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**REPORT
OF THE
OMBUDSPERSON'S INSTITUTION**

C. No. 1242/2024

*regarding the non-enforcement of Judgment No. A. 70/2023 of the Basic Court in Prishtina -
Department for Administrative Matters, dated 8.4.2024, confirmed by the Court of Appeals in
Judgment No. AA. 557/2024, dated 24 November 2025.*

To: Ms. Malsore Gashi Bajraktari, Chairperson of the Panel of Independent Oversight
Board of the Civil Service of Kosovo

Prishtina, 22 April 2026

Purpose of the report

The purpose of this report is to draw the attention of the Independent Oversight Board for the Civil Service of Kosovo (hereinafter: the Board) regarding the need to undertake the relevant actions for the implementation, without further delay, of Judgment No. A. 70/2023 of the Basic Court in Prishtina – Department for Administrative Matters, dated 8 April 2024.

This report is based on the complaint of Mr. V.H and others (hereinafter: the complainants) and is supported by the facts and evidence of the complainants, as well as by the case file documents available to the Ombudsperson, regarding the non-enforcement of Judgment No. A. 70/2023 of the Basic Court in Prishtina – Department for Administrative Matters, dated 8 April 2024. The complainants are public servants of the Kosovo Privatization Agency.

Legal basis

According to Law No. 05/L-019 on Ombudsperson, the Ombudsperson, among others, has the following competencies and responsibilities:

- *“The Ombudsperson has the power to investigate (...) on its own initiative (ex officio), if (...) there is a base resulting that the authorities have violated human rights and freedoms stipulated by the Constitution, laws and other acts, as well as international instruments on human rights.”* (Article 16, par. 4).
- *“The Ombudsperson may provide general recommendations on the functioning of the judicial system.”* (Article 16, par. 8).
- *“To investigate alleged violations of human rights and acts of discrimination, and be committed to eliminate them.”* (Article 18, par. 1, subpar.1).
- *“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, subpar. 2).
- *“to inform about human rights and to make efforts to combat all forms of discrimination through increasing of awareness, especially through information and education and through the media.”* (Article 18, par. 1, subpar. 4).
- *“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, subpar. 5).
- *“To publish notifications, opinions, recommendations, proposals and his/her own reports”* (Article 18, par. 1, subpar. 6).
- *“To recommend promulgation of new Laws in the Assembly, amendments of the Laws in force and promulgation or amendment of administrative and sub-legal acts by the institutions of the Republic of Kosovo.”* (Article 18, par. 1, subpar. 7).

- *“To prepare annual, periodical and other reports on the situation of human rights and freedoms, equality and discrimination and conduct research on the issue of human rights and fundamental freedoms, equality and discrimination in the Republic of Kosovo.”* (Article 18, par. 1, subpar. 8).
- *“To recommend to the Assembly the harmonization of legislation with International Standards for Human Rights and Freedoms and their effective implementation.”* (Article 18, par. 1, subpar. 9).

By sending this report to the competent institutions, the Ombudsperson aims to fulfil these legal responsibilities.

Case description

Based on the documentation and information available to the Ombudsperson, the facts can be summarized as follows:

