



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

Practice Direction

On Commutation of Sentences

Adopted by:	The President, Kosovo Specialist Chambers
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CHAPTER I General Provisions**Article 1 Purpose and Scope**

This Practice Direction is adopted pursuant to Article 51 of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 196 of the Rules of Procedure and Evidence (“Rules”) to regulate the procedure for commutation of sentences of persons convicted by the Specialist Chambers.

Article 2 Definitions

1. The terms employed in this Practice Direction shall have the meaning given to them by the Law and Rule 2 of the Rules.
2. In addition, the following definitions shall apply:

Convicted Person a person convicted by the Specialist Chambers

State of Enforcement a Third State designated by the President of the Specialist Chambers, which has indicated its willingness to accept the person convicted by the Specialist Chambers, for the enforcement of the sentence

CHAPTER II Eligibility for Commutation of Sentence

Article 3 Eligibility

1. Pursuant to Rule 196(2) of the Rules, a Convicted Person shall be eligible for the determination of a commutation of sentence after he or she has served two-thirds of the sentence or 25 years in the case of life imprisonment. Any periods of temporary release under Rule 56 of the Rules or (conditional) early release, as applicable, shall be considered in the determination of the time served.
2. Upon the Convicted Person becoming eligible for commutation of sentence under the law of the State of Enforcement, the State concerned shall, in accordance with Article 51(2) of the Law, Rule 195 of the Rules and its agreement with the Specialist Chambers, notify the President, where practicable, at least 100 days prior to the date of eligibility.
3. In the event that the Convicted Person becomes eligible for a commutation of sentence while serving his or her sentence in the Detention Facility of the Specialist Chambers, the Registrar shall notify the President at least one month prior to the date of eligibility.
4. A Convicted Person may file a request for the commutation of sentence, where he or she believes to be eligible therefor. In such a case, the Specialist Chambers shall request the State of Enforcement to notify the Specialist Chambers whether the convicted person is eligible for commutation of sentence under the domestic laws of the State concerned.

CHAPTER III Procedure Upon Notification of Eligibility

Article 4 Information to be Provided to the Convicted Person

Following receipt of a notification of eligibility, the President shall request the Registrar to inform the Convicted Person when he or she will become eligible for commutation of sentence, ensure that he or she has been provided with a copy of this Practice Direction in a language he or she understands, and inform him or her about the steps to be taken in this regard.

Article 5 Information to be Submitted to the President

1. Following receipt of a notification of eligibility, the President shall request the Registrar to:
 - a. request reports and observations from the relevant authorities in the State of Enforcement with respect to Rule 196(3)(a)-(c), (e), (j) and (k) of the Rules;
 - b. as applicable, submit a report from the Detention Management Unit of the Specialist Chambers with respect to Rule 196(3)(a)-(c), (e), (j) and (k) of the Rules;
 - c. provide information on the intended location of residence of the Convicted Person and observations with respect to Rule 196(3)(f) and (h) of the Rules and any possible conditions as provided pursuant to Article 8 of this Practice Direction;
 - d. request the Specialist Prosecutor to submit a report of any substantial cooperation of the Convicted Person with the Specialist Prosecutor's Office and any other information deemed relevant;

- e. where applicable, request the Victim's Counsel to submit a report with respect to Rule 196(3)(i) of the Rules; and
 - f. submit any other information that may be relevant for the determination by the President, including, for example, any acknowledgment of and remorse for the crimes for which the person has been convicted and any information that may be relevant to the likelihood of the Convicted Person to commit criminal offences.
2. The Registrar shall provide the information referenced in paragraph 1 of this Article to the President within 21 days of the request therefor and shall forward a copy of this information to the Convicted Person.
 3. The Convicted Person may provide written submissions to the President within 14 days after receipt of the information provided by the Registrar in a language he or she understands.
 4. In addition to any written submissions and observations, the President may hear the Convicted Person or any other person or authority providing information by video-link or, where necessary, in person. In exceptional circumstances and subject to the Rules, a Judge delegated by the President may conduct a hearing in the State of Enforcement as provided for in Rule 197(1) of the Rules.

