



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

Psh. No.1012/23

Based on Article 105 points 1 and 2, Article 108/A paragraph 7 and Article 109 of the Law on Public Procurement of Kosovo no. 04/L-042, supplemented and amended by Law 04/L-237, supplemented and amended by Law 05/L-068, supplemented and amended by Law 05/L-092, after considering the request dated 14.12. 2023 for withdrawal from the complaint submitted by EO “KIGA SH.P.K”, dated 14.12.2023, related to the procurement activity “Supply of pellets” with procurement number 70030-23-8606-1-1-1, initiated from the contracting authority (CA) - General Hospital - Pejë, the Review Panel composed of Vjosa Gradinaj Mexhuani, Vedat Poterqoi and Isa Hasani, on the 22/12/2023 has issued this:

DECISION

1. Approved, the request dated 14/12/2023, submitted by “KIGA SH.P.K”, for the withdrawal of complaint no. 2023/1012, dated 14/12/2023, this complaint submitted for the procurement activity “Supply of pellets”, with procurement number 70030-23-8606-1-1-1, initiated by the contracting authority (CA) - General Hospital - Peja.

REASONING

The economic operator EO “KIGA SH.P.K”, on the 14.12.2023, submitted a complaint to the PRB, regarding the procurement activity “Supply of pellets” with procurement number 70030-23-8606-1-1-1, initiated from the Contracting Authority (CA) - General Hospital - Peja.

The economic operator “KIGA SH.P.K”, on the 14.12.2023, announced through the system that it withdraws from the complaint related to the procurement activity "Supply of pellets" with procurement number 70030-23-8606-1-1-1.

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 terms 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 appeal 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 appeal procedure before 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 an interest. legal. 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 simultaneously implies the fact that every interested party has the right to also amend (complete, improve, specify) the complaint and also attract 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 General Hospital - Peja that in its capacity as CA, it is responsible to act according to article 24.2 and 59 and to make the evaluation of the offers in accordance with these provisions and legal authorizations as provided by article 1, 6, 7, 27, 28, 59, 60, 65 of the LPP.

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

President of the PRB

Mrs.Vjosa Gradinaj

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 – **General Hospital - Peja;**

1x1 EO – **“KIGA” SH.P.K;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.