



**Republika e Kosovës**  
**Republika Kosova – Republic of Kosovo**

**ORGANI SHQYRTUES I PROKURIMIT**  
**TELO ZA RAZMATRANJE NABAVKE**  
**PROCUREMENT REVIEW BODY**

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**ANNUAL WORK REPORT 2016**

**February 2017**

**PRISHTINA**

**CONTENTS**

<b>1.</b>	<b>INTRODUCTION.....</b>	<b>3</b>
<b>2.</b>	<b>FUNCTIONING OF THE INSTITUTION OF PROCUREMENT REVIEW BODY.4</b>	
1.	Applicable legislation.....	04
2.	Structure of the PRB.....	06
3.	Organogram.....	07
<b>4.</b>	<b>TRAININGS.....</b>	<b>08</b>
<b>5.</b>	<b>PUBLIC RELATIONS.....</b>	<b>10</b>
<b>6.</b>	<b>WEB PAGE.....</b>	<b>11</b>
<b>7.</b>	<b>ACHIEVEMENTS IN THE FIELD OF PROCUREMENT.....</b>	<b>12</b>
<b>8.</b>	<b>ACTIVITY OF THE PROCUREMENT REVIEW BODY.....</b>	<b>12</b>
<b>9.</b>	<b>REVIEW OF THE PROCUREMENT APPEALS.....</b>	<b>13</b>
<b>10.</b>	<b>ORDINANCE ISSUED TO THE CONTRACTING AUTHORITIES.....</b>	<b>23</b>
<b>11.</b>	<b>FINES, REVENUES FROM IMPOSED FINES .....</b>	<b>24</b>
<b>12.</b>	<b>CLAIMS FILED TO THE BASIC COURT – DEPARTMENT FOR ADMINISTRATIVE ISSUES OF THE REPUBLIC OF KOSOVA ON THE DECISIONS OF THE REVIEW PANEL .....</b>	<b>24</b>
<b>13.</b>	<b>DISQUALIFICATIONS OF ECONOMIC OPERATORS .....</b>	<b>25</b>
<b>14.</b>	<b>RECOMMENDATIONS OF THE OFFICE THE GENERAL AUDITOR.....</b>	<b>26</b>
<b>15.</b>	<b>OBJECTIVES OF THE PROCUREMENT REVIEW BODY FOR 2016 .....</b>	<b>26</b>

## I. INTRODUCTION

Procurement Review Body presents to the Assembly of the Republic of Kosovo, Annual Report of the work and its activity in 2016. The Procurement Review Body as an independent institution established by the Assembly of the Republic of Kosovo 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's activity, 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.

## 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-042 On Public Procurement in Republic of Kosova, amended and supplemented by Law no.04/L-237, Law no.05/L-068 and Law no.05/L-092;
- 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;
- Members of the Board are independent 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 contract regarding the 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.

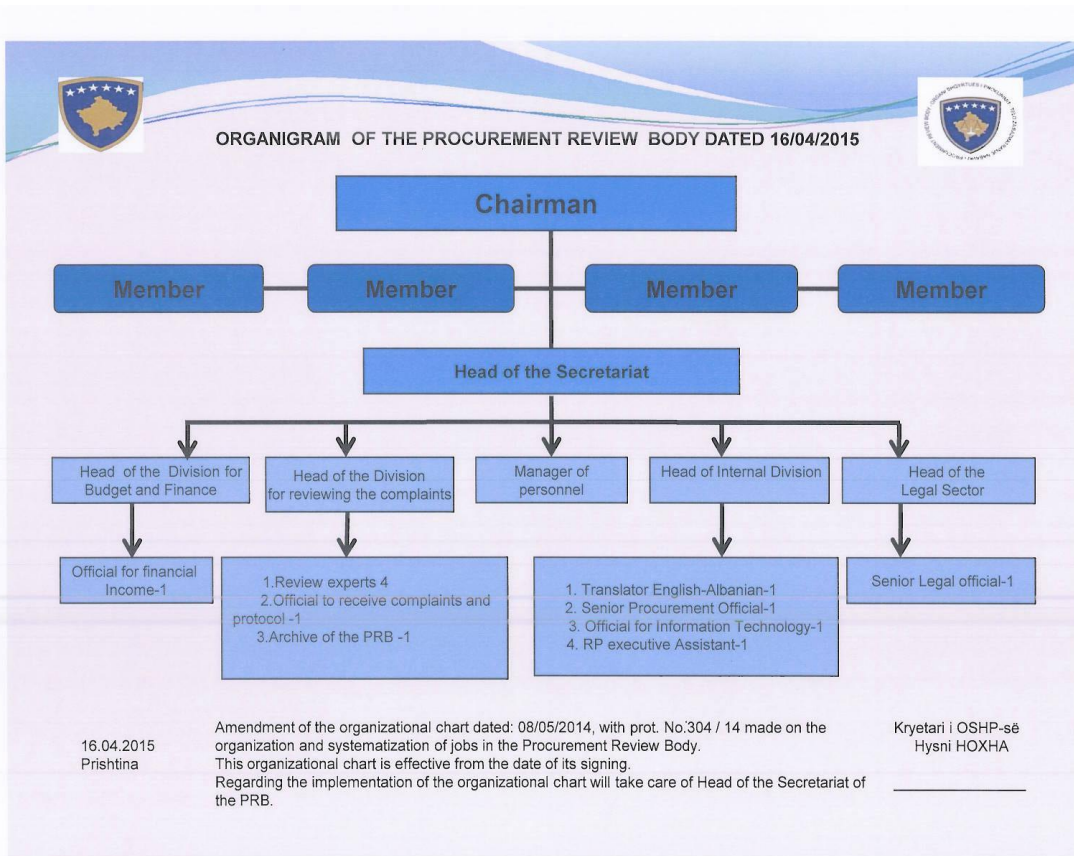
On the: 30 of March 2016, the Assembly of Kosova has completed the Board of PRB with another three members, where one of them is appointed as President with (5) five years mandate.

