

**KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE**

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# **2018 REPORT**



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# KOSOVO SPECIALIST CHAMBERS



## FOREWORD

**It is our honour to introduce the 2018 Annual Report of the Kosovo Specialist Chambers – a young institution which has devised a solid legal and administrative framework to carry out in full its mandate to conduct independent, impartial, efficient and fair criminal proceedings in a safe and secure environment.**

Whilst we placed a distinct emphasis on the critical milestones in the establishment of this new judicial institution in our First Report, we intend by the present Report to provide a detailed update on the developments that have taken place during 2018 in the Kosovo Specialist Chambers.

Guided by our commitment to ensure the effective administration and management of future trials, significant progress has been made throughout 2018 to further strengthen the regulatory and procedural framework of our institution, building upon lessons learned from other similar judicial bodies and working in close cooperation within our institution and with external stakeholders.

The devising of a legal framework conducive to effective proceedings has been a key priority for the Kosovo Specialist Chambers in 2018. We have collected and analysed best practices and designed innovative instruments in order to ensure the conduct of fair and secure proceedings where the rights of both the accused and victims are fully met, while guaranteeing swift and efficient trials. The Judges – who are appointed to a roster and are accordingly exercising their functions only as necessary – continue to be closely engaged

in this process, providing their invaluable input and relying upon their vast expertise in both domestic and international criminal proceedings. The Registry has also focused its attention on developing court management tools aimed at facilitating the participation of parties and victims, and assisting the Judges in the discharge of their duties.

Transparency remains another cornerstone of the work of the Kosovo Specialist Chambers and is now firmly embedded in the institution's culture. The Kosovo Specialist Chambers' comprehensive and dedicated Outreach Programme plays a critical role in achieving our commitment in this regard. The year 2018 has notably seen the launch of the updated Kosovo Specialist Chambers and Specialist Prosecutor's Office website, which features a court records database ensuring that public documents are easily accessible to as wide an audience as possible, as well as the ability to stream audio-visual content of public court sessions. We have, in addition, strengthened our efforts to regularly reach out to numerous communities and groups in Kosovo and neighbouring regions, including civil society, minority groups, NGOs and legal practitioners.

We will continue to strive to make sure that the mandate and role of the Kosovo Specialist Chambers are understood in their proper context by the populations concerned and to nurture the interactive dialogue initiated since our inception with communities in Kosovo and elsewhere. This Report is also intended as a further demonstration of our dedication to full transparency of our operations.

In accomplishing the above, we remain most grateful to the Member States of the European Union and to Third Contributing States, for their continuous support for our endeavours – both financially and politically. We would like to equally express appreciation to our Host State for the facilitation of our activities in the Netherlands.

We also sincerely thank our counterparts in the European Union External Action Service, the European Commission Service for Foreign Policy Instruments and the Civilian Planning and Conduct Capability for their assistance and collaboration with regard to various matters related to our institution.

Our gratitude further goes to States, members of the diplomatic community as well as inter-

national and internationalised courts and tribunals in The Hague for their cooperation and regular constructive exchanges on organisational and administrative matters.

With the best tools in hand, and in line with our mandate, the Kosovo Specialist Chambers is determined to continue to build upon the established solid legal and administrative framework with the ambition to become a judicial institution which sets an example of efficiency and transparency, whilst ensuring full respect for the fair trial rights of the suspects and accused, as well as the security and safety of witnesses and victims. Throughout this process, we will maintain and stress at all times the paramount importance of our independence as a judicial institution, free of any political influence or interference.

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

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

*The Hague, February 2019*

## 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 by certain Kosovo Liberation Army (KLA) members during and in the aftermath of the 1998-1999 conflict.

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

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

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

The **Exchange of Letters** provides that these judicial chambers would be established within the Kosovo court system, but 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.

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, and 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 on its territory. Subsequently, in **February 2017**, 19 Judges were appointed to the Roster of International Judges of the 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, 118 legal practitioners from Kosovo, Serbia and a number of other countries have been admitted to the Lists of Defence and Victims’ Counsel.

In **March 2018**, the Judges of the KSC convened for the third Plenary.

In **May 2018**, Pietro Spera was appointed Ombudsperson of the Kosovo Specialist Chambers.

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.



**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".

**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".



**DECEMBER 2016**

Judge Ekaterina Trendafilova is appointed President of the KSC.

**SEPTEMBER 2016**

David Schwendiman is appointed Specialist Prosecutor.

2011

2012

2013

2014

2015

2016



**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.

**AUGUST 2015**

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



**APRIL 2016**

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

**MARCH 2017**

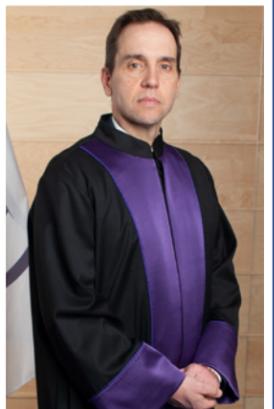
Judges adopt the Rules of Procedure and Evidence, subject to review by the Specialist Chamber of the Constitutional Court.

**JANUARY 2017**

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

**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.



**SEPTEMBER 2018**

Jack Smith succeeds David Schwendiman as Specialist Prosecutor.

2017

2018



**FEBRUARY 2017**

19 Judges are appointed to the Roster of International Judges.

**NOVEMBER 2017**

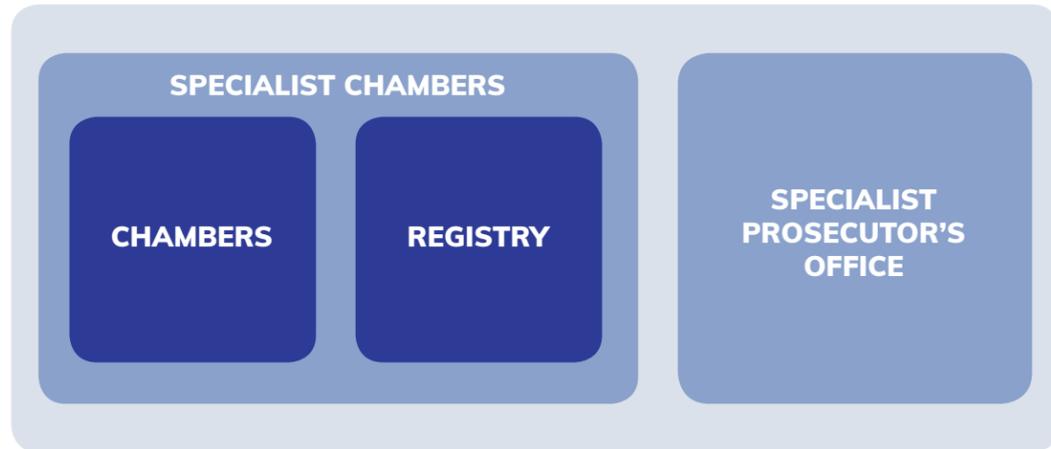
The Registrar adopts the Directive on Counsel regulating matters such as the eligibility of lawyers to represent suspects, accused and victims before the KSC. By the end of 2018, 118 legal practitioners have been admitted to the Lists of Defence and Victims' Counsel.



**MAY 2018**

Pietro Spera is appointed Ombudsperson of the Kosovo Specialist Chambers.

The Kosovo Specialist Chambers and the Specialist Prosecutor's Office are two **independent** institutions established by a **constitutional amendment** and a **Law on Specialist Chambers and Specialist Prosecutor's Office** adopted by the Kosovo Assembly in August 2015.



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

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



# CHAMBERS

## 1. Building the Procedural Framework

The Kosovo Specialist Chambers became judicially operational in July 2017, with the entry into force of the Rules of Procedure and Evidence. Since then, the KSC has been ready to receive any filing, indictment or other legal submission for the purpose of commencing judicial proceedings. Initiation of judicial proceedings is within the sole discretion of the Specialist Prosecutor's Office (SPO), which is fully independent from the KSC.

International Judges of the Kosovo Specialist Chambers, the Staff Appeals Procedure and the Directive on Counsel in 2017, Chambers worked on a number of other significant regulatory documents in 2018.

For instance, Judges have been consulted on the **Code of Professional Conduct for Counsel and Prosecutors before the Kosovo Specialist Chambers**, a document to be adopted by the Registrar upon approval of the President. The purpose of this document is to regulate the professional standards applicable to lawyers appearing before the KSC and to establish the disciplinary mechanism in case of breaches thereof. It will cover not only the conduct of Counsel for suspects, accused, and victims, but also the conduct of Prosecutors. In an effort to design regulations that live up to the expectations of the KSC's various stakeholders, the President of the KSC, Judge Ekaterina Trendafilova, has also gathered the input of a multitude of actors on this document, including the SPO and representatives of Counsel on the List of Defence and Victims' Counsel.

