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**REPORT
OF
THE OMBUDSPERSON**

Ex officio no. 1586/2025

***concerning the Specialist Chambers and the Specialist Prosecutor's Office from a
human rights perspective***

To: Ms Albulena Haxhiu, Speaker
Assembly of the Republic of Kosovo

Mr Albin Kurti, Prime Minister
Government of the Republic of Kosovo

Ms Ekaterina Trendafilova, President
Kosovo Specialist Chambers

Copy to: Ms Justina Shiroka Pula, President
Republic of Kosovo

Prishtina, 14 October 2026

Purpose of the Report

This report aims to draw the attention of the institutions of the Republic of Kosovo to the Ombudsperson's views concerning the activities of the Specialist Chambers and the Specialist Prosecutor's Office (hereinafter: the KSC), which are directly related to the standards guaranteeing the right to a fair and impartial trial, as well as other rights associated with these proceedings, from the perspective of respect for the human rights and fundamental freedoms enshrined in the Constitution of the Republic of Kosovo and international instruments.

The report is based on the activities carried out by the Ombudsperson from 2021 until its adoption, the information gathered during these activities, and the independent preliminary review prepared by the *Bar Human Rights Committee of England and Wales* (BHRC). The report is not intended to interfere in cases before the KSC but rather to raise concerns regarding the standards established for a fair and impartial trial, liberty and security, the effectiveness of legal remedies, and institutional transparency and accountability.

The findings of this report will also have a bearing on the rights of victims, who are entitled to justice. Only respect for the right to a fair and impartial trial can ensure that justice is served and that victims receive justice and satisfaction.

Given that the Ombudsperson of the Republic of Kosovo is competent to issue general recommendations concerning the functioning of the judicial system, this report will also be submitted to the Specialist Chambers and the Specialist Prosecutor's Office, as institutions of the Republic of Kosovo and, more specifically, as part of the judicial system of the Republic of Kosovo.

Legal Basis

1. The Constitution of the Republic of Kosovo, Chapter II [Fundamental Rights and Freedoms], Article 21 [General Principles], paragraph 1, stipulates that: *"Human rights and fundamental freedoms are indivisible, inalienable and inviolable and are the basis of the legal order of the Republic of Kosovo."*
2. Article 132, paragraph 1, stipulates that: *"The Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities."*
3. Article 135, paragraph 3, stipulates that: *"The Ombudsperson is eligible to make recommendations and propose actions when violations of human rights and freedoms by the public administration and other state authorities are observed."*
4. Amendment 24, Article 162 [The Specialist Chambers and The Specialist Prosecutor's Office], paragraph 11, stipulates that: *"A separate Ombudsperson of the Specialist Chambers with exclusive responsibility for the Specialist Chambers and Specialist Prosecutor's Office shall be appointed and his/her function and reporting obligations determined by [a specific law]. Articles 133(2), 134, 135(1) and (2) shall not apply to the*

Ombudsperson for the Specialist Chambers. The Ombudsperson of Kosovo may also refer matters as provided by Article 135 (4)."

5. Pursuant to Law No. 05/L-019 on the Ombudsperson, the Ombudsperson has, *inter alia*, the following powers and responsibilities:
 - *"The Ombudsperson has the power to investigate, either to respond to complaint filed or on its own initiative (ex officio), if from findings, testimonies and evidence presented by submission or by knowledge gained in any other way, there is a base resulting that the authorities have violated human rights and freedoms stipulated by the Constitution, laws and other acts, as well as international instruments on human rights."* (Article 16, paragraph 4).
 - *"The Ombudsperson may provide general recommendations on the functioning of the judicial system. [...]"* (Article 16, paragraph 8).
 - *"to draw attention to cases when the institutions violate human rights and to make recommendation to stop such cases and when necessary to express his/her opinion on attitudes and reactions of the relevant institutions relating to such cases."* (Article 18, paragraph 1, sub-paragraph 2).
 - *"to make recommendations to the Government, the Assembly and other competent institutions of the Republic of Kosovo on matters relating to promotion and protection of human rights and freedoms, equality and non-discrimination."* (Article 18, paragraph 1, sub-paragraph 5).
6. The Ombudsperson considers that Amendment 24 to the Constitution of the Republic of Kosovo has partially restricted the Ombudsperson's mandate in relation to the Specialist Chambers and the Specialist Prosecutor's Office. Nevertheless, having regard to the provisions of Article 21, according to which fundamental rights and freedoms are indivisible, inalienable and inviolable, as well as the provisions of Article 132, which stipulates that *"The Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities."* [emphasis added], the Ombudsperson considers that it has a duty and, moreover, a responsibility to protect and monitor the fundamental rights and freedoms of all citizens of the Republic of Kosovo, regardless of their status or the institution in which they are held.
7. The universality of human rights means that matters such as the right to a fair trial, the presumption of innocence, equality of arms, the right to an effective defence, and the proportionality of restrictive measures are not concerns that pertain solely to the individual affected. They are fundamental standards of the rule of law and the protection of human dignity.
8. The Ombudsperson emphasises that this report is not intended to replace the mandate of the Ombudsperson of the Specialist Chambers. Rather, the Ombudsperson considers that the concerns raised may be addressed independently by the Ombudsperson, in view of

the additional safeguards afforded to the Ombudsperson under the Constitution, namely Articles 132, 133, 134 and 135. Accordingly, raising concerns where there is a perception or risk that these standards are not being sufficiently upheld is not only legitimate but also essential to preserving public confidence in the justice system and fostering a culture of respect for human rights.

9. Furthermore, given that Law No. 05/L-019 on the Ombudsperson also designates the Ombudsperson as the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (NPM), a competence not provided for under Law No. 03/L-195 on the Ombudsperson, to which the KSC refers, and which was repealed by Law No. 05/L-019 on the Ombudsperson, which entered into force on 11 July 2015, the Ombudsperson of the Republic of Kosovo also acts as a National Human Rights Institution (NHRI). From this perspective, the Ombudsperson has full competence.

