

KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE

# 2022 REPORT



KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE

The Kosovo Specialist Chambers and Specialist Prosecutor's Office were established pursuant to an international agreement ratified by the Kosovo Assembly, a Constitutional Amendment and the Law on Specialist Chambers and Specialist Prosecutor's Office.

They are of temporary nature with a specific mandate and jurisdiction over crimes against humanity, war crimes and other crimes under Kosovo law, which were commenced or committed in Kosovo between 1 January 1998 and 31 December 2000 by or against citizens of Kosovo or the former Federal Republic of Yugoslavia.

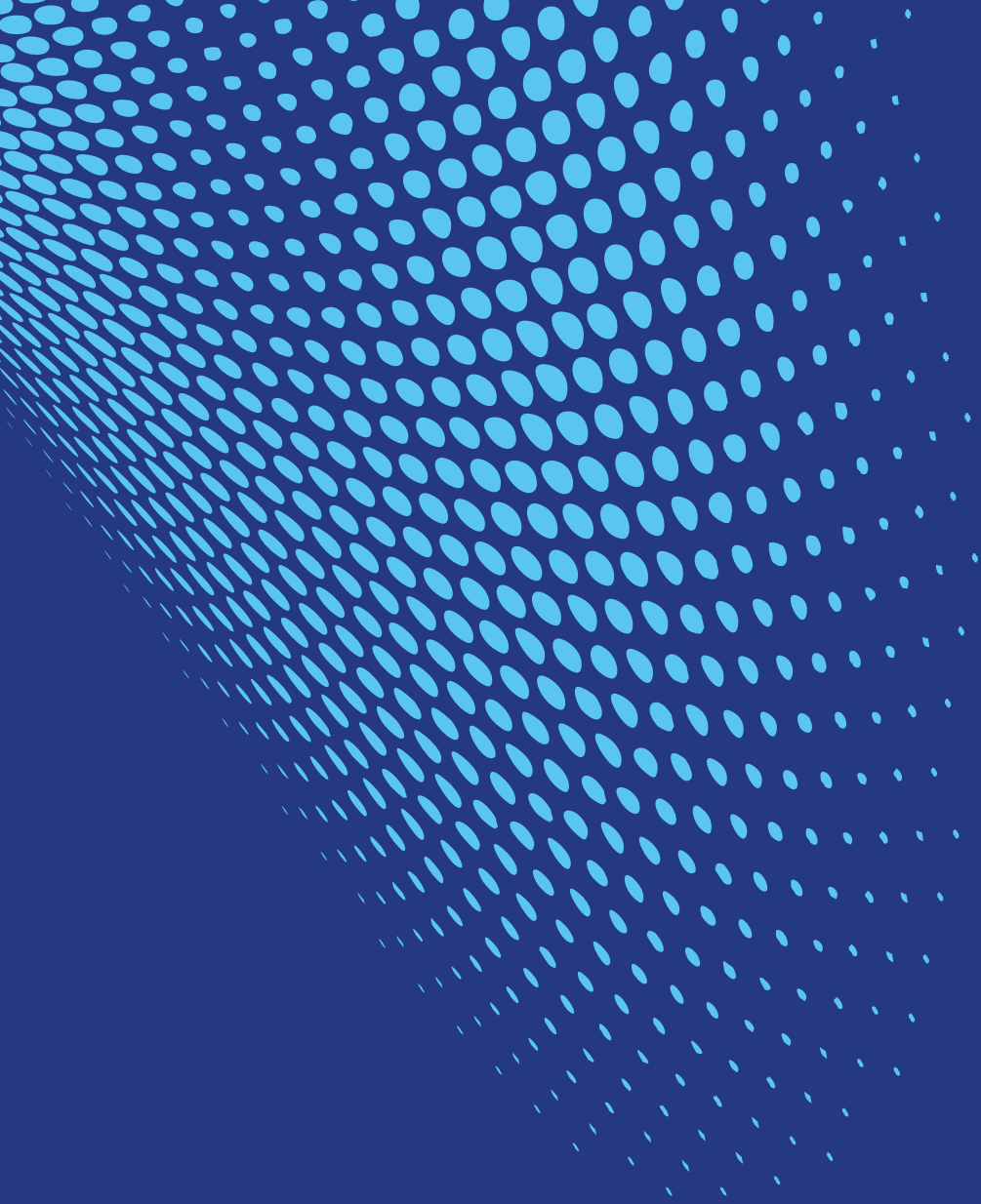
The Kosovo Specialist Chambers and the Specialist Prosecutor's Office have a seat in The Hague, the Netherlands. Their staff is international, as are the Judges, the President, the Registrar and the Specialist Prosecutor.

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# **2022 REPORT**

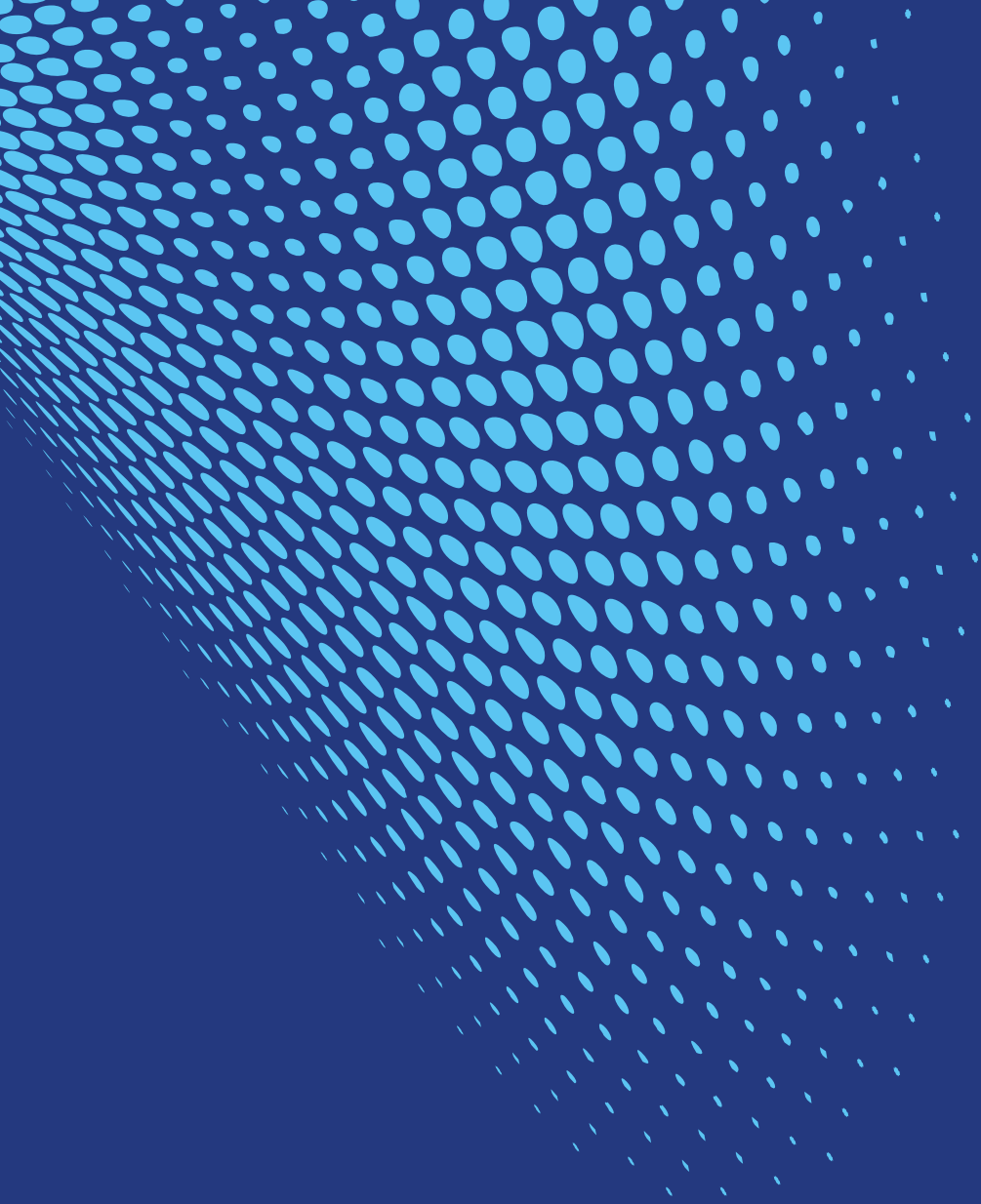


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# Kosovo Specialist Chambers



# Foreword

We are pleased to present the 2022 annual report of the Kosovo Specialist Chambers (KSC). The work on the four cases before the KSC continued unabated at an efficient pace. There were a number of significant judicial developments over the course of the year, with the issuance of two trial judgments and the transfer of two cases from the pre-trial to the trial phase of the proceedings. The substantial increase in judicial activity, as well as various achievements throughout the year are a testament to the dedication of the KSC Judges, staff members and other personnel across the court, who have undertaken their duties in a professional and efficient manner.

While the COVID-19 pandemic continued to affect our judicial operations until early May, when the measures were lifted and the majority of staff returned to work at the premises, the judicial activities of the KSC continued to increase over the course of 2022. Specifically, two trial proceedings concluded, and two judgments were issued in those same cases. One of these cases moved to the appellate phase of the proceedings. The other two cases were transferred by the Pre-Trial Judge to two trial panels. For the first time since the KSC became judicially operational, panels at all levels of the proceedings were seised with different matters. Indeed, the Pre-Trial Judge, Trial Panels, Court of Appeals Panels, the Supreme Court Panel and the Specialist Chambers of the Constitutional Court were all active over the course of 2022 and rendered a wide range of decisions and orders.

The KSC Judges further held their annual plenary in March via video-conference, during which the Judges were updated on relevant institutional matters and engaged with different topics on the agenda of the plenary session. The Judges also gathered in May for their first in-person meeting since the start of the pandemic, during which they officially inaugurated the courtroom.

Bilateral cooperation with States is of a vital importance to the KSC's ability to fulfil its mandate. In May, in view of the progress achieved in judicial proceedings, the President adopted the Practice Direction on the Designation of State of Enforcement. Since that time, the Registrar has conducted significant, bilateral diplomatic engagement to conclude enforcement of sentences agreements.

The President travelled to Kosovo in September to meet with civil society, the media and others to provide information about the ongoing proceedings and answer any questions posed about the court and its mandate. The President very much appreciates the feedback given at these gatherings.

The outreach team has continued to organise a wide range of events in Kosovo and via video-conference with members of Kosovo civil society. The KSC further hosted the Court Information Network (CIN) at its premises for a two-day workshop, during which the President and Registrar presented to CIN members and received invaluable insight on the content and effectiveness of the court's outreach programme. It is thanks to the generous financial contribution of the government of Switzerland that the KSC is able to develop such a comprehensive outreach programme.

With the ongoing judicial activities at the KSC, there has been continued interest in its work. The KSC remains committed to ensuring transparent access to information about its proceedings. To that end, the KSC has continued to publish informational material about its mandate, including a booklet entitled "KSC in a Nutshell". The KSC has also ensured that the proceedings can be followed either via its live-stream function on the website or through its YouTube channel. Members of the KSC's Public Information and Communication Unit are always available to answer any questions, whether by media representatives or civil society, and the KSC opened



its doors during the Just Peace Open Day on 16 October for the public to see the courtroom and ask any questions they may have.

In December, we were further delighted to increase our commitment to a safe and inclusive working environment by adopting a new Anti-Harassment Policy. We have a zero-tolerance policy against any form of harassment and this new Policy is the culmination of years of work dedicated to raising awareness and enhancing the KSC's harassment prevention and response framework, starting with the adoption of its Staff Rules and Code of Conduct in 2016 and its Standard Operating Procedure on the Disciplinary Process and its Anti-Harassment Strategy in 2019, together with other legal instruments that regulate professional standards. In line with the KSC's culture of dignity and mutual respect, we were extremely happy that Human Resources Unit could provide tailored trainings to almost all staff throughout the year on the prevention of psychological and sexual harassment and unconscious bias.

We wish to extend our sincere appreciation to the Member States of the European Union (EU) and Third Contributing States, for their continuous

support to the KSC over the course of 2022. We are similarly grateful to the EU Rule of Law Mission in Kosovo for their support during operations there and to the Kosovo police for their assistance in this respect as well.

We equally wish to express our appreciation to the KSC's counterparts at the EU External Action Service, the Civilian Planning and Conduct Capability and the European Commission's Service for Foreign Policy Instruments for their assistance and cooperation with the KSC during the year.

We are further grateful to States, members of the diplomatic community, as well as international and internationalised courts and tribunals in The Hague for their constructive exchanges on organisational and administrative matters.

We look forward to the year ahead, as the KSC continues to undertake its proceedings in a secure, independent, impartial, fair and efficient manner in accordance with its mandate.

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

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

*The Hague, December 2022*

# KSC at a glance

In June 2008, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe appointed a special rapporteur to investigate allegations of serious crimes committed during and in the aftermath of the 1998-1999 conflict in Kosovo.

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

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

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

The Exchange of Letters provides that these dedicated and separate judicial chambers would be established in accordance with Kosovo law. These

judicial chambers and the specialist prosecutor's office would be governed by their own statute and rules of procedure and evidence, while being staffed and managed by international staff only and have only international judges. The Exchange of Letters also states that the separate judicial chambers would have a seat in a third state and that sensitive proceedings, including hearing of witnesses, would take place outside Kosovo. The Exchange of Letters was ratified in April 2014 by the Kosovo Assembly with a two-thirds majority and incorporated into domestic law. It has superiority over the laws of Kosovo.

In July 2014, the SITF Chief Prosecutor issued a statement, concluding that the SITF "will be in a position to file an indictment against certain senior officials of the former Kosovo Liberation Army".

In March 2015, the President of the Kosovo Assembly referred to the Kosovo Constitutional Court a constitutional amendment proposed by the Kosovo government to implement the Exchange of Letters. According to the Constitution, the Kosovo Constitutional Court had to assess whether the proposed amendment diminished any of the rights and freedoms guaranteed by Chapter II of the Constitution. In April 2015, the Kosovo Constitutional Court held that the amendment proposal was in conformity with the Kosovo Constitution and held that "[t]he structure, scope of jurisdiction and functioning of the Specialist Chambers will be regulated by further laws in compliance with the Constitution".

This amendment was implemented through Article 162 of the Kosovo Constitution, adopted by the Kosovo Assembly in August 2015. At the same time, the Law on the establishment of both institutions was also adopted, which serves as the foundational instrument for the Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO).

In **April 2016**, Dr Fidelma Donlon was appointed Registrar of the KSC, marking the commencement of the work of the Registry in The Hague.

In **September 2016**, Mr David Schwendiman was appointed Specialist Prosecutor.

In **December 2016**, Judge Ekaterina Trendafilova was appointed President of the KSC. She took office in January 2017.

On **1 January 2017**, the Host State Agreement between Kosovo and the Netherlands entered into force, allowing the KSC to conduct criminal proceedings in the Netherlands.

Subsequently, in **February 2017**, 19 Judges were appointed to the Roster of International Judges of the Kosovo Specialist Chambers. In **March 2017**, during the first plenary, the KSC Judges adopted the Rules of Procedure and Evidence.

After a constitutional review by the Specialist Chamber of the Constitutional Court, the Rules of Procedure and Evidence entered into force in **July 2017**, rendering the KSC fully judicially operational.

In **November 2017**, the Registrar adopted the Directive on Counsel regulating matters such as the eligibility of lawyers to represent suspects, accused and victims before the KSC. Since then, 234 practitioners from Kosovo, Serbia and a number of other countries have been admitted to the Lists of Defence and Victims' Counsel.

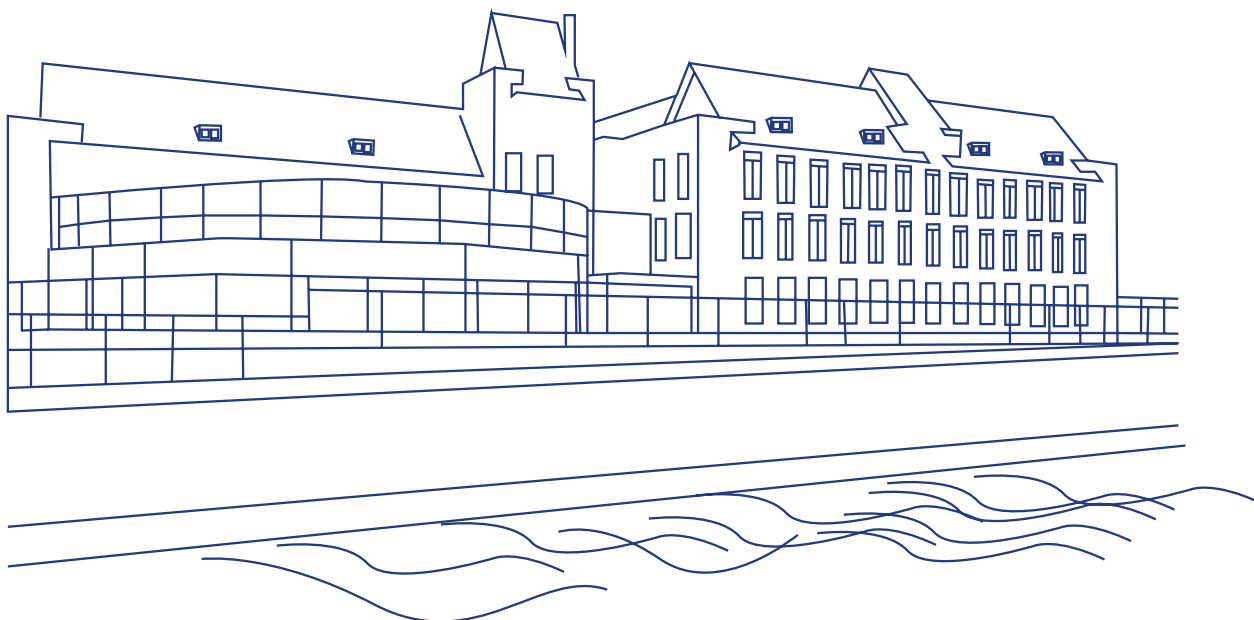
In **May 2018**, Mr Pietro Spera was appointed Ombudsperson of the KSC.

