SUSPENDED SENTENCE IN THE CRIMINAL JUSTICE SYSTEM OF THE REPUBLIC OF KOSOVO: LEGAL NATURE, REHABILITATIVE FUNCTION, AND IMPLEMENTATION CHALLENGES

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Abstract

The suspended sentence represents an important instrument of contemporary criminal justice, combining the imposition of a criminal sanction with the conditional suspension of its execution under legally prescribed requirements. Its significance lies in the individualisation of punishment and its potential to promote the rehabilitation and social reintegration of offenders without immediate deprivation of liberty. However, the existence of a legal framework does not, in itself, guarantee the effective achievement of these objectives.

This article examines the legal nature, normative regulation, rehabilitative function and implementation challenges of the suspended sentence within the criminal justice system of the Republic of Kosovo. Particular attention is given to the relevant provisions of the Criminal Code, the legal conditions governing its imposition, judicial discretion, the obligations that may accompany the sentence, and the institutional role of the Kosovo Probation Service. The analysis also considers relevant European and international standards concerning non-custodial measures and the rehabilitation of offenders.

The study employs doctrinal, legal-normative and analytical-descriptive methods, based on the examination of applicable legislation, international instruments and relevant scholarly literature. It focuses on the relationship between the formal legal regulation of the suspended sentence and the practical requirements for its consistent, proportionate and individualised application.

The analysis indicates that the rehabilitative potential of the suspended sentence depends not only on its recognition in criminal legislation, but also on the quality of judicial reasoning, the proportionality and feasibility of imposed obligations, and the effectiveness of institutional implementation. It concludes that strengthening the application of the suspended sentence in Kosovo requires consistent judicial practice and effective cooperation between courts and the Kosovo Probation Service.

Keywords: suspended sentence; criminal justice; individualisation of punishment; rehabilitation; social reintegration; Kosovo Probation Service.

Introduction

Background and research problem

Imprisonment remains one of the principal instruments through which the criminal justice system responds to criminal offending. Nevertheless, contemporary criminal policy increasingly recognises that the imposition and execution of custodial sentences should be guided by the principles of proportionality, individualisation and the need to prevent further offending. In this context, non-custodial sanctions have gained importance as mechanisms that enable courts to respond to criminal conduct while avoiding the negative consequences that may accompany unnecessary deprivation of liberty. The development of such sanctions reflects a broader effort to balance the protective function of criminal law with the rehabilitation and social reintegration of offenders (Ashworth & Kelly, 2021; Morris & Tonry, 1990).

Within this framework, the suspended sentence occupies a particular position. It involves the imposition of a criminal sentence by the court while suspending its execution for a legally prescribed verification period, subject to conditions established by law. Its significance lies not in the absence of a criminal sanction, but in the possibility of achieving the preventive and rehabilitative objectives of punishment without immediate execution of the imposed sentence. This approach is also connected with the broader understanding of punishment as a response that should preserve the relationship between individual responsibility, community interests and the possibility of reintegration (Duff, 2000).

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In the Republic of Kosovo, the suspended sentence is expressly recognised as an alternative punishment under Article 46 of the Criminal Code No. 06/L-074. Article 47 establishes its purpose as preventing further offending through a warning accompanied by the threat of execution of the imposed punishment. Article 48 regulates the suspended sentence and the verification period, while subsequent provisions establish the conditions for its imposition, the obligations that may accompany it and the circumstances in which it may be revoked (Republic of Kosovo, 2026). The national legal framework therefore provides a formal basis for applying this sanction as an alternative to the immediate execution of punishment.

The legal regulation of the suspended sentence should also be understood in light of the wider principles of criminal policy and sentencing. The literature on criminal sanctions emphasises that the selection of an appropriate sentence requires consideration of the nature and seriousness of the offence, the circumstances of the offender and the objectives that the criminal justice system seeks to achieve (Ashworth & Kelly, 2021; Salihu, 2021). Furthermore, research on desistance from crime highlights the importance of social relationships, personal agency and the conditions that enable individuals to move away from offending (Bottoms, 2006). These perspectives are relevant to assessing the potential rehabilitative function of the suspended sentence, particularly where its application allows the offender to maintain family, educational, professional and community relationships.

At the international level, the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) encourage the development and application of non-custodial measures while taking into account the rights of offenders, the interests of victims, public safety and the objectives of social reintegration (United Nations General Assembly, 1990). Similarly, the Council of Europe Probation Rules emphasise individualised assessment, professional intervention, respect for human dignity and the contribution of probation to social inclusion and the prevention of reoffending (Council of Europe, 2010).

