



Non Governmental Organization Emancipimi Civil Ma Ndryshe
EC MA NDYSHE

Short analysis
Public procurement challenges in the Municipality of Prizren
November 2018, Prizren

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I. Entrance

Public procurement according to the definition given by the state organs of Kosovo means a purchase, formal or other contract, of works, supplies and services from public bodies, which utilize public financial means. Public procurement includes the purchase, obtaining any other contractual means, goods, construction works, and any service from public sector. Public procurement also includes situations in which public funds are mobilized to buy goods, labor and services even if the Government is not directly involved.¹

In the National Public Procurement Strategy 2017-2021 it is emphasized that public procurement is vital to the economy of the country and it is very important that this public expenditure is guided by a set of public principles, values, best practices, laws, regulations and procedures.²

While the National Audit Office has clarified that Procurement rules aim to ensure that public funds are used transparently and efficiently to achieve value for money. According to the NAO, the legal framework clearly defines the rights, duties and responsibilities of all parties involved in the procurement processes. This includes the requirement to reduce the risk of non-

¹ National Public Procurement Strategy 2017-2021, PPRC, January 2017, link: <https://krpp.rks.gov.net/krpp/PageFiles/File/Strategjia%20per%20Prukurimin%20Publik%202017%202021/Strategjia%20per%20Prokurimin%20Publik.pdf>, qasur me 3 shtator 2018

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termination of contracts and their poor execution.³

The Kosovo Procurement System has been continuously reformed and completed. But despite the progress in the legal and institutional framework, efforts to advance the system as outlined in the National Strategy need to be intensified especially in aspects of increasing efficiency, transparency, accountability and increasing the professionalism of staff responsible for system management.

Different challenges are present in the whole process from planning to implementation of projects. These could lead to a situation where goods and services and capital projects of inadequate quality and higher costs, would be procured.⁴

The Strategy emphasizes that the modern public procurement system requires high standards of efficiency and transparency as public procurement is done for the public interest and is a prerequisite for sustainable development. Responsibility and accountability, as well as communication and information are equally important. Even the accountability as it says in the aforementioned Strategy forms the

³ Audit Report on the financial statements of the Municipality of Prizren for the year ended 31 December 2015, NAO, June 2016, link: <http://www.zka-rks.org/wp-content/uploads/2017/06/RaportiAuditimit.KPZ.2015.Shqip.550195.pdf>, accessed on September 5, 2018

⁴ National Public Procurement Strategy 2017-2021, PPRC, January 2017, link: <https://krpp.rks.gov.net/krpp/PageFiles/File/Strategjia%20per%20Prukurimin%20Publik%202017%202021/Strategjia%20per%20Prokurimin%20Publik.pdf>, accessed September 3, 2018

central pillar of any public procurement system, since without transparent and accountable systems that enable institutions and citizens to engage in so mutually responsible, major sources channeled through systems of public procurement enable the risk of increased corruption and misuse of funds. Precisely, the issue of accountability and accountability in Kosovo's public procurement system remains a challenge.⁵

Civil society organizations have announced that in the recent history of Kosovo, the field of public procurement enjoys a low standard of credibility for the fact that the instrument of spending public money has significantly contributed to misuse by different public and private actors. In the statebuilding journey, public procurement has consistently been characterized by the legislative transition, whereby the changes in this field were continuously attempted to make a more functional public procurement system. Despite this, the problems with which public procurement continues to be characterized are underlined at almost all levels.⁶

Meanwhile, the European Commission Report for Kosovo, published in 2018, points out that in terms of approximation with European standards, Kosovo is at an early stage. This report states that little progress has been made in the field of public procurement. It underlines that more needs to be done to prevent irregularities and corruption in the procurement

cycle. The EU expects from Kosovo to address the weak capacity of public procurement institutions for public procurement management, insufficient monitoring and execution of contracts, where according to the EU all are vulnerable to corruption in the case of public procurement. The report states that Kosovo should increase the capacity of all public procurement institutions to administer public procurement, as well as reinforce oversight and monitoring of the full tendering cycle.⁷

In this respect, there is no exception for the Municipality of Prizren, where the public procurement challenges are numerous.