In **June 2018**, the Court Information Network comprising of local NGOs from Kosovo and Serbia was established.

In **September 2018**, Mr Jack Smith succeeded Mr David Schwendiman as Specialist Prosecutor.

In **March 2019**, the Judges of the KSC convened for the fourth plenary. In that same month, the Code of Professional Conduct for Counsel and Prosecutors before the KSC was adopted.

In **June 2019**, the KSC and the SPO moved to their new premises in The Hague.



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

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

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

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

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

On **16 March 2021**, Mr Pjetër Shala was arrested in Belgium and transferred to the KSC Detention Facilities on **15 April 2021**.

On **5 May 2021**, the President assigned Trial Panel I to the case of the *Specialist Prosecutor v. Salih Mustafa*, which commenced trial proceedings on **15 September 2021** with the opening statement of the Specialist Prosecutor.

On **15 July 2021**, the President assigned Trial Panel II to the case of the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*, which commenced trial proceedings on **7 October 2021** with the opening statement of the Specialist Prosecutor.

On **8 May 2022**, Specialist Prosecutor Jack Smith was reappointed for a term of four years.

On **18 May 2022**, Trial Panel II rendered the first judgment at the KSC in the case of *the Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*, finding both accused guilty of obstructing official persons in performing official duties, intimidation during criminal proceedings and violating the secrecy of proceedings.

On **17 June 2022**, Messrs Gucati and Haradinaj filed their notices of appeal against the trial judgment.

On **21 September 2022**, the Pre-Trial Judge transferred the case of *the Specialist Prosecutor v. Pjetër Shala* to Trial Panel I.

On **19 November 2022**, Mr Alex Whiting became the Acting Specialist Prosecutor following Jack Smith's departure.

On **1 and 2 December 2022**, the Court of Appeals Panel held an appeal hearing in the case of *the Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*.

On **15 December 2022**, the Pre-Trial Judge transferred the case of *the Specialist Prosecutor v. Hashim Thaçi et al.* to Trial Panel II.

On **16 December 2022**, Trial Panel I issued the trial judgment in the case of *the Specialist Prosecutor v. Salih Mustafa*, finding the accused guilty of arbitrary detention, torture and murder as war crimes.

# Timeline



## **JANUARY 2011**

The Council of Europe (CoE) Parliamentary Assembly approves a Report on “Inhuman treatment of people and illicit trafficking in human organs in Kosovo”.

## **SEPTEMBER 2011**

The Special Investigative Task Force (SITF), established by the EU to conduct criminal investigations into the allegations of the CoE Report, commences its work.

## **APRIL 2014**

The Kosovo President and the High Representative of the EU for Foreign Affairs and Security Policy exchange letters on the establishment of “separate judicial chambers”.

## **AUGUST 2015**

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



## **DECEMBER 2016**

Judge Ekaterina Trendafilova is appointed President of the KSC.

## **SEPTEMBER 2016**

Mr David Schwendiman is appointed Specialist Prosecutor.



## **APRIL 2016**

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

# Timeline

## JANUARY 2017

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



## FEBRUARY 2017

19 Judges are appointed to the Roster of International Judges.

## MARCH 2017

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

## JULY 2017

Following the constitutional review conducted by the Specialist Chamber of the Constitutional Court, the Rules of Procedure and Evidence enter into force and the KSC becomes judicially operational.



## SEPTEMBER 2018

Mr Jack Smith succeeds Mr David Schwendiman as Specialist Prosecutor.



## MAY 2018

Mr Pietro Spera is appointed Ombudsperson of the KSC.

## NOVEMBER 2017

The Registrar adopts the Directive on Counsel regulating matters such as the eligibility of lawyers to represent suspects, accused and victims before the KSC.



#### JUNE 2019

The KSC and the SPO move to their new premises.

#### FEBRUARY AND APRIL 2020

The Specialist Prosecutor files the first indictments.

#### APRIL 2020

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

#### SEPTEMBER 2020

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



#### SEPTEMBER 2021

Trial proceedings in the case of the *Specialist Prosecutor v. Salih Mustafa* start.

#### DECEMBER 2020

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

#### NOVEMBER 2020

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

# Timeline



## MARCH AND APRIL 2021

Mr Pjetër Shala is arrested in Belgium and transferred to the KSC Detention Facilities.

## OCTOBER 2021

Trial proceedings in the case of the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj* start.



## MARCH 2022

Trial in the case of the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj* closes.



## JUNE 2022

Hysni Gucati and Nasim Haradinaj file notices of appeal against their trial judgment.

## MAY 2022

Trial Panel II issues first KSC trial judgment in the case of the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*.

## MAY 2022

Specialist Prosecutor Jack Smith is reappointed for a term of four years.



**SEPTEMBER 2022**

Trial in the case of the *Specialist Prosecutor v. Salih Mustafa* closes.



**SEPTEMBER 2022**

Transfer of the *Specialist Prosecutor v. Pjetër Shala* to Trial Panel I.



**NOVEMBER 2022**

Mr Alex Whiting becomes the Acting Specialist Prosecutor following Jack Smith's departure.



**DECEMBER 2022**

Trial Panel I issues the KSC's first war crimes trial judgment in the *Specialist Prosecutor v. Salih Mustafa*.



**DECEMBER 2022**

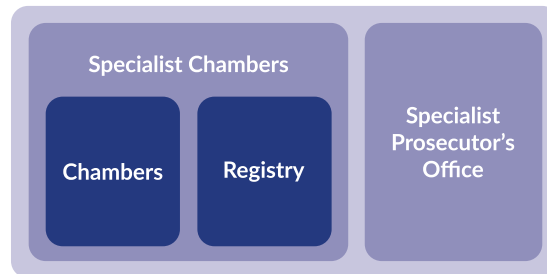
Transfer of the *Specialist Prosecutor v. Hashim Thaçi et al.* to Trial Panel II



**DECEMBER 2022**

Appeal hearing in the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*.

The Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO) are two **independent** institutions established following an **Exchange of Letters** in accordance with Kosovo law and through a **constitutional amendment** in 2015. The **Law on Specialist Chambers and Specialist Prosecutor's Office** (Law) was adopted by the Kosovo Assembly in August 2015.



■ The **mandate** of the KSC is

- “To ensure secure, independent, impartial, fair and efficient criminal proceedings in relation to allegations of grave trans-boundary and international crimes committed during and in the aftermath of the conflict in Kosovo, which relate to those reported in the Council of Europe Parliamentary Assembly Report [...] and which have been the subject of criminal investigation by the Special Investigative Task Force” (Article 1 of the Law).

■ The KSC is established in accordance with the **Exchange of Letters** and **Kosovo law**

- having the **same court levels** as the Kosovo judicial system (basic, appeal, supreme, constitutional)
- having a **seat outside Kosovo**
- having Judges and staff who are citizens of **EU Member States or Third Contributing States**
- applying **international customary law** and **domestic substantive criminal law** as provided for in the Law
- applying its **own rules of procedure and evidence**.

■ The KSC is a **temporary** judicial institution

- it will only be in existence for the time necessary to deal with charges presented by the Specialist Prosecutor and until Kosovo is notified by the EU Council that investigations and proceedings have concluded.

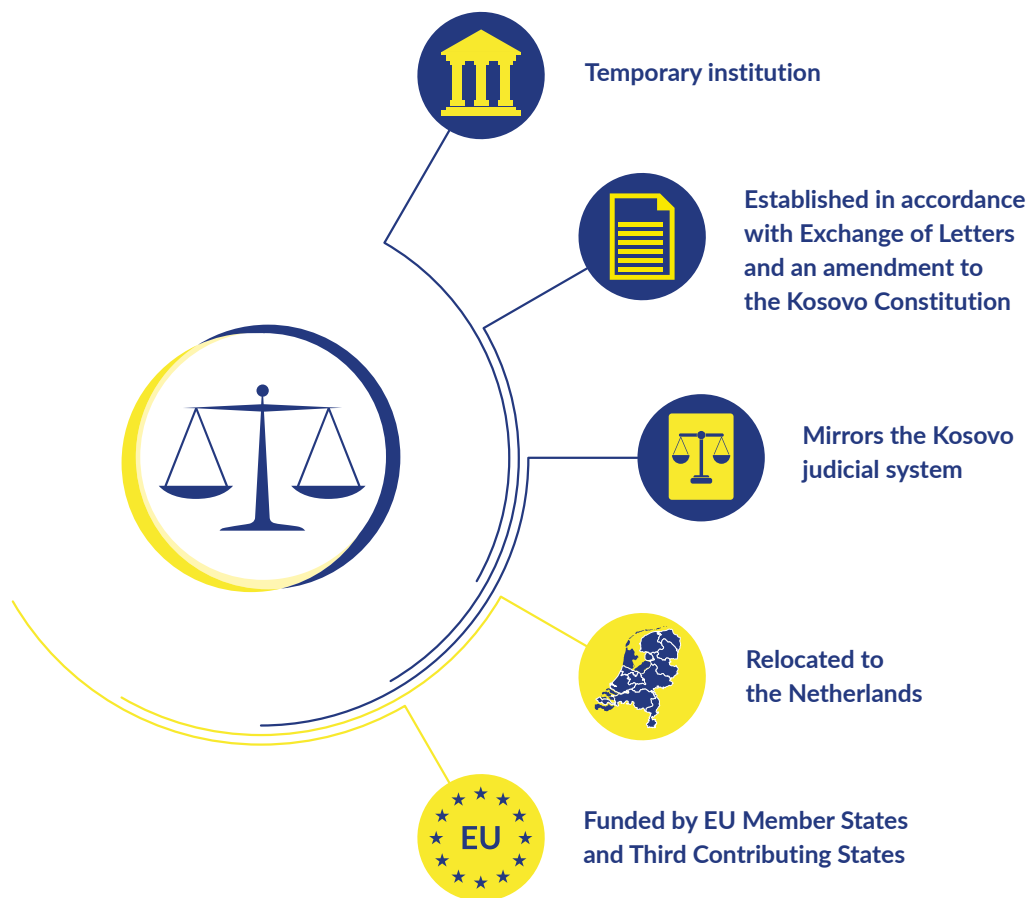
■ The **jurisdiction** of the KSC covers

- crimes against humanity, war crimes and other crimes under the applicable criminal law at the time the crimes were
  - committed between 1 January 1998 and 31 December 2000
  - either commenced or were committed in Kosovo, or committed by or against persons of Kosovo/Federal Republic of Yugoslavia citizenship
- certain crimes against the administration of justice when they relate to its official proceedings and/or officials.

■ The KSC deals with **individual criminal responsibility only** - groups or organisations cannot be put on trial.

■ The KSC allows **victims' participation** in proceedings.

- The KSC and the SPO are funded by EU Member States and Third Contributing States, and are independent in the fulfilment of their mandate and work.
- The official languages of the KSC and the SPO are Albanian, Serbian and English.
- The KSC has an **Ombudsperson**, who acts independently to monitor, defend and protect the fundamental rights and freedoms of persons **interacting with the KSC and the SPO**, including by
  - operating a complaints procedure, which individuals can make use of if
    - the complaint involves an interaction between the complainant and the KSC or the SPO
    - there is undue delay in a proceeding before the KSC
    - all other remedies have been exhausted
    - the complaint has been filed within six months of the alleged violation
  - entering and inspecting the KSC Detention Facilities to assess the conditions of detention at any time and without notice.







# COVID-19 Measures

In May 2022, following the Host State's relaxation of COVID-19 measures, all KSC and SPO staff returned to working at the premises. Over two years had passed since the pandemic compelled the majority of staff to work remotely. Notwithstanding the various measures in place, the KSC and the SPO have continued to exercise their mandates uninterrupted throughout the pandemic.

On 15 March 2022, the Dutch government announced the easing of COVID-19 mitigation measures, including the end of the advice to work from home. As a result, the plan to bring KSC and SPO staff members back to the office on a full-time basis in a safe manner was instituted. Staff were informed on 18 March 2022 that they were to return to the KSC and the SPO premises from 2 May 2022 onward, while allowing for a transition period for staff to make the necessary arrangements. An administrative directive was issued separately and revised in April 2022, allowing staff members working full-time at the premises to request to work remotely for a maximum of two days per week, subject to, among others, the operational needs and interests of the KSC and the SPO. Exceptions to working at the premises on a full-time basis could also be made on the basis of medical grounds.

Following the return to the office of all staff in early May 2022, the KSC and the SPO continued to monitor the Host State measures and announcements in relation to the COVID-19 pandemic. On 27 May 2022, staff were informed in-line with the Host State's approach about changes to the COVID-19 measures implemented at the KSC and the SPO as of 30 May 2022. These included the lifting of the mandatory wearing of face masks at the premises and the requirement to maintain social distancing. While these measures were lifted, staff and visitors could naturally continue to apply them if they preferred. The organisation continued to encourage staff to remain vigilant and mindful of the wellbeing of colleagues.

Furthermore, the implementation of the two Operational Instructions related to COVID-19 mitigation measures were suspended for the time being. This also meant that the public gallery was fully opened again to anyone wishing to follow the hearings in-person and the requirement to pre-register and undergo a COVID-19 screening was also lifted.

The technical arrangements put in place due to the pandemic, which allow parties to participate remotely in proceedings remained in place throughout 2022. Similarly, the possibility for detainees to have video-visits continued as an alternative to in-person visits.





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# Chambers





# 1 | Judicial Activities

The Kosovo Specialist Chambers (KSC) has had a very active judicial year in 2022, with a number of significant milestones reached during this time. Specifically, the KSC saw the issuance by Trial Panel II of the first trial judgment in the case of the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*, as well as the start of its first appeals proceedings in that same case. The Pre-Trial Judge has transferred to trial the cases of the *Specialist Prosecutor v. Pjetër Shala* and the *Specialist Prosecutor v. Hashim Thaçi et al.* The first war crimes judgment was also issued by Trial Panel I in the case of the *Specialist Prosecutor v. Salih Mustafa*.

For the first time since it became judicially operational, Panels at every level of the Specialist Chambers were seised during 2022, including the Pre-Trial Judge, two Trial Panels, Court of Appeals Panels, a Supreme Court Panel and the Specialist Chambers of the Constitutional Court (SCCC). During the course of the year, these Panels issued a combined 659 decisions and orders, of which 89 were rendered orally.

## PROCEEDINGS BEFORE THE TRIAL PANELS

Two trial proceedings came to an end over the course of 2022 and two cases were transferred by the Pre-Trial Judge to Trial Panels.



*Pre-Trial Judge*



*Trial Panel I*



*Trial Panel II*

I.

## Specialist Prosecutor v. Salih Mustafa

The indictment charges Mr Salih Mustafa with four counts of war crimes (arbitrary detention, cruel treatment, torture and murder) committed in April 1999. According to the indictment, during the relevant period, Mr Mustafa was the commander of a guerrilla unit within the Llap operational zone of the Kosovo Liberation Army (KLA). Mr Mustafa was arrested in Kosovo on 24 September 2020 and transferred to the KSC Detention Facilities on the same day.

During the trial proceedings, which took place over the course of 53 days since its commencement on 15 September 2021, 29 witnesses were heard. Eight victims were admitted to participate in this case and they were represented by a common Victims' Counsel. The Trial Panel officially closed the evidentiary phase of the proceedings on 20 June and the closing arguments took place from 13 to 15 September 2022 – exactly one year from the Specialist Prosecutor's opening statements.



*Mr Salih Mustafa at the trial preparation conference, 9 June 2021*



Rendering of the trial judgment in the case against Mr Salih Mustafa, 16 December 2022

The Trial Panel, composed of Judges Mappie Veldt-Foglia (presiding), Roland Dekkers, Gilbert Bitti and Vladimir Mikula (reserve), issued the trial judgment in this case on 16 December 2022. This is the first trial judgment at the Specialist Chambers involving war crimes.

The Trial Panel found Mr Mustafa guilty of torture, arbitrary detention and murder as a war crime and sentenced him to 26 years of imprisonment, with credit for time served. The Trial Panel found Mr Mustafa not guilty of cruel treatment as a war crime.

*In the present case, the charges presented by the Specialist Prosecutor relate solely to the individual criminal responsibility of Mr Mustafa and his involvement in the war crimes of arbitrary detention, cruel treatment, torture and murder, as alleged in the charges in the Confirmed Indictment. At no point in time was the Kosovo Liberation Army on trial.*

*[T]he victims alleged to have suffered harm because of the actions of Mr Mustafa are citizens of Kosovo and of Albanian ethnicity. Their efforts to seek justice and truth lie at the heart of these proceedings.*

*[T]he Panel has heard several first-hand accounts of witnesses, some of whom are also participating victims in the case. These witnesses testified on the traumatic events they experienced and the continuous psychological impact these events have had on their lives and on the lives of their families.*

*KSC-BC-2020-05, Summary of the Trial Judgement, 16 December 2022, paras. 6 -7.*

## II.

### Specialist Prosecutor v. Pjetër Shala

On 21 September 2022, the Pre-Trial Judge transferred the case involving Mr Pjetër Shala to a Trial Panel. Mr Shala, who was allegedly a member of the KLA stationed in Kukës, Albania, was arrested on 16 March in Belgium and transferred to the KSC on 15 April 2021. He is charged with four counts of war crimes (arbitrary detention, cruel treatment, torture and murder), which allegedly took place between approximately 17 May 1999 and 5 June 1999 against persons detained at the Kukës Metal Factory allegedly used by the KLA.

At his initial appearance on 19 April 2021, Mr Shala pleaded not guilty to all the charges against him in the indictment.

The President has assigned the same Trial Panel I, which has undertaken the trial proceedings in the case against Mr Salih Mustafa. The Trial Panel is composed of the same Judges Mappie Veldt-Foglia (presiding), Roland Dekkers, Gilbert Bitti and Vladimir Mikula (reserve).



*Trial preparation conference in the case against Mr Pjetër Shala, 18 October 2022*

The trial preparation conference took place between 18 and 20 October 2022 and it is anticipated that the parties will deliver their opening statements during the first quarter of 2023.

There are eight participating victims admitted by the Pre-Trial Judge.

The Pre-Trial Judge is satisfied that the Applicants as immediate family members to a direct victim have personally suffered mental harm (psychological trauma, distress, nightmares, anxiety and grief) as a direct result of the alleged arbitrary detention, cruel treatment and torture purportedly suffered by the direct victim.