1. On 29 October 2021, the Board of Directors of the KPA (hereinafter: KPA) adopted Decision No. Ref. BD-153/9, through which the Regulation on Salaries was adopted, reducing the salaries of public officials of the KPA. Public officials of the KPA, affected by this Decision, filed a collective complaint with the Independent Oversight Boards for the Civil Service of Kosovo (hereinafter: the Board).
2. The complainants, employees of the KPA, filed a complaint with the Board, against Decision No. Ref. BD-153/9, dated 29.10.2021, of the Board of Directors of the KPA.
3. On 15 December 2022, the Board, through Decision No. A.nr. 1167/2021, rejected the complaint of the public servants of the KPA.
4. On 13 January 2023, the complainants filed a lawsuit with the Basic Court of Prishtina (BCP) requesting that the court annul the challenged decision, namely to suspend the enforcement of the same, until a final decision is issued by the court. On 23.1.2023 the complainants supplemented the lawsuit.
5. On 10 February 2023, the BCP, through Judgment No. A.nr. 70/2023, found that Decision No. A.nr. 1167/2021 of the Board, dated 15 December 2022, was unlawful and obliged it to review the public officials' appeal. Furthermore, this court rejected the proposal to suspend the implementation of the Board's Decision, emphasizing that the implementation of legal measures is mandatory for all parties. The Board filed an appeal with the Court of Appeals against the judgment of the BCP.
6. On 24 November 2025, the Court of Appeals issued a decision (Judgment No. AA. 557/2024), by which it confirmed Judgment No. A. 70/2023 of the Basic Court in Prishtina – Department for Administrative Matters, dated 8.4.2024.
7. On 28 January 2026, the Board issued a Decision, by which it suspended the administrative procedure in case No. A. 1167/2021.
8. On 10 February 2026, the complainant filed a request for reconsideration of the Suspension Decision No. A. 567/2024, dated 28.1.2026.

9. On 11 February 2026, the complainant notified the Ombudsperson of the circumstances of the case.

Legal instruments applicable in the Republic of Kosovo

10. Article 7 of the Constitution [Values], paragraph 1, provides: *“The constitutional order of the Republic of Kosovo is based on the principles of freedom, peace, democracy, equality, respect for human rights and freedoms and the rule of law, non-discrimination, the right to property, the protection of environment, social justice, pluralism, separation of state powers, and a market economy.”*
11. Article 31 of the Constitution [Right to Fair and Impartial Trial], paragraph 1, provides: *“Everyone shall be guaranteed equal protection of rights in the proceedings before courts, other state authorities and holders of public powers.”*
12. Article 54 of the Constitution [Judicial Protection of Rights] provides: *“Everyone enjoys the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied and has the right to an effective legal remedy if found that such right has been violated.”*
13. Article 22 of the Constitution, which lists international instruments on human rights *“Are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions”*. Among these international instruments, the Ombudsman singles out the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (ECHR).
14. Article 53 of the Constitution provides: *“Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights.”*
15. Article 6 of the ECHR [Right to a fair trial], paragraph 1, provides: *“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”*
16. Article 13 of the ECHR provides: *“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”*
17. Article 6, paragraph 2 of Law No. 06/L-054 on Courts, stipulates: *“2. Court decisions are binding on all natural and legal persons.”*
18. Article 85 of Law No. 05/L-031 on General Administrative Procedure, stipulates *“1. When the public organ conducting the proceeding comes across an issue the resolution of which is a precondition for resolution of the matter, and which constitutes an independent legal issue for resolution of which is competent the court or other organ (hereinafter referred to as “preliminary issue”), the public organ conducting the administrative proceeding shall stay the*

proceeding till the preliminary issue is decided upon and shall notify the party thereof.[...].”