II. Public procurement challenges in the Municipality of Prizren

The Municipality of Prizren has planned to spend EUR 17.4 million in 2018 through procurement procedures. Of this amount, the biggest part will go to contracting works, worth 14.1 million euros, while about 1.8 million euros are planned for supplies and about 1.5 million euros for the category of services. In the category of supplies in the annual Procurement Plan are 33 projects, in the category of services 38 projects and in the category of works are 178 projects.

The Procurement Office in the Municipality of Prizren has announced that there is no challenge.⁸ But reading the reports of state bodies shows that there are problems in this municipality in terms of procurement. Even

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⁶ Integrity and (no) Punishability in Procurement, Coalition for Data Opening and Public Procurement Accreditation - Pro Open, May 2018, link: <https://kfos.org/integriteti-dhe-pandeshkueshmeriane-prokurim/>, accessed on October 3, 2018.

⁷ EC report on Kosovo, April 2018, link: http://www.mei-ks.net/repository/docs/kosovo_report_2018_shqip.pdf, accessed on October 7, 2018.

⁸ Isa Osmankaj, Head of the Procurement Office in the Municipality of Prizren, Response by e-mail, dated 16 November 2018.

with public appearances such a thing has been confirmed by the municipal leadership itself, regarding the projects or different contracts of the previous governing mandate.⁹ But reading the reports of state bodies shows that there are problems in this municipality in terms of procurement. Even with public appearances such a thing has been confirmed by the municipal leadership itself, regarding the projects or different contracts of the previous governing mandate.

The work report for 2017 of the Procurement Review Body provides evidence in this regard. During 2017, the PRB had imposed four fines on the contracting authorities for non-compliance with the decisions of the review panels. One of them was for the Municipality of Prizren and it was worth 5 thousand Euros.¹⁰

Meanwhile, reports published in recent years by the National Audit Office reveal various challenges in relation to public procurement in the Municipality of Prizren.

In the Audit Report published in June 2018, the main conclusions and recommendations, among other things, indicate that there are shortcomings in relation to procurement procedures. The auditor has identified cases when the Municipality has entered into public contracts disaccorded with the annual procurement plan in violation of the Public Procurement Law (LPP), and where no regular procedures for obtaining confirmation from the

⁹ Isa Osmankaj, Head of the Procurement Office in the Municipality of Prizren, Response by e-mail, November 16, 2018.

¹⁰Annual Work Report 2017, PRB, February 2018, link: <https://oshp.rks-gov.net/repository/docs/Rap-vjetor-finac2017.pdf>, accessed on November 2, 2018.

Central Procurement Authority have been followed for initiating procurement procedures which are not included in the public procurement plan. Also NAO has found procurement processes where the municipality had entered into public contracts in the absence of the Executive Project, as well as cases where contracts were signed without sufficient pledge of funds. These findings and other findings of the NAO in relation to public procurement of the Municipality of Prizren will be presented in the following chapter.

At the same time, the municipal leadership of Prizren, which emerged from the last municipal elections this year, came out with public statements that certain projects should not have been tendered without the detailed implementation project being finished. According to them, the management of certain contracts was not at the proper level, raising doubts about the damage to the municipal budget. In addition, other public procurement actors have addressed allegations of legal violation by the officials of the Municipality of Prizren regarding the procurement activity.

Based on the monitoring of this sector it emerges that the procurement challenges in the Municipality of Prizren are not only related to the Procurement Office, but they have to be analyzed in structural and close relation with the municipal political leadership, especially the research units, where the latter then manage the contracts. As a good practice, publication of notices of public procurement activities on the official website of the Municipality of Prizren can be noted, while from August 2018 the publication of signed contracts has started.

III. Findings of the National Audit Office

The Audit Report on the financial statements of the Municipality of Prizren, published in June this year, to the main conclusions and recommendations among others states that there are shortcomings regarding the procurement procedures.¹¹

As a result of non-implementation of the regulations and guidelines, the audit has highlighted the existence of some weaknesses in terms of compliance, which are also related to procurement.

Auditor has found payment for goods and services without procurement procedures.

- According to the NAO, a payment of € 4,000 for vehicle insurance was done without procurement procedures, since the municipality did not have a contract with any economic operator for vehicle insurance. The Auditor emphasized that the Public Procurement Law does not exclude this type of spending from the procedures.

