



Legal Actions Against Public Authorities: Complaints About Energy and Water Services in Court

Introduction

In a democratic society, citizens have the fundamental right to hold public authorities accountable, including in matters related to public services. When citizens believe they have been treated unfairly by public institutions, whether through incorrect billing, denial of services, or other administrative actions, they have the right to seek legal remedies. In Kosovo, this right includes the possibility of suing public authorities in the Administrative Department of the Basic Court in Pristina. This process ensures that even in cases involving essential public services, such as energy and water supply, citizens can challenge decisions that negatively affect them and seek justice through the legal system.

The main purpose of this brief report is to understand how these cases are handled in court when injustices are committed by public bodies. The report begins with a description of the complaint procedure, continues with the illustration of two monitored court cases, and concludes with recommendations. In these two cases, citizens have filed lawsuits against public institutions: in the first case, against the Energy Regulatory Office (ERO) for a disputed electricity debt, and in the second case, against the Regional Water Company "Prishtina" J.S.C. (RWC "Prishtina") and the Water Services Regulatory Authority (WSRA) for an unpaid water services debt.

These three entities, ERO, RWC "Prishtina," and WSRA, as defined by the Constitution and current legislation, regulate different areas in the public sphere and provide services to citizens. Such cases highlight the procedural and legal challenges citizens face when seeking resolutions for their complaints against public service providers.

This fast reaction brief is written in Albanian. For any ambiguities in this translated and adapted version, please consult the original, *Veprimet ligjore ndaj autoriteteve publike: Ankesat për shërbimet e energjisë dhe ujit në gjykatë*.

Administrative Complaint Procedure

These cases are handled by the court according to the judicial administrative procedure, which is regulated by the Law on Administrative Conflicts. According to this law, an administrative conflict can only be initiated against the administrative act issued in the second instance administrative procedure. Also, an administrative conflict may be initiated against the first instance administrative act, against which no appeal was allowed in the administrative procedure¹.

Regarding this case, the plaintiff sued the Energy Regulatory Office (ERO), an independent body responsible for regulating activities in the energy sector in Kosovo. In the second case, the defendants are the Regional Water Supply Company “Prishtina” JSC (RWC “Prishtina”), a public enterprise owned by the Government of Kosovo, which exercises shareholder rights through elected boards, as well as the Water Services Regulatory Authority (WSRA), an independent authority responsible for regulating the activities of service providers in Kosovo.

In the first case, the plaintiff initially filed a complaint with the ERO to dispute an electricity debt they considered inaccurate, based on incorrect calculations over a seven-year period. After the ERO’s first-level decision, the plaintiff appealed to the ERO Board, which, according to the Law on the Energy Regulator, oversees and organizes the ERO’s work.² The plaintiff’s appeal was also rejected by this second-level body. Dissatisfied with the board’s decision, the plaintiff took the case to court.

In the second case, the plaintiff had requested the installation of a new water meter from RWC “Prishtina.” The company denied the request, clarifying that the plaintiff had an unpaid debt for a specified period and that the meter could not be installed until the debt was settled. The plaintiff, considering the debt unfair because they had purchased a new property, appealed to WSRA, arguing that the debt belonged to the previous owner. WSRA, as the second-level body, partially upheld the appeal but the plaintiff remained dissatisfied and decided to pursue legal action in court.

In both cases, the parties filed lawsuits in the Department for Administrative Matters of the Basic Court in Pristina only after exhausting all administrative appeal options.

Case 1

The lawsuit of Sh.B. against the Energy Regulatory Office (ERO)

In the first case, the Basic Court in Pristina reviewed the lawsuit filed by the plaintiff, Sh.B., against the Energy Regulatory Office (ERO) regarding complaints about electricity billing.

On September 14, 2022, the plaintiff, Sh.B., requested the court to annul the decisions of ERO and its board concerning a disputed electricity debt. According to the lawsuit, this debt, amounting to €13,549.17, was based on incorrect calculations, unfairly burdening the plaintiff financially for the period from 2010 to 2017.