Concerning the Ombudsperson of the Specialist Chambers and the Specialist Prosecutor's Office

(a) With regard to competences

10. The Ombudsperson of the KSC was established by Constitutional Amendment No. 24, pursuant to Article 162 of the Constitution, as a separate Ombudsperson with “*exclusive responsibility*” for the Specialist Chambers and the Specialist Prosecutor's Office.
11. The Ombudsperson of the KSC is legally distinct from the Ombudsperson of the Republic of Kosovo. Its mandate does not extend to the public authorities of the Republic of Kosovo in general but is limited to the KSC and the Specialist Prosecutor's Office.
12. This distinction is also relevant when assessing the institution against international standards, as it is an institution with a specialised and limited mandate, rather than a National Human Rights Institution (NHRI) within the meaning of the Paris Principles. Accordingly, its institutional model does not meet the characteristics required by the Paris Principles for an NHRI with a broad mandate, which, in contrast, the Ombudsperson of the Republic of Kosovo fulfils.
13. Under Rule 28 of the Rules of Procedure and Evidence before the KSC, the Ombudsperson acts independently in monitoring, defending and protecting the fundamental rights and freedoms of persons interacting with the KSC and the Specialist Prosecutor's Office.

Rule 29 sets out the Ombudsperson's competences, which include, *inter alia*:

- conducting inquiries into complaints concerning human rights violations;
- inspecting detention facilities;
- mediating and facilitating the resolution of matters;
- making recommendations to the President of the KSC and the Specialist Prosecutor;
- referring matters for constitutional review in the cases provided for under the applicable legal framework.

14. These competences confer an important role on the Ombudsperson of the Specialist Chambers in protecting the rights of persons who come into contact with the KSC system. Nevertheless, the mandate is significantly limited.
15. The Ombudsperson of the KSC may not intervene in matters or judicial proceedings before the KSC, except in cases involving unreasonable delays. Consequently, a significant number of issues that may concern the fundamental rights of persons involved in judicial proceedings remain within the remit of the KSC's own judicial mechanisms. By contrast, under the Law on the Ombudsperson, the Ombudsperson of the Republic of Kosovo is competent to "*make general recommendations on the functioning of the judicial system.*"
16. Exclusive responsibility and exclusive competence are two distinct legal concepts that cannot be used interchangeably. The former refers to the specific obligation assigned to an institution to ensure the performance of a particular function, whereas the latter refers to the legal authority to act in a manner that excludes action by other institutions. The existence of exclusive responsibility cannot, in itself, be taken as evidence of the existence of exclusive competence. Consequently, any claim that the constitutional or legal framework excludes the competence of the Ombudsperson Institution of the Republic of Kosovo must be substantiated by reference to the relevant constitutional provisions and their proper interpretation, rather than being based solely on the use of the term "*exclusive responsibility.*"

(b) With regard to independence

17. The Rules of Procedure and Evidence before the KSC expressly provide that the Ombudsperson of the KSC shall perform their functions independently and that their independence shall be respected.
18. Nevertheless, independence must be assessed not only in formal terms but also from an institutional, administrative and financial perspective.
19. Particular concern arises from the fact that the Office of the Ombudsperson of the KSC forms part of the KSC's administrative structure. In a system where the Ombudsperson monitors the observance of human rights by the very institution within whose administrative structure the Office is embedded, concerns arise as to the Ombudsperson's ability to perform their duties independently and free from undue influence.
20. The Venice Principles require the procedure for selecting the Ombudsperson to be transparent, objective and merit-based, and to strengthen the authority, impartiality and independence of the institution. They also provide for the Ombudsperson to be elected by Parliament, usually by a qualified majority, as a mechanism for ensuring broader legitimacy and preventing the Ombudsperson from becoming dependent on a single authority.

21. The Venice Principles favour a single, non-renewable term of office, particularly in order to avoid the possibility of the Ombudsperson being influenced by the prospect of reappointment.
 22. In the case of the KSC, this issue is particularly relevant in view of the appointment procedure involving the Appointing Authority. If an Ombudsperson is required to seek reappointment from the same authority on which their appointment depends, concerns may arise regarding institutional independence.
- (c) The issue of the current term of office of the KSC Ombudsperson
23. Pietro Spera was appointed Ombudsperson of the KSC in May 2018 and continues to hold this position. If, under Rule 28(3), the term of office of the KSC Ombudsperson is four years, there must be a specific legal basis for continuing to exercise the function after the expiry of that term.
 24. Accordingly, as part of an institutional assessment, the specific legal act serving as the basis for the continuation of the term of office should be requested and made public.

Background to the Establishment of the KSC

25. On 3 August 2015, the Assembly of the Republic of Kosovo adopted Constitutional Amendment No. 24, paving the way for the establishment of the Kosovo Specialist Chambers and the Specialist Prosecutor's Office.
26. In order to fulfil its constitutional obligations, on 3 August 2015, the Assembly of the Republic of Kosovo adopted Law No. 05/L-053 on the Specialist Chambers and the Specialist Prosecutor's Office, which entered into force on 15 September 2015 and established and regulated the organisation, functions and jurisdiction of the Specialist Chambers and the Specialist Prosecutor's Office (Article 1 of the Law).
27. On 6 October 2026, the Assembly of the Republic of Kosovo adopted the Law on Amending and Supplementing Law No. 05/L-053 on the Specialist Chambers and the Specialist Prosecutor's Office.