- In payment of € 10,578 for the maintenance of vehicles, according to the Auditor, the Municipality paid the amount of € 5,504 for items that are not provided in the contract. According to the contract signed between the municipality and the OE, due to the inability to include all parts that are subject to supply and replacement, a commission is formed by the municipality for their supply at market prices inconsistent with article 1 and 4 of the contract. Auditor did not find evidence of commission formation but only billing by the OE. *ZKA ka identifikuar dobësi sistematike në menaxhimin e kontratave për investime kapitale.*

- The report states that the municipality has developed tendering procedures and signed the contract, but in parallel the Directorate for Public Services has made a request in Urbanism for permitting construction conditions (building permit) . Consequently, the contractor has been required not to commence work until the construction permit is obtained.

- The Municipality did not develop procurement procedures for the project "Construction of the road Faridin Hoti", "Construction of FMC in Gjonaj village" in the amount of 120,000 € and "GPS supply for cadastral surveys" in the amount of 10,000 € even though they were planned with the procurement plan.

-In four cases (Construction of the local road in Vlashnje of Prizren: € 183,837; Renovation of the physical education hall at Gjon Buzuku Gymnasium: € 249,441; Arrangement of the tourist environment in Cvilen: € 16,988; and Construction of the surrounding area around the statue Besim Ndrecaj: € 9,497), the Municipality has entered into public contracts outside the annual procurement plan contrary to the Public Procurement Law (PPL), and no regular procedures for obtaining confirmation from the Central Procurement Authority have been followed for initiating procedures for projects that are not included in the public procurement plan.

For the contract "Construction of water supply system in the village of Legjenda-Malësi e Re" within the invoice and payment in the amount of € 98,725, were also two submersible pumps worth € 4,000 which were not yet operational. This position foreseen in the contracts was received by the contract manager, supervisory body and certified/paid according to the situation No. 4 for supply, transport and installation of two submersible pumps = 80m, Q

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= 6.8 l/sec. During the examination of the auditor with the presence of the supervisory body contracted by the municipality, the pumps were not assembled and did not work yet. The reasoning of the supervisory body was that because of the unfinished work, their fixing in the physical aspect was not safe.

- The contract "Supply with construction material for emergency cases" the municipality has received the invoice and has paid the payment in the amount of € 4,000 although according to the positions of the invoiced material from the OE, the total value of the goods received was only € 2,198 (according to the admission letter). The situation was signed (from the contract manager and the supervisory body in charge) and the payment was certified for € 1,802 more than the received goods. During the field examination with the presence of the supervisory body, we confirmed that the goods received were in the amount of € 2,198.

NAO has also found poor planning and poor management of contracts

The Municipality failed to establish proper controls on the management of contracts such as: In two procurement processes "Regulation of the tourist environment in Cvilen" in the amount of € 16,987 and "Repair of the road from the "Natyra" Restaurant to the Castle" in the amount of € 6,900, the municipality had entered into public contracts in the absence of the Executive Project. Pursuant to article 28, point 10 of the PPL, the contracting authority is not allowed to issue tender documentation without enclosing the detailed description of the project.

Under the financial rule for spending public money, no public contract should be signed without commitment of funds. In 10 cases the

contracts were signed without sufficient pledge of funds. The total value of signed contracts was 3,641,742 €, while the commitment of funds to them was only 287,000 € or approximately 8%. According to municipal officials, the non-allocation of own source revenues resulted in signature of contracts without full commitment of funds.

NAO has also found deviations from regular procurement procedures.

In the procurement process "Supply of construction material for the poor families" the municipality had eliminated from the competition the EO who had offered the cheapest price for the reasons that it did not meet the two criteria: "Similar projects realized in the last three years amount to a minimum of 370,000 € "and" Company financial statements associated with financial turnover by the bank for the last three years ". Following the complaint of the EO, PRB decided to return the case for re-evaluation because the municipality could have requested additional explanation according to article 59.2 of the LPP. Following the decision of the PRB, the Tender Evaluation Committee had again declared irresponsible the cheaper EO (although it possessed all the evidence) and signed a contract with the second EO in the amount of € 199,344 or € 6,096 more than EO.

