



**REPUBLIKA E KOSOVËS/REPUBLIKA KOSOVA/ REPUBLIC OF KOSOVO
ORGANI SHQYRTUES I PROKURIMIT/ TELO ZA RAZMATRANJE NABAVKI/
PROCUREMENT REVIEW BODY`**

ANNUAL WORK REPORT 2015

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PRISHTINA

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I. INTRODUCTION

Procurement Review Body presents to the Assembly of the Republic of Kosova, Annual Report of the work and its activity in 2014. The Procurement Review Body as an independent institution established by the Assembly of the Republic of Kosova in pursuance with the Law on Public Procurement 02 / L-99 with its activity in field of public procurement, in the field of concessions and public-private partnerships. PRB has set an objective of his work overseeing the implementation of the provisions of the LPP by contracting authorities during the implementation of procurement procedures, in particular the protection of the legal rights of the economic operators, when they submit appeals against the decision of CA to any public procurement activity.

PRB Annual Report is one of the main forms and ways through which the activities are reflected of this institution, and at the same time it is one of the main facts, that this institution reflects and publishes its work for protection of the economic operators' legal rights, respectively with public procurement procedures, concessions and public auctions.

The basic principles of the Institution of the Procurement Review Body, are independence in decision making and exclusion from any political influence, transparency, efficiency, effectiveness, argumentation and justification of its decisions. PRB decisions are mandatory to be implemented by contracting authorities during the evaluation and interpretation of similar cases.

Procurement Review Body, with its activity also plays an important role in increasing the confidence of the parties through the impartiality of the decisions made, and gives the guarantee of legal protection for all participants of the public procurement system and public auctions.

We believe that this practice based on the procurement review procedures, had a positive impact in the development of procurement procedures as fair and efficient as possible by the Contracting Authorities, aiming to prevent any illegal act that violates the interests of economic operators and above all protection of public funds and their rational spending.

These achievements are the result of the work of the Procurement Review Body staff, who have given their contribution, either individual or as a group, on carrying their tasks with full responsibility and professionalism.

II. FUNCTIONING OF THE INSTITUTION OF PROCUREMENT REVIEW BODY

1. Applicable legislation

Procurement Review Body exercises its' activity pursuant to:

- Law no. 02/L-99 On Public Procurement in Kosova approved by the Assembly of Kosova, and as amended in accordance with UNMIK Regulation no. 2007/20;
- Law no. 03/L-241 On Public Procurement in Republic of Kosova approved by Assembly of the Republic of Kosova 30 September 2010;
- Law no. 04/L-042 On Public Procurement in Republic of Kosova approved by Assembly of the Republic of Kosova 31 August 2011;
- Law no. 04/L-045, dated 21 October 2011, On Public-Private Partnership and Concessions in Infrastructure and Procedures for issuing them;
- Law no. 02/L-28, dated 25.07.2005, “ On Administrative Procedure”,
- Secondary Legislation on Public Procurement of the PPRC and
- Rules of Procedure Regulation of the PRB dated: 22.06.2015, no. 494/2015.

PRB is an independent institution committed to protect local or foreign economic operators from unlawful actions or inactions of Contracting Authorities in a public procurement procedure or concession.

PRB is based on decision making process reflecting on the fact that:

- PRB members are appointed by the Assembly of the Republic of Kosova with a mandate of five (5) years, with a right of re-appointment for one other mandate;
- Members of the Board are independant and
- Members of the PRB are neutral, responsible and accountable on accomplishment of their work tasks.

Based on the above legislation, the Procurement Review Body has competences, authorisation, power and responsibility:

- To review appeals from interested parties related to possible violations of this law;
- To investigate and determine facts which have caused such appeals;
- To give order to any person, enterprise or public authority requesting from one person enterprise or such authority to submit, carry, present and/or enable access to data, information, documents (except privileged legal advice), and/or other items of movable and/or immovable property so that the review panel can reasonably exercise its' discretion, considered as important for undertaking investigation or procurement review procedures.
- To issue an order to any person to attend the procurement review procedure and to give testimony related to any matter asked by the Review Panel while exercising its' reasonable discretion as considered relevant related to the subject matter of this procedure;
- To undertake any other necessary and the suitable measure in order to verify the arguments or allegations made by the parties;
- If the respective contract has not yet been legally signed by both parties, and until now as allowed by this law, to give order by which the public contract award or the result of a projecting competition is avoided or suspended;
- To order Contracting Authorities and obliging such Authority to suspend or terminate implementation of the procurement activities, or implementation of a decision of such Authority related to or during such a procurement activity;
- To order Contracting Authorities, and obliging such Authority to cancel or revoke a decision of such Authority related to-or taken during procurement activity including unlawful conditions and specification in the tender dossier;
- To order Contracting Authorities and obliging such Authority to pay compensation to the complainant;
- To order Contracting Authorities and obliging such Authority to correct the alleged violation and/or prevent further damage of the appellant and/or any other interested party;
- To order Contracting Authorities to avoid discriminating technical specifications, economic, financial or selection, such requirements or criteria included in notices, invitation, tender dossier or other documents of the signed contract through procurement activity;
- To issue an order which obliges the officials for implementation of the law in order to help the PRB on execution of an order issued by PRB;
- To issue an order which converts a concluded and signed contract into invalid one in case the contract has been signed without publication of the notification compliant with

article 42, or if signing of contract is completed before expiry of time limit as provided for in sub-paragraph 4.1 paragraph 4 of article 26 of this Law;

- Impose fines, in case Contracting Authority, despite the decision mentioned in sub-paragraph 2.1.3 of this article, continues to implement the contract which is a subject of discussion of that decision;
- Refusal by Contracting authority or Public Authorities to comply with the decisions made by Review Panels or to cooperate with PRB, creates reasons that PRB can undertake measures against them, in compliance with the article 131 of the LPP.

2 PRB Structure

Structure of Procurement Review Body is made of Chairman and four (4) members of the Board, and the supportive staff, which is supervised by the Head of the Secretariat. In function of the organization, Procurement Review Body approved the PRB Rules and Procedure dated: 22 of June 2015 with protocol no. 494/2015, in which the tasks of the President of the PRB and members of the Review Panels and communication procedures in between them are clearly determined. Also it is foreseen the functioning of the Internal Division and Division for reviewing Appeals and legal section. Also the regulation on Internal Organization of the Procurement Review Body of the 16 of April 2015 with Protocol No.334/15 was approved.

