



REPUBLIKA E KOSOVËS - PRESIDENTI
REPUBLIC OF KOSOVO - THE PRESIDENT
REPUBLIKA KOSOVO - PRESEDNIK

REGULATION (P) NO. 02/2017
ON THE CRITERIA AND PROCEDURES ON THE PARDON
OF CONVICTED PERSONS

Pristina, 15 november 2017



REPUBLIKA E KOSOVËS – PRESIDENTI
REPUBLIC OF KOSOVO – THE PRESIDENT
REPUBLIKA KOSOVO – PRESEDNIK

The President of the Republic of Kosovo,

Pursuant to Article 84 (29) of the Constitution of the Republic of Kosovo, Article 6 of Law No. 03/L-094 on the President of the Republic of Kosovo (Official Gazette, no. 47, January 25, 2009), Article 5 (1) of Law No. 03/L-101 on Pardon (Official Gazette, no. 46, January 15, 2009), and Article 3 (4) of Regulation (P) no. 02/2016 on the Organizational Structure of the Presidency (08.09.2016), as well as taking into account Article 112, Article 113, Article 440 and other provisions, related to pardon, of the Criminal Code No. 04 / L-082 of the Republic of Kosovo (Official Gazette, No. 19, July 13, 2012), approves:

**REGULATION (P) NO. 02/2017 ON THE CRITERIA AND PROCEDURES ON
THE PARDON OF CONVICTED PERSONS**

CHAPTER I - GENERAL PROVISIONS

**Article 1
Purpose**

This Regulation defines the criteria and procedures for the proclamation of individual pardon for the person convicted through a final judgment.

**Article 2
Scope**

This Regulation shall be implemented during the process of pardon by all the institutions, and by persons who submit a request for pardon.

**Article 3
Definitions**

1. For the purposes of this Regulation, the following expressions shall have the following meaning:
 - 1.1. **Department** - the Department for Legal Issues and International Relations within the Office of the President;
 - 1.2. **Request** – the request for Pardon according to the Law and this Regulation;
 - 1.3. **Code** – Criminal Code No. 04/L-082 of the Republic of Kosovo (Official Gazette, No. 19, July 13, 2012);
 - 1.4. **Commission** – The Commission for the review and evaluation of requests for Pardon;

- 1.5. **Constitution** – The Constitution of the Republic of Kosovo;
- 1.6. **Law** – Law No. 03/L-101 on Pardon (Official Gazette, No. 46, January 15, 2009);
- 1.7. **Ministry** – The Ministry of Justice;
- 1.8. **Secretary** – The Secretary of the Office of the President of the Republic of Kosovo;
- 1.9. **Final decision** – The final decision issued by the competent court, to which there cannot be appealed by regular legal means;
- 1.10. **Office** – means the Office of the President of the Republic of Kosovo;
2. Other expressions used in this Regulation have the same meaning as in the definitions of the Law or Code.

CHAPTER II – GRANTING PARDON TO CONVICTED PERSONS

Article 4 Granting Pardon

1. With pardon, as defined in the Law and the Code, the person convicted by a final judgment:
 - 1.1. is fully or partially released from the execution of the sentence;
 - 1.2. the sentence is replaced with a milder sentence or suspended sentence or
 - 1.3. remission of the sentence.

Article 5 Exclusion from Pardon

1. The convicted person cannot be pardoned for whatever punishment for which the Panel for Conditional Release has refused conditional release.
2. As defined in Article 4 (5) and in accordance with Article 440 of the Code, the convicted person, based on Chapter XIV (Criminal acts against the constitutional order and security of the Republic of Kosovo) or Chapter XV (Criminal acts against humanity and values protected by the international law) of the Criminal Code, has no right to ask for pardon.
3. Convicted persons for whom pardon is prohibited by special law.

Article 6 The effect of pardon on third persons

By granting pardon the rights of third persons shall not be affected, which are based on the sentence or the judgment.

Article 7 Criteria for Pardon

1. In addition to the criteria set out in the Law, the other circumstances that can be considered during the granting of pardon include
 - 1.1. specific humanitarian reasons;
 - 1.2. compliance with relevant rules for resocialisation and reintegration during the execution of the sentence;
 - 1.3. time spent on the holding of the sentence.

Article 8
Review of cases with high social risk

1. When considering the requests for pardon, special attention must be paid to the proceeding of cases with high social risk, such as
 - 1.1. heavy murder, as set out in Article 179 of the Code;
 - 1.2. sexual abuse of persons under the age of sixteen (16) years, as defined in Article 235 of the Code
 - 1.3. recidivists.