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**



### **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 2016, special attention was paid to training of the members and the personnel of the PRB institution.

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 2016 particular attention was paid to trainings that are related to particular problems of procurement.

#### **TRAININGS ATTENDED FROM OFFICIALS OF THE PRB DURING 2016, IN THE KOSOVA INSTITUTE FOR PUBLIC ADMINISTRATION (KIPA)**

1. Training attended on the 03, 04, 05 February 2016, subject “Approximation of national legislation with European Union legislation” organized by “KIPA”;
2. Training attended on the 18-19 February 2016, subject “Planning, Recruitment and Selection”, organized by “KIPA”;
3. Training attended on the 04-05 May 2016 subject “Code of ethics, rights and responsibilities in civil service”, organized by “KIPA”;
4. Training attended on the 26,27,28,29 July 2016, subject – “Information systems and human resources management – ISHRM”;

#### **TRAINING ABROAD OF THE PRB OFFICIALS DURING 2016**

1. Seminar attended on the 06-09 March 2016, subject , “Mastering theory impact assessment base”, in Netherlands, organized by “European Institute for Public Administration (EIPA) Maastricht- Netherlands.
2. Training attended on the 12-15 March, subject “managing the Office, drafting memos, official records and archiving”, Durrës-Albania, organized by “BM Consulting Group”.
3. Training attended on the 25-29 March, subject “functionality and use of e-Procurement in Kosova” in Kemer – Turkey, organized by the “Kosovar Institute for Management”.



4. Training attended on the 25-29 March, subject “The use of information systems for human resources management in public institutions in Kosova” in Kemer – Turkey, organized by the “Kosovar Institute for Management”.
5. Training attended on the 26-29 May, subject “Amendments in the Public Procurement Law and Electronic Procurement”, Ohrid-Macedonia, organized by “Economic Development Consulting”.
6. Training attended on the 13-17 July, subject “Institutional Strategic planning and management” Sarandë-Albania, organized by “Kosovar Institute for Management (KIM)”.
7. Training attended on the 13-16 October: “Adjusting the workplace - Application of the law and regulations”, Ohrid – Macedonia, organized by Prudencia Consulting”.
8. Training attended on the 20-23 October, subject: “Theoretical and Practical Aspects of translation”, Budva-Montenegro, organized by “European Center”.
9. Training attended on the 20-23 October, subject: “Management of the organization through the Information Technology and E-governance”, Budva-Montenegro, organized by “European Center”.
10. Training attended on the 20-22 October, subject: “E-procurement platform in Kosova”, “Two new procurement laws of 2016 and comparison with the Law No.04 / L-042”. “Treatment of appeals in Public Procurement, Durrës-Albania, organized by “Institute “BIP” in cooperation with “EIPA”.
11. Training attended on the 28-30 October, subject: “European experiences in fighting corruption in Procurement”, Durrës-Albania, organized by “Democratic Institute of Kosova” (DIK).
12. Training attended on the 17-20 November, subject: “Drafting reports, office administration, operations and Records in Public Institutions” Ohrid-Macedonia, organized by “Kosovar Institute for Management (KIM)”.
13. Training attended on the 24-27 November, subject: “Financial rules for the management of public funds” and training: “The management, communication and archiving of documents” Ohrid-Macedonia, organized by “Prudencia Consulting”.
14. Training attended on the 01-05 December, subject: “Functionality and use of Electronic Procurement in Kosova”, Bansko-Bulgaria, organized by “Kosovar Institute for Management (KIM)”.