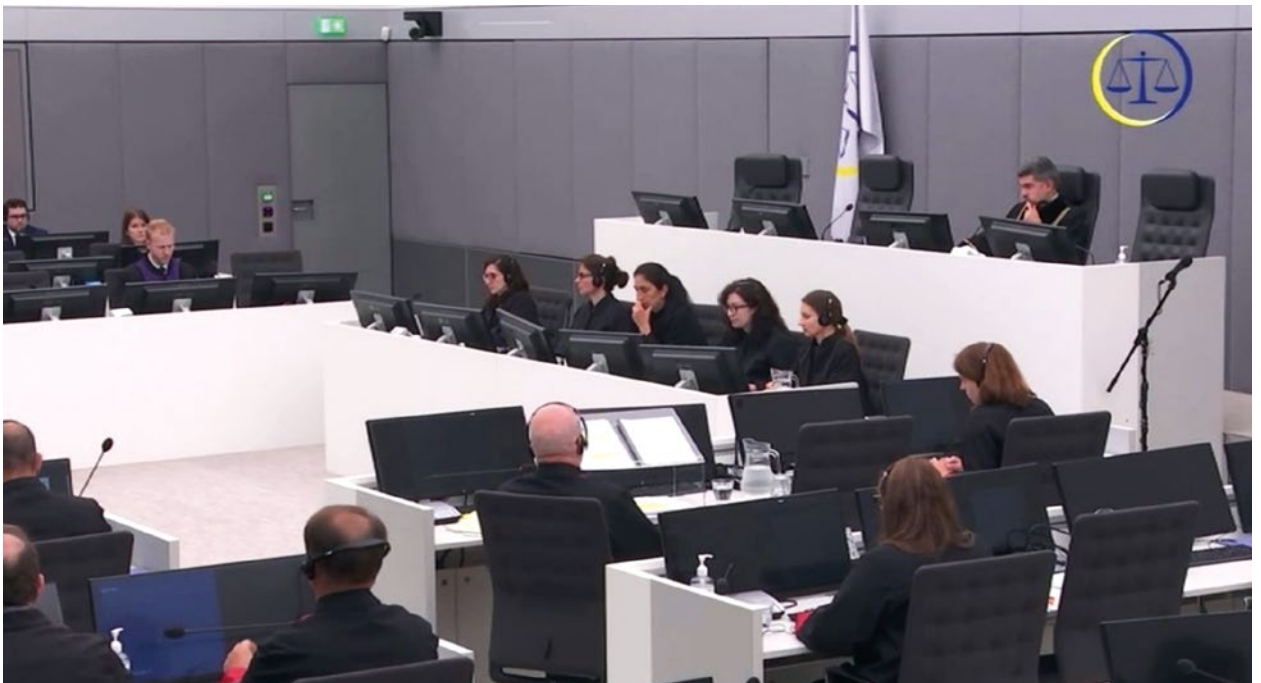
KSC-BC-2020-04/F00279/RED, Public Redacted Version of Third Decision on Victims' Participation, 19 September 2022, para. 30.

### III.

## Specialist Prosecutor v. Hashim Thaçi et al.

The indictment against Mr Hashim Thaçi, Mr Kadri Veseli, Mr Rexhep Selimi and Mr Jakup Krasniqi charges them with ten counts of war crimes and crimes against humanity. The accused were arrested in Kosovo on 4 and 5 November 2020 and transferred to the KSC Detention Facilities on those same days.

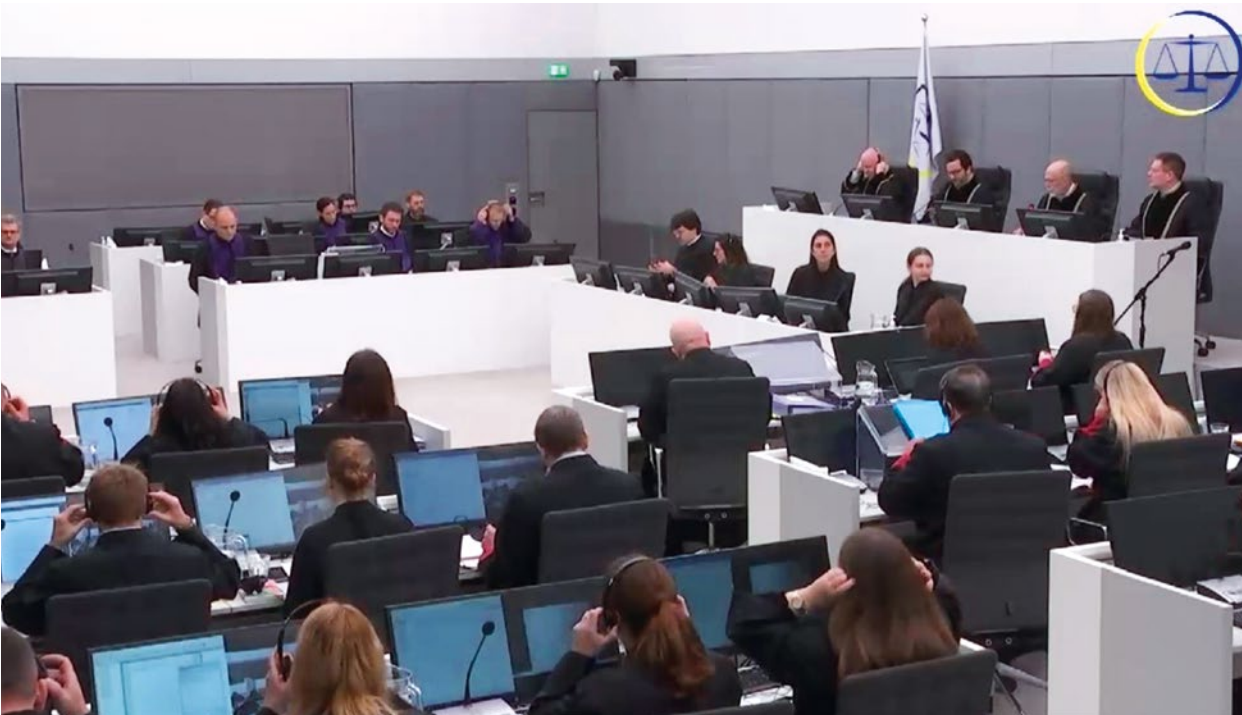
The Pre-Trial Judge in the Specialist Prosecutor v. Hashim Thaçi et al. case issued a wide range of decisions and orders during the reporting period, ensuring that the case could be transferred to a trial panel by the end of the year.



*Status conference in the Thaçi et al. case, 8 September 2022*

To that end, the Pre-Trial Judge transferred the case to a trial panel on 15 December 2022 and the President assigned Trial Panel II thereto, composed of Judges Charles Smith III (presiding), Christoph Barthe, Guénaél Mettraux and Fergal Gaynor

(reserve). This is the same Panel that undertook the proceedings in the case against Mr Hysni Gucati and Mr Nasim Haradinaj. On 16 December 2022, a first hearing took place, during which matters regarding the management of the trial were discussed.



Hearing in the case against Mr Hashim Thaçi et al., 16 December 2022

The Pre-Trial Judge has thus far admitted 53 individuals as participating victims in the proceedings by the end of 2022.

*The Pre-Trial Judge considers that this issue concerns, in particular, Mr Thaçi's right to communicate with his counsel in private, and to have adequate time and facilities to prepare his defence (Article 6(3)(b) and (c) of the ECHR and Article 21(4)(c) and (e) of the Law). If the measures of Recording and Disclosure violate these rights, the fair conduct of the proceedings would be significantly affected. In addition, early resolution of this issue would streamline the proceedings and facilitate the Accused's right to be tried within a reasonable time (Article 21(4)(d) of the Law).*

**KSC-BC-2020-06/F00939, Decision on Defence Request for Leave to Appeal Decision F00854, 26 August 2022, para. 40.**

## PROCEEDINGS BEFORE THE COURT OF APPEALS CHAMBER



*Judges of the Court of Appeals Chamber*

### I.

## Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj

The first case to move to the appellate phase is that of the Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj. Mr Gucati and Mr Haradinaj are charged with four offences against the administration of justice and public administration and two offences against public order, namely obstructing official persons in performing official duties by serious threat, intimidation, retaliation and violating the secrecy of the proceedings. Mr Gucati and Mr

Haradinaj were arrested on 25 September 2020 and transferred to the KSC Detention Facilities on 25 and 26 September 2020, respectively.

The KSC reached an important milestone with the issuance by Trial Panel II of the judgment in this case on 18 May 2022.

The Trial Panel found Mr Gucati and Mr Haradinaj guilty of three of the four counts, for obstructing official persons in performing official duties, intimidation during criminal proceedings and violating the secrecy of proceedings.

Both accused were sentenced to four and a half years of imprisonment, with credit for time already served, and a fine of 100 EUR each. Mr Gucati and Mr Haradinaj were acquitted with respect to the charge of retaliation.



*Rendering of the trial judgment in the Gucati and Haradinaj case, 18 May 2022*

The trial was expeditiously conducted by the Trial Panel. Proceedings took place over the course of 32 days between 7 October 2021 and 3 February 2022. During this time 32 witnesses were called or admitted and a total of 238 exhibits were admitted. The judgment was rendered in a very efficient manner, within only two months after the close of the case.

Mr Gucati and Mr Haradinaj appealed the trial judgment and the President assigned a Court of Appeals Panel composed of Judges Michèle Picard (presiding), Kai Ambos and Nina Jørgensen.

A pre-appeal conference took place on 5 July 2022 and an appeal hearing took place on 1 and 2 December 2022.





*Pre-appeal conference in the Gucati and Haradinaj case, 5 July 2022*

*This case is important, because it reflects the very reason why the Specialist Chambers was created. This case concerns the proper administration of justice, the integrity and security of proceedings and, crucially, the safety, well-being and freedom from fear of hundreds of persons who have come forward to fulfil their civic duty as witnesses. Their protection from intimidation and harm lies at the very foundation of any system of criminal justice, be that domestic or international. Without witnesses, there can be no justice for victims or for society at large. The acts and conduct of the Accused challenged that very foundation.*

*Summary of Trial Judgment in Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj (KSC-BC-2020-07), 18 May 2022, p. 1.*



Appeal hearing in the case against Messrs Hysni Gucati and Nasim Haradinaj, 2 December 2022

## II. Interlocutory Appeals

With the extensive progress made in the four cases, Panels of the Court of Appeals have also been seised with a wide range of appeals in 2022, filed by seven of the eight accused across three different cases. They have issued decisions confirming the continued

detention of a number of accused and have addressed matters related to victims' participation, defects in the form of the indictment, amendments to exhibit lists, the legality of the Specialist Chambers and amendments to the indictment.

*The Panel recalls that "[i]t is to be assumed that an accused will prepare his defence on the basis of material facts contained in the indictment, not on the basis of all the material disclosed to him" [...] and [...] stresses that it remains crucial that the Accused be given sufficient time and resources to adequately investigate the new incidents.*

*KSC-BC-2020-06/IA018/F00007, Decision on Defence Appeals Against Decision Concerning Request to Amend the Indictment Pursuant to Rule 90(1)(b) of the Rules, 22 March 2022, para. 48.*

*While the Panel agrees with the Pre-Trial Judge that victim participation in the present case is limited to victims of crimes alleged in the Indictment, it also stresses that the participation of anonymous victims may, in certain circumstances, infringe the accused's right to a fair trial. Should a [Victim Participating in the Proceedings] be called to appear as a witness, for example, the protective measures in place for the [Victim Participating in the Proceedings] might need to be reassessed [...].*

*KSC-BC-2020-06/IA023/F00006, Decision on Veseli's Appeal Against "Third Decision on Victims' Participation", 15 September 2022, para. 49.*

## SUPREME COURT CHAMBER

On 29 June 2022, Mr Kadri Veseli filed a request for protection of legality in relation to his continued detention. The President assigned a Supreme Court Panel, over which she presides in accordance with Article 32(1) of the Law on the Specialist Chambers and the Specialist Prosecutor's Office (Law) and which also included Judges Christine van den Wyngaert and Michael Bohlander.

On 15 August 2022, the Supreme Court Panel issued its decision, finding that Mr Veseli had failed to demonstrate that there had been substantial violations of procedures in the Law and the Rules of Procedure and Evidence. Accordingly, the Supreme Court Panel dismissed Mr Veseli's request in its entirety. This is the first time the Supreme Court Panel was seised of a request for the protection of legality.

*The Panel is satisfied that there is a robust system in place at the Specialist Chambers and that the further detention decision issued by the Pre-Trial Judge offered appropriate guarantees of due process. [...]*

*The Panel observes that the nearly four months taken by the Court of Appeals Panel to issue the Impugned Decision, on its face, may not be considered speedy within the meaning of Article 41(2) of the Law. However, having carefully assessed all the factors set forth above, the Panel considers the time taken by the Court of Appeals Panel to issue the Impugned Decision to have been justified in the specific circumstances of this case and does not find that there has been a violation of Article 41(2) of the Law.*

*KSC-BC-2020-06/PL001/F00008, Decision on Kadri Veseli's Request for Protection of Legality, 15 August 2022, paras 40, 42.*

## SPECIALIST CHAMBER OF THE CONSTITUTIONAL COURT



*Judges of the Specialist Chamber of the Constitutional Court*

The SCCC was seised with five referrals over the course of 2022. On 13 June, 6 July and 22 August, the SCCC issued decisions on the five referrals by Mr Hashim Thaçi, Mr Kadri Veseli, Mr Jakup Krasniqi and Mr Pjetër Shala, alleging violations of their fundamental rights and challenging, *inter alia*, the legality of charging joint criminal enterprise and the jurisdiction of the Specialist Chambers, as well as violations of fair trial rights.

The Panel found the referrals premature and declared them inadmissible pursuant to Article 113(7) of the Kosovo Constitution, Article 49(3) of the Law and Rule 14(f) of the Rules of Procedure for the Specialist Chamber of the Constitutional Court. In its decisions, the SCCC found, *inter alia*, that international customary law can be directly applied before the Specialist Chambers.

*The Chamber considers that insofar as charges must relate to the [7 January 2011 Council of Europe] Report, such a relation should be understood as taking into consideration the contents and context reflected in the Report and Kosovo's international obligations stemming from the Report. In other words, the grave acts to be assessed should relate to the contents and context of the Report, which, inter alia, outlined an overall worrying picture of the situation in Kosovo including a lack of accountability for certain serious criminal conduct.*

*KSC-CC-2022-15/F00010, Decision on the Referral of Hashim Thaçi Concerning the Right to an Independent and Impartial Tribunal Established by Law and to a Reasoned Opinion, 13 June 2022, para. 82.*

*It follows that the direct application by the [Specialist Chambers] of war crimes and crimes against humanity, including modes of liability, under [customary international law] to establish an individual's guilt is compatible with the Constitution [...], provided that such application is in accordance with Article 33(1) of the Constitution and Article 7 of the Convention, as interpreted by the ECtHR in its case law.*

*KSC-CC-2022-16/F00004, Decision on the Referral of Pjetër Shala to the Constitutional Court Panel Concerning Fundamental Rights Guaranteed by Article 33 of the Kosovo Constitution and Article 7 of the European Convention on Human Rights, 6 July 2022, para. 69.*

## 2 | The President and the Judges

The Judges of the KSC are appointed to a Roster of International Judges (Roster) and exercise their judicial functions as necessary and only at the request of the President. In accordance with Article 26 of the Law, the Judges appointed to the Roster do not receive remuneration or other benefits by virtue of this appointment and only if they are assigned by the President to exercise official functions. Once assigned, the Judges exercise their functions remotely insofar as possible.

### ANNUAL PLENARY

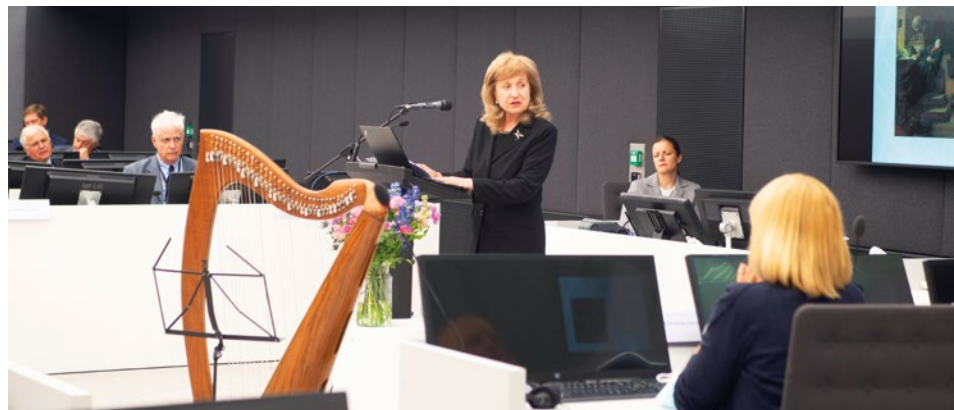
On 11 March, the Judges gathered for their seventh plenary, which they conducted via video-conference in view of the COVID-19 pandemic. During the plenary, the Judges were updated by the President on ongoing institutional matters. The Judges also

heard presentations from the Registrar and Registry Heads of Units. They further discussed matters relevant to the KSC, including the efficiency of the proceedings.

### GATHERING OF THE JUDGES

On 16 May, the Judges gathered in person for the first time since the COVID-19 pandemic started. During the gathering, the Judges, along with a number of external guests from international courts

and tribunals, came together to officially inaugurate the courtroom. It was also the first time the six newly appointed Judges could meet their colleagues in person.



President Trendafilova at the ceremony, 16 May 2022

# Judges on the Roster of International Judges



**Judge Ekaterina Trendafilova**  
President  
(Bulgaria)



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



**Judge Vidar Stensland**  
Constitutional Judge  
(Norway)



**Judge Antonio Balsamo**  
Constitutional Judge  
(Italy)



**Judge Roumen Nenkov**  
Constitutional Judge  
(Bulgaria)



**Judge Romina Incutti**  
Reserve Constitutional Judge  
(Italy)



**Judge Christine van den Wyngaert**  
(Belgium)



**Judge Michèle Picard**  
(France)



**Judge Thomas Laker**  
(Germany)



**Judge Emilio Gatti**  
(Italy)



**Judge Roland Dekkers**  
(Netherlands)



**Judge Kai Ambos**  
(Germany)



**Judge Kenneth Roberts**  
(Canada)



**Judge Mappie Veldt-Foglia**  
(Netherlands)



**Judge Christoph Barthe**  
(Germany)



**Judge Vladimír Mikula**  
(Czech Republic)



**Judge Guénaél Mettraux**  
(Switzerland)



**Judge Nicolas Guillou**  
(France)



**Judge Gilbert Bitti**  
(France)



**Judge Daniel Franssen**  
(Belgium)



**Judge Fergal Gaynor**  
(Ireland)



**Judge Nina Jørgensen**  
(Norway)

### 3 | External Activities

Over the course of 2022, President Trendafilova kept members of the public as well as stakeholders abreast of the KSC's activities. To this end, the President met representatives of European Union (EU) institutions, EU Member States, Third Contributing States, the Host State and Kosovo.