Activities of the Ombudsperson

28. On 9 April 2021, at the request of the Ombudsperson, a working meeting was held with the Ombudsperson of the Specialist Chambers to discuss potential avenues for future cooperation, including the exchange of information on complaints received, visits conducted to detention facilities, and whether the Ombudsperson of the Specialist Chambers had prepared any reports. At the meeting, the Ombudsperson of the Specialist Chambers declined to provide any information, despite the topics having been agreed upon in advance, on the grounds that the information was confidential. No information was provided even on matters that would ordinarily be expected to be in the public domain, such as the number of complaints received, visits conducted to detention facilities, and other matters that should be publicly accessible.

29. As the Ombudsperson had received no information from the Ombudsperson of the KSC, on 21 April 2021, the Ombudsperson of the Republic of Kosovo requested the President of the KSC to authorise a visit to the Specialist Chambers and the Specialist Chambers Detention Centre in The Hague. The request was based on the complete lack of official information and the fact that the Ombudsperson of the Specialist Chambers had not shared any information. It was therefore considered necessary to visit the court and the detention centre in order to obtain information directly.
30. On 5 May 2021, in response to the Ombudsperson's letter, the President of the Specialist Chambers rejected the request, stating that Law No. 03/L-195 did not apply to the Kosovo Specialist Chambers or the Specialist Prosecutor's Office. The official letter further emphasised that any inspection of "detention conditions and the treatment of detainees" fell within the exclusive mandate of the Ombudsperson of the Specialist Chambers.
31. On 8 September 2021, a joint meeting was held at the Ombudsperson Institution between the President of the Specialist Chambers, accompanied by her associates, and the Ombudsperson, accompanied by his associates. During the meeting, the Ombudsperson reiterated the role and mandate of the Ombudsperson, particularly the mandate as the National Preventive Mechanism against Torture, emphasising the importance of cooperation and the Ombudsperson's interest in visiting detainees at the Kosovo Specialist Chambers Detention Centre in The Hague. At the meeting, the Ombudsperson raised concerns regarding the refusal to permit the visit and considered that preventing him from visiting detainees was contrary to the principle of transparency and also undermined the exercise of his mandate as the National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
32. On 9 November 2021, the Ombudsperson visited the Specialist Chambers, where he met with the President of the Specialist Chambers and her associates. He also visited the Detention Centre in The Hague and met with the detainees held there.
33. During this visit, at the meeting with the President of the Specialist Chambers, the Ombudsperson emphasised that he had a constitutional, legal and moral obligation to visit citizens of Kosovo wherever they were held in such circumstances, notwithstanding the fact that his mandate had been limited by constitutional and legal amendments. The President of the Specialist Chambers and her associates briefed the Ombudsperson on the progress of the judicial proceedings, the launch of a YouTube channel through which court hearings could be followed, the weekly press briefings organised by the Information Office, and the public gallery, which remained open to the public to observe and listen to court hearings.
34. During the meeting, the Ombudsperson noted that concerns had been raised regarding the circumstances in which the court operates and its jurisdiction, as well as other matters, including equality of arms, the duration of detention on remand, the rights of accused persons in proceedings, and the lack of transparency and cooperation on the part of the Ombudsperson of the Specialist Chambers.

35. During this visit, the Ombudsperson visited the detainees, each of whom was given an opportunity to speak with him in a separate room and for an adequate period of time. However, the Ombudsperson was not permitted to visit Mr Salih Mustafa – Cali, on the grounds that a decision had been issued prohibiting visits to Mr Mustafa and that the decision in question was confidential and could not be accessed by the Ombudsperson.
36. In this regard, the Ombudsperson raised as a matter of serious concern the restriction of detainees' rights by means of acts classified as confidential, without the reasons for the restriction or its duration being known.
37. During meetings with the other detainees, a number of concerns were raised, including: failure to respect the principle of equality of arms during judicial proceedings; the duration of detention on remand; the lack of oversight concerning the right to an effective legal remedy, with reference to the fact that the court operates as a single structure and has no clearly established levels for the effective review of legal remedies; delays in translating the records of court hearings into Albanian; redactions to the indictment and other materials that prevent the accused from receiving, in a timely manner, all the evidence and information in a language they understand; the application of double standards in the implementation of legislation, resulting in practices that are inconsistent with the legislation of the Republic of Kosovo; unequal treatment compared with other prisoners with regard to restrictive measures imposed to protect against the pandemic during family visits; the passivity of the Ombudsperson of the Specialist Chambers and the lack of a confidential channel through which to contact that Office; and other concerns.
38. On 18 January 2022, the Ombudsperson reported to the Assembly of the Republic of Kosovo on the Ombudsperson's Annual Report for 2021. On that occasion, the Ombudsperson informed the Members of the Assembly of the Republic of Kosovo about the visit to the KSC and the meeting with the detainees. The Ombudsperson also presented the concerns identified during the visit.¹
39. On 13 May 2025, at her request, the Ombudsperson received the President of the Kosovo Specialist Chambers, Ms Ekaterina Trendafilova, for a meeting.
40. During the meeting, the Ombudsperson raised a number of issues concerning the work of the Specialist Chambers, also drawing on concerns raised by the parties. First, the Ombudsperson expressed concern about the lack of transparency and accountability on the part of the KSC and questioned whether the court was guaranteeing a fair and impartial trial in accordance with the standards of the European Court of Human Rights, particularly with regard to the rights of accused persons in judicial proceedings, as also enshrined in the Constitution of the Republic of Kosovo.
41. In this regard, the Ombudsperson addressed the principle of equality of arms in relation to the evidence and the manner in which it had been obtained, referring in particular to

¹ The Ombudsperson reported to the Assembly of the Republic of Kosovo on the 2021 Annual Report - <https://oik-rks.org/en/2023/01/23/ombudsperson-presented-2021-report-to-kos/>

evidence obtained from the Republic of Serbia, bearing in mind that Serbia is a state that maintains hostile positions towards the Republic of Kosovo and the Kosovo Liberation Army (KLA). He further noted that, given the manner, channels and procedures through which this evidence had been obtained, considerable doubts remained as to its credibility and whether the defence was afforded an opportunity to challenge it by obtaining information from the parties that had secured it.