However, the existence of a legal framework does not, in itself, guarantee that the rehabilitative objectives of the suspended sentence will be achieved in practice. Its meaningful application depends on the quality of judicial assessment and reasoning, the suitability and proportionality of any obligations imposed, the individual circumstances of the offender and the availability of appropriate institutional support. The role of the Kosovo Probation Service is particularly relevant where the court imposes supervision or other obligations falling within its legal responsibilities. In this regard, it is important to distinguish the verification period attached to a suspended sentence from formal supervision by the Probation Service, since these are not necessarily identical legal arrangements.

The central research problem addressed in this article therefore concerns the relationship between the normative regulation of the suspended sentence in Kosovo and the legal, judicial and institutional conditions required for its effective rehabilitative application. The analysis focuses on whether the existing framework provides an adequate basis for individualised sentencing and social reintegration, as well as on the challenges that may limit the practical realisation of these objectives.

Aim, Objectives and Research Question

The main aim of this article is to analyse the legal nature, rehabilitative function and implementation challenges of the suspended sentence within the criminal justice system of the Republic of Kosovo.

To achieve this aim, the article pursues three specific objectives:

To examine the legal framework governing the suspended sentence in Kosovo, including the conditions for its imposition and the obligations that may accompany it.

To analyse the potential contribution of the suspended sentence to the rehabilitation and social reintegration of offenders.
To identify legal and institutional challenges that may affect its consistent, proportionate and effective application.
The study is guided by the following research question:
To what extent does the legal and institutional framework of the Republic of Kosovo support the rehabilitative function of the suspended sentence, and what challenges may limit its effective implementation?

Methodology and Scope of the Study

The article applies doctrinal, legal-normative and analytical-descriptive methods. The doctrinal approach is used to examine the legal nature and theoretical foundations of the suspended sentence, drawing on relevant criminal-law scholarship. The legal-normative method focuses primarily on the Criminal Code of the Republic of Kosovo and the legislation governing the Kosovo Probation Service. The analytical-descriptive method is applied to assess the relationship between the applicable legal framework, the rehabilitative objectives of the suspended sentence and the institutional requirements for its implementation.
The analysis is further informed by relevant international instruments and scholarly literature concerning non-custodial sanctions, sentencing, rehabilitation and desistance from crime. The geographical and legal scope of the study is limited to the Republic of Kosovo. International and European standards are considered as normative and interpretative reference points; the article does not undertake a comparative analysis of the criminal legislation of other countries. The study is primarily legal and institutional in nature. It does not constitute an empirical assessment of recidivism or a statistical evaluation of judicial practice. Consequently, references to the rehabilitative function of the suspended sentence concern its legal and institutional potential rather than claims of empirically demonstrated effectiveness. By combining the examination of national legislation with relevant international standards and scholarly perspectives, the article seeks to contribute to a clearer understanding of the role of the suspended sentence in balancing criminal accountability, public safety and the rehabilitation of offenders.

Legal nature and regulatory framework of the suspended sentence

Legal Nature and Purpose of the Suspended Sentence

The suspended sentence represents a specific form of criminal sanction through which the court determines a punishment for a committed criminal offence but orders that its execution shall not take place, provided that the convicted person fulfils the legally prescribed conditions during a specified verification period. Its distinctive legal nature lies in the combination of a judicially imposed punishment and the conditional suspension of its execution. Therefore, it does not constitute an exemption from criminal responsibility or punishment, but rather a sentencing mechanism through which the court seeks to prevent further offending without immediately resorting to the execution of the imposed sentence.
The theoretical foundations of this institution are connected with the general principles of criminal law, particularly the purpose of punishment, proportionality and individualisation. Criminal-law scholarship emphasises that the selection of an appropriate sanction should reflect the seriousness of the offence, the degree of criminal responsibility and the circumstances of the offender (Bačić, 1998; Kambovski & Zejneli, 2018; Salihu, 2021). From this perspective, the suspended sentence provides the court with an opportunity to respond to

criminal conduct through a measure that preserves the authority of the criminal law while allowing the offender to remain within the community.

The development of alternative sanctions is also associated with the need to establish a rational relationship between imprisonment and non-custodial responses to offending. Morris and Tonry (1990) discuss the importance of intermediate sanctions within a rational sentencing system, highlighting the need for sentencing options that avoid unnecessary imprisonment while maintaining accountability. Although their analysis concerns a broader category of sanctions, it provides a useful theoretical basis for understanding the place of the suspended sentence within contemporary criminal policy.

In the Republic of Kosovo, the suspended sentence is expressly classified as an alternative punishment under Article 46 of the Criminal Code No. 06/L-074. The same provision identifies semi-liberty and the order for community service as other alternative punishments. Furthermore, paragraph 2 of Article 46 provides that, when imposing a suspended sentence, the court may also impose an order for mandatory rehabilitative treatment and an order for supervision by the Probation Service (Republic of Kosovo, 2026, Article 46(1)–(2)).