*Since mid-2017, the Specialist Chambers have been ready to start judicial proceedings whenever the Specialist Prosecutor will come forward with charges. We are using this time effectively and wisely in order to ensure that future trials are expeditiously conducted and that all prospective witnesses are secure and safe.*

*President Trendafilova,  
Opinion editorial, Kosova Sot/Ekspress,  
December 2018*

With a view to fulfilling its mandate to ensure secure, independent, impartial, fair and efficient proceedings, the KSC has continued to focus on establishing a solid procedural framework and has put in place legal instruments regulating technical aspects of the proceedings and the internal functioning of the KSC.

After the adoption of seminal documents such as the Rules of Procedure and Evidence, the Rules on the Assignment of Specialist Chambers Judges from the Roster of International Judges, the Code of Judicial Ethics for Judges Appointed to the Roster of

Furthermore, in July 2018, President Trendafilova adopted the **Practice Direction on the Rules Committee Pursuant to Rule 7 of the Rules of Procedure and Evidence**, establishing the Committee entrusted with examining proposals for amendments to the Rules of Procedure and Evidence.

In the exercise of her responsibility for the judicial administration of the KSC, President Trendafilova has also been substantively involved – together with the Registrar – in the devising of the **Legal Aid Regulations**,

## Practice Direction on the Rules Committee Pursuant to Rule 7 of the Rules of Procedure and Evidence

Date of adoption and entry into force: 10 July 2018

**What it regulates:** the establishment of the Rules Committee provided for in Rule 7 of the Rules of Procedure and Evidence (Rules) and the procedure for the submission and consideration of any proposal for amendments to the Rules by Judges, the Specialist Prosecutor, the Independent Representative Body of Specialist Counsel or the Registrar.

**Rationale:** the Practice Direction on the Rules Committee was adopted for the purpose of ensuring transparent and efficient proceedings before the Rules Committee.

**Content:** the Practice Direction on the Rules Committee provides that the President shall designate two Judges to sit with her on the

Rules Committee for one year. It requires that any proposal for amendments include: (a) the proposed new text of the relevant Rule; (b) the reasons for the proposal; (c) its consistency with Chapter II of the Constitution of Kosovo and the Law on the Specialist Chambers and the Specialist Prosecutor's Office; and (d) its potential impact on other Rules or on any other relevant provision governing proceedings before the KSC. It further regulates the procedure for the consideration of proposals by the Rules Committee and the reporting mechanism to the Plenary of Judges.

**Where to read:** the Practice Direction on the Rules Committee is public and can be accessed on the website of the KSC.

and has provided comments on various regulatory documents governing detention under the authority of the KSC, which will be adopted by the Registrar in 2019. The Legal Aid Regulations will govern the regime applicable for remunerating Counsel assigned to indigent suspects, accused, victims or any other person entitled to legal representation. In particular, these regulations will establish a procedure for assessing whether a person has sufficient means to pay for legal representation, as well as a scheme for calculating the amount of legal aid to be awarded. The **Detention Rules** and other detention-related documents – such as the Complaints Procedure for Detainees, the Disciplinary Procedure for Detainees, and

the Visits and Communications Procedure for Detainees – will, among other things, provide for complaint and disciplinary mechanisms for detainees, and regulate procedures for visits by Counsel and family.

To complement the KSC's legal framework for detention, the President and the Registrar have negotiated an **Agreement between the Specialist Chambers and the ICRC on Visits to Persons Deprived of Liberty Pursuant to the Jurisdiction of the Specialist Chambers**, which sets out the procedure for visits by the International Committee of the Red Cross to persons deprived of liberty pursuant to the KSC's jurisdiction.

## 2. Activities of the President and Judges

The Judges of the KSC are appointed to a Roster of Judges and exercise their judicial functions as necessary at the request of the President. In accordance with Article 26 of the Law on Specialist Chambers and Specialist

Prosecutor's Office (Law), Judges do not receive remuneration or other benefits for being on the Roster and exercise their functions remotely insofar as possible.



KSC Judges

By virtue of her responsibilities for the judicial administration of the KSC and in order to fulfil a number of other critical functions conferred upon the President by the Law and the Rules of Procedure and Evidence, President Trendafilova is present

at the seat of the KSC and serves on a full-time basis.

In 2018, the President and the Judges were involved in the adoption of various legal documents, discussed developments within

## Judges on the Roster of International Judges



Judge Ekaterina Trendafilova  
President (Bulgaria)



Judge Keith Raynor  
Vice-President (United Kingdom)



Judge Vidar Stensland  
Constitutional Judge (Norway)



Judge Roland Dekkers  
Constitutional Judge (Netherlands)



Judge Ann Power-Forde  
Constitutional Judge (Ireland)



Judge Antonio Balsamo  
Constitutional Judge, Reserve (Italy)



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



Judge Christine van den Wyngaert  
(Belgium)



Judge Michèle Picard  
(France)



Judge Thomas Laker  
(Germany)



Judge Emilio Gatti  
(Italy)



Judge Michael Bohlander  
(Germany)



Judge Kai Ambos  
(Germany)



Judge Kenneth Roberts  
(Canada)



Judge Mappie Veldt-Foglia  
(Netherlands)



Judge Christoph Barthe  
(Germany)



Judge Vladimír Míkula  
(Czech Republic)



Judge Guénaél Mettraux  
(Switzerland)



Judge Nicolas Guillou  
(France)



Judge Andres Parmas  
(Estonia)

the KSC in order to prepare for prospective judicial activities and exchanged on best practices and internal policies. Specific attention was paid in particular to devising policies and practices ensuring fair, effective and expeditious conduct of the judicial work.

In accordance with Rule 10 of the Rules of Procedure and Evidence, which provides that Plenaries shall be held at least once every calendar year, the Judges met in Plenary at the premises of the KSC in the Netherlands in March 2018. The **Plenary** focused on the activities of the Registry in anticipation of future judicial proceedings.

In June 2018, upon the invitation of the French National School for the Judiciary, the Judges met in Paris, France, for a two-day **Colloquium** dedicated to topical issues relevant to the upcoming judicial proceedings and discussed lessons learned from other institutions.

The Colloquium was organised in keeping with the practice initiated in September 2017 in Nuremberg, Germany, where Judges had come together for a Colloquium hosted by the International Nuremberg Principles Academy.

With a view to further enhancing Judges' preparation for the discharge of their duties in upcoming cases, two preliminary papers (Green Papers) were prepared by Judges of the KSC: a Green Paper on the **Efficient Management of**

**Proceedings**, which examines best practices to ensure fair and effective proceedings within the KSC's legal framework and analyses tools for establishing a common culture of efficiency, and a Green Paper on the **Jurisprudence of the Constitutional Court of Kosovo and the European Court of Human Rights on Human Rights Violations in Criminal Proceedings and Issues of Admissibility of Referrals**.

In furtherance of the Paris Colloquium and the Green Papers, and with the essential support of the Bulgarian National Institute of Justice, Judges convened a **Workshop on the Efficient Management of Proceedings** in Varna, Bulgaria, in September 2018. The Workshop provided the opportunity for the Judges to extensively discuss the issues outlined in the Green Paper on the Efficient Management of Proceedings – including their role and responsibility in the conduct of effective proceedings within the KSC's legal framework – and best judicial practices, and to share their expertise on the efficient management of issues which may arise during the various stages of the proceedings. The Judges also identified potential further challenges to be addressed in 2019.

In the spirit of preparing the groundwork for efficient proceedings, the Chambers Legal Support Unit (CLSU) has been working on several internal research projects aimed at facilitating the Judges' consideration of future issues before them.



*Colloquium in Paris, France - June 2018*

Throughout 2018, the President also continued to foster dialogue and cooperation between the two organs of the KSC and with the SPO, meeting regularly with the Registrar

and the Specialist Prosecutor and engaging in constructive exchanges on the various documents, which now constitute the KSC's legal framework.



*KSC Judges, Workshop on the Efficient Management of Proceedings, Varna, Bulgaria - September 2018*

### 3. External Relations

During the reporting period, President Trendafilova worked to promote the mandate and effective functioning of the KSC. In order to ensure the swift and efficient resolution of any issues affecting the KSC and to keep the stakeholders abreast of important developments, the President met regularly in The Hague and in Brussels with representatives of the EU institutions, EU Member States, the Host State and Third Contributing States. As part of the KSC's efforts in this regard, a diplomatic briefing was held in December 2018, during which the three Principals presented the recent developments and responded to questions.