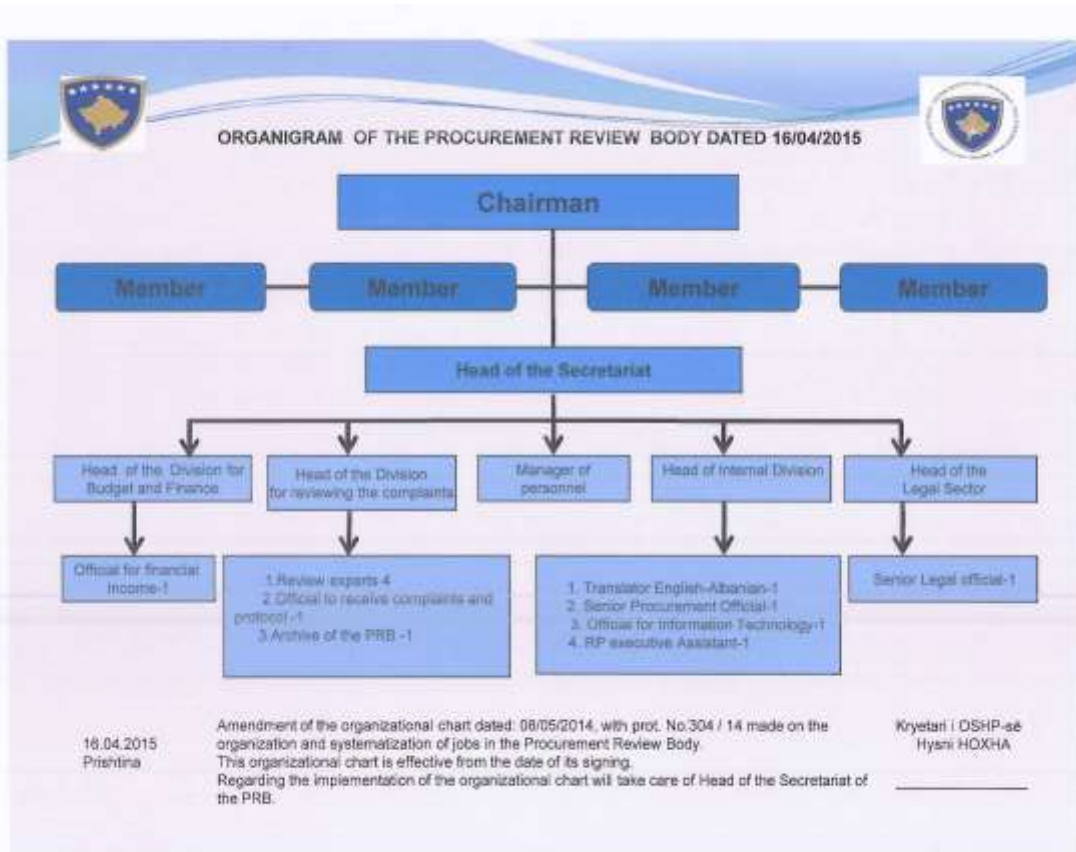
On the: 19.03.2014, the Assembly of Kosova has elected the Board of PRB of five members, with (5) five years mandate.

In order to fulfill the important tasks and procedures for review of appeals related to public procurement procedures and in order to successfully fulfill functions for which it has been established, the structure and organogram of this institution has been consolidated in response to the dynamics of amendments to the Law on Public Procurement no.04/L042.

3. ORGANOGRAM

ORGANOGRAM OF PROCUREMENT REVIEW BODY

DATE 16.04.2015



4. PRB BUDGET

The total budget for 2015 was 319,070.00 euro, and from this amount we have a division by categories as follows:

According to the Budget Law for 2015, appropriations have been as follows:

- Wages and salaries have been dividend 199,615.00 and are allocated and spent 185,026.12 Euro.
- Goods and Services were dividend 114,355.00 euro and are spent 105,469.20 Euro.
- Utilities were divided 5,100.00 and 1,342.97 Euro were spent.
- For capital investment as budget organization there were no financial means allocated.

Of the total budget for salaries and wages are spent funds in the amount of 185,026.12 €, which means in the amount of funds allocated, and the amount of other assets are not allocated and spent for that has not been a position filled by a member Board.

For goods and services from the total annual budget for this category are allocated 114.355 €, while are spent 105,469.20 Euro

Municipal expenditures are allocated 5,100.00 Euro, while were spent 1,342.97.00 Euro.

In the chart below, data is presented in graphical form based on presentages of spent budget by category:

III. TRAININGS

Procurement Review Body paid particular attention to training of personnel members of the PRB institution, aiming to enhance the staff professionalism, and aiming to face in as more as efficient as possible way with legal responsibilities during 2015.

Considering that professional trainings are a process of continuous character and also considering that we have begun with such trainings since the first year of activity of this Institution, we can say that in 2015 particular attention was paid to trainings that are related to particular problems of procurement.

Procurement Review Body during 2015 has continued with trainings and official visits as listed below:

1. Training attended on the 15, 16, 17 September 2015, subject “Approximation of national legislation with European Union legislation”;

2. Training attended on the: 21- 22 September 2015 subject “e-Government”;

3. Training attended from th Public Procurement Field (BASIC);

TRAINING ABROAD OF THE PRB OFFICIALS DURING 2015

• During February 2015, respectively dates: 24-27- Albania, “Drafting of the annual report of the Procurement Review Body for 2014”.

• 25 to 28 March 2015- Albania, “Drafting the Regulation on internal organization and systematization of jobs”.

• 26 to 29 March 2015- training on “Public-Private Partnership and Concessions”, organized by the “Economic Development Consulting”.

• 26- 30 April 2015, a study visit to Scotland- “Study visit to Scotland” organized and funded by the project "Planet".

• 10 to 13 September 2015, training "Risks and Control in Public Procurement - Budget Execution", organized by the "Economic Development Consulting".

• 19- 22 October 2015 training on “European Public Procurement, the Public-Private Partnership and Concessions”, in Dubrovnik - Croatia organized by the “European Institute of Public Administration (EIPA)”.

• 22-25 October 2015, training on “Financial Management and Control (FMC) and internal audit according to international standards and best practices of the EU”, in Thessaloniki - Greece, organized by the “Iron Consulting”.

- 22- 24 October 2015, training on the topic: “Changes in the LPP of Kosova Nr. 04 / L-042, and comparison with the previous Law, “Development of the Platform of Electronic Procurement in Kosova”, “The role and importance of electronic procurement”, “Functioning of electronic procurement”, “ New directives of EU on public procurement , 2014”, organized by “Balkan Institute For Procurment”.

- 03-06 December 2015, training on the topic: "Personnel- Management - Information System of Human Resources Management - Institutional Communication and Information Technology”, and training, “Public Procurement and Contract Management”, in Budva - Montenegro, organized by “European Center”.

- 20-21 December 2015, workshop on “Official visit to the Public Procurement Commission of Albania”.