¹ Official Gazette of the Republic of Kosovo. Law No. 03/L-202 on Administrative Conflicts. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2707>

² Official Gazette of the Republic of Kosovo. Law No. 05/L-084 on Energy Regulator. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12694>

During the main hearing held on December 27, 2023, attended by the plaintiff Sh.B. with his legal representative and the authorized legal representative of ERO, P.H., the court found that the decisions of ERO and its board were made in violation of the law. The court emphasized that the administrative acts lacked proper reasoning and were incorrect in their factual and legal findings. It was also confirmed that the disputed bill was based on a calculation error, for which ERO and the Board had not provided sufficient evidence to justify the debt.

The court highlighted that the contested decision contained such flaws that prevented the examination of its legality. These flaws constituted substantial violations of the Law on General Administrative Procedure, particularly Articles 47 and 48, which require administrative acts to include, among other things, a summary of factual findings based on evidence, a statement of the legal basis, and a clear reasoning for each decision.³

Regarding this case, the court issued a judgment upholding the plaintiff's claim and annulling the contested decisions. The decisions of ERO and its board were declared illegal, and the case was returned for reconsideration and re-decision to the defendant. The court ordered ERO to act in accordance with the given remarks, reconsider the case according to the applicable legal provisions, and provide a fair and reasoned decision regarding the plaintiff's debt.⁴ The case is still ongoing. Following the basic court's decision, ZRRE filed an appeal with the Court of Appeals of Kosovo, claiming that the factual situation was incorrectly verified and that the substantive law was inaccurately applied. Currently, the decision from the second instance is awaited.⁵

Case 2

The lawsuit of B.R. against the Regional Water Company 'Prishtina' J.S.C. (RWC "Prishtina") and Water Services Regulatory Authority (WSRA)

In the second case, the plaintiff B.R., filed a lawsuit on November 23, 2021, against the Regional Water Company "Prishtina" JSC (RWC "Prishtina") and the Water Services Regulatory Authority (WSRA), disputing their decisions regarding an unpaid water services debt related to a property purchased by the plaintiff. The plaintiff sought the annulment of decisions that held him responsible for a debt belonging to the previous owner.

The dispute arose after the plaintiff bought a cadastral parcel in a neighborhood of Pristina, demolished the existing building, and constructed a new house. According to the plaintiff, he initially requested the installation of a new water meter from RWC "Prishtina" but was informed that he had to pay an outstanding debt dating back to 2000. Only after settling this debt would the water meter be installed. The plaintiff contested this debt, arguing that he was not responsible for it as it belonged to the former owner of the parcel. He also claimed that the debt was incorrectly calculated and did not constitute an obligation for him, as no bill had ever been sent to his address.

³ Official Gazette of the Republic of Kosovo. Law No. 05/L-031 on General Administrative Procedure. Articles 47 and 48. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12559>

⁴ The Basic Court Decision A.nr 2202/2022, date: 04.01.2024.

⁵ Electronic communication with Shpresa Musliu, Standards Compliance Analyst in the Consumer Protection Department, ERO. Date: 04.09.2024.

The plaintiff, B.R., challenged the first-instance decision of RWC “Prishtina” by filing an appeal with the second-instance body, WSRA. This body partially approved the plaintiff’s appeal, annulling the initial decision of RWC “Prishtina” but still requiring the plaintiff to pay a portion of the debt for the period 2018-2019. Dissatisfied with this decision, the plaintiff filed a lawsuit in court, seeking full exemption from the debt and the right to register the water meter in his name.

