

# Handling of Conditional Release Cases by the Supreme Court of Kosovo: *an analysis for 2024*

December 2024



GROUP FOR LEGAL  
AND POLITICAL  
STUDIES

BRIEF

## HANDLING OF CONDITIONAL RELEASE CASES BY THE SUPREME COURT OF KOSOVO: AN ANALYSIS FOR 2024

December 2024



© Group for Legal and Political Studies | Center for Strategic Litigation, December 2024.

The opinions expressed in this document do not necessarily reflect those of Group for Legal and Political Studies donors, their staff, associates or Board(s). All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without the permission. Contact the administrative office of the Group for Legal and Political Studies for such requests.

Group for Legal and Political Studies | Center for Strategic Litigation  
“Rexhep Luci” str. 16/1  
Prishtina 10 000, Kosovo  
Website: [www.legalpoliticalstudies.org](http://www.legalpoliticalstudies.org)  
E-mail: [office@legalpoliticalstudies.org](mailto:office@legalpoliticalstudies.org)  
Tel/fax.: +381 38 234 456

This report is published within the framework of the project “Human Rightivism”, financed by the the Swedish International Development Cooperation Agency (SIDA), implemented by the Community Development Fund (CDF). Opinions expressed in this report are the sole responsibility of the Group for Legal and Political Studies and do not reflect those of the donor, their staff, associates or Board (s).



# HANDLING OF CONDITIONAL RELEASE CASES BY THE SUPREME COURT OF KOSOVO: AN ANALYSIS FOR 2024

## INTRODUCTION

The legal institute of conditional release is a legal procedure that allows convicts to be released before entirely serving a sentence of imprisonment, thus returning to their normal life, family and society. The purpose of applying conditional release is to reduce the negative effects of imprisonment, rehabilitate and reintegrate the convict into society, prepare them for a responsible life and protect the society by preventing commission of criminal offences.

Among the main reasons for drafting such an analysis is the fact that in 2023, more than half of the convicts' requests were rejected by the Panel and also most of the appeals against the Panel's decisions were not approved by the Supreme Court. This caused the convicts to turn to the Ombudsperson Institution with claims that their requests were not examined in time; they did not agree with the reasons given for rejecting their requests; the decision consisted of facts which they did not consider to be related to the convicts' themselves; the decisions were sort of patterns, in which only personal data were changed, and so forth.<sup>1</sup>

Therefore, this analysis, in addition to clarifying the importance of the institute of conditional release and its legal basis, shall elaborate how cases of conditional release were handled during the period January 1 - October 31, 2024 by the Supreme Court of the Republic of Kosovo, whose decisions regarding this procedure are final.

From 27 decisions published during the aforementioned period, it results that only in one case the Supreme Court has approved the appeal of the convict in relation to the rejection of their requests by the Conditional Release Panel. Whereas the rest of the decisions of the third instance court have confirmed the factual and legal status of the decisions issued by the Panel, which implies that the work of this institution can be evaluated positively and in accordance with the provisions that regulate the institute of conditional release in our country.

At least in three of the 27 cases that were analyzed, the Supreme Court has confirmed the Panel's decisions even though they were taken contrary to the factual situation, namely to the report of the Professional Team of the Correctional center. Similarly, although the proactive role of the Supreme Court in the publication of judicial decisions is highly appreciated, only 1 of the 27 analyzed decisions was published in both official languages. Another important fact is that in no case are we dealing with requests for conditional release submitted before the legal deadline, while it is very concerning that some complaints were submitted after the legal deadline or without recognizing this right to the convict, as well as finding conflict of interest and non-compliance with the obligation to dismiss members of the Panel who have examined the requests of the convicted.

An important part of this analysis is selection and examination in detail of the 6 most specific decisions regarding the nature of the convicted person, the criminal offense committed, duration of the sentence and the means of decision by the Panel and the Supreme Court of Kosovo.

The last part is a brief summary of the main findings and the specific recommendations for all institutions that participate in the implementation of conditional release, as a very important

---

<sup>1</sup>Ombudsperson Institution, Annual Report 2023, pg. 88, available at: <https://shorturl.at/0RrTk>

benefit for every person who is deprived of his freedom, whose punishment against has achieved the intended legal goals

## I. CONDITIONAL RELEASE AS A LEGAL CONCEPT AND INSTITUTE

In our country, this institute, which serves as an incentive for convicts to have good behavior while serving their sentence and to be active in training and resocialization programs, has been applicable since the year [2002](#), at the time when Kosovo was under the supervision of the United Nations Mission in Kosovo (UNMIK). Subsequently, conditional release continued to be part of the primary legislation, namely in the Criminal Code of the Republic of Kosovo (CCRK), the Juvenile Justice Code and the Law on the Execution of Criminal Sanctions (LECS).

