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Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution**

**OPINION
OF
OMBUDSPERSON**

R. no. 538/2025

on

the increase in electricity prices by the Energy Regulatory Office

To:

Mr. Albin Kurti, Acting Prime Minister
Government of the Republic of Kosovo

Mr. Hekuran Murati, Acting Minister
Ministry of Finance, Labour and Transfers

Ms. Artane Rizvanolli, Acting Minister
Ministry of Economy

Mr. Ymer Fejzullahu, Chairperson of the Board
Energy Regulatory Office

Prishtina, May 29, 2025

Purpose

Through this Opinion, the Ombudsperson will present the general position regarding the increase in the price of electricity by the Energy Regulatory Office (ERO), as well as the effects caused by this increase, in light of the constitutional and legal guarantees concerning fundamental human rights and freedoms.

In this context, the Ombudsperson will focus on the impact of this increase on the standard of living of the citizens of the Republic of Kosovo, specifically the affordability of the cost, as well as the effect of the increase on consumers in need.

The Ombudsperson will assess the procedure leading to the adoption of the decisions for the electricity price increase, particularly focusing on transparency by evaluating public participation in decision-making, the provision of clarifications and ERO's responses to submitted comments, including timely information and the involvement of decision-making institutions that are responsible under Law No. 05/L-085 on Electricity.

In relation to this matter, the Ombudsperson has received a complaint from Mr. A. B, lawyer and legal representative in judicial proceedings of several entities, regarding the annulment of ERO Decision V_2703_2025, protocol no. 253/25, dated April 16, 2025, through which the retail tariffs for electricity for customers entitled to Universal Service Supply were approved, and consequently, the electricity price was increased. In this regard, the complainant has requested the Ombudsperson to appear in the capacity of *amicus curiae* (friend of the court) in the judicial proceedings and to express its views regarding the implications of the disputed matter on the rights and freedoms guaranteed by the Constitution and the applicable legislation.

The Ombudsperson has also received a complaint from representatives of the Kosovo Chamber of Commerce, who expressed their concerns about the placement of consumers with an annual turnover of over ten (10) million euros or more than fifty (50) employees in the open electricity market.

Taking into account that this opinion provides only general positions, the Ombudsperson considers that it may also contribute to the judicial proceedings currently being conducted on these matters.

Powers of the Ombudsperson

1. The Constitution of the Republic of Kosovo (hereinafter: the Constitution), Article 132, paragraph 1, stipulates: "*The Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities.*" Whereas in paragraph 3, it stipulates: "*Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law.*"
2. According to Law No. 05/L-019 on the Ombudsperson, the Ombudsperson has, *inter alia*, the following competences and responsibilities:

"to draw attention to cases when the institutions violate human rights and to make recommendation to stop such cases and when necessary to express his/her opinion on

attitudes and reactions of the relevant institutions relating to such cases;” (Article 18, par. 1, sub-par. 1.2).

“to make recommendations to the Government, the Assembly and other competent institutions of the Republic of Kosovo on matters relating to promotion and protection of human rights and freedoms, equality and non-discrimination;” (Article 18, par. 1, sub-par. 5).

“to publish notifications, opinions, recommendations, proposals and his/her own reports;” (Article 18, par. 1, sub-par. 6).

“The Ombudsperson may appear in the capacity of the friend of the court (amicus curiae) in judicial processes dealing with human rights, equality and protection from discrimination.” (Article 16, paragraph 9)

3. By submitting this Opinion to the competent institutions, as well as by publishing it, the Ombudsperson aims to fulfill the aforementioned constitutional and legal responsibilities.

Description of the Case

4. The Ombudsperson has noted that on April 11, 2025, the Energy Regulatory Office (ERO) issued Decision V_2697_2025, by which it approved the maximum allowed revenues to be collected by the Distribution System Operator (DSO) – KEDS J.S.C., for the relevant tariff year 2025; and Decision V_2698_2025, by which it approved the maximum allowed revenues for the Universal Service Supplier.
5. Regarding this matter, the Ombudsperson analysed Decision V_2697_2025 and observed that in Point 2 of the dispositive part, it is stated that the maximum allowed revenues to be collected by the DSO for the relevant tariff year 2025 amount to €180,652,995. Based on this decision, ERO issued Decision V_2702_2025, protocol no. 252/25, dated April 29, 2025, through which it approved the tariffs for the use of the distribution system (UDS), to be implemented by the Distribution System Operator.
6. Meanwhile, Decision V_2698_2025, Point 2 of the dispositive part provides that the maximum allowed revenues of the Universal Service Supplier for the year 2025 amount to €435,926,299. Based on this decision, ERO issued Decision V_2703_2025, protocol no. 253/25, dated April 29, 2025, through which it approved the retail electricity tariffs for customers entitled to Universal Service Supply, to be collected from May 1, 2025 until the next tariff review.
7. On March 21, 2025, the Ombudsperson received a complaint from Mr. L.R., President of the Kosovo Chamber of Commerce, regarding the removal of customers with an annual turnover of more than ten (10) million euros or more than fifty (50) employees from the right to Universal Service Supply. The complainant claims that the business community was not adequately prepared for such a change and that the sudden placement of businesses in this situation will produce severe consequences, affecting both the business environment and other citizens of the Republic of Kosovo.
8. On May 2, 2025, the Ombudsperson received a complaint from lawyer Mr. A.B and others, submitted against ERO, concerning the issuance of Decision V_2703_2025, through which the retail electricity tariffs for customers entitled to Universal Service Supply were approved. The complainant informed the Ombudsperson that on May 2,