CHAPTER III – SUBMISSION OF THE REQUEST FOR PARDON

Article 9
Persons entitled to submit a request for pardon

1. The request for Pardon can be submitted by:
 - 1.1. the convicted person;
 - 1.2. spouse, child, brother or sister, on behalf of the convicted person, and
 - 1.3. the authorized person.

Article 10
Request for pardon by the convicted person

1. The request for pardon, by the convicted person:
 - 1.1. must be addressed to the President;
 - 1.2. is submitted in writing;
 - 1.3. is submitted individually;
 - 1.4. is submitted through:
 - 1.4.1. the mail, or
 - 1.4.2. the correctional institution, where the convicted person is serving the sentence.
 - 1.5. must contain a brief description of the case, the statement of facts, circumstances and reasons in support of the request for Pardon, and any other information that may be considered necessary by the person submitting the request;
 - 1.6. can be submitted throughout the year;
 - 1.7. can be withdrawn at any time.

Article 11
Request for pardon on behalf of the convicted person

1. The request for pardon on behalf of the convicted person, by spouse, child, brother or sister:
 - 1.1. must be addressed to the President;
 - 1.2. is submitted in writing;
 - 1.3. is submitted through the mail, or in person at the Office;

- 1.4. must contain a brief description of the case, the statement of facts, circumstances and reasons in support of the request for Pardon, and any other information that may be considered necessary by the person submitting the request;
 - 1.5. can be submitted throughout the year;
 - 1.6. can be withdrawn at any time by the person who has made the request, and by the convicted person as well.
2. The persons mentioned in paragraph 1 (1) of this Article, together with the request for pardon, must:
- 2.1. submit the relevant certificate that serves as evidence of the family relationship with the convicted person
 - 2.2. present the address or the way of their contact and
 - 2.3. sign the request.

Article 12

Request for pardon by the authorized person

1. The convicted person with a special authorization may authorize in writing any person capable of acting, in order to submit the request for pardon on his behalf.
2. The request for pardon by the authorized person:
 - 1.1. must be addressed to the President;
 - 1.2. is submitted in writing;
 - 1.3. is submitted through the mail, or in person at the Office;
 - 1.4. must contain a brief description of the case, the statement of facts, circumstances and reasons in support of the request for Pardon, and any other information that may be considered necessary by the person submitting the request;
 - 1.5. can be submitted throughout the year;
 - 1.6. can be withdrawn at any time by the person who has made the request, according to the given authorization.
3. The authorized person together with the request for pardon, must also submit a written authorization by the convicted person.
4. The authorized person signs the request for pardon and presents an address and the manner of contact

Article 13

The form of the request for pardon

1. The request for pardon can be submitted according to the form attached in Annex No. 2 of this Regulation.
2. The form of the request for pardon will be available free of charge at the Office, in the Ministry and in the correctional institutions.
3. The form of the request for pardon is published on the official website of the Office.
4. The form of the request for pardon can also be published on the official website of the Ministry, the correctional institutions and non-governmental organizations (NGOs) dealing with the protection of the rights of convicted persons.

Article 14

The form of the authorization from the convicted person

1. The authorization from the convicted person, according to Article 12 of this Regulation, can be submitted according to the form attached in Annex No. 3 of this Regulation.
2. The form of the Authorization will be available free of charge at the Office, in the Ministry and in the correctional institutions.
3. The form of the Authorization is published on the website of the Office.
4. The form of the Authorization can also be published on the website of the Ministry, the correctional institutions and non-governmental organizations (NGOs) dealing with the protection of the rights of convicted persons.

CHAPTER IV - ACCEPTANCE OF REQUESTS FOR PARDON

Article 15

Prior receipt and review of requests for Pardon from the Department

1. All the requests for pardon addressed to the President, by the claimants which as defined in the Law, shall be transferred to the Department.
2. The Department, verifies whether the request is complete according to the criteria to be fulfilled in accordance with the law and this Regulation
3. If the material is incomplete, the Department, as needed, requests from the submitter of the application to complete it.
4. If the request for pardon is done by persons who do not have the right to request for pardon, the Department reverses the request and instructs the submitter of the application about the legal procedures.

Article 16

Gathering the necessary information from the Ministry

1. The Department prepares the documents on behalf of the President, for needed information and/or additional information from the Ministry, about the convicted person who has made a request for pardon.
2. The Ministry shall send the requested information to the Department, according to paragraph one (1) of this article, within the deadline of at least thirty (30) days.