The President visited Kosovo from 20 to 23 September 2022. During her visit, she hosted an online outreach event for civil society and media and met in person with local law students. She also met with the Kosovo Minister of Justice and various members of the international community, including the Ambassadors to Kosovo of the EU Member States and Third Contributing States, the Head of the EU Office in Kosovo and EU Representative for Kosovo and the Head of the EU Rule of Law Mission in Kosovo (EULEX).



President Trendafilova hosts an online outreach event in Kosovo, 21 September 2022



President Trendafilova meets with law students in Pristina, Kosovo, 21 September 2022

The President further appeared in person before the EU Political and Security Committee on 27 October in Brussels, during which she briefed the EU Member States on the KSC's judicial activities and responded to questions posed by EU Member States.

To further strengthen the KSC's relationship with other external stakeholders and with civil society, the President conducted meetings with members of the diplomatic, legal, and academic communities. The President further gave interviews to media outlets, during which she touched upon the mandate and the work of the KSC.

*As the President of the KSC, I am committed to communicating with and listening to people. I would like people to know that the KSC is an independent court, providing fair trials in which the rights of the accused are upheld, witnesses are protected and victims are treated with dignity.*

President Trendafilova, Interview Danas, 27 June 2022.





*The Judges of the Kosovo Specialist Chambers*

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# External Relations



# External Relations

With the acceleration of the pace of the judicial proceedings, the President and the Registrar have continued to take a prominent role in explaining to the public in Kosovo and the region how the court works to ensure fair, secure and effective judicial proceedings in line with the highest international criminal justice standards.

On 31 January, the President, the Registrar and the Specialist Prosecutor welcomed the Commissioner for Human Rights of the Council of Europe, Ms Dunja Mijatović, to the premises.

On 21 February, the Principals welcomed a delegation from the EU Foreign Policy Instruments to the premises.

On 22 March, the Principals met the Ambassadors of the EU Member States upon invitation by the Ambassador of the Republic of France, during which brief updates on the status of the proceedings were provided.

On 1 April, the President and the Registrar welcomed the Kosovo Minister of Justice, H. E. Albulena Haxhiu, to the premises of the KSC, during which they discussed matters related to the KSC's legal aid system, the facilitation of family visits to the detainees and other matters within the legal framework of the KSC.

From 23 to 24 June, the President, the Registrar and the Specialist Prosecutor welcomed EU Member State representatives of the Committee for Civilian Aspects of Crisis Management. The Principals gave an update on the recent developments and answered questions and the guests also heard presentations from KSC heads of Units.

On 17 October, H.E. Tomáš Szunyog, Head of the EU Office in Kosovo and EU Special Representative for Kosovo, visited the KSC to meet with the Principals.

On 18 October, the Principals met with members of the KSC's Court Information Network (CIN), during which they provided a brief overview of the ongoing work at the court and received feedback from the CIN members on the KSC's outreach activities.

The President, accompanied by the Registrar, further appeared in person before the EU Political and Security Committee on 27 October in Brussels, during which she briefed the Member States on the KSC's judicial activities and responded to questions posed.

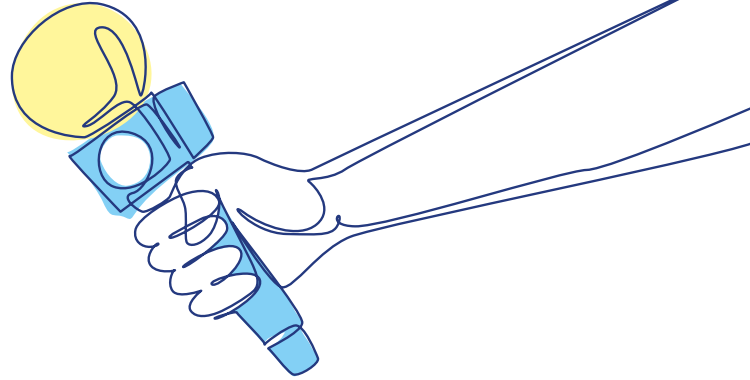
On 24 November, the President, the Registrar and the Acting Specialist Prosecutor updated EU Member States and Third Contributing States based in The Hague on the work of the KSC and the SPO during their annual briefing.



On 2 December, the President, the Registrar and the Acting Specialist Prosecutor welcomed the EU Civilian Operations Commander, Stefano Tomat, to the premises.

The President and the Registrar further met with members of the diplomatic, international, and national authorities, including the US Ambassador at Large for Global Criminal Justice, H.E Beth Van Schaack, a delegation of Judges from France, a delegation of Judges from the Special Criminal Court of the Central African Republic and a delegation of Judges from the Federal Republic of Germany.

In 2022, the President gave six interviews to Kosovo and regional media and published an Op-Ed in Kosovo media on appeals proceedings before the KSC in Albanian and Serbian.



*Judicial independence and impartiality are integral parts of the Judges' profession and ensure that justice is dispensed in accordance with the rule of law. Before taking up their duties, the Judges of the KSC make a solemn declaration that they will exercise their functions independently, impartially and conscientiously. This oath is the guiding principle when it comes to all our duties at the KSC.*

*Independence and impartiality are not the only safeguards in place that ensure the rights of the parties and participants before the KSC. Another such safeguard is the right of accused and/or the Prosecution to appeal decisions of a Judge or Trial Panel before other independent judges. The appeals process provides an extra layer of review of the judgments rendered by lower courts. It gives an opportunity, if applicable, to correct any errors of fact or law in the judgments rendered by lower courts.*

*President Trendafilova, Op-Ed on the appeals proceedings at the KSC, published in "Telegrafi" (Albanian) and "Kossev" (Serbian), 25 and 26 August 2022*

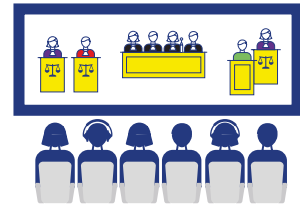
## KOSOVO SPECIALIST CHAMBERS HIGHLIGHTS 2022



PROCEEDINGS UNDERWAY  
IN **4 CASES** INVOLVING  
**8 ACCUSED**



TRIAL JUDGMENT  
IN **2 CASES**



**65 PUBLIC HEARINGS** HELD  
AND STREAMED ONLINE IN THE  
**3 LANGUAGES** OF THE COURT



**42,000+ VIEWS** OF  
STREAMING PAGES



**22 WITNESSES** AND  
**1 VICTIM** TESTIFIED



**CLOSE TO 660 DECISIONS AND ORDERS**  
RENDERED BY THE PANELS



**1,054 DOCUMENTS** COMPRISING  
OVER **15,800 PAGES** TRANSLATED  
IN 2022



**40 VICTIMS** ADMITTED TO  
PARTICIPATE IN THE PROCEEDINGS  
IN THREE OF THE CASES



**600+ PEOPLE** IN KOSOVO  
PARTICIPATED IN PUBLIC INFORMATION  
EVENTS ABOUT THE COURT

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# Registry



# Registry

The Registry provides administrative services to the Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO). It also provides judicial support services in a neutral and independent manner. The Registry is managed by the Registrar who consults with the President and the Specialist Prosecutor on institutional matters.

The Registry's administrative functions are security, procurement, human resources, budget, and financing and information technology. Judicial support services include protection and support for witnesses, administration of the List of Counsel, provision of the victims' participation and legal aid processes, as well as translation and interpretation services, court management and the management of the KSC Detention Facilities.

Throughout 2022, under the Registrar's leadership, all Registry staff focused on providing the highest quality of services to successfully administer the KSC and SPO, and to support the proceedings before the court. The Registry also facilitated, on very short-notice, five custodial visits of detainees to Kosovo on humanitarian grounds, pursuant to orders of the relevant Panels. In addition to this, contact with the Court Information Network and communities in Kosovo was reinforced with the return of the outreach team to Kosovo.

Dr Fidelma Donlon is the KSC Registrar. In her capacity as Registrar, she signs the grant agreement with the European Union (EU), on behalf of the KSC and the SPO, which provides the main source of funding for the court. The third grant agreement with the Swiss Government was also signed in February of this year, to continue the support of outreach activities in Kosovo.

The Registrar ensures the sound financial management of the budget, and oversees internal and external audit processes. To optimize the human resources available to the KSC and the SPO, in coordination with the President and the Specialist



*Registrar Fidelma Donlon*

Prosecutor, the Registrar decided on staff reassignments to meet the changing workloads of the court. In addition, in 2022, the Principals concluded a thorough assessment of operations, and a review of all posts, to determine if sufficient resources are in place to ensure the expeditious management of all future trials. Subsequently, the Registrar negotiated a limited number of additional posts with EU Member States to achieve this objective.

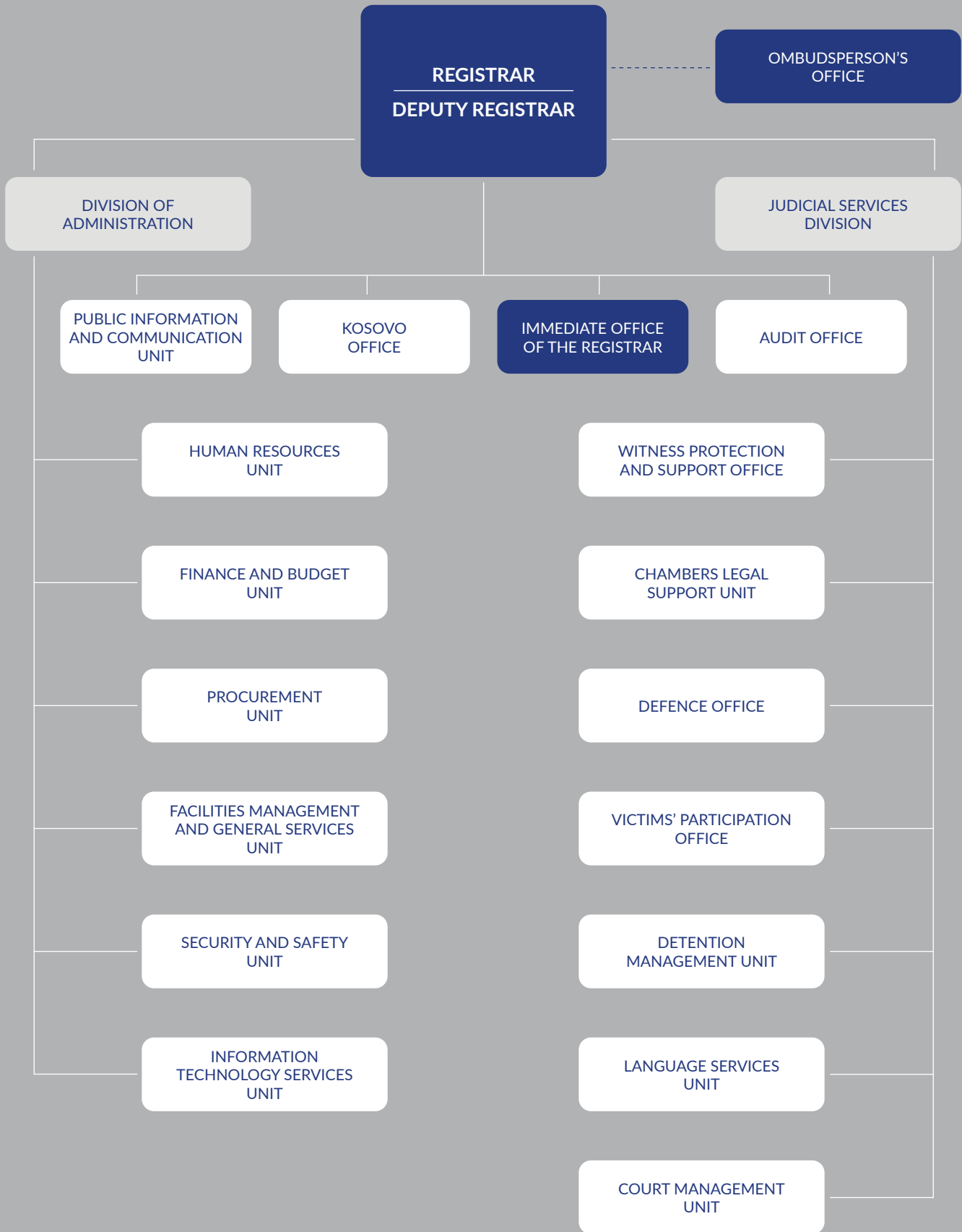
This year, considerable progress was made on two strategic priorities set by the Registrar in 2021, in relation to records and evidence management. Initial steps to create the Court Archive were taken, and the survey of all KSC administrative and judicial records was concluded to enable the creation of the Information Asset Register and Retention Schedules. In addition to this, in response to the feedback of over 200 users of the electronic court management system during the first two trials, the system was improved to enhance its capacity to process the large volume of disclosure documents and court filings managed by the court. Approximately 20 terabytes of information have been successfully surveyed and categorised in the Information Asset Register this year, and Retention Schedules were prepared for the Registrar's adoption. The electronic court management system has been improved by strengthening its search function, as well as document version control.

The Registry continued to enjoy constructive engagement with Host State authorities in 2022. This included discussions on the maintenance of the KSC and SPO premises, for which a new Service Level Agreement was concluded. The Registrar concentrated on the conclusion of bilateral cooperation agreements with States on witness protection, as well as the enforcement of prison sentences. Following the pronouncement of the Trial Judgment in the case of the *Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj*, and the adoption of the Practice Direction on the Designation of State of Enforcement in May 2022, the Registrar carried out extensive bilateral meetings with States to discuss their willingness to accept a person convicted by the KSC for the enforcement of a sentence of imprisonment.









# 1 | Immediate Office of the Registrar

The Registrar has a dedicated team, the Immediate Office of the Registrar (IOR), supporting her in the implementation of her responsibilities. The tasks carried out by the team include legal and non-legal tasks relating to judicial proceedings and court administration, Host State and diplomatic relations, public relations and outreach, coordination of reporting to the EU, and the management of protocol services. Information Governance (InfoGov) also falls within the IOR.

In 2022, the IOR legal team advised on a diverse array of internal and external legal matters, including the interpretation and application of various legal instruments, compliance and contractual matters, data protection, and external cooperation. The team collaborated on and prepared various internal policy documents, notably the Anti-Harassment Policy and the framework for retention and archiving at the KSC. The team also provided legal support for amendments to the Staff Rules and managed the review and preparation of 195 submissions on behalf of the Registrar in the judicial proceedings before the KSC on topics such as witness protection, victims' participation, trial preparation, detention and custodial visits.

In 2022, the IOR further supported the Registrar in her diplomatic outreach work related to, in particular, reaching cooperation agreements with States in the field of witness protection and the enforcement of sentences. It further facilitated various requests for cooperation and assistance.

The support related to protocol remained focused on facilitating the entry of family members of detainees to the Netherlands.

InfoGov provides advice and support related to information security and records and archives management, and library services. In 2022, as part of the Registrar's strategic priorities in the area of records and evidence management, the InfoGov team carried out an extensive survey of all KSC administrative and judicial records as a first step in efficient records retention and disposal. Approximately 20 terabytes of information was successfully surveyed and categorised in the Information Asset Register. The information provided was also used to establish the Information Asset Retention Schedules. Furthermore, the policy documents on secure management and access to KSC archives were drafted within the IOR in preparation of internal consultation and future adoption.

In addition, InfoGov facilitated training aimed at raising cyber and information security awareness within the KSC, including by using the European External Action Service (EEAS) provided information security training platform. InfoGov also provided library services and research support to a variety of stakeholders and delivered over 120 requests for books, articles and other reference material through its internal collection, its well-established cooperation with the Peace Palace Library, and its institutional network.

## 2 | Public Information and Communication Unit

In 2022, there were a number of significant judicial developments at the KSC. The pronouncement of two trial judgments and a pending judgment by the Court of Appeals Panel attracted considerable public interest in the activities of the court. With these judicial milestones, the KSC's communication and outreach also increased, to ensure easily accessible information about these, at times, complex judicial developments.

The Public Information and Communication Unit (PICU) relies on various channels of communication to provide detailed and accurate information about the court and its activities. Through media interviews, meetings with civil society, and printed and digital information products, PICU works to make court proceedings understandable to the public and to raise awareness about the court's mandate.

Following the easing of COVID-19 restrictions, the KSC returned to regular in-person outreach activities. Throughout 2022, the court intensified its work to bring the relocated judicial proceedings closer to the general public in Kosovo, meeting with various audiences across Kosovo to answer questions, listen to views and opinions and explain what was happening in the courtroom. Some of the questions most frequently raised by people in these interactive events were the subject of four new information videos, produced in 2022, which will be broadcasted in 2023 on Kosovo TV.

To assist journalists in reporting on judicial proceedings, PICU conducted weekly online press briefings, where KSC Spokespersons provided updates on the latest weekly developments, and took any questions from journalists, who could participate from Kosovo, the region and elsewhere. In 2022, the KSC developed a new information booklet called "KSC in a Nutshell," which provides details about the court's establishment, structure and cases, in a format and language that is easy to understand.



*KSC Spokesperson Angela Griep providing the weekly update on proceedings to the media online*

## 2.1 | Media Relations

Throughout the year, media interest in KSC proceedings intensified, particularly within Kosovo and the wider region. Media queries often focused on specific details or issues raised in judicial filings, remarks made by parties during public hearings and decisions on continued detention, amongst other areas of interest. The KSC continued meeting with journalists in Kosovo on a regular basis, providing background information on the court, which aimed at fostering accurate reporting on court proceedings. This included a meeting with chief editors of the main news outlets in Kosovo.