15. Training attended on the 08-11 December, subject: “Public Procurement and the procedure of handling appeals in the Procurement Review Body”, Dubrovnik-Croatia organized by “Prudencia Consulting”.

16. During the month of December 2016, respectively on the 14-16 December, and official visit at the Review National Commission in Slovenia

#### **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.

Procurement Review Body, has paid great importance to relations with the media having priority to meeting the objectives of increasing the reliability of economic operators and the public towards the PRB. By this cooperation we strengthen the image and the position of Procurement Review Body faced public opinion, creating necessary integrity for the realization of communication with the public opinion. The increased confidence of economic operators towards the PRB is based on reviewing of the appeals, holding public hearings and making decisions professionally, impartially and within legal deadline. In some of the important participation sessions have been attended by representatives of foreign embassies in Kosovo, as for instance representatives of the German Embassy in Kosovo, and others, however, our commitment to transparency clearly shows and best the participation of media representatives in public hearings held by the review panels, where in some cases has been present at the hearing session were journalists of the dailies “Koha Ditore” “Zëri”, “BIRN” etc.

During 2016 PRB has signed a cooperation agreements with Kosovo Law Institute (NGOs) and Democracy Plus to monitor the procedure of reviewing the appeals.

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 reviewing appeals, review expert’s opinion and technical review expert, and decisions issued by Review Panels for appeals 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 Kosovo, 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 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 2016, were 440.235 (four hundred and forty thousand two hundred and thirty-five), total clicks from this clicks 15.2% were new visitors to the website, while 84.8% are regular visitors of the Web site of the PRB. While the average length of stay of a visitor to the website of the PRB has been 04: 29 min. Compared to last year there is a growing interest in visits to the website of PRB by 98.04 %.

Web site of the PRB, besides being visited by citizens of the Republic of Kosovo (76.943 visitors), was also visited by the countries of Europe and America, such as: Albania (677 visitors), USA (276 visitors), Serbia (199 visitors), Slovenia (450 visitors), Germany (281 visitors), Macedonia (172 visitors), United Kingdom (481 visitors), Montenegro (166 visitors), Turkey (162 visitors)

## **VI. ACHIEVEMENTS IN THE FIELD OF PROCUREMENT**

During 2016 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 2016, has had good cooperation with the Project Team "PLANET" - Support for the Reform of the Public Procurement System in Kosovo. 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 2016, 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, 105.1, 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.

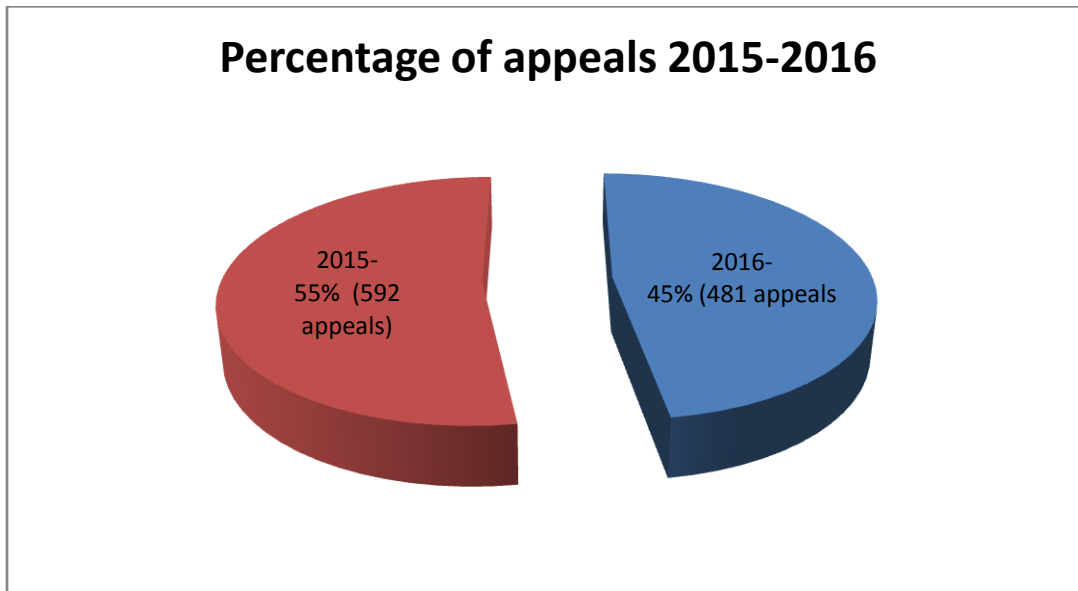
## **VIII. REVIEW OF PROCUREMENT APPEALS**

Procurement Review Body during 2016, 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 of January - December 2016 are received in the Procurement Review Body 481 appeals 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 2016, with those reviewed in 2015 it is noticed a small decline of appeals this year.

