



DEFENCE AT THE KSC



Defence is an essential aspect of fair trials. The Kosovo Specialist Chambers (KSC) guarantees fair trial, due process and the highest standards of human rights protections for persons before it. The right to an effective defence will be protected by a lawyer eligible to practice before the Kosovo Specialist Chambers.

RIGHTS OF THE SUSPECTS AND ACCUSED

Among the most important rights, suspects and accused at the KSC have the **right to Counsel**, who has to be **admitted** to the List of Specialist Counsel.

Suspects and accused are also entitled to have Counsel assigned to them if they do not have sufficient means to pay for their defence and are found to be indigent.

REPRESENTATION

At the KSC, representation of a suspect or accused by Counsel is mandatory:

- At hearings on detention on remand and while a suspect or accused is in detention on remand;
- From the filing of an indictment if the charges relate to a crime punishable by imprisonment of at least ten years; and

- In all cases when an accused seeks to enter into an agreement to plead guilty to a crime punishable by imprisonment of one year or more.

ELIGIBILITY TO PRACTICE

Suspects and accused have the right to choose Counsel from the List of Specialist Counsel. Therefore, any **lawyer** who intends to act as Counsel before the KSC **has to be admitted to the List of Counsel**. The Defence Office within the KSC Registry administers this List of Counsel.

Lawyers who want to be admitted to the List of Counsel are required to **send a request for admission to the Defence Office** (defenceoffice@scp-ks.org).

The Defence Office checks admission requests against the requirements of the Directive on Counsel. *(for a brief explanation of the procedure for admission, see the back page of this factsheet)*

LEGAL AID

Suspects or accused who are found to be indigent or partially indigent (that is, **without sufficient means to pay for their defence**) have the right to receive legal aid. Accordingly, the Specialist Chambers assign Counsel to them, paying in whole or in part for legal support, legal advice and representation in court pursuant to the applicable legal aid regulations. When suspects or accused request legal aid, they have the obligation to prove their indigence. The Registry may conduct an inquiry at any time on the indigence of the person.

Note: There is a **difference** between Counsel for the Defence / Defence Counsel on the one hand and the Defence Office on the other.

Counsel are independent lawyers who represent and defend suspects or accused in criminal proceedings before the KSC.

The **Defence Office** is a Unit of the Registry, which supports the KSC's judicial proceedings by e.g. administering a List of Counsel and a system of legal aid. The Defence Office does not provide legal advice to individual suspects or accused.

CONTACT

For any questions, the Defence Office can be contacted at defenceoffice@scp-ks.org or at

Kosovo Specialist Chambers

*P.O. Box 47
2501 CA, The Hague, The Netherlands*

LIST OF COUNSEL

On 6 November 2017, the Registrar adopted the Directive on Counsel, after approval by the President upon consultation with the Judges of the Kosovo Specialist Chambers.

The Directive regulates the eligibility for inclusion in a List of Counsel, ongoing obligations of Counsel admitted to the List, as well as the modalities for withdrawal and removal from the List. The Defence Office establishes and administers a List of Counsel who are eligible to represent suspects or accused before the Specialist Chambers ("List of Specialist Counsel").

Only those Counsel who are admitted to a List are eligible to represent suspects and accused before the Specialist Chambers.

The requirements for admission to a List of Counsel are:

- Established competence and experience in domestic criminal and/or international criminal law and procedure;
- At least ten (10) years, and for purposes of acting as Co-Counsel at least seven (7) years, of proven relevant experience whether as a lawyer for defence or victims, as a prosecutor, a judge or in a comparable capacity in criminal proceedings;

- For the duration of the admission to a List of Counsel, the applicant continues to be a member of a domestic bar association or similar institution, or a judge or a prosecutor subject to an oversight authority;
- Written and oral proficiency in one of the official languages of the Specialist Chambers (Albanian, Serbian, English);
- The applicant has not been found guilty in criminal proceedings or otherwise disciplined in relevant disciplinary proceedings against him or her in a national or international forum;
- The applicant has not engaged in conduct, which is dishonest or otherwise discreditable to Counsel, prejudicial to the administration of justice, or likely to diminish public confidence in the Specialist Chambers or the administration of justice, or otherwise bring the Specialist Chambers into disrepute.

Where criminal, disciplinary or other proceedings, investigations or inquiries are pending against an applicant, the decision on admission shall be deferred until the outcome thereof becomes final.

HOW TO APPLY

*The Application Form and Guidelines are available on the website at:
www.scp-ks.org/en/specialist-chambers/defence*