Last year, the Kosovo Judicial Council (KJC) approved the new Regulation No. 12/2023 on the Rules of Procedure for the Conditional Release Panel, which applies to requests submitted by convicts to Correctional Institutions, their review by the Panel and supervision of conditional releasees from the Kosovo Probation Service (KPS).

Both the primary legislation and this by-law determine that conditional release is decided by the Conditional Release Panel (hereinafter: CRP or the Panel), while the competence of the Supreme Court of Kosovo is to handle the complaints of the party dissatisfied with the Panel's decision, in cases when requests for such conditional release have been rejected for a review period of up to 6 months.

For each person who has been found guilty of committing a criminal offense defined by the Criminal Code of the Republic of Kosovo (CCRK) and for whom an effective prison sentence has been imposed, the execution of the criminal sanction begins when the decision becomes final, if there are no legal obstacles to its execution. The sentence by imprisonment is served in a high security prison or in one of the correctional centers within the Kosovo Correctional Service (KCS).

The execution of the sentence, in this case the imprisonment, according to the legislation in force, aims to prevent the perpetrator from committing criminal offenses in the future and to rehabilitate them; to prevent other persons from committing criminal offences; to compensate the victims or the community for the losses or damages caused by the criminal offense; and express the social judgment for the criminal offense, raising morale and strengthening the obligation to respect the law.<sup>2</sup>

So, as specified by this provision, the purpose of sentence against a person who has committed a criminal offense has nothing to do with revenge for the illegal act, but with prevention so that in the future the same does not break the law and is rehabilitated while serving the sentence. In addition to the subjective purpose of the sentence, the execution of the criminal sanction for the convicted person is also for the purpose of general social prevention from illegal acts that result in the damage or destruction of economic goods and endangering the lives of individuals, as well as in delivering the message that anyone who violates the law shall face sanctions.

While serving the sentence, each prisoner is entitled to the right to humane treatment, respect for dignity, non-discrimination, and the correctional institution must encourage as much as possible the participation of the convicted person in his resocialization and social reintegration,

---

<sup>2</sup>Criminal Code No. 06/L-074 of the Republic of Kosovo, January 2019, Article 38, available at: <https://shorturl.at/RT7kE>

through planning of sentence and individual plan, as well as the cooperation of society in achieving such goals.<sup>3</sup>

For good behavior, commitment to work and participation in training or rehabilitation programs, convicts may be provided benefits within the correctional institution<sup>4</sup>, the same can also serve as reasons for benefiting from the institute of conditional release, which means that the same can be released from entirely serving the prison sentence.

The CCRK, in the provisions governing this institute, provides that the convict may benefit from conditional release if the following legal prerequisites are met: good behavior of the convict serving the sentence and if a minimum time of serving the sentence is met from its total duration.

Referring to Article 90 of the Criminal Code, a person convicted of a criminal offense punishable by at least five (5) years of imprisonment may be released on conditional release after serving two-thirds (2/3) of the sentence. For other criminal offences, the convicted person may benefit from conditional release after serving half of the imposed sentence. However, in cases where the person has been sentenced to life imprisonment, they may benefit from conditional release after serving thirty (30) years of the imposed prison sentence. Conditional release is decided by the Panel established in accordance with the Law on the Execution of Criminal Sanctions (LECS), while the minimum period of supervision by the probation service will be at least five (5) years.<sup>5</sup>

## **II. THE PROCEDURE FOR SUBMITTING AND REVIEWING THE REQUEST FOR CONDITIONAL RELEASE**

The procedure that must be followed for the submission of the request for conditional release is outlined in the new Regulation no. 12/2023 on the Rules of Procedure of the Conditional Release Panel (regulation in force)<sup>6</sup>. At any time after the start of the sentence, the officials of the correctional institution have the obligation to inform the convict about the rights, conditions and procedures of conditional release, as well as the date when the convict fulfills the condition to submit a request to the Panel. 30 days before the date when the person serving the sentence fulfills the time condition to benefit from conditional release, he/she is to be notified about it in writing by the director of the correctional institution and with the consent of the convicted person, he/she can address the Panel. Then, the convict submits a statement for request for conditional release to the director of the correctional institution, in which he/she justifies the achievement of the purpose of his sentence. The officer of the Probation Service interviews the convict and the convict is required to sign a promise that he/she will not commit a criminal offense during the period of conditional release. 7 days before a person qualifies for conditional release, the request and the personal file of the convict prepared by the Correctional Institution are forwarded to the Panel.