**Graphical presentation of the appeals received in 2015 and 2016 (percentage decreasing)**



For the procedures of reviewing of the appeal of the public procurement in 2016, below are presented comprehensive data and analytical work as follows:

- Review panel approved the decisions of the Contracting authority, as grounded in 158 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 198 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 44 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;
- Twenty seven (27) 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, 30 submitted appeals were withdrawn by the complaining economic operators.
- One (1) appeal submitted to PRB, was not under the competence of PRB and as such was rejected by PRB.
- Two (2) appeal were considered as a judged matter - "Res Judicata" by the Review Panel of PRB;

- Review panel during thye 2016 has issued altogether nine (9) Ordinances
- Postponing the deadline for bidding three (3) cases.
- Clarification of the technical specification two (2) cases.
- Cancellation of the re-evaluation one (1) case.

Even in 2016, 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,

Economic operators when filing their appeals in conformity with Article 118 of the LPP, and rules for filin a request for reviewing at the Contracting authority, filing appeals at the PRB and the appeal's tariff value conform article 14 they were obliged to deposit the appeal's security in value of one percent (1%) of the value of the bid, but not less than 100 and not more than 5,000 Euros.

Table with data of the Contracting Authorities January-December 2016

No	Contracting Authority	App. received	Approval of dec. of CA	Re-evaluation	Re-tender	Withdrawal of appeal	Rejection of appeals	Not competent	“Res Judicata”	Ordinance for implementation of the dec. of RP.	Cancellation of the cancellation notice	Extending deadline for bidding	Clarification of specifics	Cancellation of re-evaluation
1	Kosova Customs	4	1		1	2								
2	ERO	1		1										
3	MA GJILAN	8	1	5		2								
4	UP	11	2	3	2	2	1				1			
5	KURP	1			1									
6	MH	19	9	7	1		1				1			
7	CPA	18	3	13		2								
8	MKSF	5	1	2	1	1								
9	KEC	57	25	20	5	1	4			1				Notice for CA 1
10	KA of Privatization	8	1	3	3	1								
11	UPZ	6		3					2	1				
12	IKSHPK	1					1							
13	MA PRISHTINE	28	10	12	4		1					1		
14	MA GJAKOVE	7	2	3			2							
15	KM LIPJAN	7	6	1										
16	Kosova Police	28	9	11	2	4				2				



No	Contracting Authority	App. received	Approval of dec. of CA	Re-evaluation	Re-tender	Withdrawal of appeal	Rejection of appeals	Not competent	“Res Judicata”	Ordinance for implementation of the dec. of RP	Cancellation of the cancellation notice	Extending deadline for bidding	Clarification of specifics	Cancellation of re-evaluation
17	MA RAHOVEC	5	1	3			1							
18	UCCK	19	6	12								1		
19	MCYS	26	9	12		1	3			1				
20	R.H PEJA	3		2	1									
21	MA PRIZREN	18	6	5	4	2	1							
22	MI	35	14	18	1		1	1						
23	MIA	12	6	2	1		2							1
24	MA PEJA	25	6	12	4	2				1				
25	MA VUSHTRRI	2	1				1							
26	MPA	11	4	1			3				3			
27	TELECOM OF KOSOVA	9	3	2		2	1			1				
28	MA VITI	1				1								
29	MIT	2	1	1										
30	MA Graqanice	3	1	2										
31	KRM PASTRIMI	4		3	1									
32	Municipality SHTERPCE	1				1								

