



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

File number: KSC-BC-2023-10/CR002

Before: The President of the Specialist Chambers
Judge Ekaterina Trendafilova

Registrar: Fidelma Donlon

Date: 14 July 2025

Language: English

Classification: Public

**Decision on Haxhi Shala Confidential and *ex parte*
Request for Conditional Release**

Specialist Prosecutor:
Kimberly P. West

Counsel for Haxhi Shala:
Toby Cadman

THE PRESIDENT of the Specialist Chambers (“President”), noting Article 51(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”), Rules 82(4), 196 and 197 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”) and Articles 3, 6 and 9 to 11 of the Practice Direction on Commutation of Sentences (“Practice Direction”), hereby issues this decision on “Haxhi Shala Confidential and *ex parte* Request for Conditional Release” (“Request”).¹

I. PROCEDURAL BACKGROUND

1. On 4 February 2025, Trial Panel I issued an oral decision under Rule 94 of the Rules, approving the plea agreement entered into by Mr Haxhi Shala (“Mr Shala”), wherein he admitted guilt to one charge of obstructing official persons in performing official duties and one charge of intimidation in criminal proceedings, and sentenced him to three years of imprisonment, with credit for time served since 11 December 2023.²
2. On 26 June 2025, Mr Shala filed his Request.
3. On 2 July 2025, the Specialist Prosecutor’s Office (“SPO”) filed the “Prosecution response to Haxhi Shala’s request for conditional release” (“Response”), wherein the SPO opposes the Request.³

II. SUBMISSIONS

4. The President has considered all submissions, but the decision will summarize only the most relevant to the Request. Mr Shala submits that he had served half of his sentence on 11 June 2025 and will have served two-thirds on 11 December 2025 and

¹ F00002, Haxhi Shala Confidential and *ex parte* Request for Conditional Release, 26 June 2025.

² Transcript, 4 February 2025, pp. 616-617; F00693, Public redacted version of Reasons for the Decision on the Plea Agreements, 27 February 2025, para. 114.

³ F00003, Prosecution response to Haxhi Shala’s request for conditional release, 2 July 2025, paras 1, 10.

that conditional release should be considered in his case pursuant to Article 90 of the Kosovo Criminal Code (“KCC”), which allows for such a conditional release after having served half of the imposed sentence.⁴ Mr Shala further submits that Article 90(1) and (2) of the KCC do not apply to the organisation, administration, functions or jurisdiction of the Specialist Chambers and that therefore Article 3(4) of the Law is no impediment to its application before the Specialist Chambers.⁵

5. Mr Shala further submits that, applying Article 90 of the KCC would fill in a lacuna that arises from Article 51(2) of the Law, which provides for the possibility for the alteration or modification of a sentence, given that the legal framework of the Specialist Chambers does not expressly regulate when such alteration or modification may be granted.⁶ He submits that the two-thirds rule is only provided for with respect to commutation, and Article 10 of the Practice Direction does not “imply that the President may only modify or alter the sentence” if commutation of a sentence was not considered appropriate.⁷

6. The SPO opposes this view, submitting that Mr Shala improperly seeks to apply the KCC in contravention of Article 3(4) of the Law and in an area that is fully and comprehensively governed by the legal framework of the Specialist Chambers.⁸ The SPO further submits that the KCC provisions do not fill any lacuna, as the Specialist Chambers legal framework specifically provides for the commutation, modification and alteration of sentences.⁹

III. ANALYSIS

7. At the outset, the President notes that the central question to the Request is whether,

⁴ Request, paras 16-17.

⁵ Request, para. 18.

⁶ Request, para. 18.

⁷ Request, para. 18.

⁸ Response, paras 3, 6.

⁹ Response, paras 3, 6.

having served half of his sentence, Mr Shala is eligible for consideration of his Request through modification or alteration of his sentence.

8. The President has held in several decisions that persons convicted by the Specialist Chambers become eligible for *consideration* of commutation, modification or alteration of sentence upon having served two-thirds of their sentence in accordance with Article 51(2) of the Law.¹⁰ Importantly, it was held that eligibility after having served two-thirds of a sentence denotes consideration and *not an inherent right* to commutation, modification or alteration of a sentence.¹¹ Thus, to commute, modify or alter a sentence is a discretionary decision to be taken by the President in consultation with the judges of the Specialist Chambers and on the basis of the “interests of justice and general principles of law.”¹²

9. The argument of Mr Shala that Article 90 of the KCC is applicable before the Specialist Chambers cannot be sustained. It is not supported by the legal framework governing the functioning of the Specialist Chambers. The Exchange of Letters between the European Union and Kosovo, ratified as an international agreement by the Assembly of the Republic of Kosovo, provide that the Specialist Chambers’ “structures will be governed by their own statute and rules of procedure and evidence, including provisions on the limitations on the issuance of pardons, detention on remand and the service abroad of sentences of imprisonment if the trial results in convictions.”¹³ Article 162(1) of the Constitution, second sentence further provides that the “organisation, functioning and jurisdiction of the Specialist

¹⁰ See further Rule 196(2) of the Rules; Article 3(1) of the Practice Direction; see KSC-SC-2023-01/CS001/F00002, Decision on Commutation, Modification or Alteration of Sentence with confidential and *Ex Parte* Annexes, 12 October 2023, paras 9, 63 (“Gucati Decision”).