The file includes data on the type of criminal offense committed by the convicted person, the attitude of the convicted person towards the criminal offense, the victim and the victim's family,

---

<sup>3</sup>Law No. 08/L-132 on the Execution of Criminal Sanctions, 2022, Article 6, available at: <https://shorturl.at/Actgx>

<sup>4</sup>Extended right to receive visits including visits from a wide range of persons; receiving visits to the correctional institution in the presence of supervisors, but without being heard by them; the extended right to spend certain time in separate premises with their spouse; the expanded right to spend certain time in separate premises with children and parents; and leave out of the correctional institution up to fourteen (14) days per year.

<sup>5</sup>Criminal Code No. 06/L-074 of the Republic of Kosovo, January 2019, Article 90, available at: <https://shorturl.at/RT7kE>

<sup>6</sup>Kosovo Judicial Council, Regulation no. 12/2023 on the Work of the Parole Panel, December 2023, available at: <https://shorturl.at/YUmXT>

any previous criminal offense committed by him, his family circumstances and social past, his physical and psychological condition, including the risk assessment whenever deemed necessary by a psychiatrist or psychologist, his behavior in the correctional institution and the success achieved in avoiding the factors of the criminal offense, his post-release plans, the support that may be provided to him after release, and any circumstances indicating that he will not recommit a criminal offense.

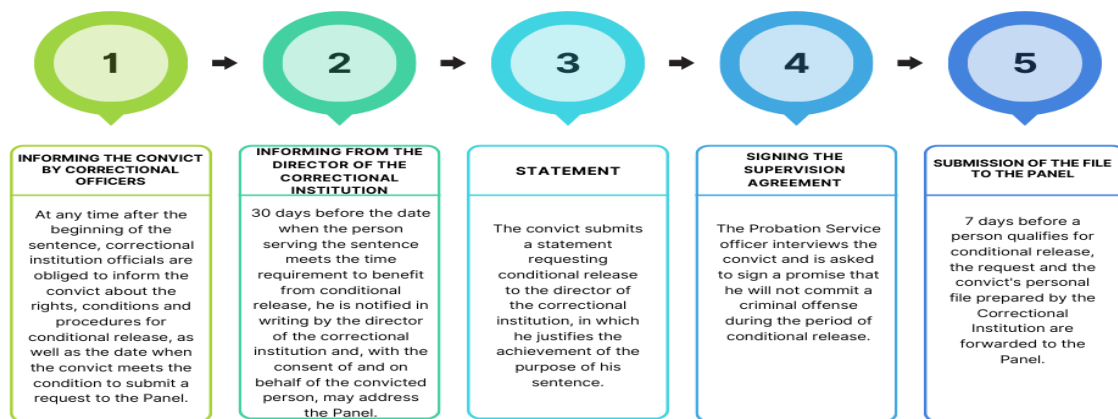


Fig. 1. The procedure for submitting a request for conditional release

After the request is submitted to the Panel, this body within the KJC must follow certain procedures for the review of the request and the file prepared by the Correctional Institution. The main procedures are presented graphically as follows:

