

*(English version)*

**Q.** The Specialist Chambers were formed more than a year ago. The impression is that all the accompanying services are ready, the eyes of the public are directed to the work of the new court and the prosecutor's office, but there is still no trial. Are the Chambers ready to start the trials once the indictments are submitted and is it the only thing that is awaited for the proceedings to begin?

**A.** First of all, in order to understand what is happening right now, it is useful to recall that we have two distinct and independent institutions: the Specialist Chambers comprising the Chambers and the Registry, on the one hand, and the Specialist Prosecutor's Office, on the other hand. The Specialist Chambers will be tasked with hearing the case of the Specialist Prosecutor, when his investigation will be completed and he will decide whether there is sufficient evidence to file an indictment.

The Specialist Chambers, on its part, have taken several steps in the last two years in order to be ready to start judicial proceedings. These steps included the adoption of the Rules of Procedure and Evidence and many other necessary regulations that help increase the efficiency of the work of the Chambers as well as to ensure that the fundamental rights of the suspects and accused will be fully respected. In parallel, the Specialist Prosecutor together with his staff, is investigating and collecting evidence to decide what cases to bring before the Judges. This is a time-consuming process, which is solely guided by how strong the evidence against individual persons is. Once the Specialist Prosecutor determines that his investigation is complete and if there is sufficient evidence to support a case, he will file an indictment. As the Specialist Prosecutor's Office is an independent institution, I am not involved in this determination. All that I can say is that the Specialist Chambers have made sure to be ready in order to ensure that the proceedings will move efficiently once the Prosecutor seizes us with a case or cases.

**Q.** You are aware of the mistrust of Serbian citizens in international courts, as well as a negative attitude from a part of the Kosovo public towards your work. Does this present a problem in your work and how will you convince all interested in your activities of your impartiality and objectivity?

**A.** I am aware of the scepticism but also of the support that the Specialist Chambers have in Kosovo, Serbia and in the region. When building the legal framework for the Specialist Chambers, including the Rules of Procedure and Evidence and other regulations for the proper functioning of the institution, together with the other Judges we have tried to take stock of our previous professional experiences both at the national and the international level, in order to avoid mistakes or inefficient practices. Accordingly, we have also looked at strengthening the legal framework for a secure and efficient protection of witnesses and victims who will want to tell their story before the Judges. This is one of the main reasons why the Specialist Chambers are relocated to the Netherlands, to provide a safe and secure environment for the witnesses and victims. The Registrar and the Judges have also worked assiduously to uphold the most advanced practices for the protection of witnesses.

**Q.** What are the novelties in your work compared to previous international tribunals?

**A.** The Specialist Chambers have several novel features that should be emphasised in comparison to other courts and tribunals dealing with international crimes. I will only mention some of these novel features.

From the institutional point of view, a first unique feature is the very structure of the Specialist Chambers. We have four levels with the Basic Court Panel; the Court of Appeal Panel; the Supreme Court Panel and the Constitutional Court Panel. Each of these panels has a precise role and function according to the Law. In addition, we have the Office of the Ombudsperson, which is tasked with monitoring, defending and protecting fundamental rights and freedoms of persons interacting with the Specialist Chambers and Specialist Prosecutor's Office.

The Law also provides for a stringent and very competitive selection process of Judges, who are all international, i.e. not citizens of Kosovo. Moreover, these Judges are not appointed to serve on a full-time basis, but are only appointed to a roster and will only perform their duties for specific assignments. To further ensure the independence and impartiality of the Judges, we have adopted a Code of Judicial Ethics, which regulates the conduct of Judges in the exercise of their functions. Further, both Defence Counsel and Prosecutors appearing before the Specialist Chambers will be subject to the Code of Professional Conduct, which also provides for a detailed disciplinary procedure in case of misconduct.

On a more technical and procedural level, when the Judges of the Specialist Chambers drafted and adopted the Rules of Procedure and Evidence, they included a number of novel procedural solutions, based on their extensive professional experience, to improve the efficiency and effectiveness of the proceedings.

Expediency and efficiency are considerations of paramount importance for us. Accordingly, for the first time in any tribunal dealing with international crimes, we have included strict deadlines not only for the filings and submissions by the parties but also for the decisions of the Judges, including the judgments.