The purpose of the suspended sentence is specifically established in Article 47 of the Criminal Code. According to this provision, its purpose is to prevent further offending in cases involving less serious criminal offences, where a warning accompanied by the threat of punishment is considered necessary to deter the offender from committing another criminal offence. This formulation demonstrates that the suspended sentence has a preventive function, based on the possibility that the warning and the threat of executing the determined punishment may influence the future conduct of the convicted person (Republic of Kosovo, 2026, Article 47).

It is important to distinguish the suspended sentence from other criminal-law institutions. Unlike conditional release, which concerns a person who has already begun serving a custodial sentence and is released under legally prescribed conditions, the suspended sentence involves the suspension of execution of a punishment determined by the court. It must also be distinguished from community service and semi-liberty, which constitute separate alternative punishments with their own legal conditions and forms of execution. These distinctions are important because the legal nature, conditions and institutional implementation of each measure are different.

Legal Conditions and Application in Kosovo

The legal conditions for imposing a suspended sentence are primarily regulated by Articles 48 and 49 of the Criminal Code of the Republic of Kosovo. Article 48 establishes the essential characteristics of this sanction: the court determines a punishment and orders that it shall not be executed if the convicted person does not commit another criminal offence during the verification period established by the court. The verification period may not be shorter than one year or longer than five years. (Republic of Kosovo, 2026, Article 48).

The same provision allows the court to make the suspension conditional upon the fulfilment of certain obligations within a specified period. These may include the return of unlawfully obtained property, compensation for damage caused by the criminal offence or the fulfilment of other obligations prescribed by the Criminal Code. Such conditions connect the preventive function of the suspended sentence with the offender's responsibility to address certain consequences of the criminal conduct (Republic of Kosovo, 2026, Article 49).

Article 49 establishes the statutory conditions under which a suspended sentence may be imposed. In particular, it regulates the categories of offences and the limits of punishment that allow the court to consider this sanction. The provision also requires the court to take into account relevant circumstances when deciding whether a suspended sentence is appropriate, including the purpose of the measure, the offender's previous conduct, behaviour following the

commission of the offence, the degree of criminal responsibility and the circumstances in which the offence was committed (Republic of Kosovo, 2026, Article 49(1)–(4)).

These requirements demonstrate that the imposition of a suspended sentence is not automatic. It requires an individualised judicial assessment based on both the statutory conditions and the circumstances of the particular case. The court must determine whether the warning and the threat of executing the imposed punishment are sufficient to prevent further offending. The assessment should therefore be reasoned and connected to the specific characteristics of the offence and the offender.

The conditional character of this sanction is further reflected in the legal consequences that may follow where the convicted person commits another criminal offence or fails to fulfil obligations imposed by the court. Articles 50 and 52 of the Criminal Code regulate the circumstances in which a suspended sentence may be revoked and the determined punishment executed. In cases of non-compliance with imposed conditions, the court may also extend the time limit for their fulfilment or, where the failure is attributable to justified reasons, waive the condition or replace it with another appropriate condition provided by law (Republic of Kosovo, 2026, Articles 50 and 52).

The possibility of imposing obligations alongside a suspended sentence is particularly relevant to its rehabilitative dimension. Depending on the legal conditions and the circumstances of the case, such obligations may address issues connected with treatment, rehabilitation, compensation, professional development or the offender's conduct during the verification period. Their imposition should be guided by the principles of proportionality and individualisation, ensuring that they are relevant to the purpose of the sanction and realistically capable of fulfilment.

Consequently, the legal framework of Kosovo provides the court with a structured mechanism for imposing a suspended sentence, determining the verification period and, where legally justified, establishing additional obligations. The quality of its application depends on the proper interpretation of these provisions and the court's ability to explain why the measure is appropriate in the individual case.

Institutional Role of the Kosovo Probation Service

The implementation of alternative punishments and the supervision of persons subject to legally prescribed obligations require an institutional framework capable of supporting the objectives of criminal justice. In the Republic of Kosovo, this responsibility is assigned, within its statutory mandate, to the Kosovo Probation Service, whose status, principles, organisation and responsibilities are regulated by Law No. 08/L-129 on the Kosovo Probation Service (Republic of Kosovo, 2022).

Article 1 of this Law establishes the purpose of the Service in terms of the social rehabilitation and reintegration of persons under supervision, the prevention of criminal offences, the reduction of the risk of reoffending and the protection of the public interest. Article 3 defines the Kosovo Probation Service as the institution responsible for organising, implementing and supervising the execution of alternative measures and punishments, supervising conditionally released persons and carrying out other duties prescribed by law (Republic of Kosovo, 2022, Articles 1, 3 and 6).

