



Republika e Kosovës  
Republika Kosova – Republic of Kosovo  
ORGANI SHQYRTUES I PROKURIMIT  
TELO ZA RAZMATRANJE NABAVKE  
PROCUREMENT REVIEW BODY

Psh. No.847/23

Pursuant to the article 105 point 1 and 2, of the Law on Public Procurement of the Republic of Kosova no.04/L-042, amended and supplemented by Law No. 04/L-237, Law no.05/L-068, and Law no.05/L-092, after considering the request dated 03.11.2023 for withdrawal from the complaint submitted by EO “INTRAST” SH.P.K, dated 29.10.2023, regarding the procurement activity: “Maintenance of public lighting on national and regional roads in Kosova for the years 2023 2024-2024 2025-2025 2026”, with procurement no: 205-23-7625-2-1-1, initiated by the Contracting Authority (CA) - "Ministry of Infrastructure", Review Panel composed of Vjosa Gradinaj Mexhuani, Vedat Poterqoi and Agon Ramadani on the: 03/11/2023 has issued this:

**DECISION**

1. Approved, the request dated 03/11/2023, submitted by "INTRAST" SH.P.K, for the withdrawal of complaint no. 2023/0847, dated 29/10/2023, this complaint submitted for the procurement activity: “Maintenance of public lighting on national and regional roads in Kosova for the years 2023 2024-2024 2025-2025 2026”, with procurement no: 205-23-7625-2-1-1, initiated by the Contracting Authority (CA) – “Ministry of Infrastructure”.
2. It is allowed the contracting authority - “Ministry of Infrastructure” to continue with the procurement activity “Maintenance of public lighting on national and regional roads in Kosova for the years 2023 2024-2024 2025-2025 2026”, with procurement no: 205-23-7625-2-1-1, in relation to this complaint, if there is no other complaint about this procurement activity.
3. Since the complainant has withdrawn from the complaint and complaining claims, based on Article 31 points 4 and 6 of the Rules of Procedure of the PRB, to this EO will be returned the complaint’s fee in the amount deposited when the complaint was submitted.

## REASONING

Economic operator EO "INTRAST" Sh.P.K. on the 29.10.2023, submitted a complaint to PRB, related to the procurement activity: "Maintenance of public lighting on national and regional roads in Kosova for the years 2023 2024-2024 2025-2025 2026", with procurement no: 205-23-7625-2-1-1, initiated by the Contracting Authority (CA) – "Ministry of Infrastructure".

The economic operator "INTRAST" Sh.P.K. on the 03.11.2023 announced through the system that it withdraws from the complaint related to the procurement activity "Maintenance of public lighting on the national and regional roads of Kosova for the years 2023 2024-2024 2025-2025 2026" with procurement number 205-23-7625 -2-1-1.

Upon being informed about the actions described above, the Review Panel made a decision to approve the request for withdrawal from the complaint, allowing the CA to continue the procurement activity (described above) if the CA does not have any other complaints about this activity. In addition, it should also be noted that in such cases the suspensive effect of the complaint is absent in the sense of Article 112, paragraph 1, of the LPP, according to which the submission of a complaint obliges the CA to automatically suspend the implementation of the procurement activity in the specific case. Based on the facts and circumstances briefly described above, it is concluded that the conditions (legal presumptions) have been created to complete the appeal procedure at this stage, without the need to open the merit evaluation stage related to this procurement activity, because the object of complaint is missing and the essential elements of the complaint according to Article 111 of the LPP;

Based on the facts and circumstances briefly described above, it is concluded that the conditions (legal presumptions) have been created to complete the complaint's procedure before the PRB at this stage and related to this procurement activity, due to the fact that

- the object of complaint and the essential elements of the complaint according to Article 111 of the LPP are missing;
- the complainant lacks the status of the interested party, according to article 4, paragraph 1.26 of the LPP.

In this case, it should be noted that according to Article 13 of the Law on General Administrative Procedure (LPPA), each person has the right to exercise legal remedies against an administrative action or inaction of a public body that infringes a right or a legal interest. Whereas in terms of Article 109, paragraph 1, of the LPP, it is also provided that any interested party has the right to submit a complaint to the PRB. However, in terms of the basic principles of the legislation, especially provided by the provision of Article 93 of the Law on General Administrative Procedure, this at the same time implies the fact that every interested party has the right to also change (complete, improve, specify) the complaint and also withdraw it. In fact, the Review Panel has confirmed the fact of withdrawing the complaint, based on the actions of the party through their publication on the platform or the official website of the public procurement system, therefore it did not find a reason to act in terms of Article 110 of the LPP, therefore they were created the conditions for the procedure in this legal-administrative matter to be completed in accordance with Article 97 of the LPPA.

However, the Review Panel informs the CA that in every activity must act in accordance with the provisions and legal authorizations in accordance with all legislation in force, including those with articles 1, 6, 7, 24.6, 27, 28, 59, 60, 65 of the LPP.

Since the complainant has withdrawn from the complaint and complaining claims, based on Article 31 points 4 and 6 of the Rules of Procedure of the PRB, this EO will be returned the complaint's fee in the amount deposited when the complaint was submitted

Therefore, briefly based on the above, the Review Panel decided as in the provision of this decision.

**President of the PRB**

Mrs. Vjosa Gradinaj

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**Legal advice:**

An appeal is not allowed against this decision,  
but the dissatisfied party can appeal to the Commercial Court,  
within 30 days from the date of acceptance of this decision.

Decision to be submitted to:

1x1 CA – **MINISTRY OF INFRASTRUCTURE;**

1x1 EO – **“INTRAST " SH.P.K”;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.