Article 17

The sending of information from the Ministry

1. To the information from the Ministry about the person who has requested pardon, the following information must be attached:
 - 1.1. personal data;
 - 1.2. a copy of the final judgment of the court;
 - 1.3. social report on the convicted person which at least must contain data about:
 - 1.3.1. family status (number of minor children, maintenance obligations, etc.) and health status;
 - 1.3.2. the execution of the punishment (the place of execution of the sentence, the time limits for commencing the execution of the punishment);

- 1.3.3. conditional release;
- 1.3.4. reduction or change of the sentence (with extraordinary mitigation of the punishment or with pardon)
- 1.3.5. submission and implementation of the request for extraordinary mitigation of the punishment;
- 1.3.6. previous punishments (type of offense, type and amount of punishment, including execution of punishment);
- 1.3.7. compensation of the damage caused with the criminal offense;
- 1.3.8. professional evaluation of the personal qualities of the convicted person, including the assessment of tendencies for recidivism and the effect of the punishment on the convicted person;
- 1.3.9. the behavior of the convicted person while serving the sentence.
- 1.4. other data that the Ministry or the correctional institution considers important.

Article 18

Receipt of information from the Ministry

1. All the information submitted by the Ministry, regarding the requests for pardon, are forwarded to the Department.
2. The Department after completion of the necessary materials sends the completed request to the Commission.

CHAPTER V - COMMISSION ON THE REVIEW AND EVALUATION OF THE REQUESTS FOR PARDON

Article 19

Duties of the Commission

1. The duties of the Commission are:
 - 1.1. the review and evaluation of individual requests for pardon of convicted persons;
 - 1.2. the preparation in writing of the report, with recommendations for the President, for the pardon of convicted persons;

Article 20

The independence of the work of the Commission

1. The members of the Commission are independent in their work and perform duties and responsibilities in accordance with the legislation in force
2. No person may exercise or attempt to exercise influence on the Commission.
3. The work of the Commission is confidential.
4. Upon appointment, the Chairperson and the members of the Commission sign the Declaration under Oath, according to Annex No. 4 of this Regulation

Article 21
Establishment and composition of the Commission

1. With a Decision, the President appoints the Commission for the review and evaluation of the requests for pardon.
2. The Chairperson and the members of the Commission shall be appointed for a term of two (2) years with the possibility of renewal for only one other mandate.
3. The Commission shall consist of at least 5 (five) members, and in its composition included are the representatives from:
 - 3.1. the Office of the President;
 - 3.2. the field of justice;
 - 3.3. the judiciary and
 - 3.4. civil society.
4. The President also appoints two (2) reserve members, to be ready to decide on cases when the Law foresees the exclusion of a member in a particular case or in the absence of any member. Reserve members serve according to the rotating principle.

Article 22
Deadline for the review of requests by the Commission

The request for pardon of the convicted person is reviewed by the Commission within a period of three (3) months at the latest, from the day of submitting the request to the Commission

Article 23
Taking decisions

1. The decisions in the Commission shall be taken by consensus, in case of a lack of consensus among the members of the Commission, decisions shall be taken by a majority of the votes of the members of the Commission.
2. In the recommendation sent to the President, only the votes for and against must be mentioned, without mentioning the names of the members who voted for and against.

Article 24
Exclusion

1. The Chairperson or the member of the Commission should not take part in the review of any request for pardon in the case when:
 - 1.1. he/she has been damaged by criminal offense;
 - 1.2. he/she is the spouse or cohabiting person, relative in direct bloodline without restrictions, relative in indirect line to the fourth degree, the adopter, the adoptee, from the spouse to the second degree to the convicted person, his protector, the injured party, his or her legal representative or authorized representative;
 - 1.3. in the same criminal case he/she has participated in the proceedings as a prosecutor, judge, defense counsel, legal representative or authorized representative of the injured party or as a witness or expert

- 1.4. there is a conflict of interest, as defined in the Law on the Prevention of Conflict of Interest in Exercising Public Functions.
2. The Chairperson or member of the Commission has the possibility not to participate in the review of any request for pardon, if he/she presents circumstances which put into question his/her impartiality or that appear inappropriate.
3. The Chairperson or member of the Commission, who does not take part in the review of any request for pardon, is replaced by the Commission's reserve member.

Article 25

The Chairperson of the Commission

1. The Chairperson of the Commission has these competencies:
 - 1.1. organizes and takes care of the overall performance of the Commission's work;
 - 1.2. calls and chairs the meetings of the Commission;
 - 1.3. ensures the implementation of this Regulation and the applicable legislation in force;
 - 1.4. represents the Commission in contact with the public or authorizes one of the members for such representation;
2. The Chairperson of the Commission responds directly to the President on the work of the Commission.