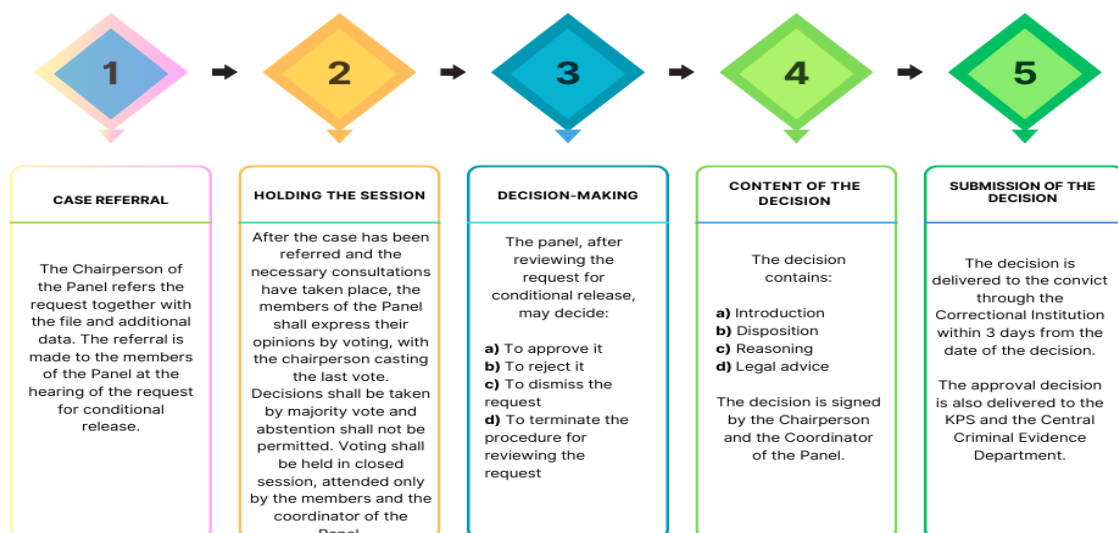


Fig. 2. The procedure for reviewing the request by the Conditional Release Panel.

### III. THE ROLE OF THE SUPREME COURT IN CASES OF REQUESTS FOR CONDITIONAL RELEASE

The Supreme Court of Kosovo is the highest judicial instance in the Republic of Kosovo and its jurisdiction applies to the entire territory of the country. In addition to the main powers defined by the Law on Courts, this judicial instance has been given the opportunity to have additional

powers defined by law.<sup>7</sup> Thus, referring to the LECS, in cases where the Panel does not approve requests for conditional release, the party dissatisfied with the decision has the right to appeal directly to the Supreme Court of Kosovo, within fifteen (15) days upon receiving the decision.<sup>8</sup>

The appeal can be filed with the claims that the provisions of the LECS related to conditional release have been applied inaccurately, the procedures established by law have been violated and in case of a clear or obvious factual error which seriously affects the impartiality and the integrity of the procedure.

After receiving the appeal, the Supreme Court, in a panel composed of three (3) members, chosen by the Chairman, within thirty (30) days, examines and decides on the appeal. After reviewing the appeal, **this panel may approve the Conditional Release Panel's decision, amend it, or remand it for review.**

By confirming the decision of the Panel, it means that the Supreme Court rejects the appeal of the convicted person, confirming the factual circumstances and the legal reasoning given by the Panel. One of the reasons for rejecting the appeal may also be related to the cases when the Conditional Release Panel postponed the case for review for six (6) months onwards, and the convict is not entitled the right to appeal for such decisions.<sup>9</sup>

The law has granted the opportunity to the Supreme Court to partially or fully alter the decision of the Panel, and this is done by assessing the circumstances and the legal reasoning in decision-making in relation to the appeal claims of the party, and in this case the decision of the Supreme Court is final.

In case the Supreme Court decides to remand the case for review, then the Conditional Release Panel decides within thirty (30) days from the day of the decision and notifies the court in writing. In case the notification is not received within thirty (30) days from the day the case is remanded for review, the Supreme Court will make a final decision on the case within fifteen (15) days.

From what was said above, it can be seen that the competence of the Supreme Court in relation to requests for conditional release lies in reviewing the decisions of the Panel through appeals submitted by the convicts, approving the decisions of the Panel, amending them or remanding the case for review. When it comes to cases that are remanded for review, the legislation has given it the power to decide on such cases on its own, provided that the Panel has not acted to address the Court's findings in relation to the case returned to review.

#### **IV. ANALYSIS OF 27 DECISIONS OF THE SUPREME COURT PUBLISHED DURING THE PERIOD JANUARY 1 - OCTOBER 31, 2024**

Given that the KJC in recent years has taken concrete steps in increasing transparency and the proactive role of publishing court decisions, it is very positive that the decisions of the Panel as well as those of the Court on the issue of conditional release are public and this has greatly facilitated the work of civil society organizations but also of citizens when it comes to being informed about the work and decisions of the judiciary in these cases. In line with this, in order to better understand the powers of the Supreme Court in relation to conditional release cases and

---

<sup>7</sup>Law No. 06/L-054 on Courts, December 2018, available at: <https://shorturl.at/6psKQ>

<sup>8</sup>Law No. 08/L-132 on the Execution of Criminal Sanctions, 2022, Article 117, available at: <https://shorturl.at/Actgx>

<sup>9</sup>Ibid., Article 117



deciding on appeals against the decisions of the Panel, GLPS has analyzed 27 decisions published in the period January 1 - October 31, 2024.<sup>10</sup>

The main findings from the analysis of these decisions are: for 26 out of 27 cases the Supreme Court has assessed the decisions of the Conditional Release Panel as correct, while in one case it has decided to approve the appeal and remanded it for review, while it has not changed any from the appealed decisions of the Panel.