WORKSHOP

1. In September 2015, ie dated: 29-30 September 2015, Head of the Division of Budget and Finance in the PRB, he was for a two-day workshop with the theme: “Implementation of the Law on use of languages in the Central Institutions Agencies”, organized by the Office of the Commissioner for languages (OCL) Prime Minister's Office and the OSCE Mission in Kosova.
2. In January 2015, respectively on the: 27- 29, 2015, meeting held in Brussels, on the theme: “Dialogue meeting of the Stabilisation and Association Process”, organized by the Ministry of European Integration.

IV.PUBLIC RELATIONS

Aiming at increasing transparency and informing the public, one of the priorities of the activity of the Procurement Review Body for 2014, has been promoting the activity of this institution, of the review procedures of the appeals, on the one hand, and the results achieved to fulfill legal obligations, on the other.

Public relation office had as its’ priority the fulfillment of objectives to increase the reliability of economic operators and the public towards the PRB. From this cooperation we have strengthened the image and the position of the Procurement Review Body to the public opinion, thus creating the necessary integrity for the accomplishment of communication with them. Increase of trust of economic operators towards the Procurement Review Body is supported on reviewing of the appeals, holding the hearing sessions and in decision making professionally, impartially and within the legal deadline. In some sessions with importance of participation have been present foreign embassies in Kosova, such as the British Embassy in

Kosova, and others, however, our commitment to transparency and clearly shows, and the best participation of media representatives in public hearings held by the review panels, where present at the session were journalists of the dailies "Koha Ditore", "BIRN" etc.

As a continuation also for this year, the activity toward information and promotion of the institution activity has been concentrated into three (3) main directions:

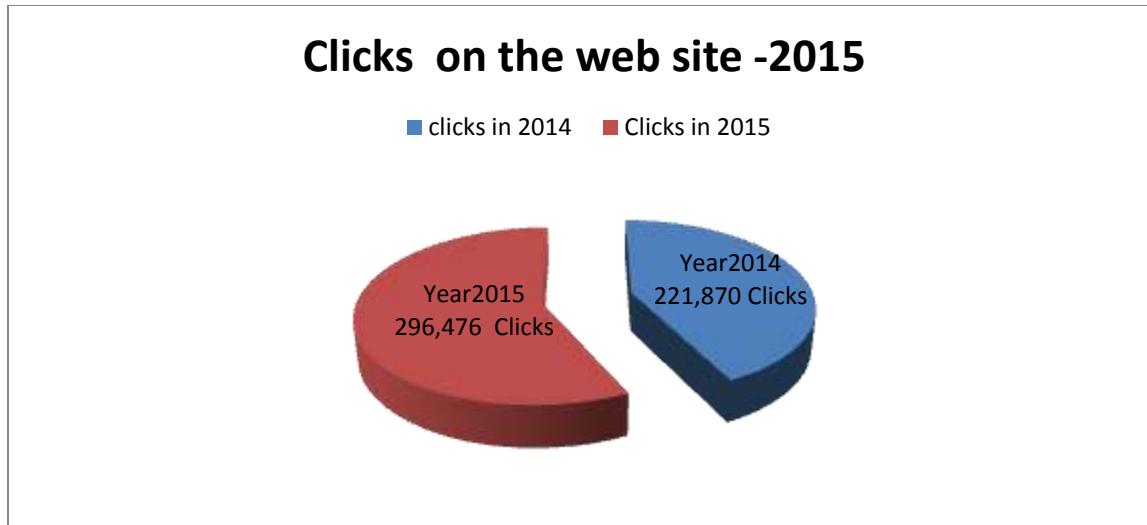
- a). Informing the public on print media and electronically related to the aspects of complaints, review expert's opinion and technical review expert, and decisions issued by Review Panels for complaints filed by economic operators;
- b). Improving significantly on providing information about the activities and procedures of reviewing of the procurement activity of PRB on the webpage.
- c). Further enforcement of already established tradition of communication with economic operators about the uncertainties and their needs to be informed and updated related to legal developments and good practices of public procurement.

V. WEB PAGE

Procurement Review Body, in order to increase transparency in front of all the parties involved in procurement activities, and transparency towards the citizens of Kosova, has redesigned the official website "oshp.rks-gov.net" starting with publication of the complaining claims of the economic operators, who claim to have been violated by the contracting authorities. Also, PRB, is publishing the review expert's opinion and the decision of the review panel for each case. Also, the Web-site contains electronic versions, of all decisions of the Review Panels, conclusions, directives, notices, reports and other important information on the activities of PRB.

All these information can be found on our official electronic address „ oshp.rks-gov.net ", and this website is maintained and updated every day, and also placed the documents in both official languages and in English. Also on our website are published announcements about the work and activities of our institution, annual reports from establishment of the institution, as well as data on primary and secondary legislation.

During 2015, were 296.476.00 (two hundred and ninety-six thousand four hundred and seventy-six), total clicks from 12.199 regular users of the website. While the average length of stay of a visitor to the website of the PRB has been 03: 55 min. Compared to last year there is a growing interest in visits to the website of PRB by 14%.



Web site of the PRB, besides being visited by citizens of the Republic of Kosova, is also visited by European and American countries, such as Albania, the USA, Serbia, Slovenia, Germany, Macedonia, France, Montenegro, and Turkey.

VI. ACHIEVEMENTS IN THE FIELD OF PROCUREMENT

During 2014 Procurement Review Body, also paid a particular attention to processing and reviews of the appeals, and to the process of decision-making so that it is in full compliance with EU Directives on Public Procurement.

Procurement Review Body during 2015, has had good cooperation with the Project Team "PLANET" - Support for the Reform of the Public Procurement System in Kosova. The "PLANET" in every quarter has produced reports for the three institutions of public procurement PPRC, PRB and CPA, following so all three institutions work and at the same time improve the public procurement field consistently.

One other very important collaboration, in 2015, PRB had with "SIGMA", the World Bank, regarding the implementation of e-procurement.

VII. ACTIVITY OF THE PROCUREMENT REVIEW BODY

Review of appeals of interested parties (economic operators), which are submitted to Procurement Review Body, is made by the Review Panels composed of one (1), three (3) or five (5) members, depending on the value of the contract and complexity of the case.

The Review Panel is appointed by the President of the Procurement Review Body (PRB).

From the review of the content of submitted appeals, Review Panels, based on Articles 105.1, 105.2, 106 and 117 of the LPP, in the expertises of the reviewing experts in the hearings sessions, issue the following decisions:

- Approval of the procurement activity when the Contracting Authority has not committed any violation of the provisions of the LPP during the various procurement activities;
- Re-evaluation of the procurement activity, if the Contracting Authority during the evaluation of tenders has not complied with certain criteria in the tender dossier and did not make an objective assessment;
- Cancellation of the procurement activity, when contracting authority has made a substantial and irreparable violations during the procurement activity and
- Rejection of appeals, when appeals are incomplete; when Economic operators have not complied with the legal time limit for filing the appeals; or they have failed providing the security deposit of the appeal.