During the main hearing on March 22, 2024, attended by the plaintiff B.R. and the defendant’s representative D.H. from WSRA, and in the absence of the defendant RWC “Prishtina”, the court administered relevant evidence, including financial documents, and analyzed the legal framework. After the review, the court concluded that the debt was unenforceable due to the expiration of the statute of limitations.⁶ According to the Law of Obligations (LMD), “Statute-barring occurs when the period stipulated in the statute of limitations during which the creditor could demand performance of the obligation expires.”⁷ The court also confirmed that neither RWC “Prishtina” nor WSRA had provided evidence showing that they had taken any legal action regarding the debt fulfillment request. Additionally, according to Law of Obligations, “for the interruption of the statute of limitations, it is not sufficient for the creditor to simply invite the debtor in writing or orally to fulfill the obligation.”⁸

The court also reviewed the defendants’ claims but dismissed them as unfounded, emphasizing that the defendants were obligated to verify the period of ownership change of the cadastral parcel based on the sale contract. From this period, the new consumer should have been notified of the changes, and the billing for water expenses should have been made in the name of the new owner, allowing the registration with a new water meter. Furthermore, the debt for water expenses for the contested period must be settled, as it is considered a prescribed debt.

In conclusion, the court issued a substantive decision in favor of the plaintiff, B.R., annulling the decisions of WSRA and RWC “Prishtina” and ordering RWC “Prishtina” to settle the prescribed debt charged in the plaintiff’s name for the period 2000–2023, as well as to allow the registration with a new water meter in the plaintiff’s name.⁹

⁶ *A prescribed debt is a debt that cannot be legally claimed because a certain period, known as the statute of limitations has passed.

⁷ Official Gazette of the Republic of Kosovo. Law No. 04/L-077 on Obligational Relationships, 341, paragraph 2. Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2828>

⁸ Ibid. Article 372.

⁹ The Basic Court Decision A.nr. 2781/2021, date: 30.04.2024.

CONCLUSIONS AND RECOMMENDATIONS

This brief report addresses two cases of lawsuits in the Administrative Department of the Basic Court in Pristina, filed by two citizens of the Republic of Kosovo. The first case involves a lawsuit against the Energy Regulatory Office (ERO), while in the second case, the plaintiff has sued two institutions: the Regional Water Company “Prishtina” (RWC “Prishtina”) and the Water Services Regulatory Authority (WSRA). The report highlights the challenges faced by citizens in handling administrative decisions and protecting their rights when dealing with public institutions. It also examines the complaint procedures at two levels of public authorities, the duration of cases from their initiation in court to their review, and legal violations.

In the first case, the court’s decision to return the matter for reconsideration indicates inefficiency in the current system, which often prolongs the legal process. With the new Law on Administrative Conflicts¹⁰, expected to come into force in January 2024, the return of cases for reconsideration and re-decision to public bodies will be prohibited. This change is expected to reduce the time required to resolve cases. Additionally, this law will regulate the procedure for the execution of court decisions, including the legal authority that judges will have to impose fines on responsible officials. In the second case, the court issued a substantive decision in favor of the plaintiff against the public institution RWC “Prishtina”. This case, which has lasted more than three years, can serve as a motivating example for citizens to seek their rights and not give up if they are violated by any state institution.

In both cases, the court emphasized the importance of adhering to the Law on General Administrative Procedure, particularly the requirement that public authorities’ decisions be well-reasoned and supported by evidence. This underscores the need for public authorities to improve their decision-making processes, ensuring they follow the legal framework to avoid unnecessary delays and disputes. Based on the challenges identified from monitoring these two cases, it is recommended that:

- With the entry into force of the new Law on Administrative Conflicts, state institutions should organize training for judges, lawyers, legal professionals, and others to ensure the efficient implementation of this law.
- The Law on General Administrative Procedure should be fully implemented. In particular, public bodies should provide well-reasoned and evidence-based decisions, as required by Articles 47 and 48 of this law.
- Responsible institutions should take measures against officials who are responsible for handling complaints and who do not comply with the provisions of the Law on General Administrative Procedure.

¹⁰ Official Gazette of the Republic of Kosovo. Law No. 03/L-202 on Administrative Conflicts. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=85181>