In 2022, the KSC responded to over 250 media queries and gave TV and radio interviews whenever possible. The KSC President and Registrar remained engaged with the media this year with the President giving six interviews and publishing an Op-Ed in two Kosovo media outlets.

During the second half of 2022 with COVID-19 restrictions no longer in place, journalists and the general public were able to follow public hearings live from the public gallery without the need to pre-register. Journalists could also follow the proceedings from the media centre, where hearings can be recorded. The streaming page on the KSC website also enabled media and the public to easily follow proceedings online from all over the world.



*President Trendafilova in an interview with Kosova Press, September 2022*



The KSC welcomed the public to a tour of the premises during the Hague Open Day in October 2022



Outreach event in Bostane, Kosovo in March 2022



Outreach event in Peja, Kosovo in March 2022



Outreach event in Ugljare, Kosovo in September, 2022



The Hague Open Day in October 2022

## 2.2 | Outreach

The mandate of the KSC is to deliver fair, impartial, independent, safe and secure judicial proceedings. To ensure that the public in Kosovo and the wider region are able to follow and understand what is happening in The Hague, the KSC has placed an emphasis on maintaining a dialogue with civil society through a robust Outreach programme.

In regular events with young people, students, legal practitioners, journalists, community leaders and others in Kosovo, the outreach team engages groups through lively and interactive exchanges about the work of the court. Since 2018, 133 such events have been held in communities all over Kosovo. In 2022, 34 outreach meetings were held with different communities across Kosovo in Uglarë/Ugljare, Janjevë/Janjevo, Prizren, Gjilan/Gnjilane, Ranillug/Ranilug, Pasjane/Pasjan, Letnicë/Letnica, Kamenicë/Kamenica, Obiliq/Obilić, Graçanicë/Gračanica, Novobërda/Novo Brdo, Bostani/Bostane, Shillovë/Šilovo, Gjakova/Đakovica, Ferizaj/Uroševac, Mitrovicë/Mitrovica North, Prishtinë/Priština, Peja/Peć, Shtërpca/Štrpce, Partesh/Partes). Of these, ten meetings were held online.

Outreach meetings are tailored to the interests of the relevant audiences, providing not only an overview of the mandate and proceedings, but also discussing updates on each of the cases before the court. Most importantly, these meetings allow the outreach team to respond directly to questions and concerns raised by participants.

In order to reach more people and broaden the impact of the outreach activities, the team produces video clips, shared on YouTube and the KSC website, and broadcast in Albanian and Serbian in Kosovo. In 2022, PICU produced a new set of “Frequently Asked Questions” videos, taking note of some of the questions people asked the most at outreach meetings. So far, with the addition of these four new videos, the KSC has produced 16 informative video

clips of which ten have been broadcasted a total of 809 times on Kosovo TV and 12 were available on the KSC website and YouTube channel where they received thousands of views by the end of 2022.

The President of the KSC was also heavily engaged with outreach activities this year, holding two online meetings with the media and civil society in Kosovo. At these meetings, she provided an update on the status of proceedings and answered questions from event participants and journalists. In September 2022, she further travelled to Kosovo, where she met with members of civil society and law students in Pristina, discussing the mandate of the court, its legal framework and matters related to the daily operation of the KSC.

In 2022, Switzerland extended its financial support for the KSC outreach activities in Kosovo for two more years through a new grant. Switzerland’s generous support to outreach since January 2018 has enabled the KSC to continuously strengthen its engagement with the public, in step with developments in the judicial proceedings.



Outreach event in Kosovo in December 2022

## 2.3 | Cooperation with Civil Society and the Court Information Network

The KSC cooperates with civil society in an effort to inform the public about the activities of the court and engage in a dialogue with those most affected by its work. Since 2018, the court has consulted on a regular basis with NGOs comprising the Court Information Network (CIN) in order to receive feedback on the Outreach programme, as well as on information products and presentations. The recommendations of civil society have been invaluable in shaping a programme tailored to the needs of the people in Kosovo and the region.

In October 2022, the court hosted NGO representatives from the CIN in The Hague for a workshop. The President and the Registrar welcomed

CIN participants to the KSC premises, engaging in a discussion on how to bring the judicial proceedings before the KSC closer to the public. The Specialist Prosecutor also spoke with the NGO representatives, updating the group on the activities of the SPO in public proceedings.

During break-out sessions, the NGOs addressed different aspects of the outreach and communications programme in an aim to find new ways in which the programme can reach as wide an audience as possible in Kosovo and the region with accurate information about the court.

## 2.4 | KSC Online

For anyone wishing to learn more about the KSC, the website contains a wealth of accessible information in Albanian, Serbian and English. All public hearings are streamed simultaneously in the three languages of the court and the parties' filings, judicial decisions, orders and judgments are accessible in the online Public Court Records database. The Live Update page provides information on the latest developments in proceedings, and other important KSC related news, and the case pages summarise the details of each case, providing links to relevant documents, transcripts and trial recordings on YouTube.

The webpage also provides media and the general public with other information about the court, including links to informational videos and infographics, information about the victims' participation programme, reports of the KSC Ombudsperson, and more.

During 2022, 65 public hearings were video streamed on the KSC website with simultaneous interpretation in Albanian, Serbian and English. The streaming pages were the most popular ones on the KSC website during the year, with more than 42,000 views. While this is less than in 2021, the recordings of the public hearings were increasingly viewed on the KSC YouTube channel where they can be watched at any time. Overall, visits to the KSC website increased with 10% reaching 718,000 views in 2022.

The KSC YouTube channel was viewed more than 30,000 times, which is almost three times the views it received in 2021. The informative short video "Mandate of the Kosovo Specialist Chambers" received individually the most attention with over 1,100 views.



### 3 | Ombudsperson of the Kosovo Specialist Chambers

The Ombudsperson of the Kosovo Specialist Chambers (KSC) acts independently to monitor, defend and protect the fundamental rights and freedoms of persons interacting with the KSC and the Specialist Prosecutor's Office (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 any individuals interfacing with the KSC and the SPO.



*Ombudsperson Pietro Spera*

The KSC Ombudsperson Mr Pietro Spera, an Italian Judge, was appointed in May 2018. The KSC Ombudsperson's mandate and official functions are detailed in Article 162 of the Kosovo Constitution, in the Law on Specialist Chambers and Specialist Prosecutor's Office, in the Rules of Procedure and Evidence of the KSC (Rules) and the Rules of Procedure for the Specialist Chamber of the Constitutional Court.

In 2022, three complaints were lodged with the Ombudsperson's Office. Of these complaints, two have been finalised and one remains under consideration.

One of these complaints was rejected by the Ombudsperson on the basis that it had not been argued or demonstrated by the complainant that either the KSC or the SPO were involved in any capacity with the matter complained of. The second case finalised was discontinued by the Ombudsperson based on the fact that the complaint was incomplete and, following a request from the Ombudsperson, the complainant failed to provide any additional information or to engage further with him. The complainants in these two cases were notified of the outcome of their complaints and were provided with the full reasoning of the Ombudsperson's decision.

Since his appointment, the Ombudsperson has received a total of 22 complaints, 20 of which are finalised.

In September 2022, the Ombudsperson concluded an inquiry into a complaint lodged in 2021. The complainant, a former employee of the SPO, alleged that the disclosure of his name in open court and the disclosure of his name to the Defence resulted in a violation of his right to private and professional life, his right to life and the right to life of his family by the SPO.

The Ombudsperson declared the first strand of the complaint inadmissible and found that the SPO did not violate the fundamental rights of the complainant in disclosing the name of the complainant to the Defence as it was done so on a confidential basis. A redacted version of the final report on this complaint is accessible on the KSC website.

In 2022, the Ombudsperson published a summary of all complaints received on the KSC website. In addition to these summaries, the Ombudsperson published, in full, his findings in relation to all complaints received which related to either the KSC or the SPO.

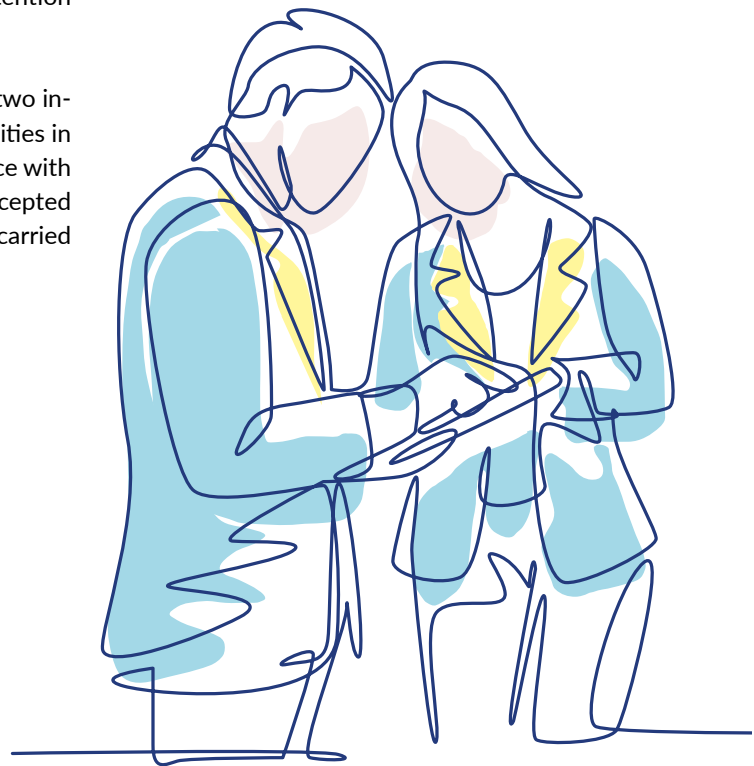
As part of his monitoring function, the Ombudsperson continued constructive engagement with the KSC and the SPO throughout the year with the aim of ensuring strict compliance with the highest human rights standards. In particular, the Ombudsperson engaged with the Registry and the Detention Management Unit in respect of the Detention Facilities.

During 2022, the Ombudsperson carried out two in-person inspections of the KSC Detention Facilities in order to ensure that they are fully in compliance with human rights, international law, and accepted standards of treatment. The inspections were carried out in April and October.

During these inspections, the Ombudsperson engaged with the detainees and had a series of private meetings with them. These meetings afford the detainees the opportunity to relay any difficulties they may have in respect of the conditions of their detention. Following each of the inspections, the Ombudsperson provided a report to the President and the Registrar.

The Ombudsperson's Office continued to engage in its Outreach programme throughout 2022. With the assistance of the Public Information and Communication Unit of the Registry, the Ombudsperson's Office has taken part in a number of in-person outreach activities with civil society in the region.

In April 2022, the Ombudsperson hosted a courtesy meeting with the Kosovo Minister of Justice and a delegation from the Kosovo Assembly.



## 4 | Judicial Services Division

The Judicial Services Division provided legal and operational support to the court and the parties to proceedings through the units it comprises: the Court Management Unit, the Language Services Unit, the Defence Office, the Victims' Participation Office, the Witness Protection and Support Office and the Detention Management Unit.

In 2022, the KSC reached major milestones with the pronouncement of the first two trial judgments and the transferral of two cases to Trial Panels.

Two additional cases were transferred to Trial Panels. During the year, the various units assisted with preparations related to the hearings, provided for the interpretation, the safety and security of witnesses, the participation of victims in the proceedings and the safe and secure detention of the eight detainees in the KSC Detention Facilities.

### 4.1 | Court Management Unit

The Court Management Unit (CMU) is responsible for the processing and distribution of all records filed through the KSC's electronic court management system Legal Workflow and has certain responsibilities related to court operations, including in relation to the production of transcripts of hearings through the electronic system Transcend. CMU also manages a dedicated physical repository.

In 2022, 71 court hearings were held. CMU processed and distributed a total of 327 transcripts of these hearings in the three official languages of the court. Of these, 190 were public and published in the Public Court Record database available on the KSC website.

During the course of 2022, CMU received, processed and distributed a total of 1,928 filings with 1,428 annexes, totalling close to 100,000 pages. A total of 918 public filings and annexes were made available

in the Public Court Record database. Additionally, 108 filings were reprocessed and redistributed following the issuance of orders by a competent Panel to reclassify them as public. In total, 5,072 translation requests were processed through the system and over 200,000 items have been disclosed between the parties.

The Legal Workflow system continued to be further enhanced in order to provide the necessary technological tools to facilitate the needs of the parties and to increase performance and system reliability given the intensified use of the system. By the end of 2022, there were 348 system users in total of which 110 were new users that were provided with basic and advanced training on the use of Legal Workflow. Furthermore, the Unit supported 232 users of the transcript software Transcend that facilitates the presentation of real-time verbatim text of the proceedings.

## 4.2 | Language Services Unit

The Language Services Unit (LSU) provides interpretation and translation services both at the seat of the KSC in The Hague and during missions.

In 2022, LSU delivered over 15,500 pages of translations into the three official KSC languages, as well as into other languages as needed, thus facilitating the court's smooth and effective operations and external communications. Besides having translated numerous filings, including Albanian and Serbian translations of the first KSC judgment, LSU also provided translations of weekly press briefings, press releases and other outreach material, Practice Directions, Ombudsperson's reports, victims' applications and correspondence with external parties.

In the same period, LSU provided simultaneous interpretation during 71 court hearings and 46 weekly press briefings as well as simultaneous and

consecutive interpretation at meetings held at the seat of the KSC and during missions abroad. In addition, it supported other units with ad hoc requests for interpretation, translation and language assistance.

In order to increase the Unit's capacity to meet the growing demand for interpretation and translation services, LSU organised internal interpretation and revision training sessions and engaged in extensive market research in order to identify and test language professionals who have the required language skills and experience. This project continued beyond 2022.

In 2022, LSU provided translations of over 1,000 documents into the three official languages of the court as well as other languages as required.

## 4.3 | Defence Office

The Defence Office (DO) administers a system of legal aid for representation of indigent or partially indigent suspects and accused. Part of its functions is also the administration of a List of Counsel eligible to practice before the KSC as Specialist (Defence) Counsel. At the end of 2022, the list contained 119 Specialist Counsel as well as 85 persons eligible to act as both Specialist Counsel and Victims' Counsel. The application process is ongoing. In 2022, none of the accused were receiving legal aid from the KSC.

DO is neutral and plays no role in the actual conduct of cases before the KSC. It acts as the focal point for any administrative matters the Defence teams may have with the Registry. DO provided guidance to all Defence teams on how to request admission of

personnel to their teams, and subsequently drafted admission memos and admission letters in line with the Directive on Counsel. The Office ensured that Specialist Counsel and their team members transitioned with ease into the KSC system. It liaised with CMU to ensure that both training in and access to the electronic court management system Legal Workflow were provided upon commencement of their activities. DO also ensured that IT-needs were met and that appropriate office space was allocated for the teams at the KSC premises.

In 2022, DO was instrumental in carrying out a court-wide testing of Legal Workflow by coordinating the process as well as analysing the test results. It also remained engaged in matters related to the system by facilitating meetings with users and channelling requests to its administrators.

Furthermore, DO facilitated communication between Defence teams, on the one hand, and States, international organisations and other institutions, on the other, regarding investigative requests by the Defence.

## 4.4 | Victims' Participation Office

The Victims' Participation Office (VPO) administers the system of victims' participation at the KSC. VPO provides assistance and advice to applicants who wish to participate in the proceedings as victims, processes their applications in a confidential and secure manner and submits them to the relevant Panels that decide thereon. When victims are admitted to participate in proceedings before the KSC, VPO ensures that they are properly represented. For this purpose, it maintains a list of Counsel qualified to represent victims. At the end of 2022, there were 115 Counsel admitted to represent victims before the KSC proceedings. VPO also administers a system of payments for legal representation of participating victims.

Victims who participate in proceedings before the KSC have certain rights, including the right to notification, acknowledgement and reparation. They exercise their rights through Victims' Counsel, assigned to a group of victims in each case. Victims' Counsel may be present at court hearings, reply to any submissions of the parties and will keep the victims informed throughout the proceedings. Victims' Counsel will seek victims' views, hear their concerns and bring these to the attention of the Judges.

The year 2022 marked further milestones in victims' representation and participation. Upon VPO's recommendation, the Registrar assigned Victims' Counsel in the case against Mr Pjetër Shala, thus ensuring representation for participating victims in the third case at the KSC. The number of participating victims also increased. In 2022, 40 new applicants were granted the status of participating victims before the KSC bringing the total to 69 since 2020: eight in the case against Mr Salih Mustafa, eight in the case against Mr Shala, and 53 in the case against Mr Hashim Thaçi et al.

In the case against Mr Mustafa, which was the first case before the KSC to commence trial proceedings, the full range of modalities of victims' participation, as determined in the legal framework, could be observed in practice. Victims' Counsel held opening and closing statements, submitted written and oral submissions, questioned witnesses, proposed experts and made reparation requests to the Trial Panel. In addition, one participating victim presented views and concerns to the Panel in the courtroom.

In 2022, the total number of participating victims increased with 40 bringing the total to 69.

## 4.5 | Witness Protection and Support Office

During 2022, the Witness Protection and Support Office (WPSO) continued ensuring the safety, physical and psychological wellbeing, dignity and privacy of witnesses and victims participating in the proceedings. WPSO facilitated the safe and timely appearances of witnesses before two Trial Panels. In 2022, 19 witnesses and one victim appeared in court in the case against Mr Mustafa and three witnesses in the case against Mr Gucati and Mr Haradinaj. WPSO provided the necessary support, protection and other appropriate assistance required for their testimony as well as prepared for the appearance of further victims and witnesses in the case against Mr Shala.

Among others, WPSO arranged and coordinated all the logistical movements of witnesses to provide them safe passage to their location of testimony. This included close coordination with the Host State and other relevant authorities. WPSO assessed witnesses' requirements and provided them with information about travel arrangements and upcoming court appearances. Where necessary, witnesses were escorted or provided added security arrangements. A total of 30 witness escort missions were conducted by WPSO staff in 2022. During their stay at the location of testimony, witnesses had 24/7 access to WPSO staff and were provided with accommodation, medical and other assistance required. Every witness also received courtroom familiarisation in a language they understood, allowances and culturally appropriate support throughout their stay. A total of 123 support and assistance days were provided to witnesses during the year.

