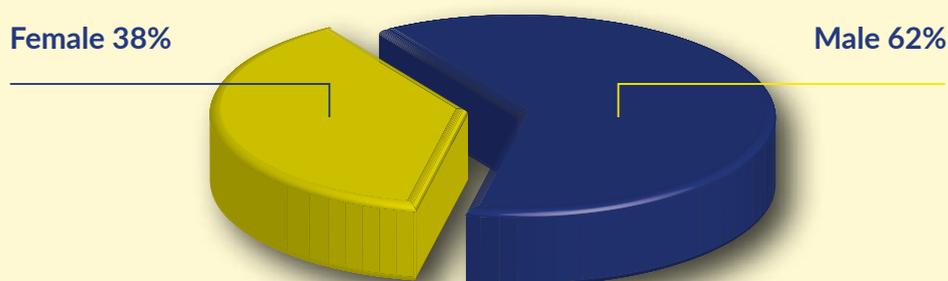
detained by the KSC. This is not the prevailing practice at many other judicial institutions. By ensuring the safe and secure custody and escort of detained persons, the SSU escort teams play a pivotal part in the day-to-day support provided to judicial proceedings. In addition, joint KSC/SPO teams involving both SSU and SPO security staff also manage highly sensitive field operations.

The rotational working system has proven indispensable for the effective resource management of the SSU. It is a vital component in the recruitment and retention of all staff, as well as a direct consideration for working parents. The system facilitates longer term planning and stability to better balance professional and personal obligations. The feedback from staff about the system has been positive. In this regard, "word of mouth" advertising by current staff back to their national jurisdictions has encouraged a more diverse array of candidates to apply for security posts.

In terms of gender balance as a whole, two out of three appointed Principals, the President and the Registrar, are female. In 2020, 65 new staff were deployed – 51% female and 49% male. The overall staff composition of the KSC and the SPO at the close of 2020 was 38% female and 62% male, up from 36% female and 64% male in 2019. The KSC has 181 staff – 45% female and 55% male. The SPO has 63 staff – 22% female and 78% male.

Gender Balance of KSC and SPO staff

31 December 2020

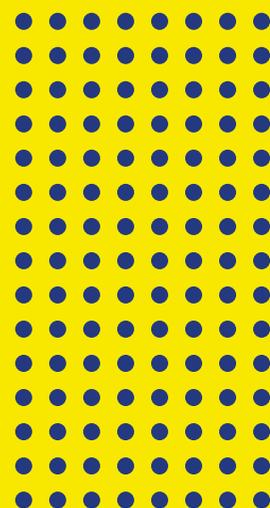


In particular, the Specialist Prosecutor has identified the SPO Operational and Witness Security team as a unit where he is focused on increasing the number of female staff. Together with the Registrar, he has held roundtables with senior security managers to discuss good practices and steps to encourage more female applicants in future Calls for Contributions. These include the following:

- Together with the Gender Focal Point, organise and promote events where male and female representatives from the KSC and the SPO can speak together about the organisational culture in the institutions and their units, raise questions and concerns they may have and identify ways to motivate a more diverse candidate pool and address any obstacles to staff retention.
- Amplify the work of the Gender Focal Point by encouraging and supporting KSC and SPO staff to serve as “ambassadors” of the institutions’ gender parity initiatives with respect to their previous colleagues/organisations/institutions with the goal of increasing gender parity in SPO candidate pools and, ultimately, the number of female staff within the SPO Operational and Witness Security team, as well as other units.

As part of their ongoing diplomatic engagement, the Principals continue to encourage EU Member States and Third Contributing States to submit highly qualified candidates for secondment with gender parity in mind. With regard to security posts, the Principals continue to emphasise that there is no differentiation in the duties undertaken by female and male operational security staff and highlight for EU Member States and Third Contributing States that the KSC and the SPO are focused on increasing the number of female applicants, both for security posts and across the institutions more generally.

Specialist Prosecutor's Office



1 | Foreword

In the past year the Specialist Prosecutor's Office (SPO) has reached several important milestones, despite the challenges imposed by the global COVID-19 pandemic. In February and April, the SPO filed its first indictments with the Kosovo Specialist Chambers (KSC). In September, SPO police arrested the first accused and transferred him to the KSC Detention Facilities in The Hague. And in November, the SPO took into custody Kosovo's four senior Kosovo Liberation Army (KLA) figures after an indictment charging them with widespread war crimes and crimes against humanity was confirmed by the court.



Jack Smith, Specialist Prosecutor

These milestones have been reached thanks to the tireless dedication of SPO staff and the unwavering support of the wider international community. We are now firmly and publicly on the road to achieving justice for victims and their families who have waited 20 years to see those most responsible for the crimes under our mandate being brought to face justice. These victims were civilians of all ethnicities and included not only Serbs, but many Kosovo Albanians, Roma and political opponents of the accused.