Of the 350 procedures performed in procurement, in 220 cases or 63% of them used price quotation procedures and those of minimal value. A contract (26.04.2017) was signed in FMC for "Disinfection, Deratization and Disinfection" in the amount of € 3,971, then the other contract with open procedures was signed (04.05.2017) in the amount of € 34,016 and two contracts with minimum values. Similarly, it has happened with the supply of

official materials; inventory supply; curtain supply, where for the same supplies were signed by three or more contracts with minimum values.¹²

In the audit report published by the NAO in June 2017, the main conclusions and recommendations conclude that procurement still requires improvements.¹³

NAO disclosed the findings that the Municipality has signed a contract without procurement procedures. They then concluded that the Municipality entered into obligations without ensuring all necessary funds.

The NAA has found that the Municipality had concluded 3 public works contract with a unit price for maintenance for 36 months (Installation of public lighting, maintenance of local cube roads, intervention in infrastructure in case of natural disasters) not in compliance with the Law on Public Procurement (PPL) by not specifying in the tender dossier the indicative amount or estimated value of the contract. The NAA has reminded that according to article 38 of the LPP "The contracting authority shall specify in the tender dossier the value or amount of the contract as a threshold or ceiling and allow deviation from it by also declaring the percentage of the discrepancy allowed. The allowed mismatch can not be higher than the plus / minus thirty percent (30%) ". The non-determination of the amounts

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¹³ Audit Report on the Municipality of Prizren's financial statements for the year ended 31 December 2016, NAO, June 2017, link:<http://www.zka-rks.org/wp-content/uploads/2017/07/RaportiAuditimit.KPZ.2016.Shqip.295743.pdf>, accessed on November 4, 2018.

or the estimated value in the contract according to the Auditor will make it impossible to determine the deviation threshold allowed by law.

We have noted that the contracts "Roof Renovation at FMC" worth € 42,220 were not drafted by the municipality. Article 28.10 of the LPP on technical specifications for works contracts inter alia states that "No Contracting Authority is permitted to issue tender documentation without enclosing the detailed description of the project."

NAO recommendation said that the Procurement Office prepares the tender dossiers according to the LPP requirements and clearly specifies approximate indicative work quantities or the estimated value of the contract. Also, NAO has recommended not to initiate procurement activities without drafting executive projects.

Likewise, the NAO also in the Audit Report published in 2016 emphasized that there are systemic weaknesses in the procurement of the Municipality of Prizren, where some managerial controls have not been consistently applied during procurement.¹⁴

¹⁴ Audit Report on the financial statements of the Municipality of Prizren for the year ended 31 December 2015, NAO, June 2016, link:<http://www.zka-rks.org/wp-content/uploads/2017/06/RaportiAuditimit.KPZ.2015.Shqip.550195.pdf>, accessed on November 4, 2018.

IV. Specific cases

In the framework of this research, EC has highlighted some specific projects, where despite the implementation of procurement procedures it is suspected that public funds have not been used efficiently to achieve the value for money; then entry into procurement procedures is done without meeting all legal criteria; as well as claims of current power to the former government regarding procurement and management of some contracts, where allegations of abuse have been addressed, as well as a project that resulted in non-execution of PRB decisions as well as business suit against the municipal leadership.

a) The long history of building the House of Culture in Zhur

According to the data of the Directorate of Culture, Youth and Sports in the Municipality of Prizren, the realization of the project "Construction of the House of Culture in Zhur" has been done in several phases, starting from 2009, which to the Municipality budget has cost close to 1 million euro and this House of Culture is still not functional.

The first phase of this project according to DCYS was implemented based on the contract number: 622-09-204-521 on 24.09.2009 in the amount of € 295,141.33. For the works of the demolition of the old building of the House of Culture in Zhur, a conclusion has been made by the Mayor of the Municipality no. 01/06 - official on the 30.09.2010 and were implemented with annex contract no. : 622-09-204-521 dated 24.09.2009 in the amount of 9,649.20 €.

For the first phase to be completed additional works should have been carried out, and for

this was issued a conclusion by the Mayor of the Municipality No. 01/06-2767 dated 27.07.2010, the works were realized with annex contract no. : 622-09-204- 521, dated 24.09.2009 in the amount of € 29,484.96.

Subsequently, another phase of the works, with a contract number: 622-13-138-521 on 01.07.2013, was carried out in the amount of 69,809.00.

Then, the next phase of the works was carried out, Project Realization - Construction of the House of Culture in Zhur (second phase), which was done with a contract number: 622-10-275-511 and was signed on 22.12.2010 in value of € 526,210.06. During the implementation of the works of the second phase in the project were noted some omissions, therefore EO had to realize as additional work. Thus a conclusion was drawn from the Mayor no. 01/06-9147 on 21.08.2012 for additional works (first and second phase) in the amount of 52,000.00 €.