42. The concerns brought to the Ombudsperson's attention give rise to serious questions about the way the court operates, with all judicial levels consolidated within a single structure. This arrangement leaves room for doubt as to the independence of the judicial levels operating within the court. Such an arrangement is inconsistent with the spirit of international standards guaranteeing a fair trial with regard to the availability of different levels of judicial review and the right to an effective legal remedy.
43. The Ombudsperson also emphasised that the placement of the Constitutional Chamber within this structure remained a matter of concern, raising questions about the separation of powers. This is particularly relevant given that the Constitutional Chamber does not perform the functions of ordinary courts but is responsible for assessing the conformity of decisions and other acts with the Constitution and for reviewing compliance with human rights, in accordance with international standards forming part of the legislation of the Republic of Kosovo.
44. Another concern raised during the meeting related to the monitoring of conversations and visits during detention on remand. Although such monitoring may be permitted by law, it may infringe the principles of privacy and respect for family life, as well as the right to an effective defence, particularly where monitoring extends to communications with the defence teams of the accused.
45. The Ombudsperson considers the duration of pre-trial detention to be a problem in its own right. The length of pre-trial detention, without ever being replaced by a less restrictive measure to ensure the defendant's appearance, as provided for under the legislation of the Republic of Kosovo, undermines the right to a fair and impartial trial, as well as the principle of liberty and security. Furthermore, the failure to change the measures imposed to ensure the defendant's appearance implies that the Court does not trust the institutions of the Republic of Kosovo to ensure compliance with the measures imposed by the Court and to guarantee the conduct of fair and unhindered proceedings.
46. The Ombudsperson also raised the issue of the fact that compensation for victims does not meet the same standard as that applied to injured parties in judicial proceedings in the Republic of Kosovo. The Ombudsperson emphasised that all injured parties should be treated equally.

47. In conclusion, the Ombudsperson reiterated the need for greater public transparency, a clear explanation of the issues raised, and a joint commitment to maintaining a balance between justice and fundamental human rights²
48. The Ombudsperson visited the KSC from 12 to 15 November 2025 and monitored the court hearings held on 12 and 13 November 2025.
49. This visit followed an earlier request submitted by the Ombudsperson on 15 September 2025, in which he requested permission to monitor court hearings, meet with the President of the KSC, and visit the detainees and the premises where they are held.
50. In response, the KSC informed the Ombudsperson that he could observe the hearings scheduled for 12 and 13 November 2025, meet with the Registry Office, and meet with the detainees. However, the KSC did not respond at all to the request to visit the premises where the detainees are held, thereby preventing the Ombudsperson from carrying out the visit to those premises.
51. During this visit, the Ombudsperson carried out the following activities:
- On 12 and 13 November, the Ombudsperson monitored court hearings at which Mr Christopher Hill and Mr Michael Durkee, witnesses proposed by the defence teams of the accused, testified.
 - On 13 November, the Ombudsperson met with the defence representatives of Mr Hashim Thaçi, Mr Kadri Veseli, Mr Jakup Krasniqi and Mr Rexhep Selimi.
 - On 14 November, the Ombudsperson held a meeting with the Registry of the KSC.
 - On 15 November, the Ombudsperson held individual meetings with the detainees, Mr Hashim Thaçi, Mr Kadri Veseli, Mr Jakup Krasniqi and Mr Rexhep Selimi.

Findings

52. Following these visits, the Ombudsperson raises concerns as to whether the guarantees set out in the Constitution of the Republic of Kosovo and international standards, particularly those established under the European Convention on Human Rights (ECHR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, are being upheld at the KSC.
53. In this regard, the Ombudsperson has found that:
- The KSC is not monitored by any international institution or organisation, apart from the International Committee of the Red Cross (ICRC). Furthermore, the KSC is not accountable for its work to any institution in the Republic of Kosovo, resulting in a complete lack of transparency towards the people and institutions of the Republic of Kosovo.

² The Ombudsperson received the President of the Kosovo Specialist Chambers for a meeting - <https://oik-rks.org/en/2025/05/13/the-ombudsperson-met-the-president-of-the-specialist-chambers/>

- With regard to the issue of surveillance, the Ombudsperson emphasises that the Court could have taken preventive measures to avert any criminal offence identified through the surveillance measures it had ordered. Furthermore, it is a matter of concern that the Court installed surveillance devices without informing the detainees that their conversations were being monitored, and that it remains unclear precisely when and on what grounds they were placed under surveillance.
- The jurisdiction of the KSC is unclear, and it is not clear precisely which normative basis or international practice the KSC applies in adjudicating cases, or whether the principle of *nullum crimen, nulla poena sine lege* is respected.
- It is unclear whether the organisational structure of the KSC complies with international standards applicable to a tribunal. This finding stems from the fact that all judicial instances, as well as the Constitutional Court and the Ombudsperson, are situated within a single institution, raising doubts as to their independent and impartial functioning in relation to the cases being adjudicated, as well as the effectiveness of legal remedies and the right to a fair and impartial trial.
- Regarding the independence of the Ombudsperson of the KSC, the Rules of Procedure and Evidence of the KSC expressly stipulate that the Ombudsperson of the KSC shall perform his or her functions independently and that his or her independence must be respected.
- One aspect that merits attention is the fact that the Office of the Ombudsperson of the KSC is integrated into the KSC's administrative structure. In a system where the Ombudsperson monitors respect for human rights by the very institution within whose administrative structure the Office is embedded, this poses a challenge to the independent and impartial discharge of the Ombudsperson's duties, free from undue influence.
- It is a matter of concern whether, in drafting its regulations, the KSC fully complied with the obligation delegated to it by law or exceeded its legal authority by establishing powers that may affect the separation of powers and by altering the procedures and practices applied by courts when handling criminal cases in the Republic of Kosovo.
- In this regard, the impression is created that the KSC may have exceeded the legislative authority delegated to it by law, by establishing rules that depart from statutory provisions, or that such rules should have been laid down by law rather than through a by-law.
- The actions of the KSC in accepting evidence or literature from Serbia raise concerns and, at the same time, call into question the credibility of the evidence and whether it meets the minimum threshold of reliability required in the proceedings.
- It remains a matter of concern whether the standard of equality of arms in judicial proceedings is being applied in the cases before the Court. This concern arises from

the fact that the preparation of the indictment took five years, whereas the defence was given only two months to prepare its case. In proceedings of such complexity, it must therefore be assessed whether the defence was afforded sufficient time and facilities to examine the materials, prepare its arguments and analyse the volume of evidence. This is of particular importance to the principle of equality of arms.