Functioning of the work of the Procurement Review Body, except that it is prescribed by law, it ensures protection of complaining economic operators, also guarantees that the public procurement procedures to be conducted in full harmony with the basic principles of LPP, such as transparency, equal treatment and non-discrimination of bidders and the economic operators and rational use of public funds.

VIII. REVIEW OF PROCUREMENT APPEALS

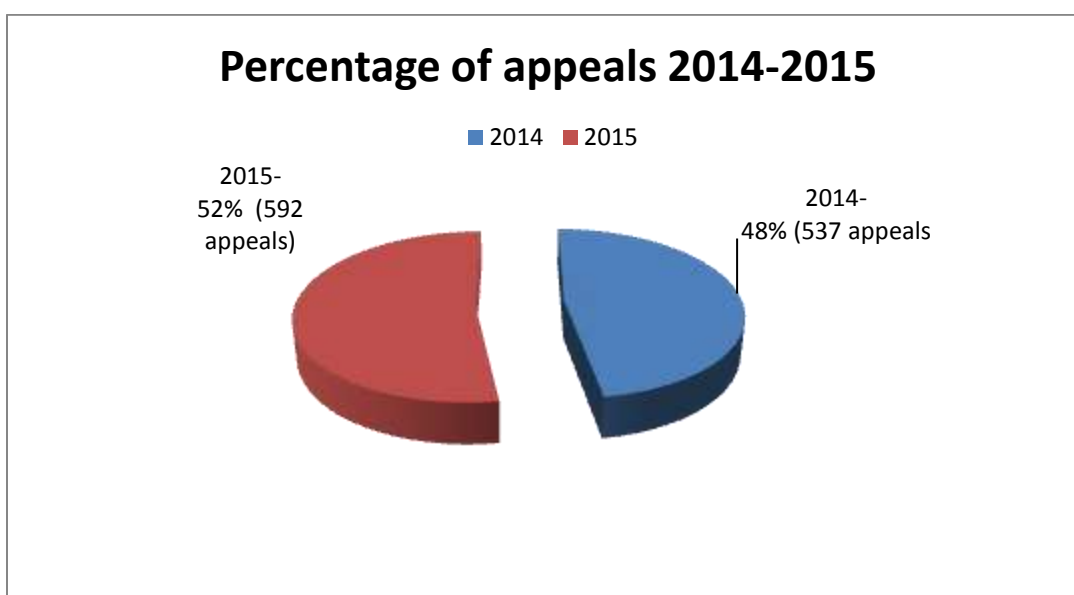
During 2015, the Procurement Review Body has put its maximum efforts that through procedures of reviewing the appeals in the field of public procurement to achieve its main objective which is directly related to the protection of the legitimate interests of economic operators from irregular actions or inactions by the Contracting Authorities in the field of public procurement.

During the period 5 January 2014 to 31 December 2015 are received in the Procurement Review Body 592 appeals in total, for public procurement, public-private partnership and auctions, who have opposed the decisions of contracting authorities for contract award, decisions

for cancellation of the procurement activities or against preferential or discriminatory technical specifications provided in the tender dossier.

By comparing the number of appeals reviewed during 2015, with those reviewed in 2014 there is an increase about 04 % with this year.

Graphical presentation of the complaints received in 2014 and 2015 (percentage increasing)



Regarding the review of complaints of economic operators, approximately 95% of cases are held hearing sessions where mainly were attended by members of the review panel, review expert, representative of the CA, as well as representatives of EO, and participants from embassies member states of the EU, civil society and media.

For the procedures of review of the complaint of the public procurement in 2015, below are presented comprehensive data and analytical work as follows:

- Review panel approved the decisions of the Contracting authority, as grounded in 166 cases finding that the allegations from the complaining parties have not been grounded into legal arguments in order to approve their appeals;
- Review panel made decision for re-evaluation of bids in 196 cases finding that wrong evaluation of bids has been done by the evaluation committees, thus coming across violations of the LPP and rules of Public Procurement.
- Review Panel has made decision for annulment of procurement activity (re-tendering) in 129 cases, taking into account the encountered violations of the LPP provisions, because of irregularities in the tender dossier, unfair evaluation of offers or developing procurement procedures with deficiencies;
- Ten (10) appeals have been dismissed because of failing to submit a completed appeal within the legal time limit as per article 111.4 and 118.1 of the LPP and
- Before being reviewed by the PRB, 53 submitted appeals were withdrawn by the complaining economic operators.
- Six (6) appeals have been submitted to PRB, which are not under the competence of PRB and as such were rejected by PRB, because of the incompetence.
- Four (4) appeals were considered as a judged matter - "Res Judicata" by the Review Panel of PRB;
- Review panel during thye 2015 has issued altogether three (3) Ordinances.

Due to the absence of the President of the PRB, (since there are only two members of the Board of PRB) from 15. 01. 2016, 25 complaints filed by economic operators were left without a final decision, although the same are examined by the review experts.

Even in 2015, PRB has ascertained and proved that during the development of the procurement procedures by the contracting authorities are not respected the provisions of the LPP and secondary legislation of the public procurement. PRB, in most cases encountered irregularities in the bid's evaluation process and in making the wrong decisions for announcing the winner. Also there were also concluded violation of the Law on Public Procurement, which has influenced in

the contract award notices and cancellation of the procurement activities of the Contracting Authorities to be canceled and cases to return for re-evaluation by the review panel.

During the review of the appeals were identified frequent violations of the following articles: Article 6- Cost and Efficiency, Article 7 – Equality in Treatment/ non- discrimination, Article 10- Means to promote Transparency, Article 27- Tender Dossier, Article 28- Technical specifications, Article 59- Examination, Evaluation and Comparison of the Tenders, Article 60- Criteria for Contract Award,

When economic operators have filed their appeals in conformity with Article 118 of the LPP, they were obliged to deposit the appeal's security in value of 500.00 (five hundred) Euros.

During 2015, PRB decisions that has taken on the occasion of the returning cases for re-evaluation (here is not included the number of 25 complaints that were left without a decision in the absence of the Chairman of PRB) approximately spared the Kosova Budget in the amount of 3, 319, 397.54 € (Three million three hundred ninety thousand, three hundred and eighty-seven euro).