To further strengthen the KSC's relationship with other external stakeholders and with civil society, President Trendafilova held meetings with members of the diplomatic, legal, political, journalistic and academic communities in The Hague, Brussels and elsewhere. In this context, the President further advanced the KSC's commitment to efficiency at the 2018 Session of the Brandeis Institution for International Judges held in Oslo, Norway. Likewise, in December 2018, the President gave an address at an event dedicated to the "Paris Declaration on the Effectiveness of International Criminal Courts", which was organised as a side-event to the 2018 Assembly of States Parties of the International Criminal Court taking place in The Hague. Driven by the determination to ensure transparency, the President will



*President Ekaterina Trendafilova, Registrar Fidelma Donlon and Specialist Prosecutor Jack Smith, Diplomatic Briefing - December 2018*

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continue to communicate, within the confines of the presidential remit, about the KSC's work to as wide an audience as possible.

Through their key involvement in the publication of the First Report of the Kosovo Specialist Chambers and Specialist Prosecutor's Office and their contribution to the launching of the new website, Chambers added further impetus to achieving the aspiration to bring the KSC closer to the populations concerned.

In addition, the CLSU contributed to furthering the KSC's dialogue with communities within Kosovo and elsewhere by participating in panel discussions, round tables and youth workshops and by giving presentations at the seminar for Kosovo journalists held in November 2018. The CLSU is also actively involved in the KSC's Visitors Programme for students and practitioners.

# OUTREACH PROGRAMME

The KSC Outreach Programme aims at cultivating knowledge and awareness of the KSC's mandate and mode of operations, at promoting access to and understanding of its judicial proceedings, and at fostering realistic expectations about the KSC's work. By addressing the concerns of affected communities and by countering misperceptions, the Outreach Programme encourages the active participation of civil society in the KSC's proceedings.

Through frequent consultations with partner organisations, information sessions with journalists, lectures and a visitors' programme, town hall meetings and roundtable discussions, the Outreach Programme disseminates timely information and fosters dialogue on

the work of the KSC. Specific topics and important procedures, including in relation to Defence and victims' participation, are explained in KSC factsheets that are distributed during public events and to journalists.

By actively engaging and communicating with Kosovo non-governmental and other civil society organisations as well as with various communities, the KSC strives to counteract some of the communication challenges associated with managing relocated proceedings. The objective is to foster direct communication with Kosovo society through an information network reaching out to civil society, minorities, youth, legal professionals, media and others.

### Short-term goals

- *make sure that the mandate and work of the KSC are understood*
- *actively reach out to different parts of society, in particular to the affected communities in the region, and especially to potential victims and witnesses*
- *engage relevant communities in dialogue*
- *manage expectations by providing accurate information*
- *ensure that the KSC is perceived as an independent and impartial judicial institution*

### Long-term goals

- *ensure that the KSC's legacy will be perceived as credible and impartial*
- *develop efficient outreach mechanisms, which can also serve as a model for other international and internationalised courts*

## Implementation of the Outreach Programme

2018 was an active year during which the KSC substantially scaled up its outreach activities, in particular in Kosovo, thanks to a generous contribution by the Swiss Government. Throughout the year, the KSC carried out 30 outreach events attended by approximately 730 people in Kosovo and Serbia.

Achievements included round tables with journalists, meetings with lawyers, students, youth groups, civil society organisations and the introduction of the Ombudsperson of the Kosovo Specialist Chambers. In May 2018, the Registrar made her first visit to Serbia.

### Selected Outreach Events

- *Meeting of the Defence Office Coordinator and the Head of Victims' Participation Office with members of the Kosovo Bar Association – Pristina, February 2018*
- *Lecture at the law faculty of Prizren University, organised in cooperation with the Humanitarian Law Center Kosovo – Prizreni/Prizren, April 2018*
- *Presentation on the KSC mandate at the yearly meeting of the Kosovo Women's Network with approximately 115 representatives of women's groups – Pristina, March 2018*
- *Consultative meetings of Registrar Fidelma Donlon with civil society, various NGOs and international organisations – Belgrade, May 2018*

On 21 March 2018, the KSC, in cooperation with the Humanitarian Law Centre (HLC) in Kosovo, invited NGOs, lawyers and diplomatic representatives to a panel discussion in Pristina on the KSC's mandate. Representatives of the Chambers Legal Support Unit (CLSU) and the Registry explained the mandate and structure of the KSC and addressed how the KSC strives to ensure fair, impartial, independent, efficient and secure judicial proceedings.



KSC panel discussion with NGOs and civil society

## Selected Outreach Events

- First meeting of the Court Information Network where feedback on past and concrete suggestions for future outreach events was provided – The Hague, June 2018
- Meeting with civil society, organised in cooperation with the European Center for Minority Issues – Obiliq/Obilić, July 2018
- Round table, organised in cooperation with the Youth Initiative for Human Rights – Pristina, September 2018
- Introduction of the Ombudsperson of the Specialist Chambers in Kosovo through media interviews – Pristina, October 2018
- Meetings and round table discussions with civil society and a lecture at Peja/Peć University, organised in cooperation with NGOs in Kosovo – several locations in Kosovo, including Gračanica/Graçanica, Gjilan/Gnjilane and Peja/Peć, December 2018

## Establishment of the Court Information Network

A first step in the implementation of the 2018 KSC Outreach Programme was to establish a Court Information Network (CIN), an informal network of NGOs that assist the KSC by providing regular feedback on the Outreach Programme and activities, and volunteer their knowledge of the affected communities and communication expertise on the best outreach approaches. In addition, the NGOs that are part of the CIN support the dissemination of key messages by organising meetings where the KSC can provide information to and engage with civil society.

In June 2018, 15 NGOs from Kosovo and Serbia that constitute the CIN came together for the KSC Outreach Workshop in The Hague. While the network is not static, the NGOs that participated in the workshop form its core group. The KSC President and the Registrar welcomed the workshop participants and

emphasised in their addresses the important role of the NGOs in fostering a dialogue between the KSC and civil society. They encouraged the NGOs to provide feedback on past activities and give suggestions for future outreach initiatives in the region, including methods of communicating.

The workshop, which provided an opportunity for NGO partners to meet face to face with KSC Principals and staff, achieved three main objectives:

- The KSC used the opportunity of the workshop as the first meeting of the CIN;
- Participants received detailed information on the KSC's mandate and work communicated directly by KSC staff members from various units. They were encouraged to ask questions and clarify



Members of the Court Information Network at the KSC – June 2018

misunderstandings, as well as to discuss the legal aspects of the KSC's mandate and proceedings, with the aim to have more accurate information and to be able to disseminate it to their contacts in the region;

- During smaller break-out group sessions, the participants provided the KSC with feedback on the Outreach Programme and developed concrete suggestions for improving outreach with different communities. The outcome of the workshop helped the KSC to shape future outreach and communication activities.

## Reaching out to students and practitioners

The Visitors Programme, developed in 2016, continues to welcome practitioners and students to the KSC. During 2018, visiting groups heard representatives of the KSC and the SPO speak about their work and explain the mandate of the two institutions. Visitors also had the opportunity to ask questions and discuss topics relevant to the KSC and the SPO.

In 2018, approximately 700 students from 35 different universities in Europe, North and South America participated in the programme.

These students met with representatives from the CLSU, the Immediate Office of the Registrar, the Victims' Participation Office and the SPO, among others.

Moreover, the President, the Registrar and staff members have provided keynote speeches and presentations on the KSC to universities and at conferences. The KSC was notably represented at the 4th Annual IBA Specialist Conference on International Criminal Law and at the 12th session of the Brandeis Institute for the International



KSC Visitors Programme

Judges. Engagement with the professional and academic fields ensures opportunities for direct communication and a wider dissemination of information on the work of the KSC and the SPO.

### Journalist seminar at the International Nuremberg Principles Academy

In November 2018, the KSC and the International Nuremberg Principles Academy invited 20 journalists from Kosovo to participate in a four-day seminar on international criminal justice and trial reporting. KSC representatives, experts in international justice as well as international journalists engaged with Kosovo journalists in discussions on different aspects of this complex type of reporting. The importance of fair and unbiased trial reporting was a central theme. The KSC also underlined the commitment to ensuring, as appropriate, timely responses to questions from the media.



## Monitoring and Evaluation of the KSC Outreach Programme

The KSC has two mechanisms in place to evaluate the impact and efficiency of its Outreach Programme: feedback from local NGOs and yearly opinion polls conducted in Kosovo and Serbia.