- The right of detainees to respect for their private and family life has been infringed, as visits conducted under camera surveillance and in the presence of correctional officers raise doubts as to the compatibility of these practices with international standards on respect for private and family life.
- The Ombudsperson considers that there has been interference with, and a failure to respect, the status of the accused in criminal proceedings. This assessment is based on the fact that Mr Thaçi's laptop, which he uses to prepare his defence arguments in the proceedings against him, was confiscated. Such an approach undermines the dignity of a person accused in judicial proceedings and restricts his right to defence.
- Furthermore, the use of restrictive measures that interfere with the liberty of persons in pre-trial detention, their communications, and their ability to retain notes and documents under their control is considered to have infringed the right to defence, thereby also undermining equality of arms in judicial proceedings.
- The Ombudsperson has found that the KSC's external funding arrangements are highly unclear and that transparency regarding such funding is lacking. This lack of transparency raises questions as to whether the standard requiring the Court to be impartial and to operate within the framework of Kosovo's jurisdiction, as established by the constitutional amendment and the Law on Specialist Chambers, is being met.
- It is noted that the Ombudsperson of the KSC has not published any reports on prison visits, that it is unclear to whom the Ombudsperson reports, and that the manner in which the Ombudsperson was appointed is contrary to the standards governing the appointment of ombudspersons and the role of the institution. For these reasons, it remains highly unclear whether the Ombudsperson of the KSC is operational and whether the mandate is being fulfilled.
- Finally, the Ombudsperson raises concerns as to whether the KSC is complying with domestic and international standards concerning provisional release and pre-trial detention, the right to a competent, independent and impartial tribunal established by law, the admissibility of evidence, equality of arms between the defence and the prosecution, the principle of legality, and institutional accountability.

Actions Taken by the Ombudsperson Following the Visits to The Hague

54. Given that he had been unable to visit the premises where the detainees are held, the Ombudsperson notified the International Committee of the Red Cross (ICRC) and the European Committee for the Prevention of Torture (CPT) and requested their engagement

in monitoring these premises, as well as information on whether the minimum standards for persons in pre-trial detention were being respected. The Ombudsperson also raised his concerns regarding the failure to respect these rights.

55. In this regard, the Ombudsperson received responses, but they did not provide substantive information.
56. The ICRC informed the Ombudsperson that it reports to the KSC. For the Ombudsperson of the Republic of Kosovo, this is an unusual situation, as reports on the monitoring of respect for the rights of detainees are not accessible to the public. This raises serious concerns, not only about the lack of transparency but also about the possibility that information of concern may be withheld from the public. The CPT, meanwhile, confirmed receipt of the letter from the Ombudsperson of the Republic of Kosovo but provided no further response.
57. This indicates that the detention facilities and respect for the rights of the accused held therein are not subject to monitoring, since monitoring by the ICRC is conducted at the request of the Court, and it is unclear whom it serves, other than the Court's own purposes.
58. On 30 December 2025, the Ombudsperson sent a letter to the President of the KSC, expressing his preliminary and principled concerns regarding the compatibility of proceedings before the Specialist Chambers with the fundamental rights guaranteed by the Constitution of the Republic of Kosovo, the relevant international human rights instruments and, where applicable, the case law of the European Court of Human Rights, which constitutes a source of domestic law pursuant to Article 53 of the Constitution.
59. Furthermore, in this letter, the Ombudsperson raised concerns regarding the fact that the Specialist Chambers are not subject to any monitoring or accountability mechanism involving the domestic institutions of the Republic of Kosovo. The Ombudsperson also expressed concerns regarding the conduct of judicial proceedings, the admission of evidence, including evidence from Serbia, and reliance on materials such as published books.³
60. The Ombudsperson received no response to the letter he sent to Ms Trendafilova on 30 December 2025.

Taking into account the findings outlined above, the barriers and obstacles preventing the Ombudsperson from having unrestricted access to the KSC, the increasingly vocal public concerns expressed in recent times, and the lack of cooperation and transparency on the part of the KSC and its mechanisms, the Ombudsperson decided to engage an international organisation to address the concerns identified during the visits to the KSC, with the aim of ensuring an independent and impartial assessment.

³ Letter from the Ombudsperson, Mr Naim Qelaj, to the President of the Kosovo Specialist Chambers, Ms Ekaterina Trendafilova - <https://oik-rks.org/en/2026/01/13/letter-from-mr-naim-qelaj-ombudsperson-of-the-republic-of-kosovo-addressed-to-judge-ekaterina-trendafilova-president-of-specialist-chambers/>

Commissioning of the *Bar Human Rights Committee of England & Wales (BHRC)* by the Ombudsperson of the Republic of Kosovo