I wish to thank the European Union Rule of Law Mission in Kosovo (EULEX) and its Head of Mission, Lars-Gunnar Wigemark, for the critical logistic and operational support given to the SPO over the last year. Moreover, I am grateful to the European Union, its Member States, including, in particular, our Host State, the Netherlands, and Third Contributing States for providing the resources and support necessary to enable us to carry out our mandate.

And I am thankful for the efforts of colleagues in the KSC, in particular President Ekaterina Trendafilova and Registrar Dr Fidelma Donlon, who have created the court structures and procedures, which make our work possible.

Jack Smith
Specialist Prosecutor

December, 2020

2 | Mandate Implementation

In the course of 2020, the SPO filed its first indictments, carried out seven arrests in Kosovo and began court proceedings in relation to three separate cases, despite having to adapt working practices in response to the COVID-19 pandemic.

The SPO filed its first indictments with the Specialist Chambers in February shortly before the imposition of measures to combat the spread of COVID-19, which ultimately led to lockdowns throughout much of the world, including Kosovo and the wider region. In March, the SPO introduced new working arrangements to limit the spread of the coronavirus in line with best practices. In this way, the SPO was able to adapt to changed circumstances in the Netherlands, Kosovo and the wider region so as to continue our work. Shortly thereafter, in April, the SPO filed its largest indictment to date.

In June, the Specialist Prosecutor announced that the April indictment included the then-President of Kosovo, Hashim Thaçi, and leader of the Democratic Party of Kosovo, Kadri Veseli. He deemed it necessary to make this information public because of repeated efforts by Mr Thaçi and Mr Veseli to obstruct and undermine the work of the KSC.

The SPO carried out its first arrest on 24 September, arresting Salih Mustafa in Pristina and transferring him to the Detention Facilities of the KSC in The Hague, pursuant to an arrest warrant, transfer order and confirmed indictment issued by a Pre-Trial Judge. EULEX provided key operational and logistic support to the SPO in executing the arrest.

The indictment charges Mr Mustafa with individual criminal responsibility for arbitrary detention, cruel treatment, torture and murder, war crimes under international law. Mr Mustafa first appeared in court on 28 September.

On 25 September, SPO police arrested Hysni Gucati and Nasim Haradinaj, Chair and Deputy Chair of the KLA War Veterans Association, in Pristina. Mr Gucati was transferred the same day to the Detention Facilities of the KSC in The Hague, Mr Haradinaj a day later. SPO investigators also carried out a search of the KLA War Veterans Association premises. These actions were carried out pursuant to arrest warrants, search warrants and transfer orders issued by a Single Judge. EULEX again provided key operational and logistic support to the SPO in these operations.



First row, from the left: Prosecutors Alan Tieger, Clare Lawson and David Harbach
Second row, from the left: Specialist Prosecutor Jack Smith and Deputy Specialist Prosecutor Alex Whiting

The arrest warrants against Mr Gucati and Mr Haradinaj were issued for suspected offences against the administration of justice, attempted intimidation of witnesses, retaliation and violation of secrecy of proceedings. Mr Haradinaj's first appearance in court was on 29 September, and Mr Gucati's on 1 October. An indictment subsequently submitted against Messrs Haradinaj and Gucati was confirmed on 11 December.

On 4 and 5 November, Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi were arrested and transferred to the Detention Facilities of the KSC in The Hague, pursuant to a confirmed indictment, arrest warrants and transfer orders from a Pre-Trial Judge. Searches were also conducted of various residences associated with the accused, based on search warrants issued by the court. Again, EULEX provided key operational and logistic support to the SPO during these operations.

All counts of the indictment submitted against Mr Thaçi, Mr Veseli, Mr Selimi and Mr Krasniqi were previously confirmed by the Pre-Trial Judge in October. The court confirmed each count of the indictment submitted against Mr Thaçi and his co-accused, finding a well-grounded suspicion that



Alex Whiting, Deputy Specialist Prosecutor

“would satisfy an objective observer that a criminal offence has occurred and the defendant has committed the offence”. The court based its findings on “concrete and tangible supporting material, demonstrating a clear line of reasoning underpinning the charges in the indictment”.

Staffing

The SPO has an allocation of 78 employees, including prosecutors, legal advisers, security professionals, investigators, analysts, witness-security specialists and support staff. At the end of 2020, 57 of these posts – 73% – were filled, with 19 nationalities represented from both EU Member States and Third Contributing States.



Each of the accused is alleged to be individually criminally responsible for the war crimes of illegal or arbitrary arrest and detention, cruel treatment, torture, and murder, and the crimes against humanity of imprisonment, other inhumane acts, torture, murder, enforced disappearance of persons, and persecution, committed from at least March 1998 through September 1999.