In response to the valuable feedback received, the KSC increased in 2018 the number of meetings and events held with NGOs and civil society in Kosovo as well as in Serbia. In order to offer information material not just aimed at lawyers, a number of leaflets were designed that concisely explain what the KSC does. Moreover, the KSC website was further developed to ensure broader access to proceedings before the KSC. The renewed website, launched in November 2018, now includes the ability to stream audio-visual content in the KSC's official languages – Albanian, Serbian and English – during court sessions and other events. In addition, the website is designed to include the future presence of the KSC on social media.

The yearly opinion polls conducted in Kosovo and Serbia enable the KSC to assess the knowledge about and attitude towards the KSC. The latest opinion poll carried out in May 2018 shows an increase in knowledge and awareness of the KSC in Serbia in comparison to the survey done in 2017 (41% compared to 24%). In Kosovo, 61% of the respondents in 2018 expressed support for the work of the KSC.

# REGISTRY

The Registry, under the direction of the Registrar, performs a diverse range of administrative and judicial support functions. According to Article 34 of the Law on Specialist Chambers and Specialist Prosecutor's Office, the Registry is responsible for the servicing of the Kosovo Specialist Chambers

and all necessary and affiliated functions. This includes the provision of administrative support to the work of Chambers and the SPO in the field of budget, finance, procurement, human resources and security. The judicial support functions include providing support and protection for witnesses, administration of the legal aid and victim participation systems, translation and interpretation services and court management. The Registrar is also responsible for managing the KSC's detention facilities and various external diplomatic functions, including negotiating cooperation agreements with States.



*Registrar Fidelma Donlon*

The Registrar, Dr Fidelma Donlon, was appointed in April 2016. Dr Donlon is the highest administrative authority within the KSC. As such, she is in charge of the administration of the relocated proceedings and thus signs the grant agreements regulating the financing of the KSC and the SPO with the European Commission. Dr Donlon manages the use of the funds allocated by the EU Member States and Third Contributing States, ensuring their use in a responsible manner. The Deputy Registrar, Dr Guido Acquaviva, assists the Registrar in her functions.

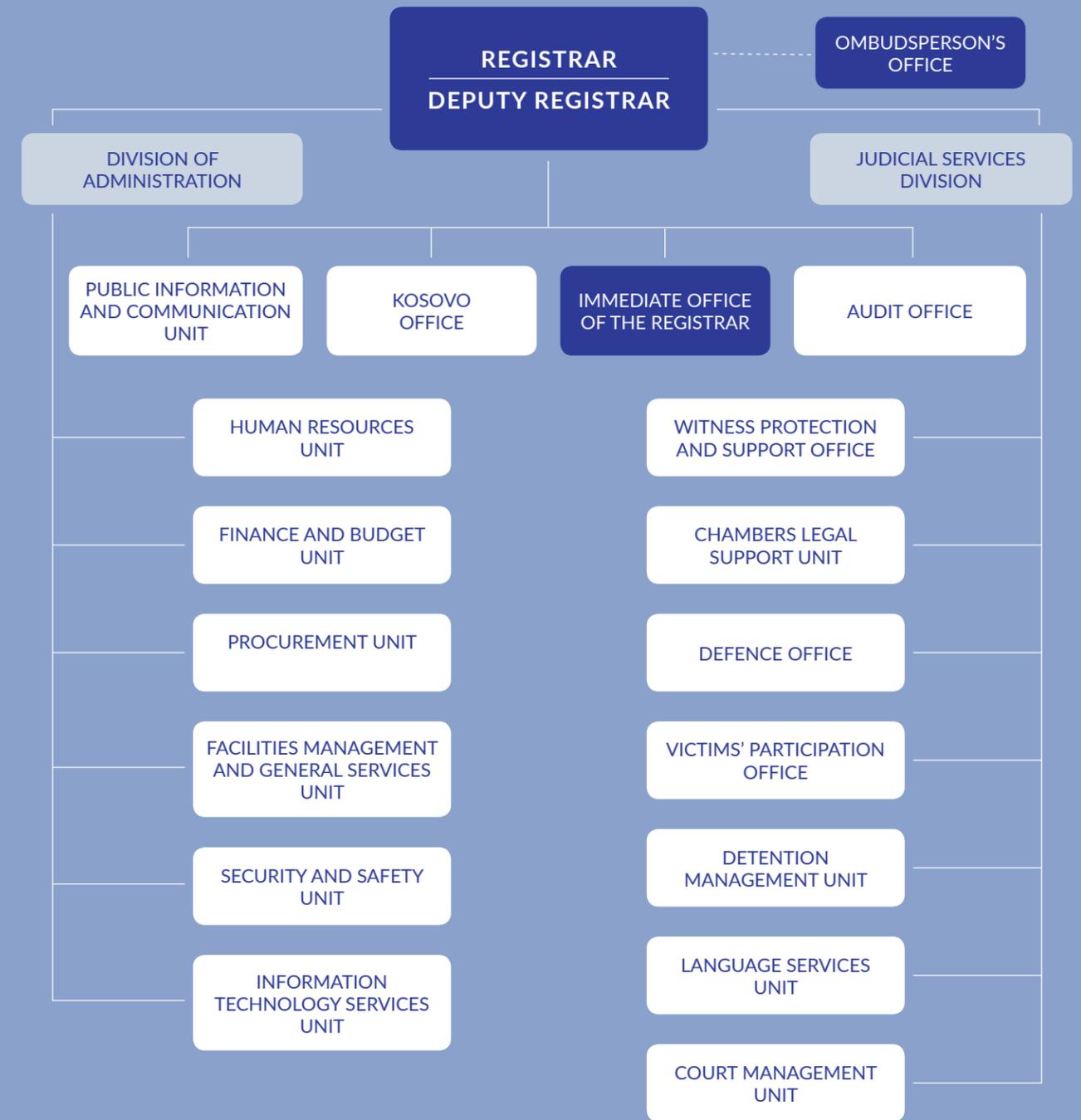
As set out in the Host State Agreement, the Registrar represents the relocated institutions in the Netherlands and thus engages with the Dutch authorities such as the Ministry of Foreign Affairs, the Ministry of Justice and Security and the City of The Hague. She also maintains contact with representatives of EU Member States, Third Contributing States and other members of the diplomatic community in The Hague. In addition, she engages with the EU Rule of Law Mission in Kosovo (EULEX), the EU

Special Representative in Kosovo, members of the diplomatic community in Kosovo as well as the Kosovo Ministry of Justice.

In 2018, the Registrar visited Kosovo and Serbia and participated in a number of speaking engagements, including at a Conference of the International Bar Association in April, at a journalist seminar in November, and at the Assembly of States Parties to the International Criminal Court in December.

The Registry comprises the Immediate Office of the Registrar, the Public Information and Communication Unit, the Audit Office and two divisions – the Judicial Services Division and the Division of Administration. The independent Office of the Ombuds-person also sits within the Registry for administrative purposes.

*The Registrar joined in 2018 the International Gender Champions, a leadership network that brings together female and male decision-makers determined to break down gender barriers and make gender equality a working reality in their spheres of influence. The Registrar has set up a gender coordination committee as a forum for male and female staff to share experiences and make recommendations to further enhance gender mainstreaming in the KSC.*



## 1. Immediate Office of the Registrar (IOR)

The Immediate Office of the Registrar (IOR) supports the work of the Registrar and the Deputy Registrar. It provides legal advice on the KSC's mandate and administrative procedures, as well as support in managing relations with the Host State, the EU and its Member States, Third Contributing States, and other diplomatic missions and organisations. The IOR is also responsible for regulating and overseeing the information governance regulations of the KSC.

The Legal Counsel within the IOR provides legal advice on a variety of topics, including the application of the Host State Agreement, internal documents such as the Staff Rules and the Code of Conduct for Staff Members, privileges and immunities, cooperation with States, and on the Registry's administrative governance regulations.

In 2018, the internal management regulations were strengthened in the area of human resources management, security, information asset protection and finance. The KSC has also fully established the procedures relevant to the internal review of and appeals against administrative decisions of the Registrar.

As part of the IOR, the Information Governance (InfoGov) team ensures a consistent and holistic approach to information management across the KSC by providing strategic advice on efficient and secure information governance and its effective implementation.

The effective management of the information, records and archives of the KSC protects the security of sensitive information and ensures judicial independence, fairness, efficiency and institutional legacy in compliance with the highest standards of international justice.

InfoGov serves as a focal point to providing advisory services and compliance advice for digital, physical and audio-visual records, document and archives management to all administrative and judicial functions of the KSC. In 2018, the digital preservation strategies for audio-visual material were agreed upon.