Table with data of the Contracting Authorities **January-December 2015**

No	Contracting authority	Appeals received	Approval	Re-evaluation	Re-tender	withdrawal	rejected	Not competent. For cases	Appeals without decisions	Ordin. to implement the decision of the PRB	Res Judicata
1	MAFRD	2	2								
2	MA RAHOVEC	3	1		1	1					
3	MA PRIZREN	16	2	3	6	4			1		
4	UCCK	17	5	4	5			1	1		1
5	MA PRISHTINA	38	12	12	7	1	2	2	2		
6	MA SKENDERAJ	1		1							
7	UP	11		6	4	1					
8	AFV	5	3	2							
9	RWC Prishtina	7	1	3	3						
10	RWC GJILAN	1	1								
11	SKJC	3	1		1	1					
12	MCYS	15	2	5	6	1					1
13	KEC	45	10	21	10	1			2	1	
14	Post of Kosova	5		3	1	1					
15	MA FERIZAJ	19	3	5	5	5	1				
16	MA DEÇAN	1	1								
17	UHCSK	2		2							

No	Contracting authority	Appeals received	Approval	Re-evaluation	Re-tender	withdrawal	rejected	Not competent. For cases	Appeals without decisions	Ordin. to implement the decision of the PRB	Res Judicata
18	MAP	2	2								
19	SAK	2	1	1							
20	RWC-MITROVICA	6		3	2	1					
21	MF	32	7	17	6	2					
22	MH	12	1	1	5	5					
23	MA GJILAN	5	1	1			1				2
24	KOSTT	2	2								
25	MFA	1		1							
26	R.H PEJA	22	12	3	7						
27	CPA	2		1	1						
28	R.H.	1	1								
29	GJILAN	2		1					1		
30	Municipality Malisheva	1			1						
31	AMKM	2	2								
32	Municipality Kamenica	9	2	4	1	1			1		
33	MA VUSHTRRI	2			2						
34	MIA	12	7	1	3	1					

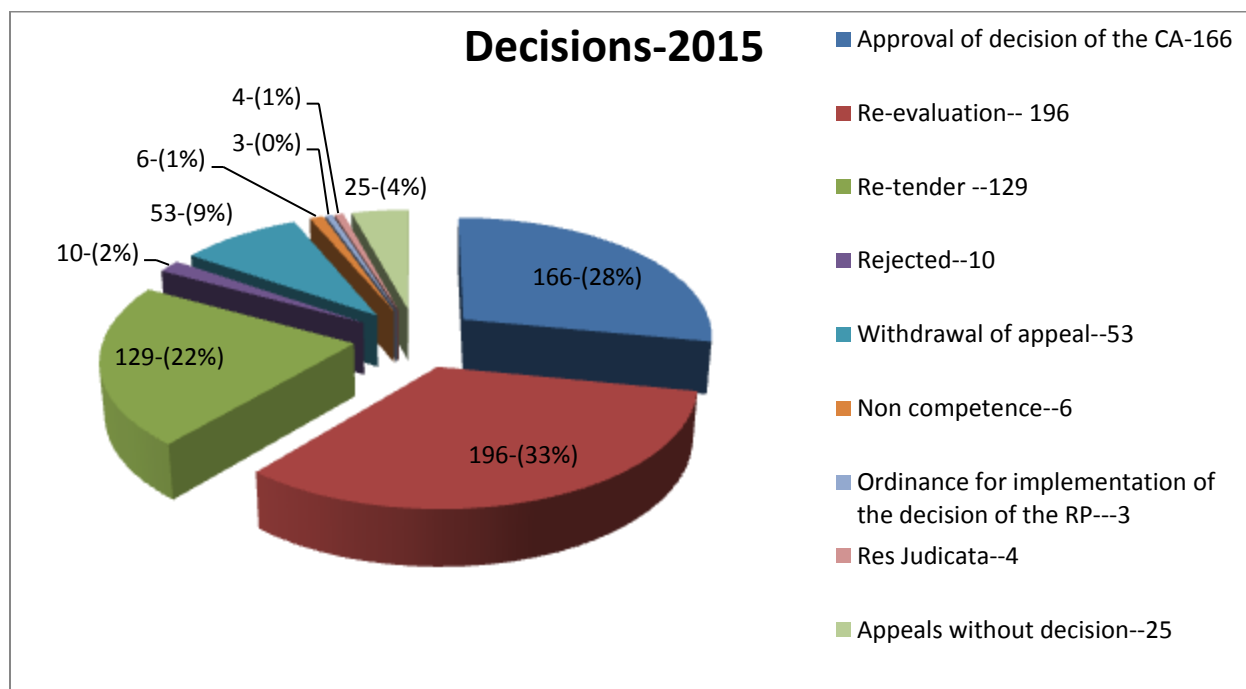
No	Contracting authority	Appeals received	Approval	Re-evaluation	Re-tender	withdrawal	rejected	Not competent. For cases	Appeals without decisions	Ordin. to implement the decision of the PRB	Res Judicata
35	PTK	19	6	5	3	4				1	
36	MA GJAKOVA	14	1	8	2	1	2				
37	MA DRENAS	1			1						
38	G.H FERIZAJ	3		1	2						
39	RCM PASTRIMI	3	1		1				1		
40	TREPCA	3	1					2			
41	RWC PRIZREN	1						1			
42	MSFK	10	5	2	2		1				
43	MA ISTOG	7	3	1	2					1	
44	AK PRIV	2		1	1						
45	MA DRAGASH	1	1								
46	State prosecutor	2	2								
47	Assembly of RK	1			1						
48	MA MITROVIC	1			1						
49	Ma Kaqanik	8	1	2	2	2	1				
50	MEST	5		1		1			3		
51	MTI	2			2						

No	Contracting authority	Appeals received	Approval	Re-evaluation	Re-tender	withdrawal	rejected	Not competent. For cases	Appeals without decisions	Ordin. to implement the decision of the PRB	Res Judicata
52	MSPE	1		1							
53	TAK	8	2	2	2	2					
54	MED	33	17	15		1					
55	MI	2	1	1							
56	KPMM	1	1								
57	ASHAK	4		3	1						
58	Students center	1		1							
59	KRU.BIFUR	1		1							
60	MA KLLKOT	10	3	2	2	1	1		1		
61	Kosova Customs	1				1					
62	OGA	6	1	2	2	1					
63	MKK	2	2								
64	INFRAKOS	2	1						1		
65	MA Graqanica	13	2	5	3	2			1		
66	SHKK	7	2	2		1	1		1		
67	Municipality of VITI	6	2	1	1	1			1		
68	M.PODUJEVA	1							1		

No	Contracting authority	Appeals received	Approval	Re-evaluation	Re-tender	withdrawal	rejected	Not competent. For cases	Appeals without decisions	Ordin. to implement the decision of the PRB	Res Judicata
69	Hortikultura	2	1		1						
70	RWC RADONIQ	2				2					
71	MA SUHAREKA	6	2	3		1					
72	U."Haxhi Zeka" PEJA	1	1								
73	UPZ	4		3		1					
74	Trainkos	4		2	1				1		
75	MA Peja	21	3	13	1	2			2		
76	M.	4	2		2						
77	Leposaviq	1	1								
79	Termokos	9	2	1	4	2					
80	R.H PRIZREN	2	2								
81	CDI	2	1		1						
82	MA Obiliq	8		6	2						
83	R. H-PZ	2		1	1						
84	IKSHPK	1		1							
85	MA Novobrde	2	1			1					
86	MA Shtime	4	4								

