

Specialist Prosecutor explains imminent departure

 www.scp-ks.org/en/specialist-prosecutor-explains-imminent-departure



Specialist Prosecutor David Schwendiman issued a statement today setting out the reasons for his April departure from The Hague, which is due to the expiry of his fixed-term appointment as a Senior Foreign Service Officer in the US State Department.

Mr Schwendiman will be leaving the Specialist Prosecutor's Office on 31 March 2018 when his appointment comes to an end.

"This must happen because the US administration is unable to overlook my status as a retiree called back into service – something the law won't let me change regardless how much I might want to stay," Mr Schwendiman said in the attached statement.

In the statement, Mr Schwendiman made clear that he was neither resigning nor being relieved of his duties and that his imminent departure did not signal a change in policy or commitment to the work of the Specialist Prosecutor's Office on the part of the US or the European Union or the international community as a whole.

"On the contrary, the speed with which the European Union has responded to start the search for a new Specialist Prosecutor indicates the strength of its support – just as the universal response to the effort to repeal the law which created the Specialist Chambers and Specialist Prosecutor's Office just a few weeks ago demonstrated international resolve and support for us," he said.

Mr Schwendiman explained that: "The heavy lifting in any prosecution office is done by the people in the office not the executive leading it," adding that this would not change in the Specialist Prosecutor's Office.

"My job as the Specialist Prosecutor is to set policy and guide the work and ensure that those doing the work have the resources and support they need to get it done," Mr Schwendiman said, pointing out that he had put the Specialist Prosecutor's Office on a

steady course; helped recruit an exceptional staff; helped ensure the office acquired the necessary resources; and worked with the international community to obtain the support needed to do the work.

Kwai Hong Ip, Mr Schwendiman's Deputy, will be taking over as acting Specialist Prosecutor, thereby providing continuity.

Mr Schwendiman also had a very clear message in relation to the investigation he is heading.

"No one responsible for the crimes covered by the mandate of the Specialist Prosecutor's Office and Specialist Chambers should for one second think that my departure has anything to do with any lack of commitment to the investigation.

"Our work has always been about individual accountability – about holding people responsible for their acts, for what they did as individuals – it has never been about changing history or singling out groups for condemnation.

"That will not change when a new Specialist Prosecutor takes over," he said.

He also made clear that those affected by the crimes covered by the mandate "have every reason to remain confident in the work we have done, are doing or will be doing in future".

"The resolve of those working in the Specialist Prosecutor's Office will not be affected simply because I am being replaced," he said, adding that "Whoever comes after me will be equally committed to getting the job done right and done well and to getting it done as soon as possible."

Mr Schwendiman was appointed Specialist Prosecutor in September 2016, having served as Lead Prosecutor of the Specialist Investigative Task Force from May 2015.

Mr Schwendiman retired from the US Department of Justice in 2014 having held various positions in the department, including Senior Litigation Counsel, First Assistant US Attorney and Interim US Attorney in the District of Utah. After his retirement, he immediately returned to service with the Special Inspector General for Afghanistan Reconstruction (SIGAR) as the Special Inspector's Director for Forward Operations in Kabul. He came to the Special Investigative Task Force on the heels of his service with SIGAR.

In a career spanning five decades, he completed assignments in Bahrain, Bangladesh, Brazil, Thailand and Vietnam, and spent many years in Afghanistan and Bosnia and Herzegovina.

Here is the Specialist Prosecutor's statement:

"I have just been informed by the US Department of State that my three-year term as a Senior Foreign Service Officer will end on 31 March 2018.

As a result, my secondment as the Specialist Prosecutor cannot be extended.

This must happen because the US administration is unable to overlook my status as a retiree called back into service – something the law won't let me change regardless how much I might want to stay.

As soon as I was told, I advised the European Union and the Registrar of the Specialist Chambers that I must vacate my position as Specialist Prosecutor as of 31 March 2018. I did this to enable the Registrar to immediately begin the search for my successor.

As I have said repeatedly since becoming the Specialist Prosecutor, speculation about our work in the Specialist Prosecutor's Office and now in my case isn't helpful or reliable. I've also said you shouldn't believe anything unless you hear it from me. I am making this statement to ensure you get all of this directly from me.

Most importantly, I am not resigning. In truth I would be delighted if US law permitted me to stay. But it won't and I must, as a consequence, and very reluctantly, leave a position that I am both proud and honoured to hold.

Neither am I being relieved because of dissatisfaction in my performance or the work of the Specialist Prosecutor's Office – quite the contrary.

This is merely a change US law requires – nothing more.

My leaving does not signal a change in policy or commitment to the work of the Specialist Prosecutor's Office and Specialist Chambers on the part of the US or the European Union or the international community as a whole.

On the contrary, the speed with which the European Union has responded to start the search for a new Specialist Prosecutor indicates the strength of its support – just as the universal response to the effort to repeal the law which created the Specialist Chambers and Specialist Prosecutor's Office just a few weeks ago demonstrated international resolve and support for us.

As for me and my role, in truth, the heavy lifting in any prosecution office is done by the people in the office not the executive leading it.

That won't change in the Specialist Prosecutor's Office when my successor is appointed.

My job as the Specialist Prosecutor is to set policy and guide the work and ensure that those doing the work have the resources and support they need to get it done.

I believe I have put the Specialist Prosecutor's Office on a steady course.

I have helped staff the office with an extraordinary group of prosecutors, legal officers, investigators, analysts, and brilliant people to support them.

As all good professionals do, they will adjust and carry on.

I have helped the office acquire the resources and worked with the international community to get the support we need to do our work.

My Deputy, Kwai Hong Ip, will take over as acting Specialist Prosecutor, as he has already done previously, thereby providing continuity.

The Specialist Prosecutor's Office is in a good place; its work will continue undeterred.

No one responsible for the crimes covered by the mandate of the Specialist Prosecutor's Office and Specialist Chambers should for one second think that my departure has anything to do with any lack of commitment to the investigation.

Our work has always been about individual accountability – about holding people responsible for their acts, for what they did as individuals – it has never been about changing history or singling out groups for condemnation.

That will not change when a new Specialist Prosecutor takes over.

Those who were affected by the crimes covered by the mandate have every reason to remain confident in the work we have done, are doing or will be doing in future.

Our witnesses needn't fear the change.

The resolve of those working in the Specialist Prosecutor's Office will not be affected simply because I am leaving.

Whoever comes after me will be equally committed to getting the job done right and done well and to getting it done as soon as possible.

In summary, while I am saddened that I must leave colleagues I admire and respect without finishing what we started together – colleagues in whom I have enormous confidence, faith and trust; colleagues who have accomplished a great deal since I joined them in May 2015 – I know that because of them the work of the Specialist Prosecutor's Office will not suffer.

I am grateful for the support I have received during my three years from those in Pristina and Belgrade who have engaged with us, from those in the European Union institutions with whom we have worked, from the international community which has been steadfast, from the members of the diplomatic community in The Hague who I have gotten to know so well, from the Registrar who is not only a consummate professional but also a friend and valued colleague, from the President of the Specialist Chambers, but most of all from all of the people with whom I have had the privilege of working for and with over the last three years."