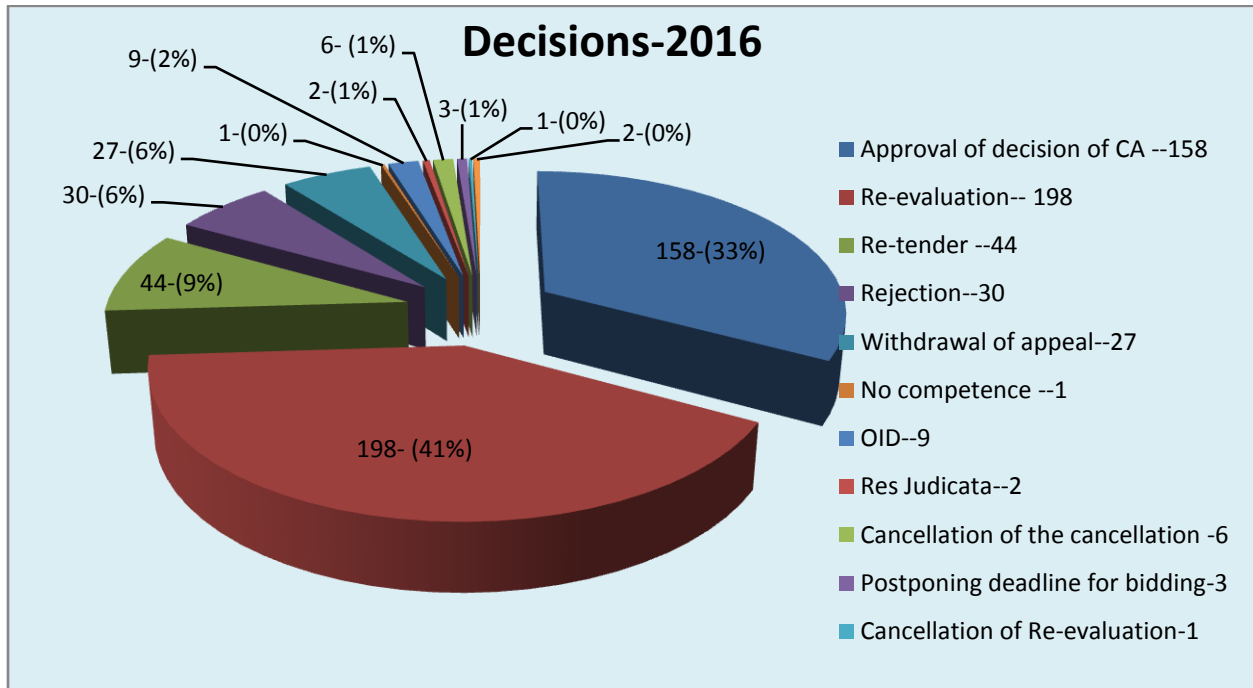
No	Contracting Authority	App. received	Approval of dec. of CA	Re-evaluation	Re-tender	Withdrawal of appeal	Rejection of appeals	Not competent	“Res Judicata”	Ordinance for implementation of the dec. of RP	Cancellation of the cancellation notice	Extending deadline for bidding	Clarification of specifics	Cancellation of re-evaluation
33	MA DRAGASH	4		3						1				
34	MEST	2		1			1							
35	HORTIKULTURA	1		1										
36	MF	2	1	1										
37	MA FERIZAJ	6		4	1		1							
38	Student's Center	4		3		1								
39	SHPSHM-FERIZAJ	1	1											
40	SKA	4		2	1		1							
41	MA OBILIQ	3	2	1										
42	MA VITI	2		1	1									
43	IHCSK	5	4				1							
44	Bus.S-Prishtina	2		1	1									
45	MA ISTOG	2	1	1										
46	MA KLINE	5	1	3	1									
47	PROSEC. Council	2	2											
48	State Prosecutor	1			1									
49	MA SUHAREKA	1	1											

No	Contracting Authority	App. received	Appr. of dec. of CA	Re-evaluation	Re-tender	Withdrawal of appeal	Rejection of appeals	Not competent	“Res Judicata”	Ordinance for implementation of the dec. of RP	Cancellation of the cancellation notice	Extending deadline for bidding	Clarification of specifics	Cancellation of re-evaluation
50	MEST	1			1									
51	MAFRD	4	1	2	1									
52	ARKEP	1					1							
53	MA MITROVICE	1					1							
54	MED	2	1	1										
55	KCS	4	1	2	1									
56	Forest Agency of Kosova	1		1										
57	Hospital VUSHTRRI	1		1										
58	MESP	2	1			1								
59	KA Property	1	1											
60	MA FUSHE KOSOVE	2	1	1										
61	AMKMK	3	2	1										
62	NH”IBER LEPENCI”	1		1										
63	MA KAÇANIK	2	1	1										
64	President’s Office	2	1	1										
65	MA KAMENICE	4	2	2										
66	Assembly of RK	2									1		1	

No	Contracting authority	App. received	Approval of dec. of CA	Re-evaluation	Re-tender	Withdrawal of appeal	Rejection of appeals	Not competent	“Res Judicata”	Ordinance for implementation of the dec. of RP	Cancellation of the cancellation notice	Extending deadline for bidding	Clarification of specifics	Cancellation of re-evaluation
67	S.P GJILAN	1	1											
68	MA DEÇAN	2				1							1	
69	FVA	1			1									
70	MA SKENDERAJ	1		1										
71	KUR MITROVICA	1		1										
72	TAK	1	1											
73	MA PODUJEVE	1		1										
74	MMA MAMUSHE	1			1									
75	MA GJILAN	2			1					1				
76	Prime minister's Office	1	1											
77	TRAINKOS	1					1							
78	MA MALISHEVE	2	2											
	<b>Total</b>	<b>481</b>	158	198	44	30	27	1	2	9	6	3	2	1

In graphical form are shown the number and percentage of appeals received and reviewed by the Procurement Review Body for 2016.

