



## INVESTIGATION

The SPO was established on 1 September 2016, inheriting the staff and mandate of the Special Investigative Task Force, which began to investigate the allegations in the Parliamentary Assembly of the Council of Europe Report in October 2011 as an autonomous entity, deriving its jurisdiction and legal authority from the European Union Council Decision establishing EULEX, the EU Rule-of-Law Mission in Kosovo.

The Specialist Prosecutor is authorised to:

- question victims, witnesses and suspects, and record their statements;
- conduct on-site investigations, collect evidence, undertake expert examinations thereof and conduct such other investigative activities as necessary;
- seek the assistance of Third States and international organisations or other entities; and
- undertake investigative measures as laid out in the Rules of Procedure and Evidence.

To protect the integrity of the investigation, the confidentiality of witness testimony and ongoing collection of evidence, the SPO does not disclose specific information on the status of the investigation, evidence gathered in the course of the investigation or the timing of possible charges.

## BACKGROUND

The Parliamentary Assembly of the Council of Europe appointed Senator Dick Marty to investigate allegations contained in the memoir of former International Criminal Tribunal for the former Yugoslavia Chief Prosecutor Carla Del Ponte, *Madame Prosecutor*, which was published in April 2008.

In the wake of publication of the Parliamentary Assembly of the Council of Europe Report, the European Union formed the Special Investigative Task Force to investigate the allegations contained in it. The *Law on the Specialist Chambers and the Specialist Prosecutor's Office* provided a mechanism for continuing the investigation and prosecuting charges deriving from it. The SPO is part of the judicial system of Kosovo, but based in the Netherlands on the basis of a Host State Agreement between the Netherlands and Kosovo of 15 February 2016. It is a temporary institution with a specific mandate and jurisdiction, namely over certain crimes against humanity, war crimes and other crimes under Kosovo law which allegedly occurred between 1 January 1998 and 31 December 2000.

## PRIMACY OVER OTHER COURTS

The Specialist Chambers has primacy over all other courts in Kosovo. The Specialist Chambers or the SPO may order the transfer of proceedings within its jurisdiction from any other prosecutor or any other court in the territory of Kosovo to the Specialist Chambers and the SPO at any stage of an investigation or proceedings. The Specialist Chambers and the SPO can order a Kosovo court to hand over any ongoing cases or investigations that are within the jurisdiction and mandate of the Specialist Chambers or SPO.

All Kosovo courts and prosecutors must notify the Specialist Chambers and the SPO without delay should they be aware of a case of criminal proceedings within the jurisdiction of the Specialist Chambers.

## STAFFING

SPO staff – prosecutors, investigators, analysts, security professionals, witness-protection specialists and support workers – are internationals with citizenship of either an EU member state or one of the five non-EU contributing countries: Canada, Norway, Switzerland, Turkey and the United States.

## KEY DOCUMENTS

- Parliamentary Assembly of the Council of Europe Report *Inhuman treatment of people and illicit trafficking in human organs in Kosovo* of January 2011
- *Law on Ratification of International Agreement ("Exchange of Letters")* adopted by the Kosovo Assembly in April 2014
- Constitution and Amendment of the Constitution, Article 162: The Specialist Chambers and the Specialist Prosecutor's Office adopted by the Kosovo Assembly in August 2015
- *Law on Specialist Chambers and Specialist Prosecutor's Office* adopted by the Kosovo Assembly in August 2015
- Agreement between the Kingdom of the Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in the Netherlands (Host State Agreement) of February 2016
- Rules of Procedure and Evidence of the Specialist Chambers adopted by judges of Specialist Chambers that entered into force in July 2017