61. In order to present and analyse as objectively as possible the concerns identified during the visits to the KSC, the Ombudsperson decided to commission an independent international organisation with considerable experience in monitoring tribunals.
62. In this regard, the Ombudsperson analysed the criteria that the organisation tasked with examining this matter would need to meet. Experts and academics in the field of human rights with international experience were also consulted on the steps to be taken towards engaging an organisation to examine the matter in question.
63. Ultimately, following extensive consideration and taking into account its long-standing experience in monitoring tribunals, the Ombudsperson engaged the *Bar Human Rights Committee of England & Wales (BHRC)* to analyse several issues previously raised by the Ombudsperson and communicated to the BHRC in the form of a concept note.
64. Although the Ombudsperson had identified a relatively large number of issues requiring analysis and consideration with a view to assessing the KSC's compliance with international standards, the timeframe before the delivery of the first-instance judgment by the KSC was very limited. Furthermore, addressing all the Ombudsperson's concerns would have required a relatively lengthy assessment. The Ombudsperson therefore focused on a number of issues that had raised public concern in the Republic of Kosovo.
65. In this regard, the analysis focused on the following issues:
- Provisional release and pre-trial detention;
 - The right to a competent, independent and impartial tribunal established by law;
 - The admissibility of evidence;
 - Equality of arms between the defence and the prosecution;
 - The principle of legality;
 - Institutional accountability.
66. Given the highly specific circumstances of the case to be analysed by the BHRC, and in order to ensure the greatest possible objectivity in examining these concerns, the BHRC's criteria, procedures, methodology and position, as expressed in its report, were entirely independent.
67. On 30 April 2026, the BHRC published its report on the preliminary assessment of the Specialist Chambers. On that occasion, the Ombudsperson held a press conference to inform those present about the BHRC report and its contents.⁴

⁴ Speech by the Ombudsperson, Mr Naim Qelaj, on the occasion of the presentation of the report *Preliminary Assessment of the Kosovo Specialist Chambers* - <https://oik-rks.org/en/2026/04/30/statement-of-the-ombudsperson-mr-naim-qelaj-on-the-occasion-of-the-presentation-of-the-report-preliminary-review-of-the-kosovo-specialist-chambers/>

68. The BHRC report presented findings demonstrating that the Ombudsperson's concerns regarding the KSC were well-founded and warranted careful examination by the institutions of the Republic of Kosovo.
69. The Ombudsperson highlights several of the key aspects addressed in the report:
- In accordance with its purpose, this report constitutes a preliminary assessment rather than a final judicial determination. The report does not conclude that the KSC is failing in its mission.
 - The report confirms that the concerns raised are substantial and sufficiently serious to warrant further institutional scrutiny. In particular, it finds that the KSC's mandate has deviated from its original purpose and from the spirit purportedly set out in the Council of Europe Report ("[...] *the mandate of the KSC's shifted.*" – paragraph 26).
 - With regard to pre-trial detention and restrictions on rights during detention, the report identifies serious concerns regarding the duration of detention, the lack of genuine opportunities for provisional release, and restrictions on family and professional communications. The report finds that "*Release in the Netherlands, where the proceedings take place, is unavailable*" (paragraph 53), thereby creating a structural barrier that places the accused at a disadvantage. Furthermore, the systematic monitoring of communications raises concerns under Article 8 of the ECHR, as "*systematic monitoring for other purposes constitutes an interference with Article 8*" (paragraph 57). In conclusion, the report considers that this framework gives rise to serious doubts as to its compatibility with Article 5 of the ECHR and Article 9 of the ICCPR (paragraph 61).
 - With regard to jurisdiction, institutional accountability and transparency, the report raises serious concerns about the absence of effective mechanisms for democratic oversight and institutional scrutiny. It identifies a normative and procedural gap concerning the KSC's accountability to funding states and international partners, as well as a lack of internal mechanisms to ensure effective transparency, including in cases involving allegations of violations of fundamental rights. The report emphasises that the combination of broad powers and the absence of procedural avenues for challenging them creates a "*gap in the framework*" (paragraph 100).
 - Regarding the standard of a competent, independent and impartial tribunal established by law, the report identifies significant concerns relating to the appointment and composition of judicial panels. It finds that the President enjoys "[...] *considerable discretion to compose Panels [...]*" (paragraph 74), which may affect the perception of impartiality, particularly at the appellate level. Furthermore, the report identifies concerns regarding the inter-institutional consultations envisaged under Rule 12 (paragraphs 76-77), as well as the absence of judges from Kosovo, calling into question the KSC's competence in relation to domestic law and practice ("*The exclusively international composition brings into question the competence [...]*" – paragraph 106).

- The report expresses particular concern regarding issues relating to procedural integrity and the perception of impartiality, following the participation of the President, the Specialist Prosecutor and the Registrar in a diplomatic briefing held without the knowledge of the defence (paragraph 83). The report notes that statements attributed to the Specialist Prosecutor, including predictions of life imprisonment sentences and opposition to provisional release, remain unchallenged (“*the attributed statements [...] remain [...] unrefuted*” – paragraph 101). According to the report, these circumstances raise serious concerns not only regarding the presumption of innocence, but also regarding the integrity of the provisional release process (paragraph 102), as well as the lack of procedural transparency (paragraph 103).
- With regard to the admissibility of evidence, particularly evidence obtained from Serbia, the report identifies considerable legal uncertainty. The approach of provisionally admitting evidence and deferring its final assessment until the judgment is described as a potential source of procedural unfairness and uncertainty for the parties (“*A source of significant uncertainty and potential unfairness*” – paragraph 115). As regards evidence originating from Serbia, the report identifies a serious lack of transparency, as the defence’s requests for access to and disclosure of information concerning the origin of the materials remain unresolved by any public decision (“*The absence of any published available ruling is itself a transparency concern.*” – paragraph 138).
- In relation to the principle of equality of arms, the report identifies preliminary concerns affecting the effectiveness of the defence, including restrictions on privileged visits, the lack of adequate time and facilities for preparation, delayed and partial disclosure of evidence, parallel criminal proceedings, and unilateral changes to the legal aid scheme. The report considers these elements to constitute serious indicators warranting further analysis, although no definitive conclusion can be reached at this stage as to whether specific violations have occurred (“*[...] cannot, [...], support a finding of a violation [...]*” – paragraph 148).
- With regard to the principle of legality, the report raises concerns about the use of norms and standards derived from the Rome Statute, which was adopted after the period falling within the KSC’s temporal jurisdiction. The report emphasises that reliance on legal sources postdating the relevant period “*runs the risk of adopting an interpretation of customary international law*” (paragraph 176). For this reason, the report finds that there is a real risk that the normative framework governing the criminal offences may not be fully consistent with the principle of legality (“*[...] creates risk [...] inconsistent [...]*” – paragraph 209).
- In conclusion, the report emphasises that it constitutes a preliminary assessment rather than a final determination, but identifies a number of serious and documented concerns that cannot be disregarded. It stresses that the relevant benchmark for assessment must be the Constitution of Kosovo and the ECHR, rather than potentially