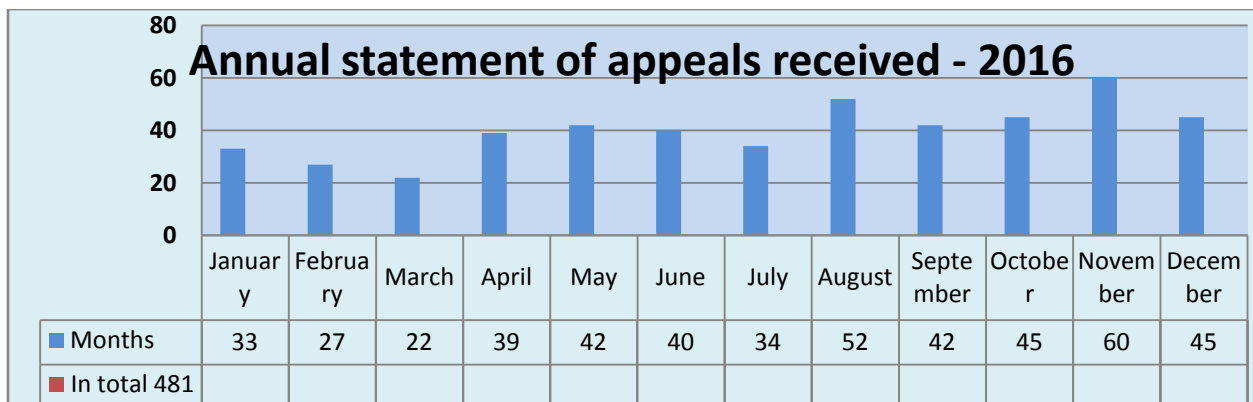
**Decisions of appeals year 2016**



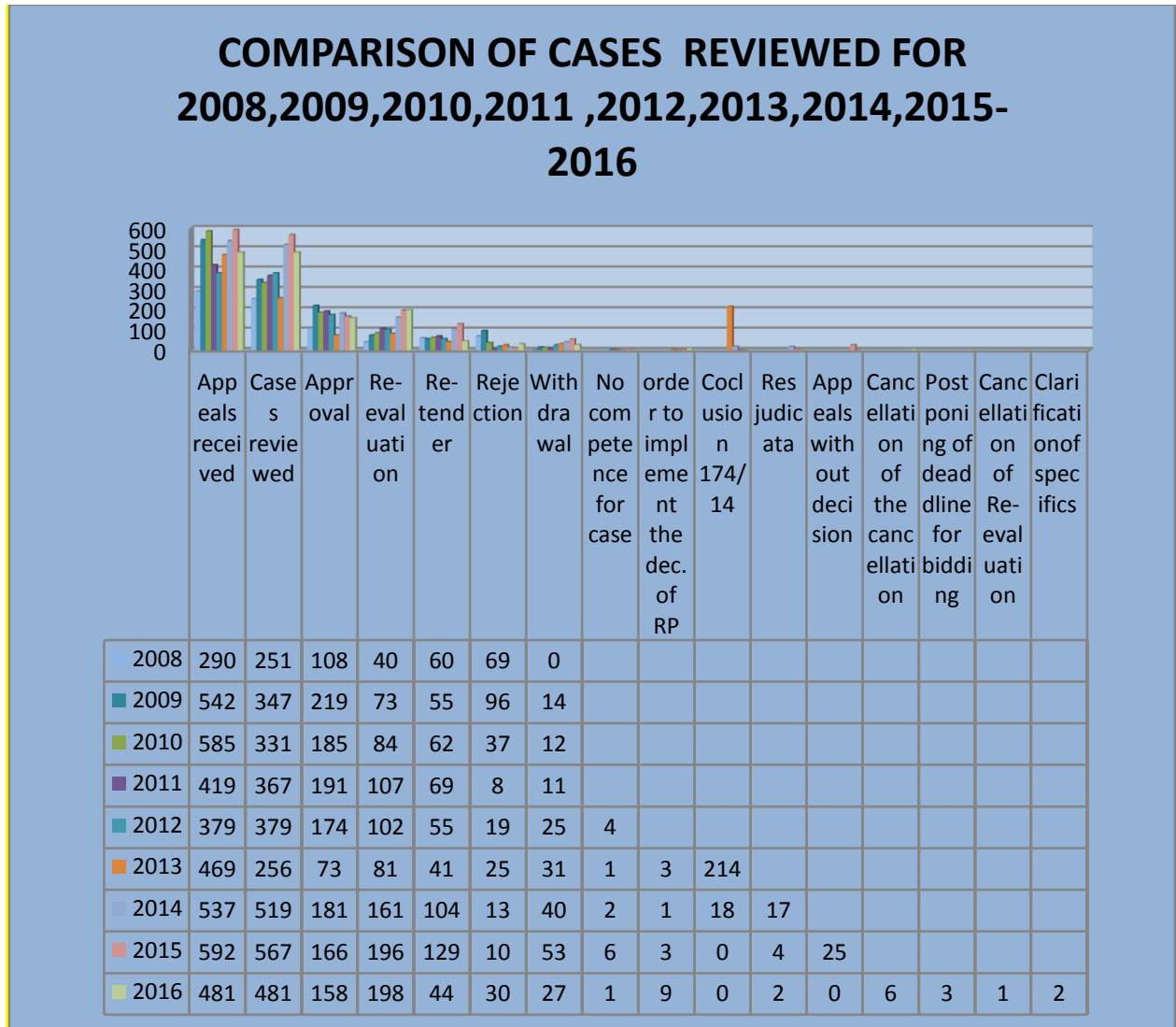
During 2016 the number of appeals according to the kalendar months had changes in some months.