The InfoGov team, in partnership with the Information Technology Services Unit, has continued to make incremental improvements to information technology security controls, providing information security briefings to new staff and interns, managing permission changes, providing encryption and decryption services, and conducting risk assessments. Furthermore, InfoGov provided data protection compliance advice to a wide range of business areas.

In 2018, the Registrar issued two updates to internal regulations on information asset management, including further details on data protection and on requests to access personal data. She also issued an instruction on the handling of classified data.

### The KSC Library Service

- In 2018, the KSC Library implemented an Integrated Library System to track the circulation of library assets and an Electronic Discovery platform to assist in research. The project involved integrating and optimising both systems as well as entering all resource data, including bibliographic records. A one-click search tool collates all resources into a single portal available to all staff of the KSC and the SPO, and to participants in proceedings before the KSC. These tools effectively reduce the costs of the library service and provide wider access to resources.
- The Library purchased approximately 600 new print books covering International and EU law subjects, criminology, political science, language studies, and other disciplines related to the work and needs of the KSC and the SPO. The Library collection now contains over 1,200 items for circulation.
- New electronic resources obtained include subscriptions to world-renowned encyclopaedic resources, journals from major legal publishers, almost 400 new eBooks, and the scholarly law reports and authorities. The Library also purchased several books on international standards to support best practices.
- Inter-library loans are supplied by other libraries, including the Peace Palace Library in The Hague.
- Representatives from the Information Governance team are members of a peer group working on addressing issues facing libraries of international courts and to provide mutual support in The Hague region.

## 2. Public Information and Communication Unit (PICU)

The Public Information and Communication Unit (PICU) manages external relations and the Outreach Programme of the KSC. The PICU's aim is to increase knowledge and understanding of the mandate of the KSC in accordance with the KSC Communication and Outreach Strategy. The Unit strives

to organise monthly outreach meetings with civil society in Kosovo to continue the dialogue on issues such as the mandate of the KSC and current developments. In addition, in 2018, the PICU initiated a dialogue with civil society in Serbia.



*Head of PICU, Head of Victims' Participation Office and representative of the Chambers Legal Support Unit at an outreach event in Prizreni/Prizren - April 2018*

The PICU receives media queries on a regular basis and responds in a timely manner to ensure accurate and punctual dissemination of information. In order to facilitate objective and accurate reporting, the PICU organised a four-day seminar on international criminal justice and trial reporting for Kosovo journalists in November 2018 (see above, Outreach Programme).

Also in November 2018, the tri-lingual website of the KSC was renewed with new features such as a search function for court records, a feed for Twitter as well as

the ability to stream audio-visual content during public court sessions and other events in the KSC's official languages – Albanian, Serbian and English. The objective is to make the proceedings before the KSC accessible from any place in the world with an internet connection. The new website also includes a public court records database (PCR) with KSC's public records in the three official languages. The innovative features of the database include the possibility to search different types of documents by court level and the automatic display of related filings.

## 3. Audit Office

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

During the reporting period, the Internal Auditor conducted nine audits and four follow-up audits in accordance with the internal audit plans. In addition to auditing finance, procurement, human resources management and asset management in both the Registry and the SPO, the Internal Auditor reviewed the permissions management process regarding access to shared folders within the KSC.

## 4. Office of the Ombudsperson



*Ombudsperson Pietro Spera*

The Ombudsperson, though placed within the Registry, acts independently to monitor, defend and protect the fundamental rights and freedoms of persons interacting with the KSC and the 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 institutions.

Pietro Spera was appointed Ombudsperson of the Kosovo Specialist Chambers in May 2018. Following his appointment, Ombudsperson Spera signed his solemn declaration before the Registrar on 29 May 2018, as required by the Rules of Procedure and Evidence.

As part of its functions, the Office of the Ombudsperson has established a robust Complaints Procedure through which individuals who interact with the KSC or the SPO may raise complaints of violation of their fundamental constitutional rights by the two institutions. Once a complaint is received, the Ombudsperson will evaluate the complaint and, where appropriate, conduct inquiries into any alleged violations. Following the completion of an inquiry, the Ombudsperson will issue a final report with recommendations to the KSC President or the Specialist Prosecutor, where appropriate. The Ombudsperson adopted the Complaints Procedure in September 2018.

Since his appointment, the Ombudsperson has launched the Ombudsperson's webpage on the KSC website, which includes information on the Complaints Procedure that sets out in detail the procedure to be followed when making a complaint and how the Ombudsperson will deal with such complaints.

In the context of his monitoring function, the Ombudsperson may also provide ongoing advice to the KSC and the SPO with the aim of ensuring strict compliance with the highest human rights standards. The Ombudsperson may not intervene in legal proceedings before the KSC except in instances of unreasonable delays or when invited as *amicus curiae*, friend of the court.

The Ombudsperson is required to perform his duties with independence, impartiality and professionalism and to act consistently with the high moral character required by the Constitution of Kosovo, the Law and the Rules of Procedure and Evidence. The professional standards applicable to the activities of his Office are regulated by the Code of Ethics for the Ombudsperson, available on the KSC website, which he adopted in September 2018.

With the appointment of the Ombudsperson, the Office is fully functional and has, to date, received a number of complaints from members of the public. These complaints are processed in accordance with the Rules of Procedure and Evidence and the Complaints Procedure.

In October 2018, the Ombudsperson made his first visit to Kosovo where he took part in a number of TV interviews. He also made a courtesy call on the Ombudsperson of Kosovo.

## 5. Judicial Services Division

The Judicial Services Division comprises four Units and three Offices that ensure adequate legal and operational support is provided to the KSC and the SPO: Court Management Unit; Language Services Unit; Defence Office; Victims' Participation Office; Witness

Protection and Support Office; Detention Management Unit; and Chambers Legal Support Unit. The Chambers Legal Support Unit's work has been addressed above in the chapter dedicated to Chambers.

### 5.1 Court Management Unit (CMU)

The Court Management Unit (CMU) manages the KSC's judicial records, all filings and physical evidence. The Unit uses an electronic court management system, Legal Workflow, which allows Judges, parties and participants to proceedings to receive, maintain and distribute case records electronically. The system also allows users to view, analyse, disclose and present all evidence within one integrated system. Throughout 2018, Legal Workflow features for the management of filings, the creation of detailed record of procedural events, the retention of statistical information and for the creation of a court calendar were further developed. These improvements, together with metadata and procedural amendments, increase the accuracy of information, the efficiency, as well as reporting capabilities. The system

also provides a tool for releasing public records to the database interface of the renewed KSC website.

The public records database enables searches in the three official languages by full-text or filing number, but also by specific provisions of the Rules of Procedure and Evidence and the Law. It is designed to cater to the general public as well as to the academic and legal communities.

A key objective of the CMU in 2018 was the development of the courtroom infrastructure in the new premises and, in cooperation with Units across the Registry, the preparation for live testing of the courtroom as soon as the Host State delivers the premises.

*The public court records database on the website of the KSC allows anyone visiting the website to search through the public court records. The database is user-friendly and enables searches in the three official languages.*

## 5.2 Language Services Unit (LSU)

The Language Services Unit (LSU) provides interpretation and translation services in the KSC's three official languages. The Unit produces all material in the three languages simultaneously in order to honour the commitment to the public in the region.

The LSU provides in-house simultaneous interpretation and interpretation support during KSC missions and at relevant events organised by external partners. In 2018, the Unit produced around 1,000 pages of translation, including content for the KSC website, press statements, factsheets and information packages.

In 2018, the Code of Professional Ethics for Interpreters and Translators was adopted, which includes the solemn declaration that all language staff are now required to make before performing official duties.

During the year, the LSU started using a translation request management software serving the entire institution to automate the request management and delivery of translations, connected with the electronic court management system Legal Workflow.

*In 2018, in response to 270 translation requests, the LSU team produced about 1,000 pages of translation. The LSU has further revised up to 1,200 pages.*

*The Code of Professional Ethics for Interpreters and Translators was finalised and, following the Registrar's adoption of the Code, all LSU language staff signed the Solemn Declaration.*

*The LSU introduced the computer-assisted translation tool MultiTrans to facilitate the translation process and launched its workflow module - Flow - which serves the entire institution and automates the process of requesting translations, managing the requests and delivering completed translations to requesters.*

## 5.3 Defence Office (DO)

The Law guarantees the protection of fair trial principles for suspects and accused before the KSC. A robust defence is essential to ensure a fair trial; the tasks of the Defence Office (DO) as set out in the Law mirror the commitment the KSC has to fair trial principles. There can be no fair trials without qualified Counsel. The DO is neutral and is not involved in factual litigation of cases before the KSC.