WPSO also continued to conduct psychological assessments and provided tailored psychological support and counselling for witnesses before and during testimony. A total of 110 psychologist interactions with 22 trial witnesses and one victim were conducted in 2022. The frequency and intensity of support services varied largely based on the clinically assessed level of vulnerability and

required support measures. Upon the Trial Panel's order, one witness in the case against Mr Mustafa testified with WPSO staff present in the courtroom for psycho-social support.

WPSO addressed the security needs of witnesses who testified, where appropriate in cooperation with the calling party, and provided protection to witnesses and families assessed to be at elevated risk due to their testimony. Upon request of the Pre-Trial Judge and Trial Panel, WPSO also provided individual risk assessments for witnesses and where appropriate recommended in-court protective measures to safeguard their security. The Office also recommended special or protective measures to be implemented in court to safeguard vulnerable witnesses and protecting their dignity and privacy throughout proceedings. WPSO continued to cooperate with relevant local and international partners in this respect.

WPSO ensured in 2022 the timely appearance in court of 22 witnesses and one victim providing them support and protection.

## 4.6 | Detention Management Unit

The Detention Management Unit (DMU) manages and administers the KSC Detention Facilities located within a Dutch prison in The Hague. DMU ensures that detainees are held safely and securely and safeguards the full respect of their dignity and rights in line with the KSC Rules of Detention and regulations, best practices and all relevant international standards. In 2022, the KSC Detention Facilities housed eight detainees.

Throughout 2022, DMU was committed to continuing standard pre-COVID-19 operations while maintaining innovations developed during the pandemic. The technological solutions created to facilitate remote detainee participation in proceedings remained in place alongside the operational capacity to cater for in-person participation.

The KSC is committed to provide detainees adequate time and facilities for the preparation of their defence in line with best practices in the field. The bespoke secure electronic data sharing system and the possibility for video visits with Counsel were available for the detainees along with more traditional in-person visits and document exchange.

Similarly, in an effort to optimise maintaining meaningful contact with family and friends, video visits continued as an option for detainees even beyond the resumption of all in-person visits by families and other personal visitors in July 2021.

Over the course of 2022, there were a number of visits and independent inspections to ensure that the rights of detainees were respected. In March, the International Committee of the Red Cross (ICRC) carried out its second in-person independent inspection. The ICRC inspections aim at assessing the appropriateness of the conditions availed to the detainees, in line with international standards of detention as also reflected in the KSC legal framework. During such visits, the ICRC holds individual meetings with KSC detainees. The KSC Ombudsperson separately conducted his second and third in-person inspections to assess the conditions of detention, in accordance with the Rules of Procedure and Evidence.

In 2022, DMU managed over 880 in-person visits by family and other personal visitors to the KSC Detention Facilities.



KSC Detention Facilities

## 5 | Division of Administration

The Division of Administration provides expert, administrative and technical support to the KSC and the SPO through the Human Resources Unit, the Information Technology Services Unit, the Facilities Management and General Services Unit, the Security and Safety Unit, the Finance and Budget Unit and the Procurement Unit.

During the first half of 2022, the lifting of COVID-19 restrictions by the Host State allowed for a full return of the staff to work on the premises. The work of the Division focused on facilitating judicial proceedings, including enabling hybrid courtroom activities, supporting the application of the electronic court management system, Legal Workflow, implementing decisions of a Pre-Trial Judge and the Appeals Panels, whereby the Security and Safety Unit successfully executed on short notice custodial visits of detained persons to Kosovo on humanitarian grounds.

The Head of the Division, as the KSC Anti-Fraud Contact Person, together with the Internal Auditor and the Administrative Officer implemented the KSC Anti-Fraud Action Plan providing anti-fraud awareness training to staff. With the trainings offered in 2022, 92% of the KSC and SPO staff completed the training.

The KSC and the SPO also concluded the inventory of all fixed assets and attractive items in 2022.





## 5.1 | Human Resources Unit

The Human Resources Unit (HRU) provides support, advice and services to all personnel of the KSC and the SPO. The HRU implemented its mandate by assisting with recruitment and selection procedures, administering and advising staff on a variety of personnel matters ranging from compensation and benefits to welfare and health insurance, supporting staff and managers in the process of contract renewals, performance evaluations and facilitating learning and development opportunities for staff.

Three Calls for Contributions (CfC) for staff member positions and one internship call were published in 2022. In total, 685 applicants (261 female and 424 male) submitted 1,449 applications within the two CfCs for staff member positions that closed during the year. In addition, 292 applications for internship positions were received from 104 applicants (62 female and 42 male) through the internship call. Overall, 55 new staff members, of which 31 female and 24 male, were deployed in 2022 and 33 interns, of which 24 female and 9 male, joined the KSC and SPO. The combined KSC and SPO staff increased from 268 on 31 December 2021 to 276 by 31 December 2022. Out of the 204 staff members at the KSC, 101 were female and 103 male staff members, and of the 72 staff members at the SPO, 29 were female and 43 male.

In 2022, four EU Member States (Bulgaria, Germany, Hungary and Ireland) as well as two Third Contributing States (Switzerland and the United States of America) seconded 10 staff members and the Specialist Prosecutor to the KSC and SPO.

During 2022, HRU continued to strengthen its internal processes and further expanded its automation procedures to increase efficiency in its delivery of services. In October, the Unit took part in a career and talent event and presented a workshop on its internship programme within the Peace and Justice Ecosystem of The Hague. In continuation of the Principals' commitment in relation to gender mainstreaming at the KSC and the SPO, the Unit retained its focus on these issues when providing

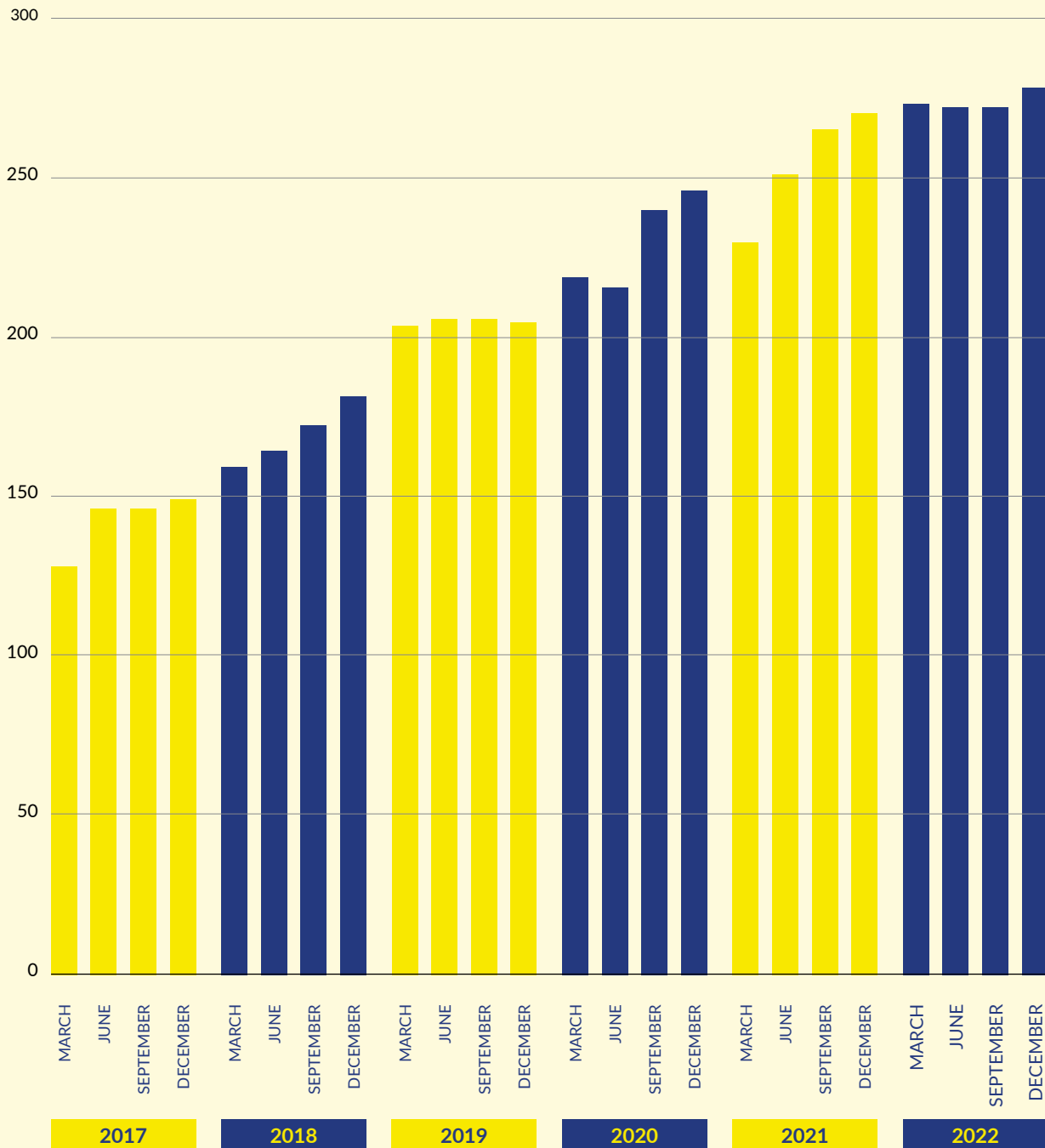
induction training and training for recruitment panel members. In coordination with the Immediate Office of the Registrar, HRU continued to update its regulatory framework. In November 2022, the Registrar adopted the amended Staff Rules following consultations with the President and the Specialist Prosecutor and comments received from the Staff Representative Body.

In line with the priorities set for 2022, HRU ensured that the KSC and SPO staff were offered induction trainings, learning and development opportunities on subjects of performance management, Serbian and Albanian language courses and information technology. In addition, through continued access to the digital learning hub, staff were enabled to follow more than 85 courses on a wide range of topics such as leadership and management, communication and staff wellbeing. With the support of the Principals underpinning the importance of the KSC anti-harassment strategy and a zero-tolerance policy against all forms of harassment, HRU ensured almost 100% of KSC and SPO staff concluded the training on "the prevention of psychological and sexual harassment" and on "Unconscious Bias, Diversity and inclusion".

Regarding its duty of care, the Unit continued to support staff during the COVID-19 pandemic including upon their return to working at the premises. Presentations raising awareness on COVID-19 matters in the presence of the medical doctor were delivered to all staff. Promotion of staff wellbeing and enabling access to psychological counselling services remained in place for all staff throughout the year.

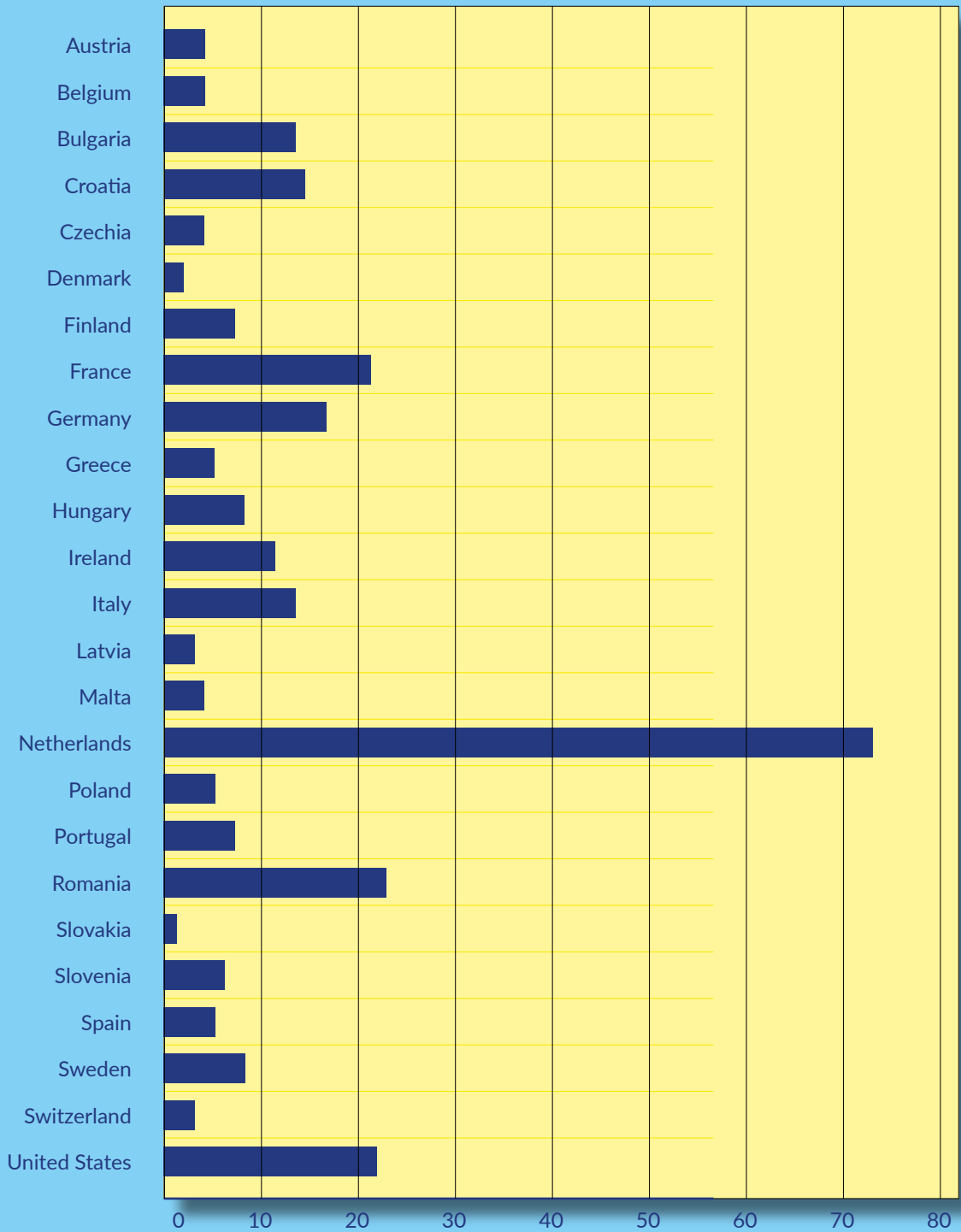
In support of the Principals' objective to ensure a safe and inclusive working environment and raise awareness, HRU managed the roll out of "prevention of psychological and sexual harassment" and "Unconscious Bias, Diversity and inclusion" trainings reaching almost 100% of all staff in 2022.

# Total KSC and SPO staff



# National Balance of KSC and SPO staff

## 31 December 2022



## 5.2 | Information Technology Services Unit

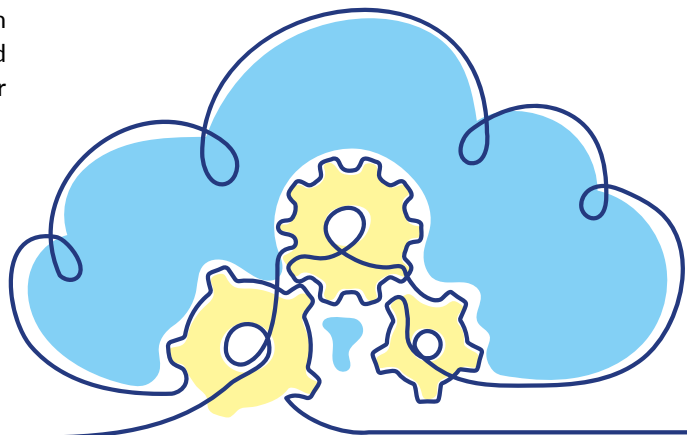
The Information Technology Services Unit (ITSU) supported 62 days of hybrid courtroom activity during which over 5,000 audio-visual files consisting of 9TB of data were generated and processed in the three official languages of the court. The hybrid sessions combined courtroom participants and remote participants, and included, where necessary, home arrangements with secured video teleconference equipment. In addition to the courtroom operations, technical support was provided during the KSC press briefings and for the export of 220 KSC recordings of hearings to the dedicated YouTube channel in 2022. ITSU also focused on procuring spare parts in order to be able to respond quickly to any possible equipment failure in order to avoid disruption to judicial proceedings given that the KSC has a single courtroom.

The KSC's main application is the electronic court management system Legal Workflow. It is a bespoke workflow application that administers all judicial activities and communications. The number of system users as well as filings, decisions, translations and disclosed evidence processed through the system increased significantly. In 2022 alone, over 200,000 new items were disclosed through Legal Workflow. In an effort to respond to this increase and the added technical support required, ITSU support was also provided outside regular working hours to assist parties in meeting their judicial deadlines. The Unit has further worked on strengthening its software development, testing and release processes in line with good practices for software development life cycle management.

The ITSU Service Desk provided support to approximately 400 users. In parallel, the Service Desk worked on the continuous renewal, replacement and disposal of end-user equipment as part of its lifecycle management and asset management processes.

In 2022, ITSU initiated the overhaul of its main hardware, using the channels provided by the EU for commodities and dedicated procurement contracts for larger equipment such as storage systems. In order to keep sensitive knowhow internal, systems are built, configured and deployed in-house. A new firewall architecture was rolled out and further augmented with software that provides increased control and visibility over all individual servers and desktops. ITSU developed schedules for backups, and defined the recovery and maximum data loss ambitions, which now feed into the drafting of information management policies at the KSC.

To safeguard resilience against technical malfunctions in a strained market for capacity and equipment, ITSU has adapted its technology, contracts and stock positions towards simplicity, redundancy and pre-owned spare parts.



## 5.3 | Facilities Management and General Services Unit

The Facilities Management and General Services Unit (FMGSU) is responsible for the efficient and effective management of the KSC and the SPO premises with the aim of ensuring a quality work environment for its staff and visitors to its premises. This includes the delivery of support services related to real estate management in consultation with relevant Host State authorities, building maintenance and construction, as well as internal space planning. The Unit also ensures that services such as catering, hospitality and cleaning are carried out and manages protocol administration services, mail and pouch services, transport, travel and logistics for which it works closely with the Security and Safety Unit and Protocol.

In 2022, FMGSU continued to be at the forefront of implementing the physical measures that were required in adapting the premises to COVID-19 requirements. Applying preventive and mitigation measures and making modifications to the premises, were critical to allow for hearings to be attended by members of the public in the public gallery as well as by media in the specially designed media rooms.

