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REPORT
OF
OMBUDSPERSON

R. no. 246/2026

concerning

the inconsistency between Law No. 06/L-042 on Blood and Blood Components and Law No. 03/L-212 on Labour, with regard to the right to paid leave due to voluntary blood donation

To: Ms Albulena Haxhiu, President
Assembly of the Republic of Kosovo

Ms Fatmire Kollçaku, Chairperson
Committee on Human Rights, Gender Equality and Petitions

Prishtina, 30 August 2026

Purpose

The purpose of this Report is to draw the attention of the Assembly of the Republic of Kosovo (hereinafter: the Assembly) to the need to undertake the necessary actions to amend and supplement Law No. 03/L-212 on Labour, specifically to harmonise it with Law No. 06/L-042 on Blood and Blood Components.

In analysing the issue of leave to which blood donors are entitled, the Ombudsperson notes that there are inconsistencies between the Law on Labour and the Law on Blood and Blood Components. The existence of two legal provisions regulating the same matter differently creates legal uncertainty, the possibility of different interpretations, and the possibility of unequal treatment of citizens.

The Report analyses the inconsistency between the two laws, clarifies which law should be applied in accordance with the principles of legal interpretation, identifies the need to harmonise the legislation in force, and recommends that concrete actions be undertaken to eliminate the legal inconsistencies.

Legal Basis

1. The Ombudsperson, pursuant to the Constitution of the Republic of Kosovo (hereinafter: the Constitution) and Law No. 05/L-019 on the Ombudsperson, Official Gazette of the Republic of Kosovo/No. 16/26 June 2015, Prishtina (hereinafter: the Law on the Ombudsperson), has, *inter alia*, the following powers and responsibilities:
 - “The Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities. (Article 132, paragraph 1 of the Constitution);
 - *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.* (Article 135, paragraph 3 of the Constitution);
 - *[...] 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 have violated human rights and freedoms stipulated by the Constitution, laws and other acts, as well as international instruments on human rights.* (Article 16, paragraph 4 of the Law on Ombudsperson);
 - *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, paragraph 1, sub-paragraph 1.5, of the Law on Ombudsperson);
 - *to publish notifications, opinions, recommendations, proposals and his/her own reports;*

(Article 18, paragraph 1, sub-paragraph 1.6 of the Law on Ombudsperson);

- *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, paragraph 1, sub-paragraph 1.7 of the Law on Ombudsperson).

Circumstances of the Case

2. The Ombudsperson notes that Law No. 06/L-042 on Blood and Blood Components, which entered into force on 20 August 2018, regulates the organisation of the blood donation system, the processing, storage and distribution of blood, as well as the rights of voluntary blood donors.
3. Law No. 03/L-212 on Labour, which entered into force on 1 December 2010, regulates the employment relationship and the rights and obligations arising therefrom.
4. Law No. 08/L-197 on Public Officials, which entered into force on 25 September 2023, stipulates that working hours and leave are regulated in accordance with labour legislation, while their implementation is regulated by a bylaw (Article 21). Pursuant to this Law, Regulation (GRK) No. 04/2024 on Working Hours, Leave and Attendance of Public Officials provides for the right to two days of paid absence for each instance of voluntary blood donation.
5. An analysis of the legislation in force reveals an inconsistency between the Law on Labour and the Law on Blood and Blood Components concerning the duration of paid leave for voluntary blood donors, while the bylaw applicable to public officials has adopted the standard established by the special law.

Legal Analysis

6. The Ombudsperson notes that the Law on Labour regulates the rights and obligations arising from the employment relationship and provides that an employee is entitled to one working day of paid leave for each instance of blood donation (Article 39). Meanwhile, the Law on Blood and Blood Components regulates the organisation of the blood donation system and the rights arising from this activity.
7. The Law on Blood and Blood Components aims to promote and support voluntary blood donation as an activity of public interest, while guaranteeing specific rights to persons who contribute to this system. In this regard, the legislator has expressly stipulated that an employee who donates blood or blood components is entitled to two working days off, including the day of donation, while imposing on the employer the obligation to compensate for this absence from work, upon presentation of a certificate issued by an authorised transfusion institution. Furthermore, the provision prohibits any monetary compensation for blood or blood components, clearly demonstrating that the legislator's intention was not to create a financial benefit for donors, but to establish supportive and incentive measures to encourage voluntary,

regular and sustainable blood donation as an activity of particular importance for the protection of public health.¹