No	Contracting authority	Appeals received	Approval	Re-evaluation	Re-tender	withdrawal	rejected	Not competent. For cases	Appeals without decisions	Ordin. to implement the decision of the PRB	Res Judicata
87	Kosova Police	16	4	5	4				3		
88	MA Lipjan	8	2	2	4						
89	M.North Mitrovica	1	1								
90	Telecom of Kosova	4	2	1					1		
In Total:			166	196	129	53	10	6	25	3	4
		592	592								

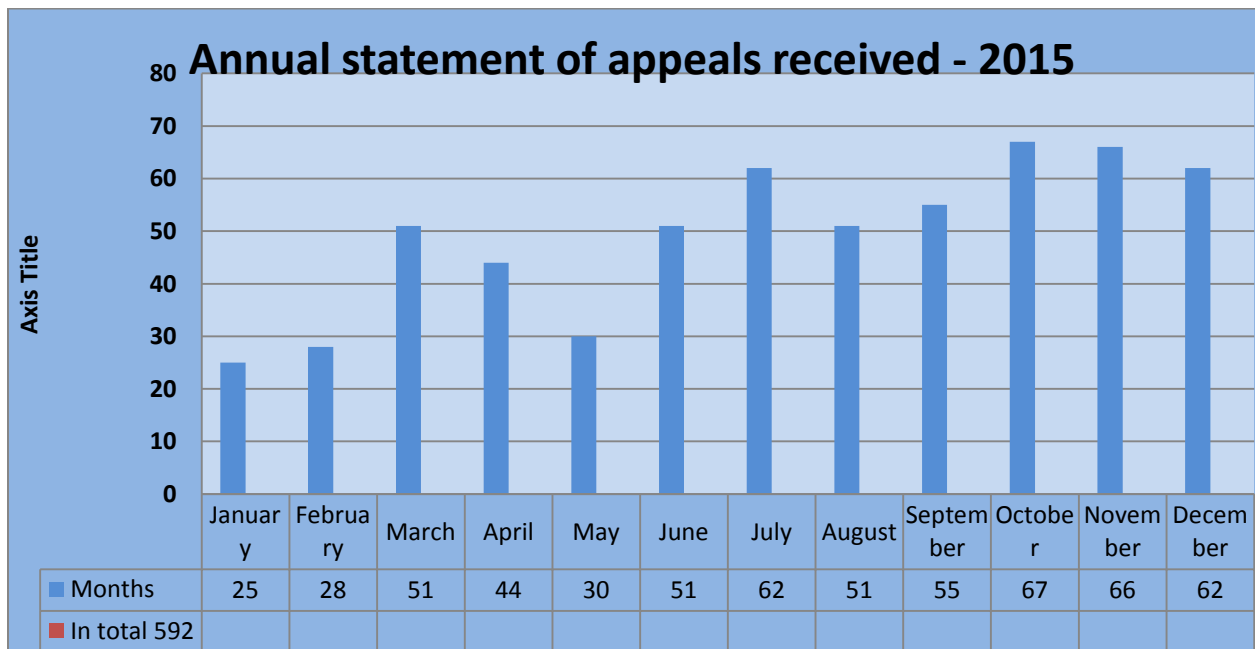
In graphical form are shown the number and percentage of appeals received and reviewed by the Procurement Review Body for 2015.



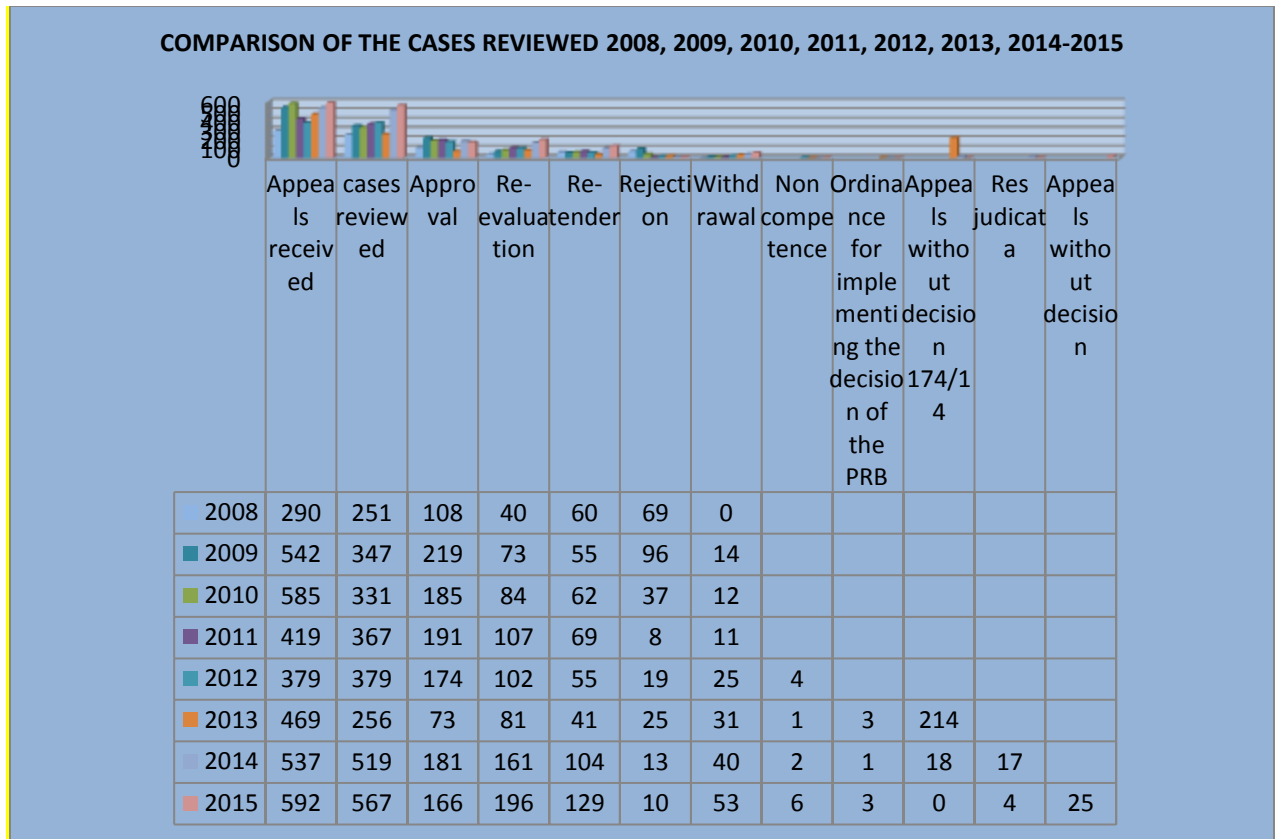
Division of appeals by calendar months:

During 2015, the number of complaints by calendar months, has followed changes in a few months. The largest volume of appeals belongs to the months of October and November.