2025, he filed a lawsuit at the Basic Court in Prishtina (case no. A.no.1476/2025), requesting the annulment of Decision V_2703_2025, and further requested the Ombudsperson to appear as *amicus curiae* in the judicial proceedings and provide an assessment of the contested issue from the human rights perspective.

9. On April 7, 2025, the Ombudsperson held a meeting with the ERO Board, during which the circumstances and reasons for ERO's consideration of the electricity price increase as necessary were discussed, along with the procedure followed in relation to the matter.
10. On April 30, 2025, the Ombudsperson sent a request to the Board of the Energy Regulatory Office for the suspension of the implementation of Decision V_2697_2025 and Decision V_2698_2025, both dated April 11, 2025. Regarding this issue, the Ombudsperson assessed that issuing such acts in the current situation in the Republic of Kosovo, which obligates citizens to pay higher electricity prices, produces irreparable consequences for all citizens.
11. Given the above, the Ombudsperson recommended that ERO suspend the execution of Decision V_2697_2025 and Decision V_2698_2025, both dated April 11, 2025, until the completion of the Ombudsperson's investigation into the complainants' allegations regarding the electricity price increase.
12. On May 7, 2025, the ERO Board responded and, in addition to other clarifications, informed that *"the electricity price increase is a decision based on the necessary analyses and the operators' requests to cover the costs of services and required investments for the energy system's functioning. This decision was made after a detailed assessment and consultation with all relevant stakeholders, ensuring compliance with legal requirements and the general interests of the citizens."*

For these reasons, the Energy Regulatory Office considers the request to suspend the execution of Decisions V_2697_2025 and V_2698_2025 as unfounded and deems that the process should continue [...]"

13. The Ombudsperson, referring to Article 132, paragraph 3, of the Constitution of the Republic of Kosovo, which states that *"Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law."*, considers that the responses from the authorities should be in the spirit of cooperation with the aim of protecting and advancing human rights. The Ombudsperson considers that the response provided by ERO does not align with the spirit of Article 132, paragraph 3, of the Constitution of the Republic of Kosovo.

Assessment of the Ombudsperson

14. The Ombudsperson, considering the fact that with the issuance of Decisions V_2702_2025 and V_2703_2025 by the Energy Regulatory Office (ERO), the price of electricity in the Republic of Kosovo has increased by approximately 16.1% compared to the previous electricity tariffs.
15. The Ombudsperson, taking into account that electricity is an essential product for life, emphasizes that the implementation of the aforementioned decisions directly affects the increase in the cost of living for the citizens of the Republic of Kosovo, and consequently will impact the reduction of the standard of living, as well as increase the number of

families in need of state support, while making the living conditions even more difficult for families on social assistance.