The DO is tasked with the administration of a List of Counsel eligible to practice before the KSC. Furthermore, the Office is tasked with administering a system of legal aid for representation of indigent or partially indigent suspects and accused before the KSC.

During 2018, the DO worked to ensure the effective protection of all fair trial guarantees enshrined in the Law, and that the highest

international human rights standards are met in all legal procedures applicable to Counsel and by the Office itself.

Since the adoption of the Directive on Counsel in November 2017, a call for applications to the List of Counsel was opened and publicised on the KSC website. As of December 2018, a total of 118 Counsel are on the combined List of Counsel, of which 62 are Defence Counsel and 34 are willing to appear as both Defence and Victims' Counsel. The DO continues to receive and to evaluate new applications to the List on an ongoing basis.

The DO has also focused efforts on establishing a legal aid system that meets fair trial standards and the requirements of sound financial management. In addition, while an Independent Representative Body of Counsel (IRB) is being established independently



*Defence Office Coordinator*

by Counsel on the List, a draft Code of Professional Conduct for Counsel and Prosecutors was elaborated and circulated to Counsel through a working group for the purpose of consultations.

*Counsel in proceedings before the KSC must adhere to a Code of Professional Conduct for Counsel. This deontological document regulates professional conduct in judicial proceedings before the KSC, to ensure the integrity of the proceedings and the fair and proper administration of justice. It is applicable to all Counsel appearing before the KSC, as well as to members of their teams.*

## 5.4 Victims' Participation Office (VPO)

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

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

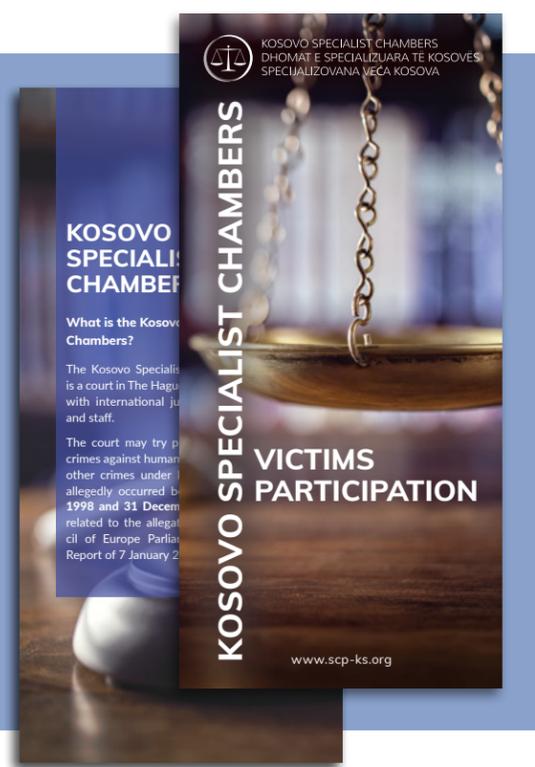
## Who can be a participating victim before the KSC?

After an indictment is confirmed, any person who has suffered physical, mental or material harm as a direct result of a crime listed in the indictment may apply to a Judge to become a participating victim. The person needs to have suffered harm due to crimes committed between 1998 and 2000 and related to the allegations in the Council of Europe Parliamentary Assembly Report of 7 January 2011.

Further to the adoption of the Directive on Counsel in 2017, which sets out the requirements for Counsel to be admitted to the List of Counsel, by December 2018 the VPO has admitted 56 Counsel who fulfil the requirements and are therefore eligible as Victims' Counsel or both as Defence and Victims' Counsel. The VPO continues to encourage suitable qualified lawyers to apply to the List.

During 2018, the VPO, together with the Defence Office reached out to the legal community in Kosovo to explain the Directive on Counsel and the application process and requirements. The Head of the VPO and the Coordinator of the Defence Office also met with the President of the Serbian Bar Association to provide information about the Directive.

In 2018, the VPO increased its efforts to share information about victims' participation with relevant NGOs and civil society in the region. The Head of the VPO held information sessions with representatives of potential victims' communities in order to raise awareness about the KSC, the role of the VPO, the rights of participating victims and the system of victims' participation. In addition, the Unit, in cooperation with the Public Information and Communication Unit, informed NGOs, students, journalists and the general public at public events and through media interviews about victims' participation before the KSC.



## 5.5 Witness Protection and Support Office (WPSO)

The Witness Protection and Support Office (WPSO) is responsible for ensuring the safety and wellbeing of persons in danger on account of the activities of the KSC. The WPSO has incorporated best practices from national law enforcement agencies and other courts dealing with international crimes. This is done to ensure compliance with the European Convention on Human Rights and Fundamental Freedoms and to maintain a balance between the needs of witnesses and other persons in need of protection, while safeguarding the right to a fair trial.

Cooperation with the Host State is fundamental in ensuring efficient travel arrangements for persons requiring protection.

The WPSO has established a close working relationship, standardised procedures and practical arrangements with the relevant Dutch authorities. The WPSO has also worked on fostering international cooperation to allow for the implementation of protective measures across borders and the exchange of best practices, as well as to provide practical assistance to guarantee the protection of persons. The WPSO has designed and set up relevant support guidelines and assessment procedures to ensure that witnesses can voice their concerns with regard to family, gender, cultural, medical or any other special needs. Support measures are monitored and amended as required throughout the proceedings.

*The WPSO strives to meet a high standard of individually tailored psychological support and counselling and other assistance for witnesses, including those who are traumatised or vulnerable.*

## 5.6 Detention Management Unit (DMU)

The Detention Management Unit (DMU) manages and administrates the KSC detention facilities and ensures that those detained under the KSC's authority are held in accordance with international standards, best practices and the applicable law, and maintain the ability to participate in the proceedings.

The Unit works closely with the Dutch Prison Service, whose staff operate the detention facility under the supervision of the Unit. The DMU staff provides management, administration and translation services to the detention facility.

In 2018, the KSC developed its Rules of Detention which, together with other internal guidelines, comply with both the European Prison Rules and the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Mandela Rules. As stipulated in the Law on Specialist Chambers and Specialist Prosecutor's Office and in the Rules of Procedure and Evidence, the International Committee of the Red Cross as well as the Ombudsperson of the Kosovo Specialist Chambers have the right to inspect the facilities.

## 6. Division of Administration

The Division of Administration provides administrative and technical support services to the KSC and the SPO. The Division comprises six Units: Human Resources; Information Technology Services; Facilities Management and General Services; Security

and Safety; Finance and Budget; and Procurement. Throughout 2018, the Division continued to work on further developing the KSC administration and delivering all support services to ensure the institution's full operational capacity.

### 6.1 Human Resources Unit (HRU)

Over the course of 2018, the Human Resources Unit (HRU) has continued to provide human resources related support, advice and services to all personnel of the KSC and the SPO, managing the recruitment process, administration of salaries, health insurances, provident fund and other benefits, staff welfare and training, as well as the performance evaluation process.

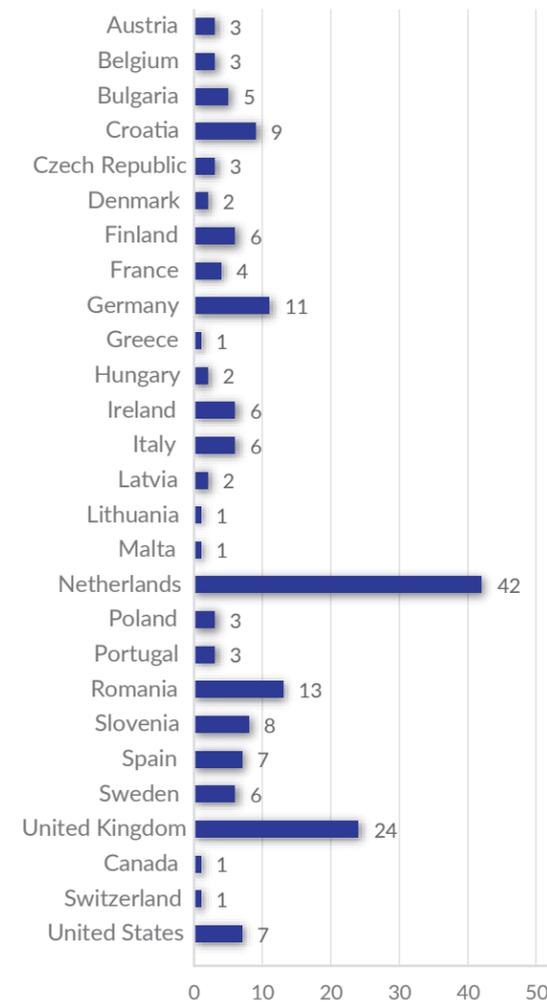
In 2018, the recruitment and selection of new staff members for the KSC and the SPO remained a priority. Two Calls for Contributions (Calls) advertising vacancies in both institutions were published. The effective management of Calls and recruitment of staff based on operational needs, taking into account gender balance and regional distribution, resulted in the growth of both institutions and an overall increase in staff from 148 on 31 December 2017 to 180 on 31 December 2018. Additionally, through a Call dedicated to internships, the HRU also facilitated the placement of 26 interns throughout the year. Based on the authority of the Registrar and due to considerations of efficient management of staff resources and of assigning staff according to workload requirements throughout the KSC, a number of temporary re-assignments were approved in 2018.