8. The Ombudsperson emphasises that, based on an analysis of the above-mentioned provisions, it is evident that both laws regulate the same legal situation, namely the employee's right to paid leave as a result of voluntary blood donation, but establish different provisions regarding the duration of this right.
9. Whereas the Law on Labour provides for one day of paid leave for each instance of blood donation, the Law on Blood and Blood Components provides for two days of paid leave for each donation, including the day of donation, while establishing a maximum limit of four donations within a calendar year.
10. The Ombudsperson emphasises that this normative inconsistency creates legal uncertainty, as public authorities, private employers and employees themselves may arrive at different interpretations and practices concerning the exercise of this right. As a result of these provisions, persons in identical factual situations may be treated differently, depending on which law is applied in practice by the employer or the responsible authority.
11. Such a situation is contrary to the principle of legal certainty, which requires legal norms to be clear, coherent and foreseeable, as well as to the principle of equality before the law, which guarantees equal treatment of persons who are in the same legal circumstances.
12. Furthermore, maintaining in force provisions that regulate the same matter in contradictory ways undermines the coherence of the legal system and creates difficulties in the uniform application of legislation. For this reason, there is a need to resolve normative conflicts not only through the application of the principles of legal interpretation, but also through the harmonisation of the legislation in force, with the aim of ensuring legal certainty and the effective protection of citizens' rights.
13. In this context, the right to two days of paid leave should not be considered a general right arising from the employment relationship, but rather as a special right directly linked to the status of a voluntary blood donor. Consequently, the provision concerning blood and blood components should be considered a special provision (*lex specialis*) and, as such, should take precedence over the relevant provision of the Law on Labour.
14. Furthermore, in addition to the principle of *lex specialis derogat legi generali*, which favours the application of the Law on Blood and Blood Components as the more specific law in relation to the Law on Labour, the principle of the later law (*lex posterior derogat legi priori*) should also be taken into consideration, since Law No. 06/L-042 on Blood and Blood Components (2018) was adopted later than Law No. 03/L-212 on Labour (2010). In this case, both legal principles, namely the principle of speciality and the principle of chronology, lead to the same

¹ Law No. 06/L-042 on Blood and Blood Components, Article 23, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=17768>

normative conclusion: the provisions of the later and more specific law should take precedence in application.

15. Furthermore, the Ombudsperson notes that the legal framework governing the status of public officials has also been harmonised with the approach established by the Law on Blood and Blood Components. Specifically, Article 21 of the Law on Public Officials stipulates that the working hours and leave of public officials are regulated in accordance with the relevant labour legislation, while the criteria and conditions for the exercise of these rights are determined by the Government through a bylaw.
16. The Ombudsperson notes that Regulation (GRK) No. 04/2024 on Working Hours, Leave and Attendance of Public Officials guarantees the right to two working days of paid absence for each instance of voluntary blood donation, including the day of donation. This regulation reinforces the legislator's intention to promote voluntary blood donation as an activity of public interest.
17. Although the normative conflict may be resolved through the application of the principle of *lex specialis*, the existence of two contradictory provisions undermines the principle of legal certainty.
18. The Ombudsperson emphasises that legislation must be harmonised in order to avoid different interpretations and the unequal application of rights. Legal certainty requires that citizens, employers and public institutions be able to clearly identify their rights and obligations. The lack of legislative harmonisation creates room for different interpretations and the unequal application of the law.

Findings

19. The Ombudsperson finds that there is a normative inconsistency between the Law on Labour and the Law on Blood and Blood Components, which regulate the same legal situation, namely the employee's right to paid leave as a result of voluntary blood donation.
20. The Ombudsperson also finds that the Law on Labour is of a general nature and regulates employment relationships in general, whereas the Law on Blood and Blood Components is of a special nature, as it specifically regulates voluntary blood donation and the rights arising directly from this activity of public interest.
21. Consequently, the right to two days of paid leave for blood donation constitutes a special right and not a general right arising from the employment relationship.
22. In this regard, the Ombudsperson finds that the Law on Blood and Blood Components has the character of a special law (*lex specialis*) and should take precedence in application over the Law on Labour. Furthermore, the Law on Blood and Blood Components is a later law in relation to the Law on Labour and, as such, further reinforces its precedence in application on the basis of the principle *lex posterior derogat legi priori*.

23. In this regard, the two principles of legal interpretation, namely *lex specialis* and *lex posterior*, lead to the same legal conclusion, making the precedence of the Law on Blood and Blood Components over the Law on Labour more apparent.
24. Nevertheless, even in cases where a normative conflict may be resolved through the principles of legal interpretation, the existence of contradictory provisions within the legal system undermines legal certainty and the coherence of legislation.
25. The Ombudsperson finds that it is necessary to harmonise the Law on Labour with the Law on Blood and Blood Components, with the aim of ensuring the uniform application of employees' rights and guaranteeing legal certainty.

Based on the foregoing, and pursuant to 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.*" Pursuant to Article 18, paragraph 1.2, of the Law on the Ombudsperson, the Ombudsperson "[...] *has the responsibility to draw attention to cases when the institutions violate human rights and to make recommendation to stop such cases [...]*"; as well as: "*To recommend [...] the adoption or amendment of administrative and sub-legal acts by the Institutions of the Republic of Kosovo.*" (Article 18, paragraph 1.7).

Therefore, the Ombudsperson

RECOMMENDS

To the Assembly of the Republic of Kosovo:

- To initiate the procedure for amending and supplementing Law No. 03/L-212 on Labour, specifically to harmonise it with Law No. 06/L-042 on Blood and Blood Components, with regard to the right to paid leave as a result of voluntary blood donation.

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 Law no. 05/L-019 on 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.*"), please kindly inform us about the actions taken regarding the matter in question.

Respectfully,

Naim Qelaj
Ombudsperson