problematic practices of other international tribunals. Accordingly, the BHRC recommends the establishment of a permanent, independent and adequately funded mechanism for the continuous monitoring of judicial proceedings before the KSC, emphasising that institutional credibility and legitimacy require effective external oversight.

- Taking into account the authority, professional integrity and international credibility of the Bar Human Rights Committee of England and Wales (BHRC), as well as the independent and well-documented nature of this preliminary assessment, the report carries considerable legal and institutional weight, as it identifies serious concerns directly affecting fundamental human rights standards, including the right to a fair trial under Article 6 of the ECHR, the right to liberty and security, the protection of personal liberty, respect for private and family life, and the effectiveness of legal remedies.
- Although the report does not reach definitive conclusions regarding specific violations, the extent and nature of the concerns identified give rise to a real risk of systematic infringements of these rights and call for urgent institutional action. The key message emerging from the report is the need to strengthen transparency, accountability and independent oversight mechanisms without delay, in order to prevent procedural or structural deficiencies from undermining the legitimacy of the judicial process.
- In this context, the Ombudsperson will continue to pursue further examination of matters that, owing to their complexity, duration and procedural volume, could not be fully addressed at this preliminary stage, including through ongoing monitoring and additional thematic analyses.
- At the same time, the domestic authorities have an institutional and constitutional obligation, in order to protect fundamental rights and safeguard the integrity of the justice system, to address these findings through active institutional engagement, the promotion of independent monitoring mechanisms, and efforts to ensure full compliance with the Constitution of Kosovo and international human rights instruments.⁵
- The report identifies a number of preliminary concerns that are sufficiently serious to warrant attention and sufficiently well documented to withstand dismissal. The appropriate benchmark for comparison is not what other international (or internationalised) courts and tribunals have tolerated; comparisons with institutions that have themselves, in some instances, failed to uphold fair trial standards offer little reassurance. The KSC is accountable to the Constitution of Kosovo and the

⁵ Speech by the Ombudsperson, Mr Naim Qelaj, on the occasion of the presentation of the report *Preliminary Assessment of the Kosovo Specialist Chambers* - <https://oik-rks.org/en/2026/04/30/statement-of-the-ombudsperson-mr-naim-qelaj-on-the-occasion-of-the-presentation-of-the-report-preliminary-review-of-the-kosovo-specialist-chambers/>

ECHR standards incorporated into its legal framework, and its performance must be assessed against these standards, applied rigorously.

- This assessment matters for reasons that extend beyond procedural considerations, as the liberty of individuals is at stake. At the same time, victims have waited decades for accountability, and affected communities have a profound interest in ensuring that justice is not only done but is also seen to be done. Furthermore, the KSC's decisions will inevitably affect broader transitional justice efforts and the still-fragile architecture of peace and stability in the region. The consequences of errors in this field extend beyond the courtroom.
 - For these reasons, the BHRC recommends the establishment of a permanent, independent and adequately resourced mechanism for trial monitoring. The KSC was established to deliver justice that commands confidence in the region and beyond. This requires continuous external scrutiny and a willingness on the part of the Court itself to accept such oversight.
70. Following the publication of the BHRC report and the announcement of its contents to the public, the Ombudsperson forwarded the report, together with an explanatory letter, to the states funding the KSC, the Council of Europe, the European Union, the institutions of the Republic of Kosovo, and diplomatic missions accredited to the Republic of Kosovo.⁶
71. Through the explanatory letter, the Ombudsperson sought to inform the relevant institutions and states that the findings identified in the aforementioned assessment raised serious concerns regarding the protection of the fundamental procedural safeguards afforded to accused persons. In particular, the issues highlighted in the report concern the right to a fair, transparent and impartial trial. These principles constitute fundamental safeguards under international human rights law and international criminal justice.
72. Furthermore, through the explanatory letter, the Ombudsperson emphasised the importance of ensuring that judicial mechanisms operating within the European human rights system fully adhere to the highest international standards of justice, transparency and judicial independence. Addressing the concerns identified in the report is essential not only for the protection of the procedural rights of accused persons, but also for safeguarding the credibility and integrity of the judicial proceedings.
73. On 11 June 2026, the Ombudsperson of the Republic of Kosovo organised a presentation in The Hague of the independent preliminary report on the functioning of the Kosovo Specialist Chambers and the Specialist Prosecutor's Office.
74. The report was presented by experts commissioned by the *Bar Human Rights Committee of England and Wales* (BHRC). The conference was attended by numerous

⁶ The Ombudsperson addresses a letter to the U.S. Secretary of State and the funding states regarding the findings of the report on the Kosovo Specialist Chambers - <https://oik-rks.org/en/2026/05/06/ombudsperson-of-kosovo-petitions-us-secretary-of-state-and-funding-states-regarding-findings-of-report-on-kosovo-specialist-chambers/>

representatives of the embassies of various European countries, as well as other participants interested in issues relating to the rule of law and the protection of human rights.