More specifically, Article 6 identifies the principal activities of the Service. These include organising, implementing and supervising alternative punishments with the aim of social reintegration; preparing social inquiries and pre-sentence reports; assessing risks and treatment needs; providing supervision, support and assistance to persons serving alternative punishments; developing individual supervision programmes; and preparing reports for courts and other competent institutions. The Law also provides for guidance and support for persons

sentenced conditionally, in accordance with the responsibilities established by the applicable legal framework (Republic of Kosovo, 2022).

The relationship between the suspended sentence and the Probation Service requires particular legal precision. Article 46, paragraph 2, of the Criminal Code expressly provides that the court may impose an order for supervision by the Probation Service alongside a suspended sentence. Therefore, the imposition of a suspended sentence should not automatically be equated with continuous formal supervision in every case. The Service's involvement must be understood in light of the specific order and obligations imposed by the court and the responsibilities assigned to it by law. (Republic of Kosovo, 2026, Article 46(2))

This distinction is important because the verification period and probation supervision have different legal functions. The verification period represents the period during which the convicted person must comply with the conditions established by the Criminal Code and the court's decision. Formal supervision, on the other hand, involves the institutional engagement of the Probation Service where such supervision is ordered or otherwise required by law. Accordingly, the existence of a suspended sentence alone does not establish that every convicted person is subject to an individual supervision programme.

Where supervision is ordered, the role of the Probation Service may extend beyond monitoring compliance with formal obligations. Its statutory responsibilities concerning risk assessment, individual supervision programmes, support and cooperation with courts and other institutions may contribute to the implementation of rehabilitative measures. These functions are consistent with the broader principles of the Council of Europe Probation Rules, which emphasise professional practice, individualised intervention, respect for human dignity and the social reintegration of persons under supervision (Council of Europe, 2010).

The institutional dimension of the suspended sentence therefore depends on cooperation between the judiciary and the Probation Service. Courts are responsible for deciding whether the statutory conditions for imposing the sanction are fulfilled and whether additional obligations or supervision are necessary. The Probation Service performs the functions assigned to it by law and by the relevant judicial decisions. Effective cooperation between these institutions is important for ensuring that the suspended sentence operates not only as a formal warning but, where appropriate, also as a measure capable of supporting rehabilitation and social reintegration.

In this regard, the legal and institutional framework of Kosovo establishes the foundations for the implementation of the suspended sentence. Nevertheless, the extent to which these foundations translate into effective rehabilitative practice depends on the quality of judicial decisions, the appropriate use of supervision and the institutional capacity of the Probation Service.

Rehabilitative function of the suspended sentence

Individualisation of Punishment and Rehabilitation

The rehabilitative function of the suspended sentence is closely connected with the principle of individualisation of punishment. This principle requires the court to consider not only the legal classification and seriousness of the criminal offence, but also the individual circumstances of the offender, including previous conduct, personal situation, degree of responsibility and prospects of future lawful behaviour. Individualisation enables the court to select a sanction that is proportionate to the offence while taking account of the offender's circumstances and the objectives of criminal justice.

Within this framework, the suspended sentence offers a particular opportunity to pursue rehabilitation without the immediate execution of imprisonment. By determining a punishment

but suspending its execution under legally prescribed conditions, the court communicates the seriousness of the criminal conduct while allowing the offender to remain within the community. The measure may therefore encourage responsible behaviour and compliance with the law, particularly where the circumstances of the case indicate that immediate imprisonment is not necessary to achieve the purposes of punishment.

Rehabilitation, however, should not be understood exclusively as a psychological process or as a consequence of the offender's decision to refrain from further criminal conduct. McNeill (2012) proposes an interdisciplinary understanding of offender rehabilitation, identifying four interconnected dimensions: psychological, moral, social and legal rehabilitation. These dimensions are relevant to the analysis of suspended sentences because they demonstrate that rehabilitation involves more than individual behavioural change. It also concerns the development of personal responsibility, the restoration of social relationships and the recognition of the offender as a person capable of participating lawfully in society.

The distinction between these dimensions is important. Psychological rehabilitation concerns changes in the offender's attitudes, behaviour and personal circumstances. Moral rehabilitation relates to responsibility, accountability and the recognition of the harm caused by offending. Social rehabilitation concerns the development or restoration of constructive relationships and participation in community life, while legal rehabilitation relates to the offender's position and recognition within the legal order. These dimensions may overlap and reinforce one another, although their achievement cannot be presumed merely because a suspended sentence has been imposed (McNeill, 2012).