Despite these investments, the House of Culture in Zhur is not functional. According to DCYS it has been damaged.

In March this year, a Municipal Commission for the assessment of damage caused to the House of Culture in Zhur, concluded that: The waterproofing of the building on the roof terrace is completely out of function as a result of which there is a water leak (mitigation of waterproofing is an elementary condition for the development of further works); there are defects in the structural façade, from where the water penetrates; damage to the floor on the second floor - the laminate has come as a result of water penetration due to waterproofing malfunction. While damages were also caused by persons who entered the facility on 16.02.2018, such as wheelchair demolition, the

color cast on the floor of the floor in the ground floor on the ceramic tiles and in the wc, the doors demolished with windows broken.

Through a petition, residents of this locality in December 2016 asked the municipal authorities to make an analysis on the sustainability and stability of the facility.

The Auditor's Report published in June 2016 states that the Municipality had signed a contract annex in the amount of € 52,000, based on the basic contract "Construction of the Cultural House in Zhur" signed on 22.12.2010. According to the supervisory body until 18.12.2012, all payments to the economic operator were performed, not yet completed the works. The works were not completed due to the fact that the economic operator had claimed to have done additional work, precisely for the value given through the contract annex. The analysis conducted by the Auditor concluded that works were carried out outside the basic contract in 2012, and that the MA was asked to revise the budget to allocate funds for the completion of certain positions that had been completed.¹⁵

EC has requested clarification from the Procurement Office in the Municipality of Prizren to ask where is the problem of this case, to procurement or to the oversight of project implementation. The answer he received from this office was: "Construction of the House of Culture in Zhur started in the

distant 2009. The story of this House is still going on".¹⁶

Despite the implementation of procurement procedures, not finalizing this project and not putting into operation the building in question, despite spending considerable amounts of money from the municipal budget, raises the suspicion that public funds in this case were not used efficiently to reach value for money.

b) Cableway to Kalaja Prizren - Entry into procurement procedures without meeting all legal requirements

The project "Cableway to the Castle of Prizren" last year entered the procurement procedure, although all the legal criteria related to cultural heritage and protected areas had not been met. Cultural heritage authorities rejected the idea project of Prizren Municipality to build infrastructure for access to Prizren Castle. The Commission for Reviewing and Assessing Claims and Cultural Restoration/Conservation Projects within MCYS has recommended refusing the conceptual project for the construction of infrastructure access to Prizren Castle as it is contrary to the general conditions given by the IAK, as well as in violation of the Law on Cultural Heritage.

Despite this fact, the recent Local Executive continued to pursue procurement procedures for this project, arguing that the cultural heritage authorities had violated the legal deadlines for responding to the request.

The Procurement Office in the Municipality of Prizren has explained that the cableway project

¹⁵ Audit Report on the financial statements of the Municipality of Prizren for the year ended 31 December 2015, NAO, June 2016, link:<http://www.zka-rks.org/wp-content/uploads/2017/06/RaportiAuditimit.KPZ.2015.Shqip.550195.pdf>, accessed on November 4, 2018.

¹⁶ Isa Osmankaj, Head of the Procurement Office in the Municipality of Prizren, Response by e-mail, 16 November 2018.

at the moment of initiation of the procurement procedure had a construction permit issued by the Directorate of Urbanism. It is up to Urbanism to clarify whether the permit has been issued in accordance with the terms and conditions that foresee the granting of the permit.¹⁷

Following the changes in the local government of Prizren, the new Executive in 2018 requested the cancellation of the procurement activity for the construction of the cableway.

In June of this year, the Municipality of Prizren again canceled the procurement activity for this project, as the Evaluation Committee found that when issuing the construction permit for this project were not respected or violated three laws that regulate constructions in the Historic Zone, such as the Law on Cultural Heritage, the Law on Historic Areas and the Law on Spatial Planning.