As for the criminal offense for which the persons who requested conditional release were convicted, they tend to be found guilty of criminal offenses related to narcotics, theft, murder, illegal possession of weapons, corruption, endangering public traffic, etc. Among them, there was a prisoner convicted for 6 criminal offenses (attempted aggravated theft, 4 cases of aggravated theft and violation of the inviolability of homes and buildings).

Regarding the duration of the prison sentence of the persons who applied for conditional release, that is, who appealed the decisions of the Panel, there were sentences from a minimum of 6 months of imprisonment to a person sentenced to 25 years of imprisonment.

The main reasons for the rejection of requests for conditional release remain the gravity of the criminal offense, the failure to achieve full resocialization, the risk of recidivism and the need for additional time to assess the behavior of the convict. Whereas, in one case, the main reason why the convict's request for conditional release was rejected was the fact that the prisoner himself was in danger because no reconciliation was achieved with the victim's family.

The LECS has granted the opportunity for the convicts whose request for conditional release is rejected to have the right, depending on the circumstances of the rejection, to submit such a request again within a period of 3 to 12 months. Regarding this element, from the 27 decisions of the Supreme Court that have been analyzed, it results that most of the decisions have a deadline for review of 3, 4 and 5 months. While in two cases the deadline for review was longer than 6 months (7 and 12 months). However, in relation to the criminal liability of the convicts who submitted a request for conditional release to the Panel and who then appealed to the Supreme Court, it turns out that most of the convicts committed the criminal offenses deliberately, except for one case when the criminal offense of murder was committed in a state of severe mental shock.

### Examples from specific cases

From the 27 decisions of the Supreme Court published in the period January 1 - October 31, 2024, 6 more specific decisions have been selected for a more detailed analysis and for each of them a general assessment will be made, including their gaps.

### Decision A.A.no. 7/2024<sup>11</sup>

---

<sup>10</sup>Kosovo Judicial Council , Judgments of the Supreme Court of Kosovo, Decisions: A.A.nr.38/2023; A.A.nr.35/23; A.A.nr.23/2023; A.A.nr.55/2023; A.A.nr.57/2023; A.A.nr.56/2023; A.A.nr.3/2024; A.A.nr.8/2024; A.A.nr.7/2024; A.A.nr.9/2024, A.A.nr.4/2024; A.A.nr.11/2024; A.A.nr.10/2024; A.A.nr.13/2024; A.A.nr.14/2024; A.A.nr.17/2024; A.A.nr.15/2024; A.A.nr.26/2024; A.A.nr.16/2024; A.A.nr.25/2024; A.A.nr.33/2024; A.A.nr.23/2024; A.A.nr.31/2024; A.A.nr.29/2024; A.A.nr.36/2024, A.A.nr.32/2024 and A.A.nr.30/2024, available at: <https://shorturl.at/XHPZ9>

<sup>11</sup>Supreme Court, Decision A.A.nr.7/2024, published on March 29, 2024, available at: <https://shorturl.at/jTty8>



Convict	Criminal offence(s)	Imprisonment sentence	Conviction served	Correctional Center Evaluation Report	Decision and reasoning of the Panel	Decision and reasoning of the Supreme Court
A.Z.	Aggravated murder and illegal possession of a weapon	25 years	16 years, 8 months and 22 days	While serving his sentence, the convict has shown good behavior and the process of resocialization has progressed positively.	Rejection of the request with the right of review after 12 months.  Time is still needed to assess the behavior of the convict in the Correctional Institution, the gravity of the criminal offense and the need to protect the individual and society from such or similar criminal offences.	The appeal is rejected as inadmissible because according to the Law on the Execution of Criminal Sanctions, the convicts have the right to appeal only in cases where the deadline for review is less than 6 months.

In this case, three very important elements were found. First, although it is the conclusion of the Professional Team of the Correctional Center that the convict has shown good behavior while serving the sentence and that the process of resocialization has progressed positively, the Panel in the reasoning for rejecting the request states that it still needs time to evaluate the behavior of the convict. In this case, a more appropriate conclusion from the Panel would be that full socialization of the convict has not been achieved because the conclusion is that the process of resocialization has progressed positively, and not to conclude that time is still needed to evaluate the behavior of the convict. Since this is based on the finding of the Professional Team, it would be unreasonable to find the need for additional time to evaluate the behavior of the convict when he has already spent more than 16 years in prison.