75. During the conference, BHRC experts Dr Gus Waschefort and Ms Lauren Lederie presented the main findings of the preliminary report, addressing, in particular, the institutional structure of the KSC, provisional release, the right to a competent, independent and impartial tribunal established by law, the admissibility of evidence, and the principle of legality.⁷

Findings of the Ombudsperson

76. The Ombudsperson emphasises that, by establishing the KSC, the Republic of Kosovo fulfilled its obligation arising from the international agreement with the Council of Europe. According to the findings of the BHRC, the Court has not been monitored and has not been subject to any democratic oversight of its work. Consequently, a lack of accountability and transparency has been identified, with many of the concerns raised remaining unanswered.
77. In this regard, the Ombudsperson of the Republic of Kosovo considers that the EU and the Council of Europe, as parties to the international agreement that led to the establishment of the KSC, should establish mechanisms to assess the entire process before the KSC, as it is important to determine whether human rights and fundamental freedoms have been respected throughout these judicial proceedings.
78. In this connection, the Ombudsperson considers that this matter should be raised by the institutions of the Republic of Kosovo with the relevant international institutions, with a view to clarifying the situation.
79. Furthermore, it is important for the Republic of Kosovo to play an active role in creating the conditions necessary for the work of the KSC to be monitored by civil society organisations working in the field of human rights and fundamental freedoms.
80. The Ombudsperson finds that the KSC has not been transparent towards the citizens and institutions of the Republic of Kosovo in clarifying matters that have given rise to public concern and are related to standards for the respect of human rights and fundamental freedoms.
81. The Ombudsperson emphasises that the establishment of a body such as the KSC, which has no local representation, provides neither transparency nor accountability, and is not subject to oversight by any institution of the Republic of Kosovo, has proven to be a flawed model. This situation has led the public to believe that, in this case, the Court is not operating in accordance with the standards applicable to judicial proceedings.
82. It is important for this Court to consider ways of enhancing transparency towards the citizens and institutions of the Republic of Kosovo, in light of the ongoing public

⁷ The Ombudsperson presented the BHRC report in The Hague - <https://oik-rks.org/en/2026/06/11/the-ombudsperson-presented-the-bhrc-report-in-the-hague/>

concerns regarding compliance with the standards guaranteeing a fair and impartial trial and respect for the rights of accused persons in judicial proceedings.

83. The Ombudsperson emphasises that, since the KSC was established as a result of an international agreement, it is incumbent upon the Council of Europe and the European Union to establish an independent commission or team to assess the KSC's work to date on the basis of a detailed analysis. The purpose would be to determine whether the Court is operating within its mandate and has refrained from exceeding its powers, whether it has applied the standards for a fair and impartial trial, and whether it has respected fundamental human rights and freedoms.
84. In this regard, it is important that any monitoring and assessment be carried out in cooperation with the independent institutions of the Republic of Kosovo, in order to ensure that the matter is addressed impartially and independently.
85. The Ombudsperson has found that the sources of information about the KSC have been the Court's President and Registrar. The absence of monitoring and assessment of the Court's work by other independent mechanisms suggests that a narrative has been shaped solely by the Court itself. Therefore, the Court should publish the reports it has submitted to the funding states, as this would contribute to transparency and help clarify for the public the issues discussed at these meetings. We believe that these matters do not concern the judicial proceedings; otherwise, this would constitute a very serious problem.
86. The Ombudsperson has not included a legal analysis in this report because the concerns raised were referred to the BHRC, which prepared a report addressing all these aspects. The Ombudsperson considers the BHRC's views to be independent and believes they warrant attention from the KSC and other relevant mechanisms. In this regard, the Ombudsperson emphasises that the BHRC report's findings, taken as a whole, have confirmed the concerns raised by the Ombudsperson and referred for examination. This report is attached as an annex to the present report.
87. It is important to call on the Council of Europe and the European Union to publish their respective reports relating to the KSC, and to request that the International Committee of the Red Cross publish its reports on visits to the KSC, so that these reports are also accessible to the citizens of the Republic of Kosovo.
88. In conclusion, the Ombudsperson considers it a matter of grave concern that the KSC's mandate has deviated from its original purpose and from the spirit purportedly set out in the Council of Europe Report. This matter should be examined by the authorities responsible for establishing and funding the Court.
89. Taking into account the circumstances outlined above, and pursuant to Article 135, paragraph 3, of the Constitution of the Republic of Kosovo, as well as Article 18, paragraph 1, subparagraph 1.5, of Law No. 05/L-019 on the Ombudsperson, the Ombudsperson hereby

RECOMMENDS

To the Assembly of the Republic of Kosovo:

- *The Assembly of the Republic of Kosovo, in cooperation with the Government of the Republic of Kosovo, should enable support for an independent and professional mechanism to monitor judicial proceedings before the KSC, in accordance with the legal framework and in compliance with the guarantees of judicial independence.*
- *The Assembly of the Republic of Kosovo, in cooperation with the Government of the Republic of Kosovo, should address all identified concerns regarding judicial proceedings before the KSC with the Council of Europe and other international mechanisms. It should request that these mechanisms assess and analyse whether human rights and fundamental freedoms standards guaranteeing a fair and impartial trial are being upheld.*

To the Specialist Chambers:

- *Publish all reports concerning donor countries and communications with third countries. In all future communications of this nature, invite the institutions of the Republic of Kosovo to participate and ensure that reports on such communications are made public.*

In accordance with Article 132, paragraph 3, of the Constitution of the Republic of Kosovo (“Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law.”) and Article 28 of Law no. 05/I-019 on Ombudsperson (“Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, [...], must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question.”), please kindly inform us about the actions taken regarding the matter in question.

Respectfully,

Naim Qelaj
Ombudsperson

- Annex 1

BHRC Report: *Preliminary Review of the Kosovo Specialist Chambers – Structure, Function, Emerging Practice and Legal Challenges*