The Procurement Review Body has confirmed the cancellation of the procurement activity for the construction of the cable car for easier access to Prizren Fortress, after considering the arguments provided by the Municipality of Prizren. In the reasoning of this decision wrote that "contracting authority on the occasion of cancellation of this procurement activity is based on the decision of 15 May 2017 issued by the DUSP where in point VII of this verdict writes that "this ruling ceases to be valid if the investor does not start within 12 months from the date of issuance of the construction permit." The PRB has ascertained that the 12-month deadline has expired and that the

procurement activity has not yet been completed. The Municipality of Prizren on the annulment was based on the provisions of the Law on Construction, which states that the construction permit shall cease to be valid if the applicant does not commence construction within a period of one year from the date of the validation of the permit.

c) Regulation of Lumëbardhi riverbed - Entry into procurement procedures without meeting all legal requirements

According to the latest report of the NAO for the Municipality of Prizren, the project "Regulating Lumbardhi riverbed", the Municipality has developed tendering procedures and signed the contract, but in parallel with this the Public Services Directorate has applied in Directory of Urbanism for allowing the construction (building permit). Consequently, the contractor has been required not to commence work until the construction permit is obtained.

Municipality of Prizren has signed a contract for the construction of the riverbed "Lumëbardhi", which to the local and central budget is expected to cost more than 1 million euros.

The current municipal leadership has stated that the contract for this project is signed but that it is possible to go to its review if there is legal space for this, as it is confirmed the fact that the project does not have the appropriate consent from the Regional Cultural Heritage Center and the Cultural Heritage Council of the Historic Center of Prizren. According to the municipal leadership, the actions in this project will be in such a way that there will be no negative financial consequences for the

¹⁷ Isa Osmankaj, Head of the Procurement Office in the Municipality of Prizren, Response by e-mail, 16 November 2018.

municipality, nor can the river get the concretization.

EC has requested clarifications from the Procurement Office why after signing the contract is undergoing a review of the project. The Procurement Office has stated that it is in charge until the signing of the contract for each procurement process and that after the signing of the contract all contract implementation responsibilities pass to the Contract Manager.

d) Current accusations for the former government over procurement and management of some contracts

In May of this year, the current management of the Municipality of Prizren has accused former local administration of misuse of several projects. The Mayor of the Municipality, Mytaher Haskuka and the Director of Administration, Osman Hajdari, at a press conference pointed out that the State Prosecutor should, on the basis of his official duty, investigate the execution of contracts for E-kiosks, Electronic Archive, Smart City Application, as well as the construction of the country offices in Gjonaj and Lubizhdë. According to them, there are reasonable doubts that the Municipality budget was affected by these projects.

Haskuka claimed that there were set up 8 e-kiosks in the town and villages, where the value of the project was 68 thousand euros, and none of them is functional (Months later an e-kiosk was functionalized at the municipality building.

The second problematic project, according to Haskuka, where no work has been done, but only money is provided, is the electronic archive. He stressed that a firm had to create the electronic archive in the amount of 73

thousand euros, but almost nothing was done. In this case, according to him, 30 thousand euros have been paid, the bill has been received from the previous government and the payment of the remaining part is required.

The other project that was singled out was that of the "Smart City" application, which appears with the contract in the amount of 24 thousand Euros, but according to Haskuka through bailiffs from the municipal budget were received 28 thousand euros. This smartphone app, according to him, only works on Android and not on iOS.

According to him, the construction of the municipal offices in Lubizhdë and Gjonaj are problematic projects regarding their technical acceptance.

According to director Osman Hajdari in the first three projects the first commissions were resigned and several other members were appointed.

Former Director of Administration, Ilir Balledaj in May of this year stated that the commissions did not appoint him but the mayor of the municipality, in coordination with the Procurement Office. While the tenders, according to him, are given according to the decisions of the PRB, and that the director does not deal with who gets the tender and who does not.

At the end of October, the project "SmartCity Prizren" has again make Mayor Haskuka to deal with former director Balledaj. Haskuka through a post on social networks emphasized that the previous government has contracted a company for "Supply with digital software for service of citizens in the Municipality of Prizren", whereby from the municipality budget were taken 28

thousand euros for a service that does not work properly. "The municipality has received the SmartCity Prizren application, while the contract awarded was 24,735 Euro. Under the contract, the app would have to work on Android, IOS, and web platforms, but unfortunately none of them work. While at IOS (iPhone) and the web there is no app, we can only download the app for Android. But even when it gets installed, it does not work at all and there is no service for the citizens... Moreover, the commission did not make the technical acceptance, but the director of the previous government signed the bill and then got us the money enforcement. So, the citizens of Prizren have received 28,000 Euros with bailiffs for a service that does not work. The case has been sent to the judiciary, who surprisedly said that there are no elements of misuse of duty!? Find out how this state works!" Said Haskuka.