Secondly, whenever the Correctional Institutions accept the decisions of the Panel by which the request for conditional release is rejected and the deadline for review is longer than 6 months, they should notify or remind the convicts that the legal provisions do not recognize the right to appeal. Such a case would have a positive chain effect, such as in the reduction of the budgetary expenses of the Correctional Institution, in the number of cases handled by the Supreme Court, and mostly in the commitment of the convicts to improve their behaviors and achieve complete resocialization until reaching the deadline for review of his request.

Thirdly, the decision of the Supreme Court is published only in the Serbian language, while referring to the Administrative Instruction of the KJC<sup>12</sup>, court decisions must be published in the original language of the judgment/decision as well as in the translated version. Therefore, the

---

<sup>12</sup>The Kosovo Judicial Council , Administrative Instruction No. 04/2019 for the publication of processed judgments (supplemented by AI 01/2021 and UA 01/2022), available at: <https://shorturl.at/68Q4r>

KJC and the Supreme Court are recommended to take concrete measures so that court decisions are published at least in the two official languages, Albanian and Serbian.

**Decision A.A.no. 14/2024<sup>13</sup>**

Convict	Criminal offence(s)	Imprisonment sentence	Conviction served	Correctional Center Evaluation Report	Decision and reasoning of the Panel	Decision and reasoning of the Supreme Court
B.G.	Aggravated attempted theft; 4 cases of aggravated theft; and violation of the inviolability of housing and premises	1 year and 6 months	9 months and 18 days	The convict has shown good behavior and is engaged in work. Regarding the resocialization process, it is considered satisfactory, marking progressive steps.	Rejection of the request with the right of review after 5 months.  There is still time needed to assess the behavior of the convict in the Correctional Institution and there is a general danger to the community.	The appeal is rejected as overdue since it was submitted to the court 20 days after the deadline for submitting the appeal.

In this case, it is worth emphasizing that more proactive communication is needed between the correctional institution and the convict so that he does not lose his right recognized by law in the appeal against the decision of the Panel. In addition, since the Supreme Court does not consider overdue appeals on their merits, due to the lack of this communication between the correctional institution and the convict, the appeal claims may be well-founded and may affect the convict's benefit from conditional release institute, but the same are not examined at all because the appeal is submitted after the legal deadline. It would be necessary in such cases to also examine whether the failure to submit the appeal occurred without the fault of the convict, and the Supreme Court would take such a fact into account when it finally decides on the reviewed appeal.

<sup>13</sup>The Supreme Court of Kosovo, Decision A.A.No.14/2024, published on July 16, 2024, available at: <https://shorturl.at/ËI4GI>

Decision A.A.No. 17/2024<sup>14</sup>

Convict	Criminal offence(s)	Imprisonment sentence	Conviction served	Correctional Center Evaluation Report	Decision and reasoning of the Panel	Decision and reasoning of the Supreme Court
F.K.	Bribery	3 years and 3 months	1 year and 8 months	The convict has shown good behavior, cooperates with the staff and has achieved resocialization.	Rejection of the request with the right of review after 7 months.  The goal of executing the criminal sanction has not yet been achieved.	The appeal is rejected as inadmissible as the convicts have the right to appeal only in cases where the deadline for review is less than 6 months.

Given that the Supreme Court Decision does not contain data regarding the criminal offense and the extent of sentence, these data are provided in the Panel's decision ([CRP.D. no. 183/24](#)). In this case, the Conditional Release Panel rejected the convict's request for conditional release and at the same time found in the decision that the rejection pertains to the period of 7 months and that the same can be review after the end of this period. On this basis, the Supreme Court has found that the appeal submitted by the convict F.K. should be rejected as inadmissible, therefore it was decided as in the enacting clause of this decision.

In this case, as in Decision A.A.No. 7/2024, we reiterate the importance that the Correctional Institutions, whenever they accept the decisions of the Panel by which the request for conditional release was rejected and that the period for review is longer than 6 months, to notify or remind the convicts that the legal provisions do not recognize their right to appeal.