Article 6 Consultations with Judges

1. The President shall forward to the Judges of the sentencing Panel(s) who are Judges on the Roster, a copy of the information received pursuant to Article 5(1) and (3) of this Practice Direction, the President's views regarding the Convicted Person's demonstration of rehabilitation, any consideration of conditions pursuant to Article 8 of this Practice Direction and any other relevant information.
2. The Judges concerned shall provide to the President their views on the commutation of sentence of the Convicted Person within seven days of receipt of the relevant information.

Article 7 Confidentiality

1. All information received by the President shall be considered confidential, unless disclosure is authorized by the President.
2. Victims' Counsel may request that any information provided pursuant to Article 5(1)(e) of this Practice Direction shall not be disclosed to the Convicted Person. The request shall provide a reasoned justification.

CHAPTER IV Decision on Commutation of Sentence

Article 8 Information to be considered by the President

For the purposes of the decision to be taken by the President pursuant to Article 10 of this Practice Direction, the President shall consider the information set forth in Rule 196(3) of the Rules.

Article 9 Decision of the President

1. In accordance with Article 51(2) of the Law, the President shall, on the basis of the interest of justice and general principles of law and relevant information received, and having considered the views of the Judges of the sentencing Panels, determine whether commutation of sentence is to be granted.
2. In accordance with Rule 197(2) of the Rules, the President shall communicate the reasoned decision to all participants in the procedure as soon as possible.
3. The decision shall be made public, and may include redactions, where necessary.
4. The decision shall be final and not subject to appeal.
5. The Registrar shall immediately transmit the decision to the relevant authorities of the State of Enforcement, which shall, in accordance with its agreement with the Specialist Chambers, execute the terms of the decision promptly. A copy of the decision shall also be forwarded to the Convicted Person.
6. Where appropriate, the Registrar, through the Witness Protection and Support Office, shall inform witnesses who testified before the Specialist Chambers in the case of the Convicted Person as well as victims who participated in that case of his or her release, the State of residency, and any other relevant information to ensure the safety of the witnesses.

Article 10 Modification or Alteration of the Sentence

Where the President finds that a commutation of sentence is not appropriate, he or she may decide to modify or alter the sentence in accordance with Article 51(2) of the Law.

Article 11 Conditions on Release

1. If a decision is taken to modify or alter the sentence of a Convicted Person, the President may impose conditions thereon in accordance with Rule 196(4) of the Rules until the expiry of the date of the final sentence or any other earlier specified date. Such conditions may include the following:
 - a. assurance of permanent residency within a specified location;
 - b. notification to the Specialist Chambers of any relocation of the permanent residency;
 - c. notification to the Specialist Chambers of any travel outside Kosovo or the State of residency;
 - d. regular reporting to a local police station;
 - e. refraining from any contact or communication with witnesses or victims;
 - f. refraining from making any public statements about the Specialist Chambers which may create fear for victims to apply or persons to cooperate or dissuade witnesses from testifying before the Specialist Chambers;
 - g. refraining from violating any orders of the Specialist Chambers;
 - h. refraining from making violent, intimidating, threatening or coercive comments or behaviour towards witnesses or other persons who are at risk on the account of their cooperation with the Specialist Chambers, officials of the Specialist Chambers or the Specialist Prosecutor's Office; or
 - i. any other proportionate condition deemed necessary.
2. Failure to comply with any of the conditions imposed may result in the revocation or modification of the decision pursuant to this Article.

CHAPTER V Final Provisions

Article 12 Adoption and Amendments

The President adopts this Practice Direction and may amend it *proprio motu*.

Article 13 Authoritative Language and Entry into Force

1. The authoritative language of this Practice Direction is English.
2. This Practice Direction and any amendments thereto shall enter into force on the day of publication.

The Hague, Netherlands
3 July 2023



Judge Ekaterina Trendafilova
President