The suspended sentence may create conditions that support some of these rehabilitative processes. The offender remains in the community and is required to comply with the law during the verification period. Where additional obligations or supervision are imposed in accordance with the Criminal Code, the measure may also provide a framework for addressing particular needs or circumstances associated with the offending. Nevertheless, the existence of a suspended sentence does not, by itself, demonstrate that psychological, moral, social or legal rehabilitation has taken place.

The United Nations Standard Minimum Rules for Non-custodial Measures, commonly known as the Tokyo Rules, provide an important international framework for understanding the rehabilitative rationale of non-custodial measures. Rule 1.2 emphasises community involvement in the administration of criminal justice and the promotion of a sense of responsibility among offenders towards society. Rule 1.5 calls upon states to develop non-custodial measures as alternatives to imprisonment, taking into account human rights, social justice and the rehabilitation needs of offenders (United Nations General Assembly, 1990).

Accordingly, the rehabilitative function of the suspended sentence should be understood within a broader approach to individualised criminal justice. Its value does not derive solely from avoiding imprisonment, but from the possibility of combining accountability with the conditions necessary for responsible conduct and future social participation.

Social Reintegration and the Role of Probation

Social reintegration represents an important dimension of rehabilitation because it concerns the offender's ability to maintain or establish constructive relationships and participate in community life without further offending. In contrast to imprisonment, which involves the physical separation of individuals from the community, a suspended sentence generally allows the convicted person to remain in their social environment, subject to the conditions established by law and the court.

Remaining in the community may enable the offender to preserve family relationships, employment, education and other forms of social participation. These circumstances may

provide stability and support responsible behaviour. However, such benefits should not be treated as automatic consequences of a suspended sentence. Their significance depends on the offender's personal and social circumstances, the nature of the offence and the availability of appropriate support.

The relationship between social bonds and desistance from crime is particularly relevant in this context. Bottoms (2006) examines the role of social bonds and human agency in the process of desistance, highlighting the importance of understanding the interaction between individual decisions and social circumstances. This perspective suggests that the offender's future conduct cannot be explained exclusively through the threat of punishment. Opportunities for social participation, personal agency and constructive relationships may also influence the process of moving away from criminal behaviour.

The suspended sentence may provide an environment in which these factors can operate, since the offender is not immediately removed from the community. Nevertheless, remaining within the community should not be equated with successful reintegration. The measure may create an opportunity for maintaining social relationships, but the quality and stability of those relationships, as well as the offender's willingness and capacity to change, remain relevant.

Where the court orders supervision by the Kosovo Probation Service or imposes other legally prescribed obligations, the institutional dimension of rehabilitation becomes particularly important. Under the legal framework of Kosovo, the Probation Service performs functions relating to the supervision and implementation of alternative punishments, assessment of risks and treatment needs, individual supervision programmes and support for persons under its supervision (Republic of Kosovo, 2022).

The Council of Europe Probation Rules provide relevant standards for understanding these responsibilities. They emphasise that probation work should be conducted in accordance with professional principles, respect for human dignity, individual assessment and cooperation with other institutions and support services. The Rules also recognise the importance of probation agencies working with the wider community and relevant institutions to fulfil their responsibilities effectively (Council of Europe, 2010).

In this respect, the role of the Probation Service should not be reduced solely to checking whether formal obligations have been fulfilled. Where supervision is ordered, its responsibilities may also include assessment, guidance, support and cooperation with institutions capable of addressing the individual needs of the person under supervision. Such an approach is consistent with the broader understanding of rehabilitation as a process involving personal, social and institutional dimensions (McNeill, 2012).

An important distinction must nevertheless be maintained between the verification period of a suspended sentence and formal probation supervision. The verification period establishes the time during which the convicted person must comply with the conditions prescribed by law and the court. Formal supervision involves the specific institutional engagement of the Probation Service where such supervision is ordered or otherwise provided for by law. Consequently, not every person receiving a suspended sentence necessarily benefits from the same form or level of institutional support.

The rehabilitative contribution of probation therefore depends on the legal basis for its involvement, the individual needs of the person concerned and the capacity of the relevant institutions to provide appropriate interventions. Effective cooperation between courts, the Probation Service and other relevant institutions may strengthen the possibilities for social reintegration, while respecting the legal limits of each institution's responsibilities.

Limitations of the Rehabilitative Function

Although the suspended sentence offers important possibilities for rehabilitation, its rehabilitative function is neither automatic nor guaranteed. The decision to suspend the execution of a punishment does not, by itself, establish that the offender has changed their behaviour, accepted responsibility or reduced the risk of committing further criminal offences. The measure creates a legal opportunity for responsible conduct within the community, but the achievement of rehabilitative objectives depends on a range of individual, social and institutional factors.