**Q.** One of the novelties is the active role of victims in criminal proceedings. Since you have been founded in order to provide justice to victims, can you explain how will this (*i.e. the role of victims*) work in practice and how does it work now, if it does?

**A.** The participation in criminal proceedings by victims of crimes under the jurisdiction of the Specialist Chambers is a reality that follows a well-established principle, by now, in international law. Our Law provides that victims will have a right to notification, acknowledgment and reparations. The Judges will then more specifically define the level of participation in respect to these rights on a case-by-case basis.

The following steps in practice need to be taken before victims can participate in the criminal proceedings before the Specialist Chambers. Once the Specialist Prosecutor completes his investigation, he will seize the Pre-Trial Judge with the case. This Judge will have the task of determining whether or not there is sufficient evidence to confirm the charges brought by the Specialist Prosecutor and, if so, to proceed to trial before the Trial Panel, which is composed of three Judges plus one reserve Judge. Once charges have been confirmed, the Victims' Participation Office, which is a specialized unit of the Specialist Chambers that deals with victims' participation, will reach out to individuals who are alleged victims of the specific crimes mentioned in the indictment confirmed by the Pre-Trial Judge. These individuals, with the assistance of the Victims' Participation Office, can request the Pre-Trial Judge to be recognized as victims and, if so, they will be entitled to participate in the proceedings through a legal representative, who will assist them and represent their interests. In case the accused persons are convicted, it is also possible for the victims to seek compensation or to go before a national court to do so.

**Q.** How does the Specialist Court cooperate with the authorities of Kosovo, and how with the authorities of Serbia? In the practical sense, who will carry out your orders when it comes to arrests, detention and obtaining evidence?

**A.** The Specialist Chambers are completely independent in performing their responsibilities. In other words, we carry out our mandate pursuant to the Constitution, the special Law for the Specialist Chambers and Specialist Prosecutor's Office and the Exchange of Letters between Kosovo and the EU. We are not under the authority or influence of any government or individual.

As the Law dictates, the Specialist Chambers can request Kosovo institutions and individuals to comply with their orders. They are obliged to do so; they cannot refuse. With countries other than Kosovo, whether it is Serbia or another State, the Specialist Chambers must enter into cooperation arrangements, that is to say specific agreements for cooperation between the Specialist Chambers, as an independent entity, and that specific State.

**Q.** Do the current political situation in Kosovo and relations with Serbia have an impact on your work?

**A.** They do not have any impact on our daily work. The Specialist Chambers are independent from Kosovo in the exercise of their mandate. This is clearly stated in Article 162 of the Constitution and in the Law on the Specialist Chambers and Specialist Prosecutor's Office, which is our guiding legal text. Accordingly, while we are aware of political developments and follow them closely, they do not affect our judicial work.

**Q.** The issue of witness protection is certainly the most sensitive and most confidential in the work of each court. However, you will understand the public's interest in this topic, given the very negative experience when it comes to witnesses of crimes against Serbs. Can you specify the legal and technical mechanisms that are available to you in this respect and can you guarantee security to anyone who will testify at your proceedings?

**A.** The Specialist Chambers have established a Witness Protection and Support Office to provide appropriate assistance and support to potential witnesses who may be at risk on account of their testimony, or even for other persons who may be at risk on account of testimony given by witnesses. Such protection and support may include, but is not limited to, measures and security arrangements provided for in Kosovo laws, presentation of evidence by electronic or other special means and the protection of identity. Furthermore, the Law specifically requires the Specialist Chambers to ensure protection of vulnerable witnesses, including victims of sexual and gender-based violence as well as children. Protective measures ordered by Judges may include the use of pseudonyms, face and voice distortion, delayed disclosure of identifying information, video-link testimony, closed sessions, relocation and others.

The fact that our institution is located in the Netherlands definitely helps to provide better protection for witnesses, victims and other persons who may interact with the Specialist Chambers.

Let me make also a very important point here. As regards those who would consider intimidating or in any way putting at risk the safety and security of witnesses, the Specialist Prosecutor is responsible for investigating crimes against the administration of justice. Judges can issue arrest warrants if need be and these persons can be prosecuted for interfering with the course of justice.

Thus, we have developed a robust framework for the prevention or punishment of any wrongdoings in regard of the safety and security of witnesses. But we also care about their mental and emotional well-being, as it is known that these situations are highly stressful and can be traumatic not just from the safety point of view. Therefore, we will also have all necessary psychological support available.