Analysis and assessment of the Ombudsperson

19. The assessments and findings of the Ombudsperson regarding this matter are based on the rights guaranteed by the Constitution of the Republic of Kosovo, the laws, the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, as well as the case-law of the European Court of Human Rights.
20. In this regard, the Ombudsperson emphasizes that the enforcement of a final and enforceable judgment must be regarded as an integral and inseparable part of a “trial” for the purposes of the right to a fair trial and must be carried out within a reasonable period of time. This obligation rests with the State, and excessive delay in the enforcement of a final and enforceable judgment, or the failure to take measures to enforce it, constitutes a violation of the right to a fair trial and the right to an effective remedy.
21. The Ombudsperson recalls that the Independent Oversight Board for the Civil Service of Kosovo (hereinafter: the Board) is an independent constitutional institution that ensures compliance with the rules and principles governing the civil service in the Republic of Kosovo.
22. The Ombudsperson noted that, despite the fact that the Court of Appeals obliged the Board, within a period of thirty (30) days, in the repeated proceedings, to act in accordance with the remarks provided in Judgment No. AA. 557/2024 and, after eliminating the deficiencies identified therein, to render a lawful and well-founded decision, while emphasizing that the aforementioned remarks were binding upon the respondent authority, namely the Board, in the present case, that judgment was not implemented by the Board.
23. Furthermore, notwithstanding Judgment No. AA. 557/2024, the Board, by Decision No. A. 567/2024, dated 28.1.2026, decided to suspend the administrative proceedings, invoking the existence of a “preliminary issue”.
24. The Ombudsperson emphasizes that Law No. 05/L-031 on General Administrative Procedure, Article 85, paragraph 1, permits the suspension of proceedings where there exists a preliminary issue, the resolution of which is a prerequisite for decision-making in the main matter and for which a court or another authority has jurisdiction. However, in interpreting this provision, the Ombudsperson emphasizes that the preliminary issue must be legally independent from the main matter and that there must be a direct causal link, namely that the decision on the preliminary issue constitutes a logical prerequisite for the decision in the main matter.
25. In the present case, the legal matter reached its final conclusion through the Judgment of the Basic Court in Prishtina – Department for Administrative Matters (No. A. 70/2023, dated 8.4.2024) and the Judgment of the Court of Appeals of Kosovo – Department for Administrative Matters (No. AA. 557/2024, dated 12.11.2025). These judgments are final and enforceable and, as such, exclude any legal possibility of the existence of a preliminary issue. Other court cases, involving different parties and different factual or procedural circumstances, cannot be used as a basis for suspending the implementation of a final judgment. Once a judgment becomes final, there is no longer a “preliminary issue”, but rather a matter that has

been finally adjudicated.

26. The existence of other first-instance judgments with different content, which are currently subject to appellate proceedings, does not transform a matter that has already been decided into a “preliminary issue”. On the contrary, this concerns non-unified case-law, an issue that is to be resolved through judicial mechanisms, such as the Court of Appeals or, eventually, the Supreme Court, and not through administrative suspension.
27. Law No. 06/L-048 on the Independent Oversight Board for the Civil Service (as amended by Law No. 08/L-180) defines the competencies of the Board, including the review of complaints submitted by civil servants. Article 18, paragraph 1, subparagraph 1.9, grants the Board decision-making authority within the scope of its mandate, but does not grant it the authority to assess or suspend the effect of final judgments. The Board is an administrative body with a quasi-judicial function, but it is not an instance above the courts. Any interpretation that would confer upon it the authority to suspend a matter decided by a final judgment would be contrary to the principle of separation of powers.
28. The Ombudsperson recalled that, pursuant to Law No. 06/L-054 on Courts, the courts exercise judicial power and final judgments are binding on all public authorities. The principle of *legal certainty* implies that a matter decided by a final judgment cannot be called into question by an administrative body, nor suspended for the purpose of avoiding its enforcement or implementation. The Department for Administrative Matters of the Basic Court and the Court of Appeals are competent to review the legality of administrative acts. Their decisions, once they become final, create a binding effect not only between the parties, but also for the administration in relation to the same legal matter.
29. In this regard, the Ombudsperson emphasizes that it would make no sense if the legal system were to allow a final and binding court decision to remain ineffective to the detriment of the complainants. Therefore, the non-enforcement of court decisions produces effects which lead to situations that are not in compliance with the principle of the rule of law, a principle which the authorities of the Republic of Kosovo are obliged to respect.¹
30. Rights relating to a fair hearing would remain a mere illusion if a final decision of a court or tribunal, including administrative decisions, were not allowed to be enforced (*Czernin v. Czech Republic*).²
31. In addition to cases involving delays in judicial proceedings, the ECtHR has found that delays in the enforcement of a decision after it has been rendered may also constitute a violation of the right to a hearing within a reasonable time, as guaranteed by Article 6 of the ECHR. For example, the ECtHR found that: “*The right to a court protected by Article 6 would be illusory if a Contracting State’s domestic legal system allowed a final, binding judicial decision to*

¹ Article 7, paragraph 1, of the Constitution of the Republic of Kosovo, as well as see the ECtHR case *Romashov v. Ukraine*, No. 67534/01, Judgment of 25 July 2004..