One limitation concerns the difference between the preventive effect of a formal warning and the provision of active rehabilitative support. The threat that the imposed punishment may be executed if the convicted person commits another criminal offence or fails to fulfil legally prescribed obligations may encourage compliance with the law. However, this mechanism does not necessarily address the personal, social or behavioural circumstances that may be associated with offending. Where the individual requires specific intervention, the warning alone may be insufficient to address those needs.

A further limitation relates to the individualisation of obligations. Additional obligations and supervision should be based on the circumstances of the particular case and should be proportionate, relevant and realistically capable of implementation. Obligations that are not connected with the offender's actual circumstances or that cannot reasonably be fulfilled may weaken the practical value of the measure. Their effectiveness therefore depends on appropriate judicial assessment and, where necessary, professional evaluation of the offender's needs.

Institutional capacity represents another important consideration. Where supervision or rehabilitative interventions are ordered, their implementation requires adequate professional resources, appropriate assessment procedures, individual supervision programmes and cooperation with other relevant institutions. The Council of Europe Probation Rules underline the importance of professional standards, organisational capacity and inter-institutional cooperation in the effective performance of probation functions (Council of Europe, 2010).

The distinction between the legal availability of supervision and its practical implementation is therefore significant. Although the legislation provides for the involvement of the Kosovo Probation Service, the existence of a statutory mandate does not, on its own, establish the extent, quality or outcomes of the interventions provided in individual cases. These matters require assessment based on institutional information and, where available, empirical evidence.

Another limitation concerns the diversity of offenders and the circumstances in which criminal offences are committed. A measure that may be appropriate for one offender may not necessarily be suitable for another. The effectiveness of a suspended sentence therefore depends on whether the court has adequately considered the seriousness of the offence, the offender's personal circumstances and the prospects of preventing further offending. A generalised approach to its imposition may undermine the principle of individualisation and weaken the relationship between the sanction and its intended objectives.

Finally, the rehabilitative function should not be evaluated solely through the absence of imprisonment or the formal completion of the verification period. A more comprehensive assessment would require information on compliance with obligations, the nature and quality of probation interventions, social reintegration and subsequent criminal behaviour. Since the present study is based on legal and documentary analysis rather than empirical research, it does not establish whether suspended sentences in Kosovo produce measurable reductions in recidivism.

Consequently, the rehabilitative value of the suspended sentence should be understood as a potential arising from its legal structure and its possible implementation within the community. This potential may be strengthened through individualised judicial decisions, proportionate

obligations, appropriate probation interventions and effective institutional cooperation. At the same time, its limitations demonstrate the importance of distinguishing between the normative objectives of the sanction and the actual outcomes that can only be established through further institutional and empirical research.

Findings and discussion

Main Findings from the Legal and Institutional Framework

The analysis of the legal and institutional framework of the Republic of Kosovo identifies several important findings concerning the nature, purpose and rehabilitative potential of the suspended sentence. The first finding relates to its formal recognition as an alternative punishment within the Criminal Code No. 06/L-074. Through Articles 46–56, the legislator establishes the legal basis for its imposition, the conditions governing its application, the verification period, additional obligations and the circumstances in which the suspension may be revoked (Republic of Kosovo, 2026). This framework provides courts with a legal instrument for responding to criminal offending without necessarily requiring the immediate execution of imprisonment.

However, the existence of a normative framework should be distinguished from the effectiveness of its application. The legal regulation establishes the conditions under which a suspended sentence may be imposed, but the achievement of its preventive and rehabilitative objectives depends on how courts interpret and apply those provisions in individual cases. In this respect, the principle of individualisation is particularly important. Judicial decisions should reflect the seriousness of the offence, the degree of criminal responsibility, the offender's personal circumstances and the prospects of preventing further offending.

A second finding concerns the relationship between the preventive and rehabilitative purposes of the suspended sentence. Article 47 of the Criminal Code emphasises the preventive function of the measure, particularly through a warning accompanied by the threat of executing the imposed punishment. Nevertheless, the broader legal and institutional framework also allows for additional obligations and, where ordered by the court, supervision by the Kosovo Probation Service. This creates the possibility of connecting the preventive function of the sanction with interventions that may support rehabilitation and social reintegration (Republic of Kosovo, 2026).

The distinction between these functions is significant. The warning and the threat of execution constitute the central mechanism of the suspended sentence, whereas rehabilitation may require additional measures addressing the individual circumstances and needs of the offender. Consequently, the rehabilitative potential of the sanction should not be assessed exclusively through its capacity to avoid imprisonment. It should also be considered in relation to the conditions under which the offender remains in the community and the availability of appropriate institutional support.