Furthermore, the decision of the Panel is considered contradictory in terms of how it handled the report of the professional team of the Correctional Center, which emphasizes that resocialization has been achieved, i.e. one of the basic criteria to benefit from the conditional release institute. On the other side, the Panel decides to reject the request emphasizing that this goal was not achieved during the period of the sentence. If in this case, if the Panel would set a deadline of less than 6 months for review of the request, the claims of the party on the issue of conflict of interest, as well as the contradictions between the findings of the professional team of the Correctional Center and the reasons for rejection of the request by the Panel, the Supreme Court would have sufficient grounds to return this case to review.

<sup>14</sup>The Supreme Court of Kosovo, Decision A.A.No.17/2024, published on July 22, 2024, available at: <https://shorturl.at/nbhdv>

Convict	Criminal offence(s)	Imprisonment sentence	Conviction served	Correctional Center Evaluation Report	Decision and reasoning of the Panel	Decision and reasoning of the Supreme Court
G.S.	Two criminal offences: "Unauthorized purchase, possession, distribution and sale of narcotics, psychotropic and analogous substances	3 years and 2 months	2 years and 6 months	The convict has improved his behavior, there are no new disciplinary violations, he is engaged in work, he is not a cooperative person, he is averagely dangerous for the community and keeping the sentence on the convict is having a positive effect.	Rejection of the request with the right of review after 3 months.  The sentence must be served in order to evaluate the behavior of the same; he is a danger to the community; complete resocialization has not been achieved	The appeal is approved. The decision of the Panel is annulled and the case is returned to the same body for review. The deputy chairman of this panel wants to be excluded from the review and decision procedure after having participated as the chairman of the panel in the case decided in the Supreme Court.

The LECS and the Regulation define concrete rules regarding the issue of conflict of interest and the dismissal of the Chairman and members of the Panel in the consideration of conditional release requests.<sup>16</sup> One of these criteria is that the judge who is the chairman or a member of the Panel, is excluded from considering the request in the same criminal case where he/she participated in the procedure as a judge, prosecutor, lawyer, injured party, legal representative or authorized representative of the injured party, witness or expert.

<sup>15</sup>The Supreme Court of Kosovo, Decision A.A.no.30/2024, published on October 6, 2024, available at: <https://shorturl.at/71v4G>

<sup>16</sup>See more at Article 17 of Regulation No. 12/2023, available at: <https://shorturl.at/h6VJK>

While analyzing the request for conditional release in the present case, we see that the judge who handled the same case as the head of the panel in the Supreme Court participated in the composition of the Panel. Bearing in mind that the Panel respects the deadlines for dealing with requests for conditional release, it must consider the legal obligation to avoid in any situation cases where the elements of conflict of interest are fulfilled or when there are other circumstances that call into question the objectivity of the Panel member. Failure to take these measures results in the return of the cases to review and, consequently, in the delay or loss of the right of the convicts from the conditional release institute.

**Decision A.A.No. 26/2024<sup>17</sup>**

Convict	Criminal offence(s)	Imprisonment sentence	Conviction served	Correctional Center Evaluation Report	Decision and reasoning of the Panel	Decision and reasoning of the Supreme Court
A.M.	Unauthorized ownership, control or possession of weapons	6 months	4 months and 14 days	The convict has shown good behavior and engaged in work, resocialization has been achieved, and is now ready to reintegrate into the family and society as a useful person.	Rejection of the request without right of review. Reasons: general social dangerousness and failure to achieve complete resocialization.	The appeal is rejected. The Supreme Court of Kosovo accepts the appealed decision in its entirety as fair and legal, since it is entirely based on the law.

Regarding this case, it can be seen that neither the Panel nor the Supreme Court have taken into account the other reports compiled by the professional team of the Correctional Center, where it turns out *that the convict has shown good behavior and is engaged in work. According to the professional team of the Correctional Center, regarding the process of resocialization, it has been established that serving the sentence has influenced his overall improvement and that resocialization has been achieved, and he is now ready to reintegrate into the family and society as a useful person.* Contrary to these findings, the [Panel](#) justifies failure to achieve resocialization and general social dangerousness. This wrong interpretation of the factual situation and consequently the complete disregard of the findings of the report by the professional team of the Correctional Center has also resulted in the denial of the convict's right to conditional release.