16. Regarding the meeting held on April 7, 2025 with some members of the ERO Board, the Ombudsperson, despite the arguments presented by ERO on the need to increase electricity prices, was not convinced that such an increase is necessary under the current circumstances of institutional vacuum in the Republic of Kosovo, which has prevented the development of inter-institutional communications aimed at finding a more favourable solution for the citizens of the Republic of Kosovo.
17. The Ombudsperson, considering the legal provisions in Law No. 05/L-085 on Electricity, particularly those in Article 49 [Protection of Customers in Need], which states: “*The Ministry in charge for social welfare shall develop, in cooperation with the Ministry in charge for energy, Ministry of Finance and in consultation with the Regulatory and other stakeholders of the electricity sector, a detailed program for establishing the status of socially customers in need, the scope of rights, as well as measures aimed at protecting the socially customers in need in order to meet their electricity demand.*” considers that in the present case such cooperation between ERO and other competent institutions under the Electricity Law has been lacking, even though they are obligated to undertake concrete actions to protect customers in need.
18. The Ombudsperson, aware that the implementation of these decisions has a direct effect on human rights, considers that ERO should have engaged in more detailed communications with relevant institutions, which have specific competencies under Law No. 05/L-085 on Electricity, in order to find sustainable solutions aimed at protecting consumers.
19. Furthermore, considering the direct effects on human rights and the obligations of state institutions under the Law on Electricity, the Ombudsperson considers that ERO should have, in cooperation with state institutions, identified a solution whereby institutions would cover the cost burden of electricity, so that the change in electricity price would not directly impact the citizens of the Republic of Kosovo.
20. The Ombudsperson considers that this discussion and solution could have been realistically achieved if the institutions of the Republic of Kosovo had been constituted at the time ERO undertook the actions for issuing the aforementioned decisions. For this reason, the Ombudsperson stresses that the procedures carried out by ERO should have awaited the constitution of the institutions of the Republic of Kosovo.
21. The Ombudsperson is aware that ERO is an independent body and functions independently. Nevertheless, considering the provisions of Article 49 of the Law on Electricity, which states that “*the institutions of the Republic of Kosovo, in cooperation with the Regulatory (ERO), must undertake concrete actions to protect consumers in need*”, it is the Ombudsperson’s opinion that specific communications should have taken place with the competent institutions, with the aim of finding a more suitable solution to protect consumers in the Republic of Kosovo.
22. The Ombudsperson, given the current situation of institutional vacuum in the Republic of Kosovo, considers the conduct of the procedure by ERO and the adoption of the aforementioned decisions, which resulted in the increase of electricity prices, to have been a hasty step.

23. The fact that, according to legal provisions, state institutions are obligated to undertake concrete actions in consultation with the Regulatory, shows that the issuance of such decisions under the current situation in the Republic of Kosovo has not been carried out in the spirit of Article 49 of Law No. 05/L-085 on Electricity, and as a result, consumers in the Republic of Kosovo have been left without institutional support.
24. The Ombudsperson considers that the Government of the Republic of Kosovo, in consultation with ERO, should have taken concrete steps to identify a more suitable solution for the citizens of the Republic of Kosovo regarding the issue of electricity price increases.
25. Furthermore, the Ombudsperson, considering that the increase in electricity prices is expected to reflect in the prices of all other products, considers that such a decision should have been made only after all communications between ERO and the competent institutions of the Republic of Kosovo had been exhausted.
26. The Ombudsperson considers that the issuance of such acts under the current circumstances in the Republic of Kosovo, which oblige citizens to pay higher electricity prices, results in irreparable consequences for all citizens.
27. The Ombudsperson, in light of the provisions of Law No. 05/L-031 on General Administrative Procedure, emphasizes that Article 8 [Principle of Legal and Reasonable Expectation] stipulates: *“1. The actions of public organs shall be consistent and respect the legitimate and reasonable expectations of the persons. 2. Administrative actions shall not diverge without justifying reasons from previous administrative practice by the same public organ in relation to same similar situations.”*
28. In addition, the Ombudsperson considers that the concept of legal and reasonable expectation in the protection of subjective rights is a comprehensive interpretative concept in international judicial practice. According to the ECtHR (*see cases Kopecky v. Slovakia, judgment dated September 28, 2004, §§ 45–52; Gratzinger and Gratzingerova v. the Czech Republic (dec.), no. 39794/98, § 73, ECtHR 2002-VII*), “legitimate expectation” must be of a concrete nature and based on legal provisions and legal acts. In the current case, the legitimate expectation is reflected in the guarantees of the Law on Electricity for vulnerable consumers, and the obligation of institutions, in consultation with the regulator, to take concrete measures to protect vulnerable consumers, which has not occurred in this case due to the fact that the procedures undertaken by ERO were carried out during a period when the Republic of Kosovo lacked constituted institutions, and consequently no action was taken to support vulnerable consumers in the current case.
29. Furthermore, the Ombudsperson considers that the concepts of legal and reasonable expectation are inseparable from the concept of legal certainty, and that both concepts must be interpreted jointly. In this regard, the Ombudsperson emphasizes that the concept of legal certainty in this case implies that institutions must undertake concrete actions based on legal provisions that clearly regulate the matter in question.
30. Therefore, considering the circumstances highlighted above, as well as the concept of legal and reasonable expectation and legal certainty, the Ombudsperson considers it essential that institutions implement the provisions of specific laws and undertake actions related to electricity price setting only after the legal conditions defined by the applicable

legislation have been met and after all consultations with relevant institutions have been completed.

