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

**OPINION OF THE OMBUDSPERSON OF THE REPUBLIC OF KOSOVO IN THE
CAPACITY OF A FRIEND OF THE COURT (AMICUS CURIAE)**

addressed to

Basic Court in Prishtina

with regards to

judicial proceedings A.no.1843/2022 initiated by [REDACTED]

Str.no. 70/2025

Addressed to: Ngadhnjim Arrni, The President
Basic Court in Prishtina

Prishtina, on June 9, 2026

Purpose

This Legal Opinion in the capacity of a friend of the court aims to present the position of the Ombudsperson from the point of view of human rights and, in this context, to provide a legal analysis regarding the respect of the principle of legality in employment relations, as well as the protection of other rights arising from these relations.

The opinion is based on the complaint filed by [REDACTED] (hereinafter: the complainant), regarding his allegations of termination of employment from the position of Director of the Secretariat at the Kosovo Prosecutorial Council (KPC) without any justification based on law.

Summary of facts

1. The complainant had established an employment relationship and acquired the status of career civil servant on April 1, 2006 when he was first selected as Program Coordinator and then from December 14, 2007 in the position of Director of the Kosovo Judicial Institute. From August 2015 he was transferred to the position of Director for Prosecution Performance Review, and then from February 12, 2016 he was appointed General Director of the KPC Secretariat.
2. On March 1, 2021, the Basic Prosecution in Prishtina initiated a criminal proceeding against the complainant, while on August 13, 2021, an indictment was filed against him for criminal offenses related to exercising influence, abuse of official position, abuse of official position in the field of procurement and non-declaration of assets.
3. The complainant claims that after the initiation of criminal proceedings against him, KPC through Decision KPK/Nr.57/2021, dated 2 March 2021, had suspended the complainant from exercising official duties as General Director of the KPC Secretariat, with a payment of 50% of salary until the final decision is made by the competent court. According to the complainant, this decision has never been repealed by any other decision.
4. The complainant claims that despite the fact that criminal proceedings were underway against him, the KPC, through Decision KPK/353/2021, dated May 28, 2021, established the Disciplinary Commission for the conduct of disciplinary proceedings against the complainant and on August 24, 2021, the Disciplinary Commission took the Decision KPC.no.661/2021 on termination of employment relationship.
5. On October 7, 2021, the complainant filed a complaint with the ISCKCS regarding the KPC Decision/no.661/2021, while on December 1, 2021, the ISCKCS took the Decision A.no.854/2021, through which it approved the complaint filed by the complainant repealing the KPC Decision KPC.no.661/2021 on termination of the employment relationship with which the issue (case) is returned to the KPC for review and reinstatement.
6. The KPC, following the Decision A.no.854/2021, of the ISCKCS for review and reinstatement, did not take any decision regarding the issue of the complainant. The complaint filed on October 7, 2021, was reactivated at the request of the complainant, in which case the ISCKCS on June 6, 2022, took the second Decision A.no.854/2021, through which it partially approved the complaint filed by the complainant by annulling the Decision KPC.no.661/2021, and obliging the General Director of the Secretariat of the Kosovo Prosecutorial Council to remove from the complainant's file, within 15 days,

the disciplinary measure 'termination of the employment relationship', imposed according to the aforementioned decision.

7. However, ISCKCS in the case of taking Decision A.no. 854/2021 did not decide on the complainant's request for return to work place, but only repealed the disciplinary measure on termination of the employment relationship, turning the case into a reinstatement and review of the KPC. The KPC, disregarding the decision of the ISCKCS, never decided in the reinstatement procedure.
8. On April 28, 2022, implementing the Decision of ISCKCS, A.no.854/2021, dated December 1, 2021, KPC took the Decision No.604/2022 to compensate the complainant with 50% of the salary until February 12, 2022, after which date, KPC terminates him the employment relationship and also the payment of 50% of the salary, which according to the complainant in these two issues, KPC has violated the legal provisions in force.
9. Furthermore, the complainant claims that the KPC has paid 50% of the salary to two other officials, F.D. and M.B., who are part of the same criminal process, while the same action was not taken with him, and that according to him this approach constitutes a discriminatory approach.
10. On July 21, 2022, the complainant claims that he filed a lawsuit with the BCP, A.no.1843/2022 for the partial annulment of Decision A. no. 854/2021, dated 6 June 2022 of ISCKCS, respectively the complainant requested to cancel the part of the decision with which it is considered that his employment relationship has expired with the expiration of the contract and asked the court to oblige KPC to make the payment of the salary for the position of General Director of the KPC Secretariat and all other rights, as defined by law from February 12, 2022.
11. The complainant claims that on November 7, 2022, he fulfilled the lawsuit in the objective aspect, respectively he requested the application of the security measure because according to him, the KPC had advertised the job vacancy for the position of General Director of the Secretariat.
12. On April 14, 2025, the representative of the Ombudsman by email requested information from the BCP for procedural actions regarding the case of the complainant and on April 16, 2025, received an answer according to which the case judge inherited the case in September 2024, after the previous judge was promoted, and that the case will be proceeded in the order of admission/registration of cases in court as cases of the same priority are dealt with in order. According to the latest information from the complainant, in October 2025 a court hearing was held regarding the case and the drafting of financial expertise was scheduled.
13. On November 26, 2025, the Ombudsman received additional information from the complainant in the form of a supplement to the complaint, including allegations of discrimination, due to the fact that according to him, at the same time, the KPC has continuously paid the amount of 50% of the salary to two other officials who were part of the same criminal process.