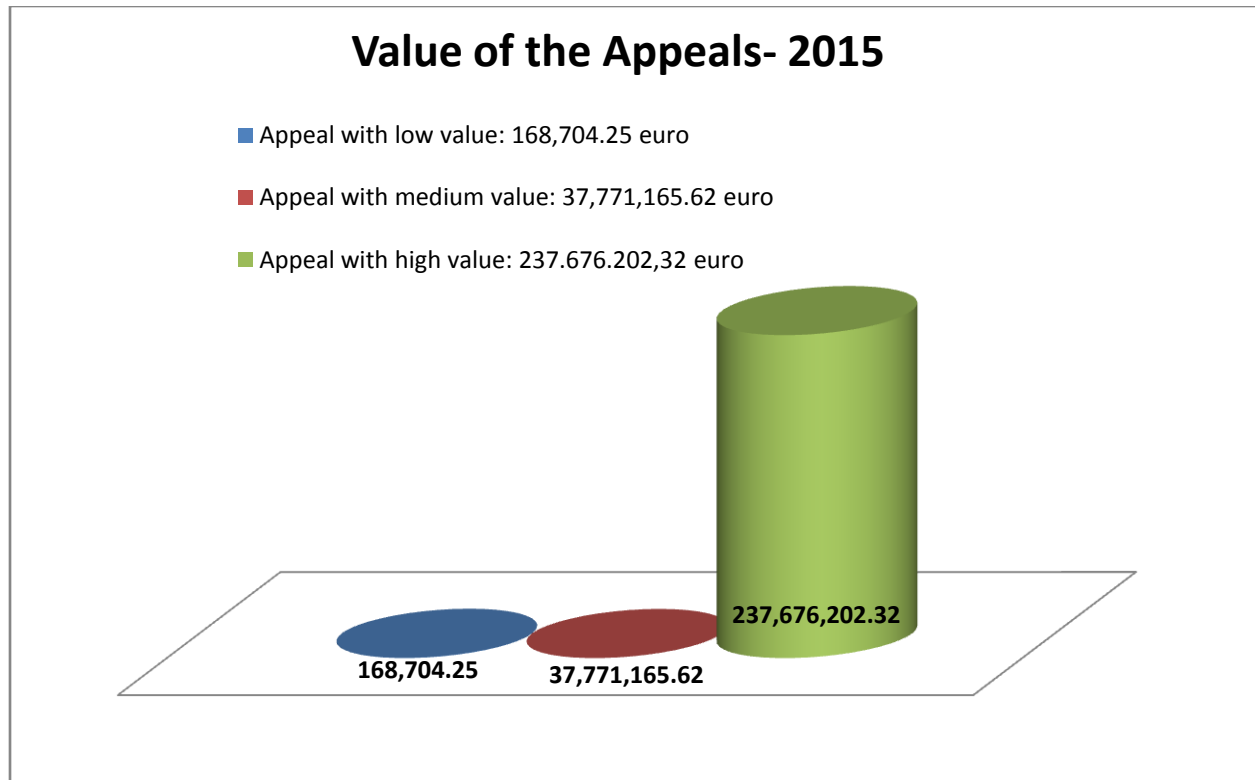
The highest volume of appeals belongs to the month August, September, October, November, December.

In statistical form, the table below shows the number of appeals received by months during 2016.



**Comparison of cases reviewed for 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015-2016**



**Classification of appeals based on values - 2015****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 9 (nine) Ordinances against different Contracting authorities as well 5 ordinances towards Contracting authorities after there was a decision taken by the RP.