31. The Ombudsperson has analysed the procedure for issuing the aforementioned decisions and has found that the procedure carried out by ERO was not conducted with effective transparency and, in some cases, was conducted with no transparency at all. The Ombudsperson emphasizes that a procedure cannot be deemed transparent if the comments of stakeholders who expressed their concerns regarding the increase in electricity prices are not taken into account.
32. Furthermore, the fact that ERO did not disclose the percentage (%) of the electricity price increase until the end of the procedure and that citizens of the Republic of Kosovo learned about the price increase only after the adoption of the aforementioned decisions indicates that this procedure was not conducted with transparency, as required by Law No. 05/L-031 on General Administrative Procedure, and specifically not in accordance with Article 70 [Provision of Public Services of General Interest], paragraph 1, which stipulates: *“In cases when public services of general interest are provided either by a public or private service provider under private law, the regulatory, supervisory or licensing body (hereinafter referred to as “regulatory organ”) as provided in law, by exercising its supervisory responsibility shall ensure the continuity, uniformity, affordability and adequate quality of service, transparency of proceedings and non-discrimination of public service users.”*
33. Regarding the issue raised by the Kosovo Chamber of Commerce, the Ombudsperson emphasizes that the exclusion of consumers with an annual turnover of more than ten (10) million euros or more than fifty (50) employees from the right to universal service supply will further aggravate the social situation in the Republic of Kosovo.
34. In this regard, the Ombudsperson considers that during the exclusion of such consumers – those with an annual turnover of more than ten (10) million euros or more than fifty (50) employees – from the right to universal service supply, sufficient time was not provided for preparation, especially considering that other operators have not created conditions for offers in accordance with the required standards, which consequently leads to the monopolization of the market, and as a result, causes a chain disruption in the market for essential goods for the lives of the citizens of the Republic of Kosovo.
35. The Ombudsperson, considering the fact that electricity prices for these categories are expected to increase even further, considers that there is a real risk that the prices of products related to the activities of these entities will also rise, thus further burdening the standard of living for all citizens of the Republic of Kosovo.
36. Therefore, considering this issue, the Ombudsperson expresses concern that such a step in this situation will doubly impact the household and business economies of the citizens of the Republic of Kosovo. Hence, it is the Ombudsperson’s assessment that, in truly serious situations, the relevant institutions have a duty to jointly engage in finding a solution that supports consumers in the Republic of Kosovo and creates an enabling environment for business development.

Conclusion

37. Based on the above-mentioned circumstances, the Ombudsperson considers that it is the obligation of all institutions of the Republic of Kosovo to cooperate with one another in fulfilling their legal duties aimed at protecting consumers in the Republic of Kosovo.
38. The Ombudsperson emphasizes that the institutional vacuum has prevented the Government and other responsible institutions, as provided by the Law on Electricity, from responding in a timely manner to find solutions for vulnerable consumers as well as for other consumers affected by this increase.
39. The Ombudsperson stresses that, in the present case, ERO has not conducted the procedures for issuing such decisions transparently, as required by Article 70 of Law No. 05/L-031 on General Administrative Procedure.
40. In this regard, the Ombudsperson considers that competent institutions must conduct procedures in accordance with legal requirements for transparency and the protection of vulnerable consumers, so that the citizens of the Republic of Kosovo are clearly informed about the procedures being conducted and the subject matter under decision.
41. The Ombudsperson emphasizes that the Government of the Republic of Kosovo has an obligation to act in accordance with the provisions of the Law on Electricity, ensuring that such decisions by ERO are accompanied by measures that protect the rights of vulnerable consumers and other at-risk categories, and that concrete actions are undertaken to ensure affordable conditions for the business community as well.
42. The Ombudsperson also points out that the issuance of the above-mentioned decisions did not meet the standard required by Article 49 of Law No. 05/L-085 on Electricity, thereby making it impossible to provide support to consumers in need.
43. Regarding this matter, the Ombudsperson considers that, in the present case, ERO should have conducted such procedures only after the constitution of the institutions of the Republic of Kosovo, and subsequently consulted with them to find more favourable solutions for citizens.
44. The Ombudsperson also emphasizes that the Government of the Republic of Kosovo should have, in consultation with ERO, found a suitable solution concerning the exclusion from the right to universal service supply of consumers with an annual turnover of more than ten (10) million euros or more than fifty (50) employees, as this situation poses a risk of triggering a new wave of inflation that could lead to an unsustainable situation for the household economies of the citizens of the Republic of Kosovo. It may also endanger the viability of certain business entities and create an unfavourable environment for the development of business activities in the Republic of Kosovo.
45. The Ombudsperson reiterates its position that ERO should suspend the implementation of Decision V_2697_2025, Decision V_2702_2025, prot. no. 252/2025, dated April 29, 2025, Decision V_2698_2025, and Decision V_2703_2025, prot. no. 253/2025, dated April 29, 2025.
46. Finally, the Ombudsperson emphasizes that it is the duty of every institution in the Republic of Kosovo, regardless of status or region, to engage in the provision of services

in the best interest and benefit of the citizens of the Republic of Kosovo, while respecting the Constitution and the applicable legal provisions.

Respectfully,
Naim Qelaj
Ombudsperson