A third finding concerns the institutional role of the Kosovo Probation Service. Law No. 08/L-129 establishes the legal basis for the Service's responsibilities, including the implementation and supervision of alternative punishments, risk and needs assessment, individual supervision programmes and cooperation with courts and other relevant institutions (Republic of Kosovo, 2022). These responsibilities provide an institutional foundation for supporting the implementation of suspended sentences in cases where the court orders supervision or other interventions within the Service's statutory mandate.

Nevertheless, the verification period attached to a suspended sentence must not be confused with formal probation supervision. The former represents the period during which the convicted person is required to comply with the legally prescribed conditions, while the latter

involves the specific institutional engagement of the Probation Service where supervision is ordered or otherwise provided for by law. This distinction has direct implications for understanding the extent of institutional involvement and the rehabilitative support available in individual cases.

A fourth finding relates to the broader understanding of rehabilitation. The literature indicates that rehabilitation is a multidimensional process involving psychological, moral, social and legal aspects (McNeill, 2012). In this context, the suspended sentence may provide an opportunity for offenders to remain connected to their families, employment, education and wider social environment. The importance of social bonds and individual agency in the process of desistance further demonstrates that the movement away from criminal behaviour cannot be explained exclusively through the threat of punishment (Bottoms, 2006).

The international standards examined in this study reinforce the importance of non-custodial measures, individualised interventions and social reintegration. The United Nations Tokyo Rules emphasise the development and application of non-custodial measures, while the Council of Europe Probation Rules provide standards for professional supervision and support for persons subject to probation (United Nations General Assembly, 1990; Council of Europe, 2010). These instruments offer relevant normative guidance for interpreting the objectives of the suspended sentence and the institutional conditions required for its implementation.

Taken together, these findings indicate that the legal framework of Kosovo provides a basis for the application of the suspended sentence as an alternative to the immediate execution of punishment. At the same time, its rehabilitative potential depends on the relationship between judicial assessment, the obligations imposed, the involvement of the Probation Service and the broader social circumstances of the offender. The normative recognition of the measure is therefore an essential starting point, but not sufficient evidence of the achievement of its rehabilitative objectives.

Implementation Challenges and Critical Discussion

One of the principal issues arising from the legal analysis concerns the need for consistent and adequately reasoned judicial decisions in the application of suspended sentences. Although the Criminal Code establishes the conditions for imposing a suspended sentence, the practical significance of these provisions depends on their individualised application. A decision to suspend the execution of punishment should not rely solely on general statements concerning the offender's personal circumstances. It should explain why the measure is appropriate in the particular case and how it corresponds to the purposes of punishment and the prevention of further offending.

This requirement is closely connected with proportionality. The suspended sentence should be imposed only where the statutory conditions are fulfilled and where the circumstances of the offence and the offender justify the measure. An insufficiently reasoned approach may weaken the distinction between cases in which suspension is appropriate and those in which immediate execution of punishment is necessary. Accordingly, the quality of judicial reasoning is not merely a procedural consideration; it is also an important condition for the legitimacy and consistent application of alternative punishments.

A second challenge concerns the relationship between the formal warning and the rehabilitative interventions that may accompany the suspended sentence. The threat of executing the imposed punishment may encourage the offender to refrain from further criminal conduct. However, this mechanism does not necessarily address the individual, behavioural or social circumstances that may be associated with offending. Where specific needs are identified, the imposition of appropriate obligations or supervision may be relevant, provided that these measures are legally justified and proportionate.

The use of additional obligations therefore requires careful judicial assessment. Obligations should be connected to the circumstances of the offender and the purpose of the sanction, rather than imposed as formal or routine requirements. Their practical value depends on whether they can realistically be fulfilled and whether the relevant institutions are capable of supporting or monitoring their implementation. In this respect, the rehabilitative potential of the suspended sentence is closely linked to the quality of the relationship between the judicial decision and the institutional measures available for its execution.

A third challenge concerns the institutional capacity of the Kosovo Probation Service. The statutory responsibilities established by Law No. 08/L-129 provide a legal foundation for supervision, assessment, support and cooperation with courts and other institutions (Republic of Kosovo, 2022). However, the existence of these responsibilities does not, by itself, establish the level of resources, staffing, professional capacity or practical availability of interventions in individual cases. These matters require institutional information and empirical assessment beyond the scope of the present legal analysis.

The relationship between courts and the Probation Service is particularly important where supervision is ordered. Courts determine the legal conditions and the obligations applicable to the convicted person, while the Probation Service performs the functions assigned to it by law and the relevant judicial decision. Effective institutional cooperation may contribute to the consistent implementation of supervision and the identification of appropriate support measures. Conversely, insufficient coordination or limited institutional resources may affect the practical implementation of obligations and the rehabilitative opportunities available to the person concerned.