The KSC and the SPO remain fully engaged at the diplomatic level and actively encourage EU Member States and Third Contributing States to second qualified personnel for vacancies advertised. In 2018, the number of seconded staff ranged from 11 to 13, and on 31 December 2018 totalled 13 seconded staff members from six different EU Member States (Bulgaria, Germany, Hungary, Ireland, Malta and the United Kingdom) and from two Third Contributing States (Switzerland and the USA). This reflects an increase not only in the number of seconded staff but also in the number of seconding States.

During 2018, the HRU, in coordination with the IOR, developed and took into use a new application form and implemented new administrative directives on the right to child care, part-time arrangements and personnel security clearance for enhanced security screening of prospective staff.

For improved personnel administration and strengthening of its services, the HRU also facilitated training sessions for staff on HR-related topics, notably management and leadership, time management and relevant languages to further develop and build staff members' individual skills.

National Balance of Staff of the KSC and the SPO



To support a dynamic workforce and promotion of a supportive network, counselling services with briefings on resilience and stress management were made available to staff throughout the year 2018.

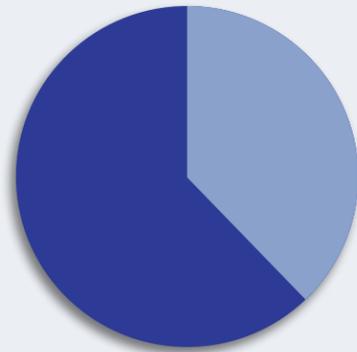
In January 2018, the first elections of the KSC and the SPO Staff Representative Body (SRB) were held and the SRB formed. Throughout the year, the HRU and Senior Management of both institutions met several times with the SRB on a variety of issues in an atmosphere of mutual respect and cooperation.

Total Staff Members of the KSC and the SPO



### Staff Gender Balance of the KSC and the SPO

FEMALE 38%  
MALE 62%



## 6.2 Information Technology Services Unit (ITSU)

The Information Technology Services Unit (ITSU) provides secure information technology (IT) and audio-visual services to support the work of the KSC. The Unit has further progressed the development of the IT infrastructure and software systems in order to keep pace with the ongoing growth of the KSC and the strengthening of its regulatory framework.

In 2018, the new website of the KSC and the SPO was launched to facilitate a more structured provision of information and to prepare for the stepping up of judicial proceedings and outreach activities. The major objectives achieved during the year include the launch of the online public court records database coordinated with

the Public Information and Communication Unit and the Court Management Unit.

The ITSU procured and configured the future IT infrastructure for the KSC's and the SPO's new premises and is working with the Host State on the configuration of the audio-visual capabilities of the KSC's courtroom to ensure that the implemented technology can support the envisaged judicial activity through transparent yet secure hearings.

The ITSU is now moving from the building phase into continuous operations, focusing on the future IT delivery processes necessary to actively support judicial activities. Additionally, provision of secure voice communications is ensured as required.

*The ITSU launched the KSC and the SPO renewed website and is moving from the building phase into the operations phase with a focus on the future IT delivery processes necessary to support judicial activities.*

## 6.3 Facilities Management and General Services Unit (FMGSU)

The Facilities Management and General Services Unit (FMGSU) manages real estate matters with the Host State, including building maintenance. The Unit is also responsible for internal office allocation, mail and pouch services, transport, travel and logistics, working closely in particular with Protocol and the Safety and Security Unit.

In 2018, the FMGSU continued cooperating with the Host State towards the delivery of the KSC's and the SPO's new premises whilst maintaining the working environment for staff members in the current location. The Unit continues to coordinate across the KSC and the SPO to ensure that all required functional specifications for the new premises are met by the Host State.

*The primary objectives of the FMGSU are to deliver and sustain a suitable working environment according to the needs and operational requirements for all staff and external contractors, and to deliver the transition of KSC and SPO operations from the current premises to the new premises.*

## 6.4 Security and Safety Unit (SSU)

The Security and Safety Unit (SSU) delivers a diverse range of services in support of the KSC and promotes broad spectrum risk awareness at both individual and organisational levels.

During 2018, the SSU continued to solidify established and effective working relationships with interlocutors in the security apparatus of the Host State to ensure effective threat monitoring. Specialist training support from

the national law enforcement agencies of EU Member States and Third Contributing States has facilitated the development of internal capacity directly relevant to the operations of the institution. The primary objective of the Unit remains that of ensuring an effective security programme to mitigate risks to staff, operations, reputation and assets. This ethos has driven the work of the SSU in support of the operationalisation of the new premises.

*The SSU has implemented a travel risk management framework to ensure the continual availability of support to business travel and reduce organisational and individual risk exposure. The provision of current, accurate and relevant travel security information and support is essential for ensuring effective operations beyond the Host State.*

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## 6.5 Finance and Budget Unit (FBU)

The Finance and Budget Unit (FBU) supports the Registrar in the financial management and implementation of the Grant Agreement according to EU and internal financial rules and regulations. Under the direction of the Registrar, the Unit is responsible for coordinating the planning and preparation of the annual budget. It is also responsible for making payments and recording expenditures, strengthening internal financial controls and providing on-site assistance and training.

EU Member States approved a budget of EUR 86,250,000 for the period from 15 June 2018 to 14 June 2020 in Council Decision (CFSP) 2018/856.

In addition to the funds granted by the EU, the KSC continues to manage the funds received from the Norwegian Government, totalling

NOK 80,000,000, to support the relocation of proceedings to the new premises in the Host State, and from the Swiss Government, totalling EUR 181,200, for KSC's outreach activities in Kosovo during 2018 and 2019.

The FBU continues to support a lean and self-standing administration by putting into place an array of systems, rules and procedures ensuring the sound financial management of funds. In 2018, independent expenditure verifications of the financial accounts were performed by an external audit firm in accordance with the Grant Agreement, and no factual findings were identified. At the end of each budgetary period, the closed accounts and expenditure verification reports are submitted to the Service for Foreign Policy Instrument (FPI) of the European Commission.

*The FBU assists the Registrar in ensuring the proper use and sound financial management of funds allocated to the KSC. The financial accounts are regularly subject to expenditure verifications by an external audit firm. Since the establishment of the KSC, expenditure verifications have not identified any factual findings.*

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## 6.6 Procurement Unit (PU)

The Procurement Unit (PU) is responsible for all procurement and contracting of supplies, services and works. Contracts are awarded based on principles of transparency, proportionality, equal treatment and non-discrimination. In addition to managing the procurement needs for the operations of the KSC, the Unit ensures that the KSC

complies with EU regulations (EU PRAG) in its procurement actions. Besides its procurement role, the PU also supports the KSC with contract administration and monitoring, as well as with delivering regular in-house training to staff and budget holders regarding the procurement process and contract management responsibilities.

*In 2018, 139 new procurement procedures and contract modification procedures have been initiated, and 92 new service and supply contracts concluded, ranging in maximum contract value from EUR 2,500 to EUR 2.4 million.*

**SPECIALIST  
PROSECUTOR'S  
OFFICE**

## FOREWORD

In the last months of 2018, the Specialist Prosecutor's Office (SPO) has significantly ramped up the scale and intensity of its activities. More witnesses have been interviewed, more leads have been followed up and more evidence has been both collected and reviewed to take the investigation forward. At the same time, expectations – in Kosovo, in the region and in the international community – in relation to the investigation have grown. Our focus is to meet those expectations and I believe we have been taking the necessary steps to make this a reality. The coming year will be critical.

I am grateful to my predecessor as Specialist Prosecutor, David Schwendiman, as well as to my Deputy, Kwai Hong Ip, for their efforts over many years in building the SPO into the institution that it is today and bringing the investigation to the point at which I took it over in September 2018. I am also thankful for the far-sighted generosity of EU Member States and contributing countries, which have financed the work of the SPO and before that of the Special Investigative Task Force, and ensured that the investigation has received the resources and support that the allegations we are investigating merit.