Opinion of the Ombudsman

14. Based on the complaint claims and the analysis of the case, as well as the investigations related to the violation of human rights, the Ombudsman considers the action of the KPC

to terminate the payment of 50% of the salary until the final decision is made by the competent court to be unjust, as this is in contradiction with the decision KPC/No.57/2021, dated March 2, 2021, which has never been repealed by any other decision.

15. Consequently, the Ombudsman considers it important that the court when reviewing the case, assesses when deciding on this issue, to take into account the issue of non-payment of 50% of the salary, already decided through the Decision of the ISCKCS, in accordance with Law No. 08/L-197 on Public Officials, Article 71, paragraph 7, which stipulates that *"The civil servant during the period of suspension does not receive a salary, except in the case specified in paragraph 1, subparagraphs 1.1. and 1.10. of Article 69 of this Law, the civil servant receives fifty percent (50%) of the full salary, excluding any type of salary supplement, for a period of suspension of up to six (6) months"*, same as for the other two officials, F.D. and M.B., who are part of the same criminal process, to whom, according to the complainant's claims, the KPC had repeatedly made this type of payment.
16. The Ombudsman also assesses that in the case of the complainant, the KPC has committed contradictory actions due to the fact that after the Decision of the ISCKCS, A.no.854/2021, dated June 6, 2022, the KPC decided to compensate the complainant with 50% of the salary retroactively from August 24, 2021 to February 12, 2022, and on the other hand determines that the compensation be made *"as provided for in Decision KPC.No.57/2021, dated March 2, 2021"*, but in that decision it was determined that the complainant be compensated with 50% of the salary *"until the final decision is made by the court"*. Such a compensation rule is stipulated in the Law on Civil Service of Kosovo, Article 69 of Law No./03/L-149, which was in force at the time of the decisions of the KPC and the ISCKCS, as well as the Law on Public Officials currently in force, Article 69, par.1, subpar.1.5 linked to Article 71, par.8 of Law No.08/L-197 on Public Officials, which stipulates that the suspended civil servant receives 50% of the salary until the final decision by the court.
17. The Ombudsman also assesses that in this case, Article 90 of Law No. 03/L-149 on the Civil Service of the Republic of Kosovo was not respected at the time when the KPC and the ISCKCS considered the complainant's employment relationship to be terminated, even though the same job position as a career civil servant did not end with the expiration of the mandate for a senior management civil servant, respectively, if the mandate in the position of the General Director of the Secretariat ended, this did not mean also the termination of the employment relationship, i.e. the termination of the status of a career civil servant in the civil service of Kosovo, even though the measure of suspension was under implementation against the complainant.
18. Article 90 of the Law Nr.03/L-149 on Civil Service of the Republic of Kosovo stipulated that:
 1. *The employment relationship of a civil servant ends with the creation of conditions and facts, regardless of the will of the civil servant or the institution.*
 2. *The employment relationship in the civil service ends upon:*
 - 2.1. *reaching retirement age;*
 - 2.2. *permanent incapacity to exercise official duties for health reasons;*

2.3. the end of the term for fixed-term employment according to this law;

2.4. conviction by a criminal court with a final decision to serve an effective prison sentence of six (6) months or more;

2.5 the death of the civil servant.

19. The Ombudsman assesses that the actions of the KPC contained violations of the principle of the presumption of innocence, the termination of the employment relationship for a civil servant, among other things, can be done if he/she is convicted by a final court decision, and that in the case of the complainant, based on the allegations and documentation submitted to the Ombudsman Institution, such a decision does not exist.
20. The Ombudsman reiterates the need for effective actions and actions within a reasonable time frame for a meritorious decision making in the complainant's case according to the lawsuit filed on July 21, 2022, in accordance with the legal provisions in force and Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.

With respect,

Naim Qelaj
Ombudsman