During 2022, FMGSU worked closely with the Dutch Central Government Real Estate Agency to draft a new maintenance contract for the KSC and SPO premises that successfully culminated in the signing of a revised Service Level Agreement for the premises effective from September 2022 until the end of 2025. The new agreement covers all aspects related to the premises, such as building, IT audio-visual systems as well as security systems maintenance and the replacement of major building components such as heating and ventilation systems, while also offering further flexibility to perform works related to operational requests.

In 2022, FMGSU concluded a new maintenance contract for the KSC and SPO premises from September 2022 until the end of 2025.

## 5.4 | Security and Safety Unit

During 2022, the Security and Safety Unit (SSU) continued to define, implement and monitor the effectiveness of safeguards in place to identify and manage security and safety risks. The Unit provided a wide range of services in this regard. It directly supported the judicial proceedings by implementing security measures in the courtroom and in the public gallery during hearings as well as on-site custodial duties for the detainees.

The lifting of COVID-19 restrictions by the Host State and corresponding actions by a number of EU Member States allowed for a full resumption of operational tasks. External training activities such as the Hostile Environment Awareness Training (HEAT) and other role specific training programmes were also able to resume forming an important part of enhancing staff's risk awareness and knowledge of mitigation measures.

Ensuring efficient human resource planning is key for SSU as the largest Unit at the KSC and the SPO. To this end, SSU ensured that it had sufficient capacity to support the commencement of a multi-accused trial at short notice and maintained the necessary staffing throughout 2022 to meet operational requirements.

In addition to ensuring compliance with legal obligations related to safety measures at the premises, SSU oversaw an in-depth assessment by an external partner of vocational safety risks within the premises. SSU further maintained effective collaboration with the Host State security apparatus over the course of 2022. Finally, pursuant to the decisions of relevant Panels, SSU successfully planned and executed on short-notice five custodial visits of detained persons to Kosovo on humanitarian grounds.

Support to judicial activities, inclusive of on-site custodial duties for detained persons, has been achieved with 100% success and zero incidents.



## 5.5 | Finance and Budget Unit

The Finance and Budget Unit (FBU) supports the Registrar in the financial management and implementation of the funds allocated to the KSC, in accordance with EU and internal financial rules and regulations, as well as in mitigating its financial risks. During 2022, FBU continued to work towards a lean and self-standing administration and towards building a more resilient financial circuit, with the aim of ensuring the sound financial management of funds. In addition, one administrative directive and three operational instructions relating to processes with financial impact were updated during the year. In order to further enhance the procedures and the know-how, FBU delivered regular in-house trainings to staff members covering key aspects of the financial circuits of the KSC and the SPO.

The KSC managed funds received from the EU over the course of 2022 in line with the fifth Grant Agreement signed between the Registrar, acting on behalf of the KSC and the SPO, and the European Commission (Grant Agreement) for the two-year period from 15 June 2021 to 14 June 2023 in the total amount of EUR 103,279,698. In addition to the funds granted by the EU, the KSC managed funds totalling EUR 147,000 from the Swiss government, for KSC outreach activities in 2022 and 2023. In 2022, FBU processed over 3,500 financial actions, from budgetary commitments to payments, and overall, the number of actions during the year was higher than the previous year.

Over the course of 2022, the interim report of the fifth Grant Agreement from the EU for the period from 15 June 2021 to 14 June 2023 as well as the Final Report of the Grant Agreement from the Swiss government for KSC outreach activities in 2020 and 2021, were submitted. As part of the governance framework of the KSC and of being financed by the EU, independent audits and expenditure verifications of the KSC financial accounts are performed regularly by both internal and external auditor. In 2022, the audits and expenditure verifications conducted identified no irregularities. FBU continued to develop and maintain effective collaboration with the European Commission Service for Foreign Instruments contributing to effective monitoring and implementation of the KSC's financial resources.

In 2022, FBU continued building a more resilient financial circuit, with the continued aim of ensuring the sound financial management of funds allocated by the EU and Switzerland.



## 5.6 | Procurement Unit

The main role of the Procurement Unit (PU) is to ensure that any goods, services or works required by the court to fulfil its mandate, are obtained timely and at the right cost. The field of procurement is one of the most heavily regulated fields in the public sector and consequently any purchase made by the KSC and the SPO must undergo regular strict controls and audits.

In 2022, PU remained committed to further optimising the use of budgetary resources for procurement in the coming years without compromising the execution of the KSC and the SPO mandates. The Unit also continued to increase awareness and understanding of applicable tender processes and requirements among prospective suppliers as well as to provide as many businesses as possible, regardless of their location, the opportunity to work with the KSC and the SPO.

At the same time, PU provided in-house training for KSC and SPO staff to ensure consistent and rigorous contract management and market survey processes. Overall with its efforts the Unit ensures compliance with good procurement practices and the reduction of risk of non-compliance with the relevant procurement rules and regulations, primarily with the Practical Guide to Contract Procedures for EU External Actions – as the main document governing the KSC and the SPO procurement activities – and with the internal policies and guidelines. In 2022, PU developed a more commercially focussed approach within the court, geared towards identifying opportunities to maximise value for money and achieving procurement excellence.

In 2022, over 110 procurement contracts for a range of goods and services worth over EUR 15.5 million were concluded for the KSC and the SPO.





## 6 | Audit Office

The Internal Auditor contributes to institutional governance and accountability of the KSC and the SPO by conducting audits and reporting the findings and the recommendations to the Registrar. This in turn supports the KSC and the SPO in further improving the internal processes. The recommendations are provided to the management and the Internal Auditor verifies the status of their implementation in the follow-up audits she conducts. In her work, the Auditor adheres to international professional standards of internal auditing and to the EU Financial Regulation and advises on measures to improve governance.

During 2022, the Internal Auditor conducted seven audits based on the annual audit plan focusing on expenditure of imprest accounts, legal aid fees, expenses related to detention services, provident fund contributions and to the grant received from the Swiss government. The Internal Auditor carried out eight follow-up audits to ensure that the actions agreed by the management have been implemented correctly. In addition to the audit assignments, the Internal Auditor was engaged with the Anti-Fraud trainings provided to staff members.

During each audit assignment, the Internal Auditor assesses the effectiveness of the internal control system. Internal controls minimise risks and protect assets, ensure accuracy of records, promote operational efficiency, and encourage adherence to internal policies, rules and regulations.



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# Gender mainstreaming at the KSC and the SPO



# 1 | Gender Mainstreaming and Parity at the KSC and the SPO

The Principals of the KSC and SPO continued to promote a safe and inclusive work environment. Specifically by taking measures to uphold the principle that any form of discrimination, harassment or abuse of power and authority, including psychological, sexual or gender harassment, or physical or verbal abuse at the workplace or in connection with work is prohibited. Measures included the adoption of the Anti-Harassment Policy, ensuring all staff received bespoke training and continued efforts to achieve gender parity amongst staff.

## Anti-Harassment Policy

Following the adoption of the Anti-Harassment Strategy in 2019, consultations on and the drafting of the Anti-Harassment Policy of the KSC and SPO were concluded in 2022. With the input of the Principals, the Staff Representative Body and the KSC and SPO Gender Focal Point, along with the expert advice of an independent Anti-Harassment Expert, the Registrar adopted the Policy on 21 December 2022.

The Anti-Harassment Policy reinforces the KSC's and SPO's zero tolerance towards all forms of harassment, raising awareness on the prevention of and response to harassment and further promoting the culture of dignity and respect within the court. Additionally, the Policy clarifies the informal resolution procedures that complement the formal resolution process, regulated by the Staff Rules and other internal regulatory documents on the disciplinary process.

The Anti-Harassment Policy sets out two informal conflict resolution mechanisms – internal resolution and mediation. Internal resolution, as explained in the Policy, involves facilitation by the first-line manager and/or the Head of Human Resources Unit (HRU), whilst mediation involves third-party

facilitation from independent external mediators. To support this growing responsibility of line managers as facilitators in conflict resolution, the Policy provides additional training for these staff members. Furthermore, the Policy has introduced annual reporting on anonymised statistical data on instances of harassment.

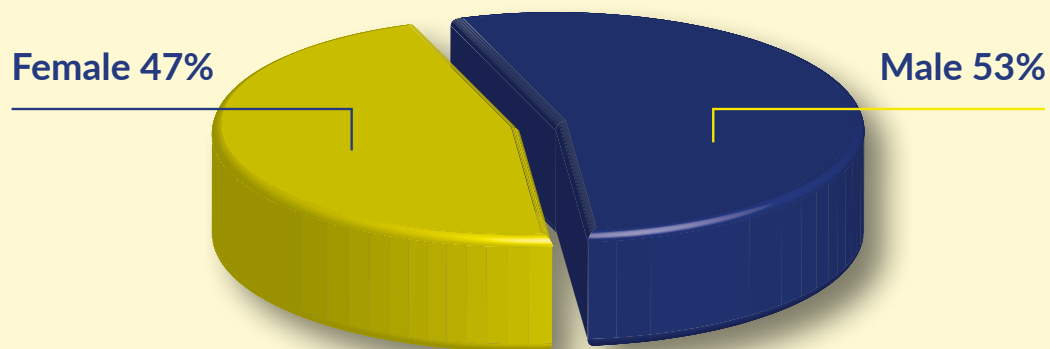
## Bespoke Training and Counselling Services

In 2022, to deepen the knowledge of staff about KSC and SPO regulations, the zero-tolerance policy and shared organisational values, HRU and the Gender Focal Point worked with very experienced trainers to develop the court's prevention of psychological and sexual harassment and unconscious bias training programmes. The training sessions were interactive and learning objectives included that staff could recognise abusive conduct, understand different types of harassment and propose how to deal with the prohibited conduct in line with KSC and SPO regulations. Following the introduction of the "Prevention of Psychological and Sexual Harassment" training in 2021, the course continued to be offered in 2022, ensuring that all staff beyond first- and second-line managers received the training. A new course on "Unconscious Bias, Diversity and Inclusion" was also introduced in 2022, and by the end of the year, almost 100% of staff members had completed the mandatory training.

Feedback received following the trainings showed that staff in particular appreciated the information on firstly how to identify harassment at an early stage and secondly how to react to it. Staff also found that the unconscious bias training assisted them to consider their own biases and how to respond to them.

## Gender Balance of KSC and SPO staff

31 December 2022



The KSC and SPO continued to encourage staff members to participate in a week-long Gender Focal Point Training this year, organised by the Civilian Planning and Conduct Capability (CPCC) of the European External Action Service (EEAS) and the Folke Bernadotte Academy, which was called “Integration of a Gender Perspective in CSDP Training”.

The psychologist’s counselling services remained available throughout the year, providing staff with the opportunity to seek professional guidance and advice, and the Principals continued to support all efforts to provide any necessary assistance for staff members in 2022.

By the end of 2022, almost 100% of KSC and SPO staff members had completed the compulsory bespoke trainings “Prevention of Psychological and Sexual Harassment” and “Unconscious Bias, Diversity and Inclusion”.

## Efforts towards Gender Parity

As in previous years, gender disaggregated data was regularly gathered and analysed, in an effort to monitor the progress in reaching, and maintaining, gender parity at all levels of the organisation. HRU continued to play a central role in these efforts by placing an emphasis on gender mainstreaming in the induction training provided to new staff members. This training was also offered to all recruitment panel members throughout the year.

Since 2018, female representation amongst new staff members within the KSC and SPO has been steadily improving: in 2018, only 29% of new staff members were female, in 2019, the percentage had increased to 34%, and in 2020, gender parity was reached amongst new staff members. The trend continued in 2021 when 56% of new staff members were female until remaining unchanged in 2022.

In 2022, the KSC reached gender parity for both positions at Expert and Management level as well as for its overall staff. First, in March 2022, gender parity for positions at Expert and Management level was reached with a total of 45 female and 45 male staff members. Second, in early August 2022, the KSC reached gender parity for its total staff with 101 female and 101 male staff members.

By the end of 2022, 55% of staff at Expert and Management level were female, and 45% were male. At Secretary and Assistant level, gender representation at the KSC remained also fairly balanced in 2022: 45% of staff were female, and 55% were male. Regarding the overall staff at the KSC, the gender balance was retained at the end of the year with 101 female staff members and 103 male staff members.

The SPO achieved gender parity at Secretary and Assistance level in 2022, while the ratio at Expert and Management level improved slightly from 2021, with 40% female and 60% male staff members. For its overall staff, the SPO saw a 2% increase in female staff members during the year, reaching 40% female staff members by the end of 2022. Of the total staff at the KSC and SPO, 47% were female and 53% were male on 31 December 2022. This is a slight increase in female staffing compared to 2021, when 46% of staff members were female, and 54% male. Furthermore, in 2022, three of the five Panels assigned had female Presiding Judges and more than two Panels had a majority of female Judges on the bench.

Since their inception, the KSC and SPO Principals have promoted gender mainstreaming activities to improve gender representation. As a result, significant progress has been achieved towards gender parity. By the end of 2020, 38% of staff were female and 62% male, and by the end of 2021, 46% were female and 54% were male. In August 2022, the KSC reached gender parity.

## 2 | Gender Focal Point

The presence of the Gender Focal Point forms part of the Principals' overall dedication to maintaining and furthering strengthening an inclusive work environment.

Over the course of 2022, the Gender Focal Point organised a variety of activities, including an online celebration of International Women's Day. The 2022 theme was "breaking bias" and staff members were asked to send in a short video of themselves, describing the various ways – big or small – in which another staff member made them feel appreciated or included. The videos were shown on International Women's Day, following which attendees enjoyed listening to music and virtually spent time with each other.

The Gender Focal Point further organised workshops on unconscious bias, which were attended by all staff over the course of 2022. The Gender Focal Point also provided feedback on the Anti-Harassment Policy, which was adopted by the Registrar on 21 December 2022.

The Gender Focal Point ensured that the dedicated internal webpage was continually updated with interesting articles and links to events related to gender-mainstreaming and inclusion and diversity more generally.

Throughout the year, the gender focal point was further in touch with gender focal points at other international organisations in The Hague to share knowledge and exchange on best practices in relation to gender mainstreaming efforts and attended a three-day annual meeting of Human Rights and Gender Advisors at the EU Common Security and Defence Policy missions in June 2022, organised by the EEAS.

During those three days, presentations were given on a wide variety of topics relevant to, *inter alia*, the gender advisors at the missions and workshops were provided on gender mainstreaming. Finally, the Gender Focal Point took part in a six-week intensive leadership coaching programme for women called "Here She Comes!".



Gender Focal Point



## KSC

### SECRETARY AND ASSISTANT LEVEL



### MANAGEMENT AND EXPERT LEVEL

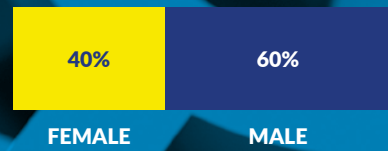


## SPO

### SECRETARY AND ASSISTANT LEVEL



### MANAGEMENT AND EXPERT LEVEL







# Specialist Prosecutor's Office



# 1 | Foreword

The past year has once again been one of milestones for the Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO) and, above all, for victims who have finally – after more than two decades – been able to testify in court about their experience and the pain and suffering they endured or saw. The first two trials have been completed; the first verdicts have been rendered; and the first prosecutions secured. Moreover, the year ahead promises to be equally dynamic, as another two trials get under way and more victims avail themselves of the opportunity provided by the KSC to recount publicly what they experienced, lived through and witnessed.

The KSC represents an important forum to provide justice for victims because it serves as a secure setting in which witnesses are able to speak openly about the crimes they witnessed or experienced without fear of intimidation or retribution. But even today, it requires extraordinary courage on the part of victims to come forward and speak after so many years of silence. The SPO would not be in a position to bring prosecutions had it not been for the courage of the many women and men, who have cooperated with our investigations in Kosovo and elsewhere,

providing us evidence, recounting their stories and those of their loved ones, and, above all, placing their trust in this institution to do justice. We must now ensure that the crimes that were committed against them are fully brought to light in court and that the people most responsible for those crimes face justice.

For more than four years, between May 2018 and November 2022, Specialist Prosecutor Jack Smith led the SPO. His contribution cannot be over-estimated. He drove the investigations forward by example, meticulously overseeing the recruitment of highly qualified staff; the gathering, review and disclosure of evidence; and the drafting of indictments. Moreover, his unwavering focus has brought the SPO to where it is today. As Acting Specialist Prosecutor, I intend to continue where Specialist Prosecutor Smith left off and to take forward all aspects of the SPO's work as expeditiously as possible.

In addition, I wish to thank each of the Member States of the European Union (EU), including our Host State, the Netherlands, and the Contributing States of Norway, Switzerland and the United States, for continuing to provide the necessary resources and support for the rule of law to make our work possible. I am also grateful to the European Union Rule of Law Mission in Kosovo (EULEX) and its Head of Mission, Ambassador Lars-Gunnar Wigemark, for the logistical and operational support given to the SPO throughout the past year. And I wish to thank all SPO staff, both current and former, as well as the staff of the KSC, and, in particular, President Ekaterina Trendafilova and Registrar Fidelma Donlon, for their timeless commitment and dedication, which have made our achievements possible.

**Alex Whiting**  
*Acting Specialist Prosecutor*

*December, 2022*



*Alex Whiting, Acting Specialist Prosecutor*

## 2 | SPO Mandate

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

The Law grants the SPO authority to investigate and prosecute citizens of Kosovo and/or the Federal Republic of Yugoslavia or individuals who committed crimes against citizens of Kosovo and/or the Federal Republic of Yugoslavia for crimes commenced or committed in Kosovo in relation to conduct identified in the January 2011 Council of Europe Report Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo during the three-year period from 1 January 1998 to 31 December 2000.



*Ambassador Clint Williamson*

The Specialist Chambers and SPO were created in the wake of an earlier investigation by the Specialist Investigative Task Force (SITF) and the SPO inherited the staff and mandate of the SITF. The SITF had been created to investigate and, if warranted, prosecute individuals for crimes alleged in the Council of Europe Report. The SITF was an autonomous entity, deriving its jurisdiction and legal authority from the European Union (EU) Council Decision establishing EULEX, the EU Rule of Law Mission in Kosovo.

The SITF investigation was headed by Clint Williamson, a US prosecutor and former Ambassador-at-Large for War Crimes Issues. He reported in July 2014 that a court would have to be created to take the investigation forward.