Article 26

The obligations of the Chairperson and the members of the Commission

1. The Chairperson and the members of the Commission are obliged to carry out their duties and responsibilities in accordance with the mandate of the Commission.
2. The Chairperson and the members of the Commission are obliged to participate at the meetings of the Commission and in the review of the requests for pardon in accordance with the legislation in force.

Article 27

Resignation

1. The Chairperson and the members of the Commission may resign from the Commission.
2. The Chairperson and the members of the Commission must notify the President on their resignation.

Article 28

Termination of the mandate

1. The President may, by Decision, terminate the mandate of the Chairperson and the Commission member if:
 - 1.1. he/she does not perform the duties and responsibilities given to him/her;
 - 1.2. he/she misuses and/or neglects his/her position as Chairperson or member of the Commission;
 - 1.3. he/she does not participate without reason three (3) times in a row in the meetings of the Commission;
 - 1.4. considers that such a thing is necessary.

2. In cases of termination of the mandate of the members of the Commission, the President appoints the new member.

Article 29

Supporting the work of the Commission by the Department

1. The Commission is supported by the Coordinator/s of the Commission, who is/are appointed by the Director of the Department, from the ranks of the officials of the Department.
2. The Coordinator/s is/are responsible for:
 - 2.1. the administrative and technical support to the Commission;
 - 2.2. the coordination of the activities of the Commission;
 - 2.3. the coordination of work with the Ministry and Correctional Institutions regarding the request of the convicted person;
 - 2.4. keeping records for each meeting of the Commission, which he/she signs together with the Chairperson of the Commission
 - 2.5. the preparation of the list of applicants for pardon, together with the documents accepted by the Ministry, and sending them for review and evaluation to the Commission;
 - 2.6. the preparation of the draft report of the Commission;
 - 2.7. keeping evidence of pardon requests as well as the evidence for persons pardoned by the President;
 - 2.8. the preparation of the annual report on the work of the Commission.

Article 30

Submission of the Report to the President

1. The report shall be signed by the Chairperson and the members of the Commission.
2. The relevant request for pardon ends with the submission of the Commission Report to the President.

CHAPTER VI – THE DECISION OF THE PRESIDENT ON PARDON

Article 31

Review of the Report of the Commission by the President

1. The President reviews the report of the Commission and evaluates the recommendations of the Commission, approves or does not approve them, decides to grant a pardon other than what is recommended or decides not to grant pardon.
2. When the recommendation is approved by the President, the Department prepares the Decree according to the respective procedures.

Article 32

Decree of the President on Pardon

1. The President declares pardon by Decree.
2. The Decree on Pardon enters into force on the date of signature, unless in cases when foreseen otherwise.

3. The form of the Decree on Pardon is provided as Annex no. 1, as integral part of this Regulation.

Article 33
Publication of the Decree on Pardon

1. The Decree on Pardon is published in the Official Gazette of the Republic of Kosovo.
2. The Department forwards the Decree to the Official Gazette of the Republic of Kosovo.

Article 34
Notification for the Decree on Pardon

1. The Department, with the Decree for Pardon informs:
 - 1.1. the person who has submitted the request;
 - 1.2. the person who is pardoned and
 - 1.3. the Ministry.

Article 35
Implementation of the Decree on Pardon

The Ministry must implement the decree within forty eight (48) hours of receipt of notification by the President.

Article 36
Notification on the refusal of the request for pardon

1. When the President rejects the request for pardon, the Department shall without delay notify:
 - 1.4. the person who has made the request;
 - 1.5. the sentenced person and
 - 1.6. the Ministry.

CHAPTER VII – TRANSITIONAL AND FINAL PROVISIONS

Article 37
The budget

The Secretary ensures the necessary budget for the work, engagement, attendance at meetings and the overall functioning of the Commission.

Article 38
Compensation

1. The Chairperson and the members of the Commission have the right for compensation.
2. The Department Officer who is appointed as Coordinator of the Commission, for the additional work and work load has the right to additional compensation on basic salary.

3. The compensation of the Chairperson, the members and the Coordinator of the Commission shall be determined by a Decision of the Secretary.

Article 39
Annexes

1. Part of this regulation are the annexes as follows:
 - 1.1. Annex No. 1: Form of the Decree on the declaration of pardon;
 - 1.2. Annex No. 2: Form of the Request for pardon;
 - 1.3. Annex No. 3: Form of the authorization from the convicted person, and
 - 1.4. Annex No. 4: Sworn Statement.