Mr Krasniqi and Mr Thaçi appeared in court for the first time on 9 November, Mr Veseli on 10 November and Mr Selimi on 11 November.



Prosecutor Valeria Bolic

Video Briefing

In the course of 2020, Specialist Prosecutor Jack Smith held a series of diplomatic video briefings to update EU Member States and Third Contributing States on the SPO's work, challenges the SPO was facing and ways in which the international community could help the SPO expedite its investigation.

Specialist Prosecutor Smith addressed diplomats in The Hague, together with Specialist Chambers President Ekaterina Trendafilova and Registrar Dr Fidelma Donlon, in both July and December, and diplomats based in Pristina in December.

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



3 | SPO History

The SPO was established on 1 September 2016 on the basis of a constitutional amendment and the Law on Specialist Chambers and Specialist Prosecutor's Office adopted by the Kosovo Assembly on 3 August 2015. It inherited the staff and mandate of the Specialist Investigative Task Force (SITF).

The SITF had been formed in 2011 in Brussels as a unit of EULEX 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*, that had been published at the beginning of 2011.

The Council of Europe Report represented the findings of an investigation led by Swiss Senator Dick Marty into allegations contained in former Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) Carla Del Ponte's 2008 memoir, *Madame Prosecutor*. Madam Del Ponte had not been able to take her investigation at the ICTY further because she lacked jurisdiction.



Del Ponte memoir

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



Ambassador Clint Williamson

Ambassador Williamson reported in July 2014 that a court would have to be created to take the investigation forward. This led to the adoption in August 2015 by the Kosovo Assembly of a Constitutional amendment and the Law on the Specialist Chambers and the Specialist Prosecutor's Office (Law).

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 Specialist Chambers 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.

David Schwendiman, a former US Federal Prosecutor and one-time Deputy Chief Prosecutor and Head of the Special Department for War Crimes in Bosnia and Herzegovina, was appointed the first Specialist Prosecutor on 1 September 2016, when the SITF transitioned into the SPO. Jack Smith assumed the role of Specialist Prosecutor in September 2018.

4 | Senior Prosecution Staff

The SPO is led by a team of experienced prosecutors, all of whom have experience in both their domestic jurisdictions and international tribunals.

Jack Smith, who has been Specialist Prosecutor since September 2018, is a US prosecutor with experience in both high-level political investigations and international criminal investigations.

Before joining the SPO, Mr Smith was Vice President and Head of Litigation for the Hospital Corporation of America, the largest non-governmental health-care provider in the United States, a position he had been in since September 2017.

Between February 2015 and August 2017, Mr Smith served as First Assistant US Attorney and Acting US Attorney for the Middle District of Tennessee.

Between 2010 and 2015, Mr Smith served as Chief of the Public Integrity Section of the US Department of Justice, supervising the litigation of complex public corruption cases across the United States.

From 2008 to 2010, Mr Smith served as Investigation Coordinator in the Office of the Prosecutor at the International Criminal Court (ICC). In that capacity, he supervised sensitive investigations of government officials and militia for war crimes, crimes against humanity, and genocide.

Mr Smith joined the ICC from the US Attorney's Office for the Eastern District of New York, where he served for nine years in a number of positions, including Chief of Criminal Litigation and Deputy Chief of the Criminal Division. As Chief of Criminal Litigation, Mr Smith supervised approximately 100 criminal prosecutors across a range of programme areas, including public corruption, terrorism, violent crime and gangs, as well as white collar and complex financial fraud.

Before becoming an Assistant US Attorney, Mr Smith served for five years as an Assistant District Attorney in the New York County District Attorney's Office where he was a member of the Office's Sex Crimes and Domestic Violence Units.

Mr Smith has received a number of awards in the course of his career. These include the Tennessee Justice Center Pro Bono Attorney of the Year; the US Department of Justice Director's Award; the US Attorney General's Award for Distinguished Service; the Federal Bar Association's Younger Federal Attorney Award; the Eastern District Association's Charles Rose Award; the Henry L. Stimson Medal of the New York County Bar Association; and a Harvard Law School Wasserstein Fellowship.

He is a graduate of both Harvard Law School and the State University of New York at Oneonta.



Jack Smith, Specialist Prosecutor

The Deputy Specialist Prosecutor 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 ICC and the International Criminal Tribunal for the former Yugoslavia (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 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.

The SPO's Senior Prosecutor is Alan Tieger, a US national with extensive experience both from the US and the 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, Momčilo 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.

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

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, Deputy Specialist Prosecutor



Alan Tieger, Senior Prosecutor



Clare Lawson, Legal Advisory Team Leader





KOSOVO SPECIALIST CHAMBERS &
SPECIALIST PROSECUTOR'S OFFICE

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