In building the SPO from scratch, my predecessor and Deputy invested time and effort in recruiting the most highly qualified and best-suited investigators, prosecutors, legal advisers, witness-protection specialists, security officers and support personnel. The SPO has a small staff, given the scale of the investigation and the challenges involved, but one that is highly qualified, extremely capable and, above all, exceptionally motivated to complete the task as expeditiously as is possible.

My first meeting after arriving at the SPO in September 2018 was with staff involved in witness protection. This was deliberate. Witness intimidation has undermined earlier high-profile prosecutions in relation to Kosovo and remains a serious problem. The success or failure of the investigation I am leading depends on the willingness of witnesses to testify. If witnesses are willing to enter the courtroom and recount accurately and faithfully events they have lived through, I am confident of our ability to achieve justice in this endeavour.

Our investigators and witness-handling experts have extensive experience and have sought to learn the lessons of earlier prosecutions, not only in terms of how we protect witnesses, but also how we communicate with them about what we can do to keep them and their families safe.

The profile of the SPO has recently grown in Kosovo, in particular since we began issuing summonses to former high-ranking members of the Kosovo Liberation Army. As the investigation moves forward, our profile will inevitably continue to grow. Decisions as to whether and whom to charge, and what for, will be made with extreme care and after completion of a comprehensive process based solely on the law and the facts.

We remain committed to achieving outcomes that are accepted as legitimate in Kosovo, among affected communities, in the wider region and in the international community, and to hold accountable individuals responsible for actions within our mandate.

**Jack Smith**  
Specialist Prosecutor  
December 2018

## EVOLUTION OF THE SPECIALIST PROSECUTOR'S OFFICE

The Specialist Prosecutor's Office (SPO) was established on 1 September 2016 in The Hague as an internationalised, relocated Kosovo institution.

The SPO has taken forward its investigation into the allegations contained in the Council of Europe Report **Inhuman treatment of people and illicit trafficking in human organs in Kosovo** in the course of 2018 under the leadership of both David Schwendiman, the original Specialist Prosecutor, and Jack Smith, his successor.

The SPO has increased the pace of its investigation in recent months. In this way, it has been conducting more interviews, including with former senior members of the Kosovo Liberation Army, and gathering and reviewing more evidence.

One manifestation of the increasing pace of the investigation is the issuing of summonses, which has also contributed to an increase of the SPO's visibility, both in Kosovo and in the wider region.

The SPO draws its mandate from Amendment No. 24 of the Constitution of Kosovo and from the Law on Specialist Chambers and Specialist Prosecutor's Office, adopted by the Kosovo Assembly in August 2015, by which both the SPO and the Kosovo Specialist Chambers were created. This legislation grants the SPO authority to investigate and prosecute crimes committed in relation to conduct identified in the Council of Europe Report.

The SPO is investigating grave trans-boundary and international crimes, that is, primarily, war crimes and crimes against humanity as defined by customary international law and set out in the Law on Specialist Chambers and Specialist Prosecutor's Office. The crimes that fall within the jurisdiction of the SPO are those committed or commenced in Kosovo, or committed by or against persons of Kosovo/Federal Republic of Yugoslavia citizenship, in the three-year period between 1 January 1998 and 31 December 2000.

The staff – which includes prosecutors, investigators, analysts, security professionals, witness-protection specialists and support staff – are all internationals. By the end of 2018, 63 out of 76 posts had been filled.

The SPO has the authority, *inter alia*, to request the presence of and to question suspects, victims and witnesses, collect and examine information and evidence, and take decisions on the initiation, and the continuation or termination of criminal proceedings. It seeks to hold individuals accountable for the crimes covered by its mandate.

Assistance from national authorities within the European Union and the wider international community is essential to the investigation. The SPO has sought and continues to seek assistance from such authorities and institutions, domestic or international, to advance the investigation and to ensure that it is done objectively, professionally, impartially, thoroughly and well.

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, stepped down as Specialist Prosecutor at the end of March 2018. He was succeeded on 11 September 2018 by Jack Smith, after an independent selection process facilitated by the European Union. Mr Smith is a US prosecutor with experience in both high-level political investigations and international criminal investigations.

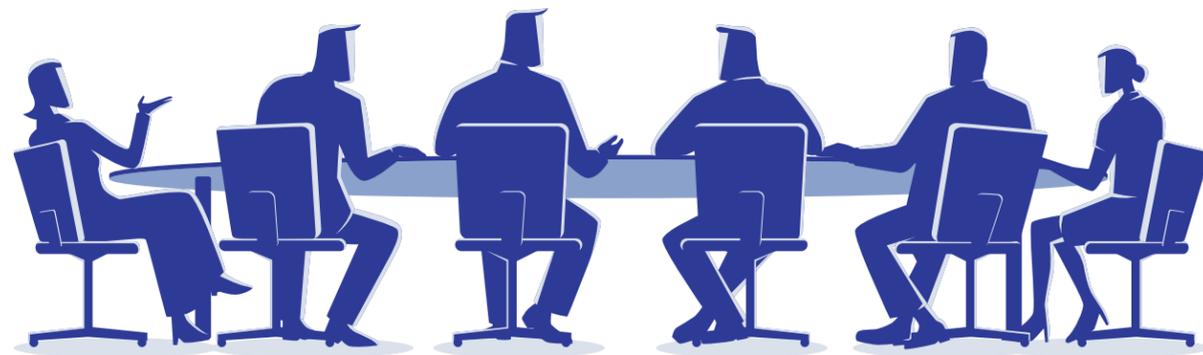
In the period between Mr Schwendiman's departure and Mr Smith's arrival, the SPO investigation was led by Kwai Hong Ip, the Deputy Specialist Prosecutor.

Mr Smith visited Kosovo in October and November 2018 for a series of meetings with international and Kosovo officials, including Kosovo Justice Minister Abelard Tahiri and senior officials in the Justice Ministry.

Over the past year, the SPO has been carefully evaluating evidence gathered since the beginning of its investigation to assess its value and relevance, as well as ensure it will be admissible in court.

### Staffing

*Staffing of the SPO has been increased in the course of 2018 with the addition of 11 new posts, bringing the total to 76. By the end of the year, 63 of the allotted 76 posts, representing 83 percent of staff and 22 nationalities, had been filled, including five secondees. Recruitment for the remaining 13 posts was ongoing.*



## Specialist Prosecutor



Specialist Prosecutor Jack Smith and Registrar Fidelma Donlon – September 2018

Jack Smith, a US prosecutor with experience in both high-level political investigations and international criminal investigations, took office as Specialist Prosecutor on 11 September 2018.

In accordance with Article 36 of the Law on Specialist Chambers and Specialist Prosecutor's Office, Mr Smith signed a solemn declaration that he would exercise his functions independently, impartially and conscientiously. He was selected for the position of Specialist Prosecutor in May 2018 after a process facilitated by the European Union and appointed by EULEX Head of Mission, Alexandra Papadopoulou.

Prior to his appointment as Specialist Prosecutor, 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 United States Attorney and Acting United States 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 foreign 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 during the course of his career. These include 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.



## Kosovo visit

Specialist Prosecutor Jack Smith visited Kosovo in October and November 2018 for a series of meetings with international and Kosovo officials.

In the course of his visit, he met with, among others, the heads of international organisations, representatives of EU Member States and Kosovo Justice Minister Abelard Tahiri, as well as senior officials in the Justice Ministry.



Specialist Prosecutor Jack Smith addressing diplomats from EU Member States and Third Contributing States at EULEX in Pristina

The Specialist Prosecutor is working towards a prosecution decision and will only bring charges when he is satisfied that: the evidence is admissible in the Specialist Chambers; the evidence will be available to present in court when the times comes; the evidence will be

sufficient to prove beyond reasonable doubt each element of each crime as to each person charged; the case will likely survive a properly informed, intelligent and vigorous defence; and the case will result in convictions that will withstand appeal.

## Prosecution decision



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

*In accordance with Article 38(4) of the Law and pursuant to Rule 86 of the Rules of Procedure and Evidence, which were promulgated by the Kosovo Specialist Chambers in July 2017, the Specialist Prosecutor must be satisfied that "there is a well-grounded suspicion that a suspect committed or participated in the commission of a crime within the jurisdiction of the Specialist Chambers" before an indictment can be filed.*

The SPO seeks to achieve outcomes that are legitimate and are perceived as legitimate by those affected by them, in Kosovo, the region and the wider world. Only in this way can the stigma of the events dealt with in the Council of Europe Report be removed as an impediment to Kosovo's full integration into the international community.

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