



**Non-governmental Organisation “Emancipimi Civil Ma
Ndryshe” EC MA NDRYSHE**

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PRESS RELEASE

Regulation on Treatment of Structures Built without Permit – an illicit copy

Within the project of monitoring the transparency of municipal executive of Prizren, EC Ma Ndryshe, last month, had reacted regarding the errors on the process of drafting and adoption of Regulation on Treatment of Structures Built without Permit by the Municipal Assembly of Prizren.

In the month that passed, EC Ma Ndryshe had expressed concern with the recent practice of the executive and legislative branches of Prizren in passing such sensitive and important regulation for the overall development, without putting it into public scrutiny, respectively without checking whether it's in the interest of citizens or not, through proper public debate.

As this regulation was sponsored by the Mayor of Municipal, Mr. Ramadan Muja; and considering the gravity of this act and the area it covers, as well as the implications in the daily work of the municipal government; in November, EC Ma Ndryshe has investigated in detail the legal background and the practices applied by other municipalities, which has resulted with the delivery of a conclusion: the municipalities of the Republic of Kosovo, respectively Prizren Municipality have no proper legal footing for the adoption and implementation of such regulation.

EC Ma Ndryshe, within this research, has obtained from the MLGA “Report of the Joint Commission MLGA-MESP on the Assessment of Legality of the Regulation on Treatment of Illegal Constructions in Podujevë/Podujevo Municipality”, which, according to the MLGA officials, it applies also for other municipalities that have adopted the Regulation on Treatment of Structures Built without a Permit, including Prizren.

The report of this commission stipulates that, “Article 37.1 of the Law on Construction no. 2004/15, which foresees the proper documentation for obtaining construction permit, is not a ground for the issuance of this Regulation.” It should be note that this Regulation of Municipal Assembly of Prizren was based, *inter alia*, on the Articles 36 and 37 of this Law.

The MLGA-MESP commission for the oversight of the legality of the acts of municipalities in the field of constructions, after considering legal competencies and legal acts and sub-acts in force which oppose this Regulation, has given the following recommendation: “This Regulation should originate from the Law on Treatment of Illegal Constructions or from any other legal sub-act, which would be promulgated from central government institutions – documents that were not put into review. It is legally established that the subsidiary acts or Regulations are drawn based on and for the enforcement of the law, meaning that those represent a sort of the extension of the law and, by no means, cannot collide or surpass the provisions of the law upon which are based.”

During the inquiry, EC Ma Ndryshe has also found that Regulation on Treatment of Illegal Constructions, adopted by the Municipal Assembly of Prizren on 18 October 2012, is almost identical with the one adopted by the Municipal Assembly of Podujevë/Podujevo on 29 April 2011.

Meanwhile, EC Ma Ndryshe has been notified that the Government of Kosovo has prepared the Draft-Law on Treatment of Structures built without a permit, where Article 5 determines the Responsibilities of Municipalities on the legalization of illegal constructions. This document is currently in the phase of preliminary and public consultations; therefore, municipalities must wait for its adoption by the Assembly of Kosovo.

Given these data, EC Ma Ndryshe recommends the MLGA that as soon as possible nullify the Regulation on Treatment of Structures built without a permit, adopted by the Municipality of Prizren on 18 October 2012, as the same was drafted out of adequate legal basis;

EC Ma Ndryshe recommends also the Mayor of Prizren Municipality in being more attentive and responsible when proposing regulations which bear major impact on the lives of citizens, urban planning and the future of municipality;

EC Ma Ndryshe additionally requires to terminate the practice of copying regulations or decisions from other municipalities, so that each and every act or document proposed by the Mayor or other municipal bodies of Prizren are in accordance with the needs, requirements and interests of the citizens of Prizren municipality;

Also, EC Ma Ndryshe calls upon members and the chairman of the Municipal Assembly to act in line of duty, in performing their function as the overseers of the executive branch, thus becoming more rigorous when it comes to adherence to the law, by rejecting to adopt acts which have no legal grounds.

The project of EC Ma Ndryshe for the transparency oversight of the executive branch shall continue on publicizing the monitoring findings through regular press releases and project's website, where the findings shall be posted directly by the monitors. By now, all the monitoring findings, including regular press releases and other information relative to local government of Prizren, are published on regular basis on the project's website: www.online-transparency.org.

Thank you for your cooperation,

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