The SPO is an independent institution, with its independence guaranteed by the Law creating it. In this way, the SPO is obliged to act independently from both the Specialist Chambers and from all other prosecutors in Kosovo. The Law also instructs the Specialist Prosecutor and SPO staff not to seek or receive instructions from any government of other source.

Within its jurisdiction, 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 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.

### 3 | Mandate Implementation

The SPO moved forward with its prosecutions expeditiously in 2022, during which two trials were concluded. The SPO also engaged in pre-trial litigation in two additional cases; made evidence available to Defence Counsel; and took forward its investigations.

The SPO concluded its case against Kosovo Liberation Army (KLA) War Veterans Organisation leaders Hysni Gucati and Nasim Haradinaj, who were convicted of obstruction of justice, intimidation of witnesses and violating the secrecy of proceedings. They were each sentenced to four-and-a-half years' imprisonment and a fine of 100 Euros.

The Court found that the acts of the accused “took place in a climate of witness intimidation”; that the authorities in Kosovo, and at the International Criminal Tribunal for the former Yugoslavia (ICTY), had struggled for years to deal with a climate of witness intimidation that had “severely affected investigations and prosecutions of crimes”; and that the accused “knew this full well”.

In the wake of the verdict, Specialist Prosecutor Jack Smith pledged to continue to vigorously investigate and prosecute all cases of witness intimidation, retaliation against witnesses, and obstruction of justice.

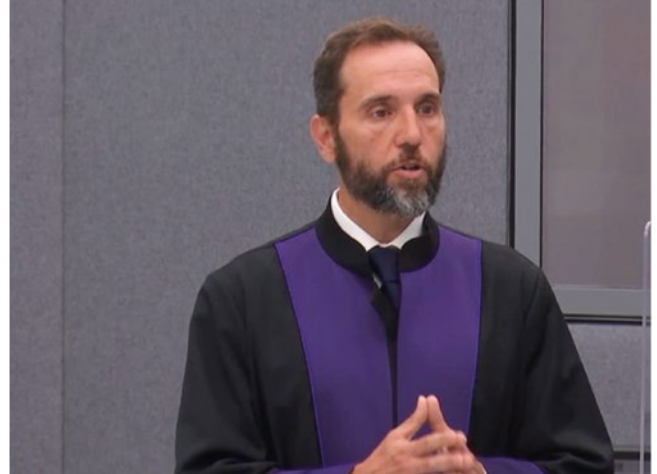


Front row, from the left: Prosecutors Cezary Michalczuk, Filippo De Minicis and Silvia D'Ascoli  
Second row: Acting Specialist Prosecutor Alex Whiting

The trial of Messrs Gucati and Haradinaj began on 7 October 2021 and evidentiary proceedings were closed on 3 February 2022. The SPO called four witnesses to testify. Closing statements took place between 14 and 17 March 2022 and the judgment was pronounced on 18 May 2022 after 32 trial days in court. Defence Counsel appealed the verdict and a pre-appeal conference took place on 5 July 2022. An appeal hearing took place on 1 and 2 December. The SPO made 23 filings in the course of 2022.

The SPO also concluded its prosecution of Salih Mustafa, who was convicted of the war crimes of arbitrary detention, torture and murder, both on the basis of individual criminal responsibility and superior criminal responsibility, with crimes committed by certain KLA members against persons detained at the Zllash detention compound in Kosovo. All victims were Kosovar Albanians. Mr Mustafa was sentenced to 26 years' imprisonment.

In the wake of the verdict, Acting Specialist Prosecutor Alex Whiting described it as a victory for justice and hailed the courage of witnesses who testified at trial.



*Specialist Prosecutor Jack Smith in court*

## **Specialist Prosecutor's Response to Verdict in Gucati and Haradinaj Trial**

In the wake of the verdict in the trial of Hysni Gucati and Nasim Haradinaj, Specialist Prosecutor Jack Smith issued a statement saying that justice had been served; that Messrs Gucati and Haradinaj had been found guilty of their crimes following a transparent, careful and fair adjudication; and that the SPO would continue to vigorously pursue investigation and prosecution of all acts of witness intimidation, retaliation against witnesses or obstruction of justice.

“The Kosovo Specialist Chambers has a unique ability to provide justice for victims because it represents a safe place where witnesses can speak openly about the crimes they saw and suffered through over 20 years ago,” the Specialist Prosecutor said. “Intimidating or retaliating against such victims is, in my view, a gravely serious crime which strikes at the heart of this institution’s ability to do justice and the rule of law. If you seek to intimidate or retaliate against witnesses of this court, I will do all that is in my power to assure you will ultimately find yourself brought to justice.”

The trial of Mr Mustafa began on 15 September 2021 and the SPO closed its case on 4 February 2022. The SPO presented rebuttal evidence on 1 June 2022 and evidentiary proceedings were closed on 20 June 2022. Closing statements were made between 13 and 15 September 2022 and the judgment was pronounced on 16 December 2022. The SPO presented 14 witnesses in total and made 54 filings in relation to this case in the course of 2022.

The SPO has also prepared for the beginning of the trial of Pjetër Shala, who is charged with four counts of war crimes – arbitrary detention; cruel treatment; torture; and murder – carried out between approximately 17 May 1999 and 5 June 1999 against persons detained at the Kukës Metal Factory in Albania.

The SPO filed its pre-trial brief on 28 January 2022; the Pre-Trial Judge transmitted the case file to the Trial Panel on 21 September 2022; and the trial-preparation conference took place on 18 and 19 October 2022. Three status conferences were also held in the course of 2022 and the SPO made 124 filings in this case in the course of 2022.

Pre-trial proceedings were ongoing throughout 2022 in the case against former Kosovo President Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, who are charged with six counts of crimes against humanity – persecution, imprisonment, other inhumane acts, torture, murder and enforced disappearance of persons – and four counts of war crimes – illegal or arbitrary arrest and detention, cruel treatment, torture and murder.



*Front row, from the left: Prosecutors Filippo De Minicis, Gaia Pergolo and Eva Wyler.*

*Second row: Acting Specialist Prosecutor Alex Whiting*

According to the indictment, the crimes were committed from at least March 1998 through September 1999 and took place in several locations across Kosovo as well as in Kukës and Cahan, in Albania. They were allegedly committed by members of the KLA against hundreds of civilians and persons not taking part in hostilities.

The indictment alleges that Messrs Thaçi, Veseli, Selimi and Krasniqi are individually criminally responsible, pursuant to various forms of criminal responsibility, for crimes, which were committed in the context of a non-international armed conflict in Kosovo and were part of a widespread and systematic attack against persons suspected of being opposed to the KLA.

The SPO filed its pre-trial brief on 17 December 2021 and an updated version thereof on 24 February 2022. The SPO filed a further amended indictment on 30 September 2022.



*Acting Specialist Prosecutor Alex Whiting in court*

The SPO engaged in intense pre-trial litigation on a number of issues, including in relation to the two-monthly detention reviews of the accused in accordance with the court's legal framework. The SPO opposed interim release, arguing in a series of filings that there was a very real risk that, if freed, the accused would seek to obstruct court proceedings and interfere with witnesses.

## Acting Specialist Prosecutor's Response to Verdict in Mustafa Trial

In the wake of the verdict in the trial of Salih Mustafa, Acting Specialist Prosecutor Alex Whiting issued a statement describing it as a "victory for justice" and hailing the courage of witnesses. "This judgment represents a victory for justice and, in particular, for the victims of Salih Mustafa and their families, all Kosovar Albanians, whose personal tragedies have been at the heart of this case and who have suffered more than two decades on account of Mr Mustafa's actions.

"The testimony of witnesses, who put their faith in the Specialist Chambers to provide justice, was critical to the judgment and I applaud their extraordinary courage in coming forward to give evidence in court. The creation of the Kosovo Specialist Chambers has made it possible for these victims to tell their stories and obtain justice," Acting Specialist Prosecutor Whiting said.

The SPO also fulfilled its disclosure obligations as set forth in the Rules of Procedure and Evidence before the KSC and provided details of the first 40 witnesses to be called at trial to Defence Counsel.

Six status conferences, a hearing on the SPO's proposed protocol on handling confidential information and contacts with witnesses, and a trial-preparation conference were held in the course of 2022. Moreover, the SPO made 235 filings in relation to this case.

Throughout 2022, the SPO continued summoning witnesses, including former members of the KLA to appear for interview both in The Hague and in Pristina; interviewing witnesses; reviewing all documentary evidence collected in the course of the investigation and preparing it for disclosure purposes; and working with relevant authorities in international organisations and States to ensure both that documents are cleared for use in court and that witnesses are cleared to testify in court.



*Prosecutor Valeria Bolici*

## Diplomatic Briefings and Outreach

In the course of 2022, the SPO participated in a series of diplomatic briefings to update EU Member States and Third Contributing States on the SPO's work, challenges the SPO was facing and ways in which the international community could help the SPO expedite its work.

Specialist Prosecutor Jack Smith spoke with the EU's Committee for Civilian Aspects of Crisis Management in June 2022, together with Specialist Chambers President Ekaterina Trendafilova and Registrar Fidelma Donlon. Acting Specialist Prosecutor Alex Whiting and Acting Deputy Specialist Prosecutor Ward Ferdinandusse addressed diplomats from both EU Member States and Third Contributing States, in The Hague in November 2022, together with Specialist Chambers President Ekaterina Trendafilova and Registrar Fidelma Donlon. The support of the wider international community has been and remains critical to SPO activities.

Specialist Prosecutor Jack Smith also discussed in October 2022 the SPO's work with representatives of non-governmental organisations from Kosovo and Serbia belonging to the Court Information Network in the framework of the Specialist Chambers' Outreach programme.



## 4 | Specialist Prosecutor Jack Smith

Jack Smith served as Specialist Prosecutor between 7 May 2018 and 18 November 2022, taking forward the SPO's investigation and overseeing prosecution of the first two cases at the Specialist Chambers. He left the SPO to take up a high-profile post as Special Counsel in the United States to oversee two ongoing criminal investigations, to which he was appointed by US Attorney General Merrick B. Garland.

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

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

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

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

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

Before becoming an Assistant US Attorney, Mr Smith served for five years as an Assistant District Attorney

in the New York County District Attorney's Office where he was a member of the Office's Sex Crimes and Domestic Violence Units.

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



*Specialist Prosecutor Jack Smith*

## 5 | Senior Prosecution Staff

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

The Acting Specialist Prosecutor is Alex Whiting, a prosecutor of French and US nationality with extensive experience of both domestic and international prosecutorial work, including spells at both the ICC and the ICTY, as well as a distinguished academic career.

Mr Whiting, a graduate of Yale College and Yale Law School, joined the SPO in 2019 from Harvard Law School, where he had been a professor of practice since 2013.

At the ICC between 2010 and 2013, Mr Whiting worked in the Office of the Prosecutor where he served first as Investigations Coordinator, overseeing all investigations, and then as Prosecutions Coordinator, overseeing all prosecutions.

At the ICTY between 2002 and 2007, Mr Whiting was lead prosecutor in the trial of Fatmir Limaj, Isak



*Alex Whiting, Acting Specialist Prosecutor*

Musliu and Haradin Bala, and lead prosecutor in the trials of Milan Martić and Dragomir Milošević.

Before joining the ICTY, Mr Whiting was a US federal prosecutor, first with the Criminal Section of the Civil Rights Division in Washington, DC, and then with the US Attorney's Office in Boston, Massachusetts, where he focused on organised crime and corruption cases.

The Acting Deputy Specialist Prosecutor and SPO Head of Investigations is Ward Ferdinandusse. A Dutch national, Mr Ferdinandusse has both a law degree and a doctorate in the application of international criminal law in national courts from the University of Amsterdam. He has published extensively on issues of national and international criminal law. He also taught International and European Criminal Law at the University of Groningen, focusing on international cooperation in criminal matters.

As a prosecutor at the National Public Prosecutor's Office in Rotterdam, Mr Ferdinandusse worked on criminal cases, extradition proceedings and investigations into international crimes such as genocide, war crimes, torture, piracy and terrorism. He joined the SPO from the Flight MH17 trial where he worked as a lead prosecutor.



*Ward Ferdinandusse, Acting Deputy Specialist Prosecutor*

The SPO has two Senior Prosecutors, Alan Tieger and Clare Lawson. Alan Tieger is a US national with extensive experience both from the US and the ICTY. Mr Tieger was involved in both the ICTY's first trial, that of Duško Tadić, and its final trial, that of Ratko Mladić. He also served as senior prosecutor in the trials of Ante Gotovina, Radovan Karadžić, Momčilo Krajišnik, Darko Mrđa and Biljana Plavšić.

Mr Tieger served as a federal prosecutor in the Civil Rights Division Criminal Section of the US Department of Justice from 1987 to 1994, prosecuting cases of racial violence and police brutality nationwide, including the Rodney King case.

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



*Alan Tieger, Senior Prosecutor*

Clare Lawson is an Irish national and holds a degree from University College Dublin, including a year's specialisation in international law at the University of Melbourne, and an LLM from Columbia University. Prior to joining the SPO, Ms Lawson worked as a legal officer in the Trial Division at the ICC, in the Office of the Prosecutor at the ICTY, as a human rights adviser to the Irish government, and in private practice with a leading Irish law firm.

Ms Lawson has worked on several international criminal cases, including those arising from the Central African Republic, the Democratic Republic of Congo, Kenya and the former Yugoslavia. She has also led human-rights negotiations on behalf of the EU and at the UN.



*Clare Lawson, Senior Prosecutor*

## 6 | Prosecution Teams

### Trial Team in Mustafa Case

The trial team in the case against Salih Mustafa in 2022 comprised Cezary Michalczuk, Silvia D'Ascoli and Filippo De Minicis. Mr Michalczuk is a Polish Prosecutor, educated in Poland and the UK, who has previously served, among other assignments, as Head of the Rule of Law and Legal Section of the EU Special Representative in Kosovo between 2015 and 2020, and Head of the War Crimes Unit at the Special Prosecution Office of the Republic of Kosovo between 2010 and 2015. Ms D'Ascoli is an Italian

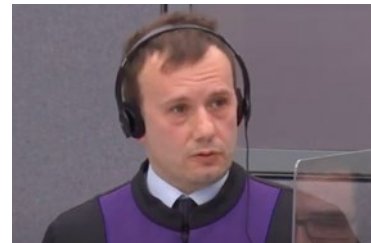
Prosecutor with a doctorate in Law, specialised in international criminal law and human rights. Between 2007 and 2016, she worked on war-crimes prosecutions, including that of Ratko Mladić, at the ICTY. Mr De Minicis is an Italian Associate Prosecutor who previously worked at the ICTY; the Office of the Co-Investigating Judges at the Extraordinary Chambers in the Courts of Cambodia; and the UN's Office of the High Commissioner for Human Rights in South Korea.



*Cezary Michalczuk, Prosecutor*



*Silvia D'Ascoli, Prosecutor*

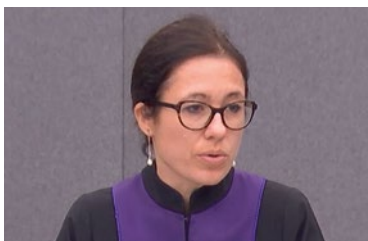


*Filippo De Minicis, Associate Prosecutor*

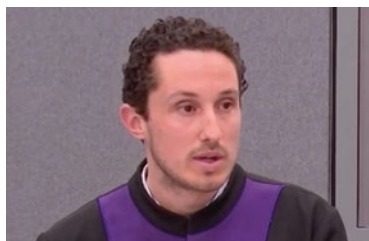
### Trial Team in Gucati and Haradinaj Case

The trial team in the case against Hysni Gucati and Nasim Haradinaj in 2022 comprised Valeria Bolici, James Pace and Matt Halling. Ms Bolici is an Italian Prosecutor with a doctorate in International Criminal Law, who, prior to joining the SPO, worked at the ICTY Chambers, served as a prosecutor in EULEX in Kosovo and assisted in representing Italy before the European Court of Human Rights. Mr Pace is a

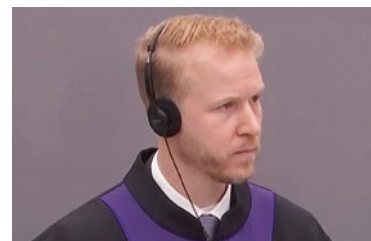
Maltese Prosecutor, educated in Malta and the UK, who previously worked in the prosecution offices at the Special Court for Sierra Leone and the ICC. Mr Halling is a US Prosecutor admitted to the bar in California, who joined the SPO in 2020 on special leave from the ICC, where he had been employed since 2011.



*Valeria Bolici, Prosecutor*



*James Pace, Prosecutor*



*Matt Halling, Prosecutor*

## Trial Team in Shala Case

The trial team in the case against Pjetër Shala comprises Filippo De Minicis, Gaia Pergolo and Eva Wyler. Mr De Minicis is an Italian Associate Prosecutor who previously worked at the ICTY; the Office of the Co-Investigating Judges at the Extraordinary Chambers in the Courts of Cambodia; and the UN's Office of the High Commissioner for Human Rights in South Korea. Ms Pergolo is an Italian Associate Prosecutor, educated in Italy and the UK, who previously worked for the Office of the Prosecutor of the International Residual Mechanism

for Criminal Tribunals in The Hague; the United Nations Assistance to the Khmer Rouge Trials in Phnom Penh, Cambodia; and the Special Court for Sierra Leone. She has also worked for REDRESS, a non-governmental organisation that pursues legal claims on behalf of survivors of torture. Ms Wyler is a Swiss Associate Prosecutor, who previously worked as an Attorney-at-Law at one of Switzerland's leading litigation, investigation and criminal law practices, as well as a Military Investigation Judge and a Military Prosecutor.



*Filippo De Minicis, Associate Prosecutor*



*Gaia Pergolo, Associate Prosecutor*



*Eva Wyler, Associate Prosecutor*

## Staffing

The SPO staff is comprised of prosecutors, legal advisers, security professionals, investigators, analysts, witness-security specialists and support staff. At the end of 2022 the SPO comprised 72 staff, with 21 different nationalities represented from both EU Member States and Third Contributing States. Of the 72 staff, 43 were male and 29 were female.





KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE

**KOSOVO SPECIALIST CHAMBERS &  
SPECIALIST PROSECUTOR'S OFFICE  
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