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**

<b>No.</b>	<b><u>Contracting Authority</u></b>	<b><u>Ordinance imposed for non-compliance with the decision of the RP</u></b>
<b>1</b>	Post and Telecom of Kosova	<b>2</b>
<b>2</b>	Kosova Energy Corporation	<b>2</b>
<b>3</b>	Kosova Police	<b>2</b>
<b>4</b>	Ministry of Culture Youth and Sports	<b>1</b>
<b>5</b>	Municipal Assembly of Peja	<b>1</b>
<b>6</b>	Municipal Assembly of Gjilan	<b>1</b>
<b>7</b>	Municipal Assembly of Dragash	<b>1</b>
<b>8</b>	University Hospital Clinical Service of Kosova	<b>1</b>
<b>9</b>	University of Prizren	<b>1</b>
<b>10</b>	University Clincl Center of Kosova	<b>1</b>
<b>11</b>	Central Procurement Agency	<b>1</b>
	In total	<b>14</b>

### **X. FINES, REVENUES FROM IMPOSED FINES**

During 2016 PRB has imposed two fines for not respecting the decisions and the review panels and one for Kosova Post and Telecom in the amount of 25,000.00 € and to University Hospital Clinical Service of Kosova (UHCSK) worth 25,000.00 €.

As is known, the PRB decisions are final and enforceable decisions, but in some cases, the Treasury of 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, 2013, 2014, 2015 and 2016 in value of 216.000.00 € is not received even during 2016, a fact which is worrying our institution.

### **XI. LAWSUITS AND COURT DECISIONS IN 2016**

During 2016, the Procurement Review Body has accepted these decisions from the Basic Court, Court of Appeal and Supreme Court:

Basic Court in Prishtina has approved the lawsuit of economic operators in seven (7) cases, meanwhile, has rejected the lawsuit of economic operators in three (3) cases.



Against the decision of the Basic Court in Prishtina, economic operators have appealed to the Court of Appeal in Prishtina, in five (5) cases. Basic Court's decision in the Court of Appeal, PRB has challenged in four (4) cases.

Basic Court in Prishtina rejected the request of economic operators for extension of the deadline for execution of the decision of the PRB in three (3) cases, the Court of Appeal in Prishtina rejected the appeal against the decision of the Basic Court in Prishtina for adjournment for execution of the decision of the PRB, in one (1) case.

Supreme Court ruling rejected the demands of the PRB to review the decision of the Basic Court and Appeal in four (4) cases in total. In 2016 it was noticed an increase in lawsuits against the decisions of review panels in the Basic Court in Prishtina, where from the beginning of the year til the date 30 of December 2016, were recorded Fifty-eight (58) lawsuits at the Basic Court in Prishtina.

## XII. DISQUALIFICATION OF ECONOMIC OPERATORS

PRB is responsible for disqualification of the economic operator in accordance with article 99.2 of the LPP. The following is a table with the data requests of the contracting authorities and the decisions of the PRB regarding these requests.

**Table of the requests for disqualification of the Economic operators and decisions of the PRB**

No	CA	EO	Procurement activity	Decision of RP
1	<b>Kosova Police</b> With prot.no 524/16 dt 07.06.2016	“Kapital X shpk”	Design services-214 16 060 221	Refusal the request of CA
2	<b>Kosova police</b> With prot.no 496/16 dt 02.06.2016	“NN 5 Vëllezërit Mulaku and NNP Euro constructions”	Renovation of detention centers in police stations Prishtina -214 16 045 521	Approval of request of the CA and disqualification of EO “Vëllezërve Mulaku”
3	<b>Kosova Police</b> e-mail dt 05.04.2016	“Beni Construction”	Construction of the facility for the K9 unit 214 14 131 521	Refusal of the request of CA –Kosova Police
4	<b>MA Peja</b> with prot.no 505/16 dt 31.05.2016	“Armendi FA”-Istog	Replacement of windows in medium primary school in the municipality of Pec 92095 16 013 521	Refusal of the request of CA -MA Peja
5.	<b>KEC</b> With prot.no.321/16 te datës 29.12.2016	Konz. “Ripten Engineering&Top Sistem”-Prishtine	Design, construction and commissioning of the reservoir of mazut”	Under review

### **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.

During the 2016 Auditor General's office has not audited the PRB and we expect that in early 2017 to do an audit of our work.

### **XIV. OBJECTIVES OF PROCUREMENT REVIEW BODY FOR 2017**

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 review and release the fair decisions in full compliance with the provisions of the LPP, legal advice for economic operators and their parties of interest, through recommendations, different proposals.

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 another five (5) review experts and another (2) of legal/ officials and one translator for Serbian Language 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;
- Filing of appeals electronically - conform amends of the law on public procurement;
  
- Year 2017 will be the ninth year (9)of the full operation of the PRB and we welcome requests, suggestions and possible remarks by the Assembly of the Republic of Kosova to report on the progress of work, because we need support of each of you for the recommendations in the field of public procurement, public-private partnership in the field of concessions, pursuant to legal authority, as an independent, competent and impartial protection of the legal rights of any economic operator and interested parties.

Yours respectfully, from

President of the PRB  
**Blerim DINA**

Prishtina  
27 February 2017