A further challenge relates to the distinction between the formal completion of the verification period and successful rehabilitation. The fact that a person does not commit another criminal offence during the verification period does not necessarily establish that all dimensions of rehabilitation have been achieved. Similarly, the completion of a supervision programme or compliance with formal obligations cannot, on its own, demonstrate lasting social reintegration. Rehabilitation is a broader process involving personal responsibility, social relationships and the individual's position within the legal and social environment (McNeill, 2012).

The international standards considered in this article provide important guidance in addressing these challenges. The Tokyo Rules encourage the development of non-custodial measures that respect the rights and dignity of offenders while taking account of the interests of society and the needs of rehabilitation (United Nations General Assembly, 1990). The Council of Europe Probation Rules further emphasise individualised professional practice, cooperation with relevant institutions and the importance of social reintegration (Council of Europe, 2010). These standards support an approach in which non-custodial measures should be implemented through legally grounded, proportionate and professionally appropriate interventions.

From a critical perspective, the principal issue is therefore not simply whether the suspended sentence is recognised in the legislation of Kosovo, but whether the legal and institutional arrangements are applied in a manner consistent with its preventive and rehabilitative objectives. The distinction between legal availability and practical implementation is essential. A sanction may be appropriately designed in legislation, yet its intended objectives may remain limited if judicial decisions are insufficiently individualised, obligations are not adequately tailored or institutional support is unavailable.

The findings of this study must also be interpreted in light of its methodological scope. Since the research is based on doctrinal, legal-normative and analytical-descriptive methods, it does not provide statistical evidence concerning the frequency of suspended sentences, the quality of judicial practice, the performance of probation interventions or their impact on recidivism in Kosovo. Therefore, the challenges discussed above represent legal and institutional issues

identified through the analysis of the applicable framework and relevant literature, rather than empirically measured deficiencies.
Overall, the discussion demonstrates that strengthening the rehabilitative function of the suspended sentence requires an integrated approach. Such an approach should combine reasoned and individualised judicial decisions, proportionate obligations, effective institutional cooperation and appropriate professional support. These elements are necessary for ensuring that the suspended sentence operates not merely as a mechanism for postponing the execution of punishment, but as a legally structured opportunity to encourage responsible conduct and support social reintegration.

Conclusions and recommendations

The analysis demonstrates that the suspended sentence represents an important instrument within the criminal justice system of the Republic of Kosovo, offering courts the possibility of imposing a criminal sanction while conditionally suspending its execution under legally prescribed requirements. Its legal nature reflects the principles of individualisation and proportionality, while its rehabilitative potential lies in enabling offenders to remain within the community and avoid immediate imprisonment where the circumstances of the case justify such a measure.
The examination of the applicable legal framework indicates that Kosovo has established a normative basis for the imposition of suspended sentences and the regulation of their implementation. Nevertheless, the existence of legal provisions alone does not ensure that their rehabilitative objectives will be achieved. The practical value of this measure depends on the quality of judicial reasoning, the individual assessment of offenders, the proportionality of imposed obligations and, where applicable, the effective involvement of the Kosovo Probation Service.
An important conclusion is that the verification period attached to a suspended sentence should not be confused with formal probation supervision. The rehabilitative opportunities available in individual cases depend, among other factors, on whether the court orders supervision or specific obligations and whether the relevant institutions have the capacity to implement them. Consequently, the suspended sentence should not be assessed exclusively as a mechanism for avoiding imprisonment, but also in terms of the legal and institutional conditions that may support responsible conduct and social reintegration.
Based on these findings, several recommendations may be identified. First, courts should ensure that decisions imposing suspended sentences contain clear and individualised reasoning, explaining why the measure is appropriate in light of the seriousness of the offence and the personal circumstances of the offender. Second, obligations attached to suspended sentences should be proportionate, relevant to the circumstances of each case and realistically capable of implementation. Third, cooperation between courts and the Kosovo Probation Service should be strengthened, particularly in cases involving supervision, treatment or other rehabilitative interventions. Fourth, institutional capacity should be supported through professional training, adequate resources and the development of appropriate individual supervision programmes.
Finally, the systematic collection and analysis of data concerning the imposition, supervision, implementation and revocation of suspended sentences, as well as their rehabilitative outcomes, would provide a stronger basis for evaluating their effectiveness. Future research should therefore complement legal analysis with empirical examination of judicial practice, probation interventions and recidivism, where reliable data are available.
In conclusion, the suspended sentence has significant potential to contribute to a more individualised and rehabilitative criminal justice system in Kosovo. However, this potential

can be realised only when appropriate legal standards are accompanied by reasoned judicial decisions, effective institutional cooperation and consistent implementation.

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