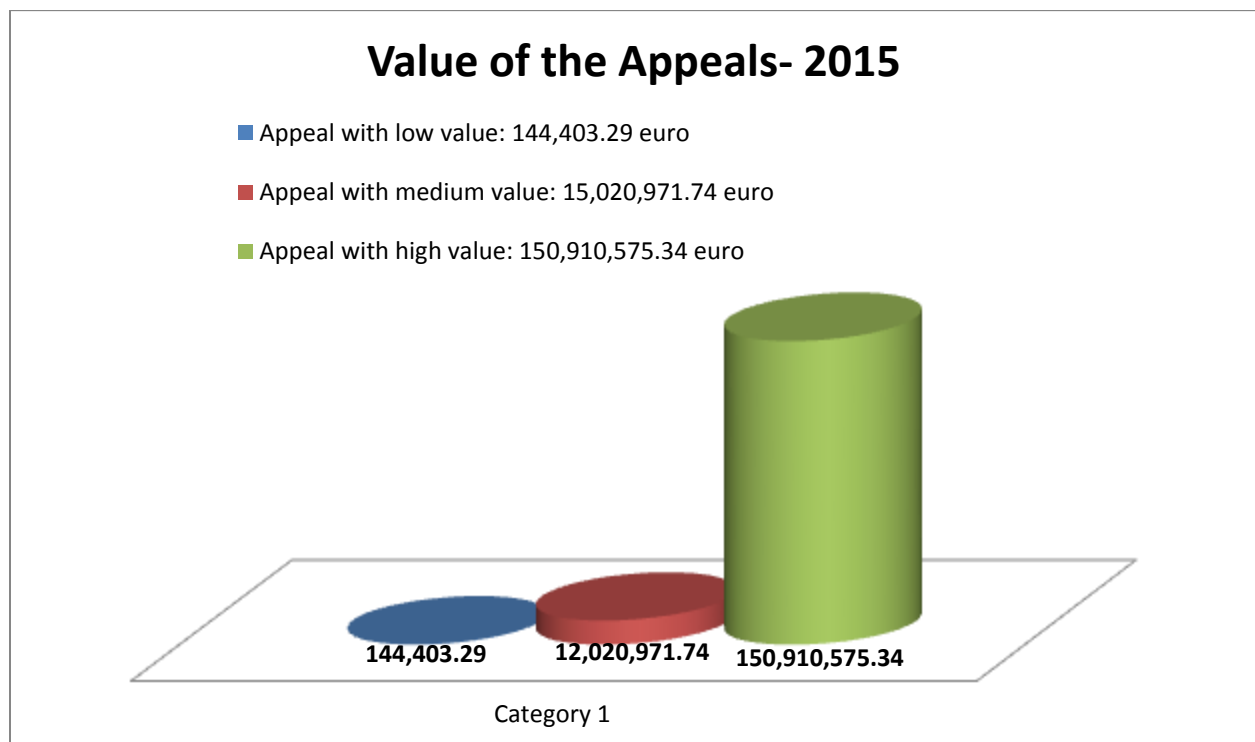
In statistical form, the table below shows the number of appeals received by months Procurement Review Body.



Comparison of cases reviewed for 2008, 2009, 2010, 2011, 2012, 2013, 2014 and 2015



Classification of appeals based on values - 2015



VIII. APPEALS RECEIVED FOR THE PROCUREMENT ACTIVITIES IN THE MUNICIPALITIES WITH SERB MAJORITY

Another step has been made in communication with contracting authorities of municipalities with a Serb majority. The performance of the appeals lodged for the period January-December 2015, it appears that PRB has received 6 appeals about the procurement activities in North municipalities, which are reviewed in the PRB, within the time limits prescribed by LPP. The review panel decided that 2 subjects to return for re-evaluation, 2 cases were returned for re-tender, and in 2 cases was confirmed the decision of the CA, as grounded. Based on the information that we possess the Northern municipalities have fully implemented the decisions of review panels of the PRB.

<i>EO- CA</i>	<i>Title</i>
CA- MA of Leposaviq	“ Construction of roads in town and villages in the Municipality of Leposavic, approximately 30 km according to a list approved by the Municipality of Leposavic”
CA- MA of Leposaviq	“ Construction of roads in town and villages in the Municipality of Leposavic, approximately 30 km according to a list approved by the Municipality of Leposavic”
CA- MA of Graqanica	“ Paving roads in Graqaniva up to kindergarden – re-tender” with procurement no: “618/15/019/521”
CA- MA of Leposaviq	“Construction of roads in town and villages in the Municipality of Leposavic "with procurement no: 641 15001511”
CA- MA of Northern Mitrovica	Purchase of trucks for the garbage collection" with procurement no:" 647/15/037/111
CA- MA of Leposaviq	Supply for 2 heavy transport vehicles (for fire fighting and garbage collection truck) Lot I and Lot III "with procurement no:" 641/150/111

IX. ORDINANCE ISSUED TO THE CONTRACTING AUTHORITIES

LPP clearly determines that the decisions of the Procurement Review Body, following review of appeals are final, but some Contracting authorities have delayed –neglected the public procurement procedures by not respecting the decision of the Review Panels for re-evaluation of bids or annulment of procurement activities . Such actions of the Contracting authorities constitute violation of LPP, and meanwhile they also have negative effect in rational use of public funds.

Due to non-compliance with the decisions of the Review Panels, PRB has issued 7 (seven) Ordinances against different Contracting authorities.

In the table below data is presented related to issuance of ordinance to the Contracting authorities for non-complying with the decisions of Review Panels.

Table of Ordinance issued towards the Contracting authorities

No.	<u>Contracting Authority</u>	<u>Ordinance imposed for non-compliance with the decision of the RP</u>
1	Post and Telecom of Kosova	2
2	Kosova Energy Corporation	2
3	Ministry of Infrastructure	1
4	Municipal Assembly of Klina	1
5	Municipal Assembly of Istog	1
	In total:	7

X. FINES, REVENUES FROM IMPOSED FINES AND APPEAL'S DEPOSITS

On December 1, 2015, in accordance with decision no. 58/15, 72/15 and 519/14, PRB, has executed the fine imposed on the contracting authority -Kosovo Post and Telecom sh. a, in the amount of 30,000.00 euros. Also, during 2015 PRB has imposed the cancellation of the certificate of professionalism in procurement for three (3) procurement officials in contracting authorities, Post and Telecom of Kosova, the Kosovo Energy Corporation and the Ministry of Finance, while CA- KEC and CA - PTK were imposed fines in the amount of 30, 000. 00 euros.