² ECHR Communication 823/1998, UN Doc. CCPR/C/83/D/823/1998 (2005), paragraph 7.5.

remain inoperative to the detriment of one party.” It also stated that: “The effective access to court includes the right to have a court decision enforced without undue delay.”³

32. The Ombudsperson recalls that the competent authorities have a positive obligation to organize a system for the enforcement of decisions which is effective both in law and in practice, and which ensures their enforcement without undue delay (see *Pecevi v. the former Yugoslav Republic of Macedonia*, no. 21839/03, 6 November 2008).
33. With regard to the applicability of Article 13, the Ombudsperson recalls that the ECtHR has repeatedly emphasized that serious delays in the administration of justice affecting litigants who do not have an effective legal remedy constitute a threat to the rule of law within the domestic legal order (see the Judgment in *Bottazzi v. Italy*, 28 July 1999, and the Judgment in *Di Mauro v. Italy*, 28 July 1999).
34. The Ombudsperson considers that, for the purposes of Article 13 of the ECHR, an *effective legal remedy* must be capable of preventing the alleged violation or its continuation.
35. The Ombudsperson emphasizes that the right to effective legal remedies is guaranteed by the Constitution and domestic laws; therefore, this right must be implemented in practice and respected by all, including the Board.

Findings

36. On the basis of the above assessment, the Ombudsperson finds that the suspension of the proceedings by the Board, through Decision A.nr. 567/2024, in circumstances where there exists a final and binding judgment for enforcement, constitutes an act contrary to the principle of *legal certainty* and the obligation for the effective enforcement of court decisions.
37. The non-enforcement of Judgment No. AA. 557/2024 of the Court of Appeals, as well as the further suspension of the proceedings by invoking a “preliminary issue” which, in essence, does not meet the criteria of Article 85 of Law No. 05/L-031 on General Administrative Procedure, violates the right to a fair trial and to an effective legal remedy, as guaranteed by the Constitution and the European Convention on Human Rights.
38. Accordingly, the Ombudsperson considers that the actions of the Board are not in compliance with the legal and constitutional obligations to enforce final court decisions and to ensure an effective legal remedy for the parties.

Therefore, the Ombudsman, in accordance with Article 135, paragraph 3, of the Constitution of the Republic of Kosovo (“[...] *The Ombudsperson is eligible to make recommendations and propose actions when violations of human rights and freedoms by the public administration and other state authorities are observed*”) and with Article 16, paragraph 4, of the Law on the Ombudsperson (“*The Ombudsperson has the power to investigate, either to respond to complaint filed or on its own initiative (ex officio), if from findings, testimonies and evidence presented by submission or by knowledge gained in any other way, there is a base resulting that the authorities*

³ Shih Yuriy Nikolayevich Ivanov v. Ukraine, GjEDNj, Aplikimi Nr.40450/04, 15 tetor 2009, par. 51, duke cituar *Hornsby v. Greece*, GjEDNj, Aplikimi Nr.18357/91, 19 mars 1997, par. 40 dhe *immobiliare saffi v. Italy*, Aplikimi Nr.22774/93, par. 66.

have violated human rights and freedoms stipulated by the Constitution, laws and other acts, as well as international instruments on human rights”), and based on the above legal analysis, in the capacity of recommending authority, and with reference to the arguments set out above, it

RECOMMENDS

the Independent Oversight Board for the Civil Service of Kosovo:

- To fully implement, without further delay, Judgment No. AA. 557/2024 of the Court of Appeals, respecting its binding nature for administrative bodies, in accordance with the principle of legal certainty and the provisions of Law No. 06/L-054 on Courts.

In accordance with Article 132, paragraph 3, of the Constitution of the Republic of Kosovo (“*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.*”) and Article 28 of the Law on the Ombudsperson (“*Authorities to which the Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, including disciplinary measures, must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question.*”), we kindly request that you inform us of the actions taken in relation to the matter in question.

Sincerely,

Naim Qelaj
Ombudsperson