



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

KOSOVO SPECIALIST CHAMBERS

What is the Kosovo Specialist Chambers?

The KSC is an independent court established by Kosovo law, but located in The Hague in The Netherlands.

The KSC has jurisdiction over crimes against humanity, war crimes and other crimes under Kosovo law that were allegedly committed between January 1998 and December 2000; that were committed or commenced in Kosovo; and where either the perpetrator or the victim was from Kosovo or the Federal Republic of Yugoslavia.

KOSOVO SPECIALIST CHAMBERS

INDICTMENT
AND PRE-TRIAL
PROCEEDINGS



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INDICTMENT AND PRE-TRIAL PROCEEDINGS

What is the jurisdiction of the KSC?

The KSC has jurisdiction over crimes against humanity, war crimes and other crimes as specified in the Law on the Specialist Chambers and Specialist Prosecutor's Office (Law) that were commenced or committed in Kosovo between 1 January 1998 until 31 December 2000 and relate to the allegations in the Council of Europe Assembly Report of 2011. These crimes must have been committed by or against natural persons of Kosovo/Federal Republic of Yugoslavia citizenship.

What is an indictment?

An indictment is a written accusation against a suspect(s) for crime(s) he or she allegedly committed. If the Specialist Prosecutor considers that there is a well-grounded suspicion that a suspect(s) committed or participated in the commission of a crime, the Specialist Prosecutor may bring an indictment against the suspect(s) before the Pre-Trial Judge. The indictment shall be filed confidentially and without notification to anyone else, including the suspect(s).

An indictment contains:

- the name of and information about the suspect(s);
- a concise statement of the facts of the case and the crime(s) with which the suspect(s) is charged;
- evidence supporting the facts in the indictment

What does a pre-trial judge do with an indictment?

The Pre-Trial Judge examines the evidence supporting the indictment to decide if a well-grounded suspicion exists against the suspect(s). Within six months, the Pre-Trial Judge shall decide either to confirm or dismiss the indictment in whole or in part. Once the indictment has been confirmed by the Pre-Trial Judge, the suspect becomes an accused. The confirmed indictment will be given to the accused in a language he or she understands. The indictment shall be made public no later than the accused's initial appearance before the Pre-Trial Judge.

What is an 'initial appearance'?

An initial appearance is organised by the Pre-Trial Judge to ensure that the accused's rights are being respected. For example, the Pre-Trial Judge shall make sure that the accused's right to counsel has been respected. At this appearance, the indictment shall be read out to the accused in a language he or she understands. The Pre-Trial Judge shall ensure that the accused understands the indictment. The accused will also be informed that, within 30 days of the initial appearance, he or she may plead guilty or not guilty or that the accused can immediately do so at the initial appearance. An initial appearance shall take place within seven days after the accused is provided with the indictment.

What are the rights of an accused?

The Law provides the accused with a number of rights. For example, an accused shall be presumed innocent until proven guilty beyond a reasonable doubt. The KSC shall protect the fundamental rights of an accused contained in the Kosovo Constitution and the Law, including by having adequate time to prepare his or her defence. An accused has the right to counsel, who has to be on the KSC's List of Counsel. If an accused does not have enough money to pay for the defence counsel, the KSC will provide counsel at the KSC's expense. An accused has the right to be tried within a reasonable time in his or her presence.

Victims' participation?

Once a Pre-Trial Judge has confirmed an indictment and it has been made public, a person may apply to be a participating victim if he or she believes to have personally suffered physical, material or mental harm, as a direct result of any of the crimes described in the indictment. The Victims' Participation Office will provide information on how victims may apply and will make an application form available on the KSC website. A judge will decide on the application for participation. Victims admitted to participate will form one or more groups as decided by judge(s). Counsel who are on the KSC's List of Counsel will represent the group(s).

What happens next?

The Pre-Trial Judge shall ensure that proceedings are not unduly delayed. For example, the Pre-Trial Judge may hold hearings, if needed, for the preparation of proceedings and to decide on initial challenges raised by the accused. The Specialist Prosecutor must share with the Defence the evidence supporting the indictment and statements of all witnesses the Specialist Prosecutor intends to call at trial. Likewise, the Defence must share with the Specialist Prosecutor a list of witnesses and any other evidence that they intend to use. This process is called disclosure. When preparations are complete, the Pre-Trial Judge shall transfer the case file to the Trial Panel.