As is known, the PRB decisions are final and enforceable decisions, but in some cases, the Treasury - MF does not implement our decisions, regarding fines, reasoning that this institution executes only final decisions of the competent courts, not those administrative bodies, as is the case with the PRB. For this reason, another amount of fines during 2009, 2010, 2011, 2012 and 2013 in value of 136.000.00 € is not received even during 2015, a fact which is disturbing for our institution.

XI. LAWSUITS AND COURT DECISIONS IN 2015

Regarding the court decisionS, in 2015, the Procurement Review Body has accepted the decisions of the Basic Court, Court of Appeal and Supreme Court:

Basic Court in Prishtina has approved the lawsuit of economic operators in one (1) case, the Basic Court in Prishtina has rejected the lawsuit of economic operators in the two (2) cases.

Court of Appeal in Prishtina rejected the appeals of PRB against decisions of the Basic Court in five (5) cases, the Court of Appeal in Prishtina rejected the appeals of economic operators, against the decision of Basic Court in four (4) cases, the Court of Appeal in Prishtina has approved the appeals of economic operators, against decision of the Basic Court one (1) case.

Basic Court in Prishtina rejected the request of economic operators for extension of the deadline for execution of the decision of the PRB in one (1) case, the Court of Appeal in Prishtina rejected the appeal of economic operators (appeal against the decision of the basic court in Prishtina) for extension of the deadline for execution of the decision of the PRB, in two (2) cases.

Appeals of economic operators that have gone to the Court of Appeal in 2015 and are still pending, there are three (3) in total, Procurement Review Body has made a request for extraordinary review of a court decision in the Supreme court in two (2) cases.

XII. DISQUALIFICATION OF ECONOMIC OPERATORS

During 2015 PRB, has received two requests of the Contracting Authorities - Kosova Energy Corporation, for the disqualification of the economic operator in accordance with article 99.2 of the LPP, PRB and upon request of the contracting authority "KEC sh. A" has decided that request of the CA, to be approved, and has disqualified EO "G-Team" from the Czech Republic, due to falsification of certificates PED 97/23 EC Module H / H1.

XIII. RECOMMENDATIONS OF THE OFFICE OF THE GENERAL AUDITOR

Procurement Review Body is an independent budget organization and does not meet the requirements of the Audit Law for the appointment of internal auditors, because has a limited budget and small number of positions allowed.

In the absence of the internal auditor, the audit of the PRB is made by the Auditing Unit of the MF and the Office of General Auditor.

The following table are presented the recommendations of the OGA and the actions taken:

No	Recommendation or finding	The action taken or proposed
1	Draft Annual financial statements in accordance with the legal framework	Were taken the necessary actions associated with revised recommendations that were not material but rather are considered technical
2	The action plan for making recommendations	PRB has taken the necessary actions to fulfill each recommendation and on the basis of memos sent by OGA for 2015 shows that most of the recommendations have been met, and the rest remained at the end of 2015, and now consider that they are met.
3	Reporting to the management	It is fully met, since every official reports in detail to the management
4	Budget expenditures in accordance with the economic codes	Some mistakes have been made to economic codes which have been corrected by the end of the year
5	Errors in Procurement	Also the recommendation no. 5 is also fulfilled since it is impossible to foresee 100% of the needs of the procurement plan, but the law leaves the possibility of carrying out procurement, off-plan, but must notify the CPA.
6	Expenses official travels to be consistent with the legal framework	Is taken into account this recommendation and any expense is referred the rules associated with the official expenses, these costs can be overcome as they depend on organizer and do not depend directly of the PRB
7	Staff recruitment	Since the given recommendation we did not have any

		position allowing for the recruitment of new staff
8	Registration of assets by categories	All assets are registered in the respective categories, as on the basis of the findings showed that some properties are not recorded in the appropriate category.
9	Identification of assets with barcodes	There was a lack of barcodes which the responsibility bears MAP, since it has realized the contract related to e-assets.
10	Registration costs for vehicles on an individual basis	Any expense is held in an individual basis.
11	Support of Internal Audit from the Ministry of Finance	It is fulfilled, since in 2015 we were audited from internal auditor - Ministry of Finance and also have applied for 2016 to be included in the audit plan.

XIV. OBJECTIVES OF PROCUREMENT REVIEW BODY FOR 2015

The main objective of Procurement Review Body is good and independent functioning of the institution in service of the economic operators, for protection of their legal interests from actions or inactions of Contracting authorities. Particular attention is going to be paid to professionalism, efficiency, effectiveness and neutrality for fair decision-making. Also very special importance will be given to transparency towards all parties involved in the proceedings.

The aim of our work for the coming year is to provide legal advice to economic operators and other parties of interest, through recommendations, different proposals, review and making fair decisions in full compliance with provisions of the LPP.

Increase of quality of services and transparency in our activity toward economic operators and the public will continue to be part of our objectives, due to the fact that now this activity has been tested and it has increased the trust of economic operators towards the Procurement Review Body and filing appeals against the CA, in cases when LPP provisions are suspected of have been violated.

In function of these challenges which remain also for the future among others we are going to pay particular attention to the objectives listed below:

- To further increase the level of professionalism, in order to increase further the confidence of economic operators and interested parties, in the activities of our institution;
- Even for this year, our goal is to increase the capacity and professionalism of review experts and administrative support staff, through trainings organized by local and international institutions in the field of public procurement and public-private partnerships, and employment as well as regular staff of three (3) review experts and one (1) of legal/ official and in order to further professionalise the legal office and reviewing of appeals from economic operators to be carried out in record time.
- Being more transparent with economic operators and all interested parties, we will further enrich our webpage with necessary information related to the decision making process and decision of the Review Panels, and the publication of all decisions from filing an appeal, the opinion of the review expert, until the final decision;
- We aim to have cooperation with relevant homologue institutions in the region countries and with various international organisations dealing with public procurement;
- PRB objective is to contribute in the realization of the project for the beginning of the implementation of electronic public procurement, in cooperation with the World Bank;
- Submission of complaints electronically - to achieve this objective it is necessary Amendment of primary and secondary legislation on public procurement.
- 2016 shall be the eighth (8) year of the PRB full operation, and we welcome requests, suggestions and eventual remarks from the Parliament of the Republic of Kosovo in order to report on work progress, as we need support of each of you and your recommendations in the field of public procurement and public private-partnerships, and in the field of concessions, on implementation of legal competences as an independent institution, competent, unbiased on protection of lawful rights of all economic operators and interested parties.

Yours respectfully,

Tefik Sylejmani

Act. President of the
PRB

Prishtina

26 February-2016