Meanwhile, Baldedaj has warned that he will sue Mayor Mytaher Haskuka for defamation. "The municipal appeal for the SmartCity Prizren project court has replied that there is no violation while teenage Mytaher Haskuka, with posts on his site at FB challenging the decision of justice," Baldedaj said. He emphasized that Haskuka's claims did not stand, since for the operation of the program, information from each director had to be provided. According to him for this project all legal procedures were conducted, where tendering procedure was developed, in which case the winner was the cheapest company, while "other companies in the following complained and then the decisions were taken by the PRB" .

EC for these cases has requested clarification from the Procurement Office, and the response it has received has been that the questions

should be directed to those who have expressed these doubts.¹⁸

a) **Moszbatimi i vendimeve të OSHP-së dhe padia e afaristit**

In the summer of this year, the owner of a business filed criminal charges in the Basic Prosecution Office against the Mayor of Prizren, Mytaher Haskuka, claiming that he committed several criminal offenses by applying the Public Procurement Law and the decisions of the PRB, in the case of the procurement activity for "Vertical and Horizontal Marking and Placement of Barriers on Prizren Roads-Lot 2". The plaintiff has expressed the position that the mayor has allowed unlawfully, without contract and without tendering procedures to start the signaling works, where the value of the works exceeds 350 thousand euros.

The Director of "Limit L & B" from Prizren, in the capacity of the plaintiff, as evidence has submitted the decision of the PRB of 31 July 2017 for the cancellation of contract award and restitution for re-evaluation of this procurement activity, then the decision of the PRB of 12 September 2017 for annulment of contract award and restitution for re-evaluation, also decision of the PRB of 21 November 2017 for annulment of contract award and cancellation of the procurement activity as well as notification from the Procurement Office of Prizren Municipality dated 5 December 2017 for annulment of contract award and notice sent via email to the

¹⁸ Isa Osmankaj, Head of the Procurement Office in the Municipality of Prizren, Response by e-mail, 16 November 2018.

"Limit L & B" operator that this procurement process is canceled and will be re-tendered.

These allegations have been dismissed by Haskuka, pointing out that he has not taken any decision in this case and that the work on signaling... has continued under an existing contract from the previous government, and that this proceeding was made for the sake of citizens' security .

At the end of last year the procurement activity for horizontal marking in the streets of Prizren was completely canceled by PRB. This body in the decision regarding this matter noted that the Municipality of Prizren can retract this procurement activity if it has interest. Review panel of the PRB then concluded that there are no accountable bids in this procurement activity, in which case it was suggested the Municipality in the future to compile the tender dossier and contract notice according to article 28 of the PPL.

The procurement activity "Vertical and Horizontal Marking and Placement of Barriers in Prizren Street Lot 2" of the Municipality of Prizren has several times been re-evaluated. Even in July last year, PRB fined 5 thousand Euros for the Municipality of Prizren for not implementing a preliminary decision and a conclusion of this body regarding this procurement activity. In addition to the fine, the PRB annulled the decision of the Municipality of Prizren for contract award and annulled the contract that the Municipality had affiliated with EO "Signaling" for this procurement activity. This procurement activity has been initiated since August 2016.

EC has requested clarification from the Procurement Office for this case, but the

answer has been to ask the questions to the Office of the Mayor.

V. Recommendations

- Municipality of Prizren should make proper project planning before they become subject to procurement procedures;
- The procurement procedure should not be initiated without an executive project;
- Municipality of Prizren not to initiate the procurement activity without providing the necessary funds for the financing of the contract;
- Municipality of Prizren not to conclude public contracts outside the annual procurement plan;
- Projects are not subject to tendering procedures if all legal requirements for project implementation are not met;
- To add monitoring to all stages of procurement, from contract notice to management and contract conclusion;
- To undertake additional actions by the Municipality to ensure that public funds are used efficiently to achieve value for money;
- Address in strict accordance with all NAO recommendations related to public procurement;
- PRB decisions to be implemented by the Procurement Office and municipal leadership;
- The judiciary should efficiently deal with suspicious cases of misconduct related to public procurement.



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