Article 40
Entry into force

This Regulation shall enter into force seven (7) days after the approval by Decree by the President.

Hashim THAÇI

President of the Republic of Kosovo

Prishtina, 15.11.2017

**Approved by Decree No. DNJ-01-2017,
date 15.11.2017 by the President of the Republic of Kosovo Hashim Thaçi**



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REPUBLIKA KOSOVO – PREDSIEDNIK

DECREE ON THE DECLARATION OF PARDON

Decree No.: DF-(number) – (year).

The President of the Republic of Kosovo,
Pursuant to Article 84 (4 and 29) of the Constitution of the Republic of Kosovo, Article 6 of Law No. 03/L-094 on the President of the Republic of Kosovo (Official Gazette, no. 47, January 25, 2009), Article 8 (paragraph 1) of Law No. 03/L-101 on Pardon (Official Gazette, no. 46, January 15, 2009) and Articles 32 of Regulation (P) No. 02/2017 on the Criteria and Procedures for Pardon of Convicted Persons (15.11.2017), issues this:

D E C R E E

1. (name, name of parent, surname of the convicted person), born in (place of birth) on (day, month, year), serving the sentence in (name of the correctional institution), is pardoned for (how many years, months pardoned) or the remaining part of the sentence, the sentence is replaced with a more lenient sentence or conditional sentence (type of sentence) or remission of sentence.
2. The Ministry of Justice is charged to undertake all the necessary actions for the implementation of this decree.
3. The Decree enters into force on the date of signature.

President of the Republic of Kosovo

Prishtina, on (day, month, year).

To be sent to:

1. Official Gazette of the Republic of Kosovo;
2. The person who has made the request;
3. The person who is pardoned;
4. The Ministry of Justice;
5. a/a

Annex No. 2: Form of the Request for pardon



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REQUEST FOR PARDON

Data of the convicted person:

Name	Parent's name	Surname	Personal No.
Date of birth	Nationality	Municipality – Place of birth	Correctional Center (Place of serving the sentence)

Data of the submitter of the request on behalf of the convicted person:

(On behalf of the convicted person the request can be made also by the spouse, child, brother, sister or by any other person authorized by the convicted person)

Name	Surname	Personal No.	Nationality
Municipality	Family relationship with the convicted/ Authorized person	Address	Tel.No.

* **Persons in family relationship** with the convicted, together with the request for pardon, must submit proof of family connection with the convicted, to be signed and to submit the address and manner of contact.

* **The authorized person** together with the request for pardon must also submit the written authorization from the person convicted.

Brief description of the case *(state the facts, circumstances and reasons in support of the request or any other information that may be considered necessary)*

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Remark: *If you have additional information attach it to this request*

_____ (Signature of the submitter of the request)
_____._____._____ Date

Annex No. 3: Form of the authorization from the convicted person

A U T H O R I Z A T I O N
FOR
SUBMISSION OF REQUEST FOR PARDON

I _____, with Personal No. sentenced with
(Name and surname)

imprisonment and placed in correctional center _____, through this
(Name of the Correctional Centre)

authorization, authorize _____ with Personal No. _____, that
(Name and surname)

on my behalf to submit the request for pardon to the President of the Republic of Kosovo, and to undertake all necessary actions regarding this issue.

This authorization is valid only for this issue and is valid until a further written notice from me.

Authorizer:

Name and surname

Place: _____, Date _____



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REPUBLIKA KOSOVO - PREDSIEDNIK

SWORN STATEMENT¹

I, _____, with personal number _____, selected by the President of the Republic of Kosovo to serve as a member of the Commission for the review and evaluation of the requests for pardon, established on ____.____.20__ (*Decision No. ____/20__*), declare under oath that, faithfully and professionally and in accordance with the legislation in force, will perform my duties during the review and evaluation of the requests for pardon of convicted persons, and at the same time will preserve the confidentiality of the work of the Commission in accordance with Article 20 (4) of Regulation (P) No. 02/2017 on the Criteria and Procedures for Pardon of Convicted Persons.

Moreover,

1. I will protect from disclosure and will preserve the confidentiality of the information about the convicted persons who have requested pardon;
2. I agree that I may personally be held responsible from the penal and/or civil aspect for the disclosure of such information deliberately or due to negligence.

Name and Surname:	Signature:

Place: _____

Date: _____.____.20__.

¹ *This statement must be filled in and signed by the Chairperson, the members of the Commission, the Coordinator of the Commission and other participants in the meetings of the Commission for the review and evaluation of requests for pardon, established by the President of the Republic of Kosovo.*