¹¹ Gucati Decision, paras 9, 63.

¹² KSC-SC-2025-05/CS001/F00002/COR, Corrected Version of Decision on Commutation, Modification or Alteration of Sentence with Confidential and *Ex Parte* Annexes, 19 February 2025 (public), para. 8.

¹³ The President of Kosovo and the High Representative of the Union for Foreign Affairs and Security Policy exchanged letters regarding, *inter alia*, the establishment of the Specialist Chambers, 14 April 2014. See also, Law No. 04/L-274 on Ratification of the International Agreement Between the Republic of Kosovo and the European Union on the European Union Rule of Law Mission in Kosovo.

Chambers [...] shall be regulated by this Article and by a specific law.”¹⁴ Moreover, the Specialist Chamber of the Constitutional Court has recently held that the Specialist Chambers “are governed by their own autonomous legal framework.”¹⁵

10. The above references determine that the operation of the Specialist Chambers is exclusively regulated by Article 162 of the Constitution and the *lex specialis* legal framework adopted for its operation. This includes the Law with its specific references to the applicable Kosovo laws, the Rules and other legal documents of the Specialist Chambers, such as practice directions, adopted in accordance with Article 19(6) of the Law.

11. In respect of any applicable Kosovo laws, Article 3(4) of the Law explicitly states that any other Kosovo law, which has not been expressly incorporated into the Law shall not apply to the organisation, administration, functions or jurisdiction of the Specialist Chambers. The service of sentences, which includes the possibility of early release, is an integral part of the administration and functioning of the Specialist Chambers. This is specifically envisaged in the Exchange of Letters, Article 162(4) of the Constitution and the Law. The Rules and the Practice Direction provide additional detail regarding this aspect of the enforcement of sentences.¹⁶

12. Therefore, any other Kosovo law not expressly incorporated into the Law is not applicable before the Specialist Chamber pursuant to Article 3(4), first sentence of the Law. As the applicable framework before the Specialist Chambers does not include a reference to Article 90 of the KCC, any application thereof would be in violation of Article 3(4) of the Law and Article 162 of the Constitution. Accordingly, Mr Shala’s

¹⁴ See also KSC-CC-2020-11/F00015, Judgment on the Referral of Proposed Amendments to the Constitution of Kosovo, 26 November 2020, para. 30.

¹⁵ KSC-CC-2024-27/F00011, Judgment on the Referral of Salih Mustafa Concerning Fundamental Rights Guaranteed by Articles 31 and 33 of the Kosovo Constitution and Articles 6 and 7 of the European Convention on Human Rights, 17 April 2025, para. 109; see KSC-CC-2020-11/F00015, Judgment on the Referral of Proposed Amendments to the Constitution of Kosovo, 26 November 2020, para. 63.

¹⁶ Rules 195-197 of the Rules; Articles 3, 4, 8-11 of the Practice Direction.

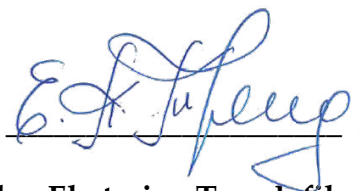
claim that an alleged lacuna in the legal framework of the Specialist Chambers should be filled by Article 90 of the KCC is not sustainable. In this respect, the President recalls that it is the applicable framework of the Specialist Chambers alone that regulate her competence in considering the eligibility of a convicted person for commutation, modification or alteration of sentence.

13. Given the above, the two-thirds requirement is common for requests for commutation, modification or alteration of a sentence under the specific regulatory framework before the Specialist Chambers.

14. For these reasons and given the current circumstances as presented, Mr Shala is not eligible for consideration of any request for modification or alteration of sentence in accordance with Article 51(2) of the Law before having served two-thirds of his sentence.

IV. DISPOSITION

15. In view of the above, the President hereby
DISMISSES the Request in its entirety; and
ORDERS Mr Shala and the SPO to file public redacted versions of the Request and the Response no later than Monday, 21 July 2025.



Judge Ekaterina Trendafilova,
President of the Specialist Chambers

Dated this Monday, 14 July 2025
At The Hague,
The Netherlands