<sup>17</sup>The Supreme Court of Kosovo, Decision A.A.No.26/2024, published on August 12, 2024, available at: <https://shorturl.at/Ytrzq>

Convict	Criminal offence(s)	Imprisonment sentence	Conviction served	Correctional Center Evaluation Report	Decision and reasoning of the Panel	Decision and reasoning of the Supreme Court
M.S.	Endangering public traffic	2 years and 6 months	1 year and 4 months	The convict has shown good behavior, cooperates with the staff, is engaged in work, feels remorse, expresses regret for the victim, but there is still danger for the prisoner himself because reconciliation with the victim's family is still pending.	Rejection of the request within 5 months with the right to review. Reasons: The remaining dangerousness towards the prisoner himself as well as the remaining time for serving the sentence	The appeal is rejected. The Supreme Court of Kosovo accepts the appealed decision in its entirety as fair and legal, since it is entirely based on the law.

So, it is very positive that both Correctional Center, the [Panel](#) and the Supreme Court in the present case have given importance to a very important fact, namely the social custom of reconciliation between the family of the convict and the family of the victim, in order to protect the convict from the potential danger in case he is released. This is also in line with one of the main goals of sentence to prevent other people from committing criminal offenses.

## V. CONCLUSIONS AND RECOMMENDATIONS

### Effectiveness of the Conditional Release Panel

- From the analysis of 27 decisions, it results that in most cases the Supreme Court has confirmed the decisions of the Panel, finding that the decision-making is mainly in accordance with the legislation and the factual situation.

### Lack of uniformity in assessment

- Some decisions of the Supreme Court and the Conditional Release Panel have been assessed as unclear or contradictory in their reasoning, especially when the evaluation reports of professional teams from correctional centers have not been taken into consideration.

### Composition of the Panel in violation of the law

- A case was identified where the composition of the Panel was in violation of the rules on the conflict of interest, resulting in the remand of case for review.

<sup>18</sup>The Supreme Court of Kosovo, Decision A.A.No.26/2024, published on August 12, 2024, available at: <https://shorturl.at/RCjQ6>

### **The need for informing convicts about their rights and deadlines**

- In some cases, the lack of information of the convicts on the rights to appeal or the established deadlines has been noticed, leading to the loss of opportunities to exercise their legal rights.

### **The most common reasons for rejection of conditional release applications**

- The most frequent rejections for conditional release are based on the gravity of the criminal offense, risk of recidivism and failure to achieve full resocialization.

### **Failure to comply with the legal obligation to use official languages**

- Only one of the decisions is published in both official languages, indicating the need for improvement in the implementation of legal obligations on the use of official languages.

## **RECOMMENDATIONS**

- The institute of conditional release should be an incentive for convicts to have good behavior during their sentence, to attend training programs and for their rehabilitation to reach a level where they are ready to return to normal life and to avoid breaking the law again. This can be achieved by providing adequate programs for convicts, increased supervision by correctional officers, systematic information on the benefits they can have from conditional release and that these people return to society as a resource and example where all purposes of punishment have been achieved.
- The Correctional Institutions should continue to notify the convicts about the conditional release and about the deadlines related to the request and the appeal in relation to the right to use this institute of criminal law, in the most reasonable time and as often as possible.
- Also, special attention must be paid to the reports prepared by the professional team on the convict, as they represent a very important basis on which the approval or rejection of the request for conditional release by the Panel or the Supreme Court depends.
- The Conditional Release Panel should bear in mind that before each review of the request for conditional release, it must first ascertain whether the composition of the Panel is in accordance with the legal conditions. In case there are circumstances of conflict of interest or that determine the dismissal of the member, this should happen immediately because otherwise, in addition to dealing with a decision taken in violation of the law, the same has consequences in the denial or delay that is made to the convict for the benefit of conditional release.
- The panel must reason well and clearly the circumstances that lead to the approval or rejection of requests for conditional release, and this reasoning must be based on the report of the professional team of the Correctional Center, which, after the legal criteria, is the most important basis on which the convict's right to conditional release depends.
- The Supreme Court of Kosovo is recommended to examine in more detail the cases of rejection of conditional release by the Panel and in any case, when the legal conditions are met, to change the appealed decision or return it for review.
- In cases where the appeal against the decisions of the Panel is submitted after the deadline, it is recommended that the Supreme Court assesses the issue of whether the overdue submission of the appeal occurred without the fault of the convicted person and takes such fact into account when finally deciding on the reviewed appeal.



- The Panel and the Supreme Court are recommended to respect the obligation derived from the law and by-laws regarding the obligation to use official languages in the decisions they publish on the KJC website.
- It is recommended that the Supreme Court ensures that the decisions on conditional release cases are unified in terms of the data they contain, with special emphasis on the data on the criminal offense and the length of the sentence.

