

Info-Odvetniška Zbornica Slovenije

Od: Defence Office <defenceoffice@scp-ks.org>
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Za: Info-Odvetniška Zbornica Slovenije
Kp: Victims Participations Office
Zadeva: Kosovo Specialist Chambers- Admission of Counsel

Dear Madam, Sir,

In July 2017, the Kosovo Specialist Chambers (KSC) adopted their Rules of Procedure and Evidence (RPE). It thus became a fully operational Court. Information on the KSC can be found at www.scp-ks.org.

The KSC, with its seat in The Hague, the Netherlands are part of the judicial system of Kosovo, and were established by a Constitutional amendment and a Law adopted by the Kosovo Assembly to conduct trials for allegations stemming from the 2011 Council of Europe Report, which alleges serious violations of international law. The KSC are of temporary nature with a specific mandate and jurisdiction, namely over certain crimes against humanity, war crimes and other crimes under Kosovo law which allegedly occurred between 1 January 1998 and 31 December 2001. It is staffed with international judges, prosecutors and staff. The official languages of the KSC are Albanian, Serbian and English.

On the 6th of November 2017, the Directive on Counsel was adopted. In this Directive, the requirements for admission of counsel to the List of Defence Counsel and of Victims' Counsel are enumerated. Only those counsel who are admitted to any of those lists, have a right of audience before the KSC and are thus allowed to represent clients in cases at the KSC. There is no geographical limitation to admission to these lists.

At the KSC, representation of a suspect or accused by Counsel is mandatory at hearings on detention on remand and while a suspect or accused is in detention on remand, from the filing of an indictment if the charges relate to a crime punishable by imprisonment of at least ten years, and in all cases when an accused seeks to enter into an agreement to plead guilty to a crime punishable by imprisonment of one year or more. Victims' representation by a Victims' Counsel is mandatory at any time during the trials.

The requirements for admission to a List of Counsel are as follows:

- a) Established competence and experience in domestic criminal and/or international criminal law and procedure;
- b) At least ten (10) years, and for purposes of acting as Co-Counsel at least seven (7) years, of proven relevant experience whether as a lawyer for defence or victims, as a prosecutor, a judge or in a comparable capacity in criminal proceedings;
- c) For purposes of admission to the List of Victims' Counsel, the requirement under Section b) shall include at least five (5) years of proven relevant experience in criminal cases involving victims, including vulnerable victims;
- d) For the duration of the admission to a List of Counsel, the Applicant continues to be a member of a domestic bar association or similar institution, or a judge or a prosecutor subject to an oversight authority;
- e) Written and oral proficiency in one of the official languages of the Specialist Chambers as specified in Article 20 of the Law on Specialist Chambers and Specialist Prosecutor's Office;
- f) He or she has not been found guilty in criminal proceedings or otherwise disciplined in relevant disciplinary proceedings against him or her in a national or international forum, including any proceedings pursuant to any Codes of Professional Conduct of international courts or tribunals, unless it is deemed that, in the circumstances, it would be disproportionate to deny admission on this basis; and
- g) He or she has not engaged in conduct, whether in pursuit of his or her profession or otherwise, which is dishonest or otherwise discreditable to Counsel, prejudicial to the administration of justice, or likely to diminish public confidence in the Specialist Chambers or the administration of justice, or otherwise bring the Specialist Chambers into disrepute.

Currently admission to the Lists of counsel is open for all interested counsel who meet the requirements (<https://www.scp-ks.org/en/application-process-defence-victims-counsel-opens>). Information on admission to the lists can be found here (<https://www.scp-ks.org/en/specialist-chambers/defence>) and here (<https://www.scp-ks.org/en/specialist-chambers/victims>).

The Defence Office and the Victims' Participation Office of the KSC would be grateful if you could disseminate this information to possibly interested members of your national bar. If you have any questions about this e-mail, please get in touch with the Defence Office at defenceoffice@scp-ks.org or with the Victims' Participation Office at vpo@scp-ks.org.

Kind regards,

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Defence Office, Coordinator

Silke Studzinsky
Head of Victims' Participation Office

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KOSOVO SPECIALIST CHAMBERS

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