



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

PRB. No.0008/24,18-24/24

The Review Panel, appointed by the President of PRB, based on Article 105, 106, and 117 of the Law on Public Procurement of the Republic of Kosova (Law no. 04/L-042, supplemented and amended by Law 04/L-237, Law 05/L-068, supplemented and Law 05/L-092) in the composition of **XX** deciding according to the complaint of EO "Beni Dona Plast" SH.P.K., to the complaint of EO N.T.P "Hajdini Comerc", as well as to the complaint of EO "Isuf Musliu" B.I., against the Decision on contract award or a design competition, related to the procurement activity "Food services (supply, preparation and serving) in barracks Prishtina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin, Gjakovë, Prizren" for the needs of the KSF, divided into 3 LOTs. LOT 1. Food services (supply, preparation and serving) barracks in Pristina. LOT 2. Food services (supply, preparation and serving) in Istog Gjakovë, Mitrovica and Gjilan barracks. LOT 3. Food services (supply, preparation and serving) barracks in Ferizaj, Pomozotin and Prizren" with procurement number 217-23-5070-2-1-1, initiated by the contracting authority (CA) - Ministry of Defence, on the 12/02/2024 has issued this:

DECISION

1. **Approved**, as grounded the complaints of EO "Beni Dona Plast SH.P.K." with no. 2024/0008 dated 04.01.2024, the complaint of EO "Isuf Musliu B.I. (Global Parajsa)" with no. 2024/0018 dated 05.01.2024, as well as the complaint of EO "N.T.P "Hajdini Comerc" with no. 2024/0026 dated 08.01.2024.
2. Cancelled the procurement activity "Food services (supply, preparation and serving) in the barracks Prishtina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin, Gjakovë, Prizren" for the needs of the KSF, divided into 3 LOTs, is cancelled. LOT 1. Food services (supply, preparation and serving) barracks in Pristina. LOT 2. Food services (supply, preparation and serving) in Istog Gjakovë, Mitrovica and Gjilan barracks. LOT 3. Food services (supply, preparation and serving) barracks in Ferizaj, Pomozotin and Prizren", with procurement number 217-23-5070-2-1-1, initiated by the contracting authority (CA) - Ministry of Defence and if the CA has further interest, can re-tender the same.

3. Within a period of 10 days, the CA must inform the PRB about all the actions taken regarding this procurement activity, otherwise, for non-compliance with the decision, the PRB can take measures against the CA, as provided by the provisions of the article 131 of the Law on Public Procurement in Kosova.

4. It is allowed to return the complaint's fee to the amount deposited when the complaint is submitted. The complaining EO is obliged to, in accordance with Article 31 point 6 of the Rules of Procedure of the PRB, within a period of sixty (60) days, make a request for the return of the insurance of the complaint, otherwise the deposit will be confiscated, and these funds will go to the Budget of the Republic of Kosova.

REASONING

- Procedural facts and circumstances –

On the 01.06.2023 the Ministry of Defence in the capacity of the Contracting Authority has published the Contract Notice B05 related to the procurement activity with "Food services (supply, preparation and serving) in the barracks Prishtina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin, Gjakovë , Prizren" for the needs of the KSF, divided into 3 LOTs. LOT 1. Food services (supply, preparation and serving) barracks in Pristina. LOT 2. Food services (supply, preparation and serving) in Istog Gjakovë, Mitrovica and Gjilan barracks. LOT 3. Food services (supply, preparation and serving) barracks in Ferizaj, Pomozotin and Prizren", with procurement number 217-23-5070-2-1-1.

The announcement of the CA B58 after the re-evaluation is published on the 20.12.2023 where three economic operators are recommended for the contract in three lots: LOT 1: NTP "Global Parajsa & Delfin SHPK; LOT 2: NNH "Verona & NTP Hajdini Commerce & Bylmeti SHPK; LOT 3: "Beni Dona Plast" LLC.

On the 27.12.2023, the economic operator "Global Parajsa" submitted a request for reconsideration for LOT 1, which the CA rejected on the 27.12.2023.

On the 27.12.2023, the economic operator "Beni Dona Plast" submitted a request for reconsideration for LOT 1 and LOT 2, which the CA rejected on 27.12.2023.

On the 04.01.2024, EO "Beni Dona Plast SH.P.K." in the PRB filed a complaint with No. 2024/0008, against the contract award notice where it was recommended for a contract for LOT 1 GEO "Global Parajsa & Delfini LTD" and for LOT 2 GOE" NNH Verona & Hajdini Commerce NTP& Bylmeti-KS, related with the procurement activity entitled: "Food services (supply, preparation and serving) in the barracks Pristina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin, Gjakove, Prizren" for the needs of the KSF, for LOT 1. Food services (supply, preparation and serving) barracks in Pristina. LOT 2. Food services (supply, preparation and serving) in Istog Gjakove, Mitrovica and Gjilan barracks. with procurement no.: "217-23-5070-2-1- 1", initiated by the Contracting Authority (CA) - Ministry of Defence.

On the 05.01.2024, EO "Isuf Musliu B.I." (trade name Global Parajsa), filed a complaint with no: 2024/0018, against the contract award notice where it was recommended for a contract for LOT 2: NNH "Verona & NTP Hajdini Commerce & Bylmeti LLC and for LOT 3- GOE "Beni Dona Plast" - Prishtina, related to the procurement activity entitled: "Food services (supply, preparation and serving) in the barracks Pristina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin , Gjakove, Prizren" for the needs of KSF, for LOT 2. Food services (supply, preparation and serving) in Istog Gjakove, Mitrovica and Gjilan barracks. LOT 3. Food services (supply, preparation and serving) barracks in Ferizaj, Pomozotin and Prizren" with procurement no: 217-23-5070-2-1-1.

On the 08.01.2024, EO N.T.P "Hajdini Comercc" submitted a complaint with no: 2024/0026, against the contract award notice where GOE "Global Parajsa SHPK & Delfini LTD" was recommended for the contract, regarding the procurement activity: "Food services (supply, preparation and serving) in the barracks Pristina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin, Gjakove, Prizren" for the needs of KSF, LOT 1. Food services (supply, preparation and service) barracks in Prishtina with no. of procurement:217-23-5070-2-1-1.

-On the stage of preliminary examination-

The Review Panel has concluded that the complaint contains all the elements defined through Article 111 of the LPP and as such was submitted within the legal term in accordance with Article 109 paragraph 1 of the LPP after the preliminary procedure for resolving disputes in the sense of Article 108/A of the LPP, from the economic operator who is an interested party according to article 4 paragraph 1 sub-paragraph 26 of the LPP. In this way, the Review Panel has concluded that it is competent to review this complaint according to Article 105 of the LPP and there is no procedural obstacle to proceed with reviewing the complaint in a meritorious manner. Also in accordance with article 16 par 1 of the PRB Work Regulation 01/2020 (amended), the cases are merged since we are dealing with the same procurement activity.

Claims of the complaining economic operator EO "Beni Dona Plast SH.P.K." No. 0008/2024 are submitted as follows:

Our complaining claims related to the decision of the CA regarding the awarding of contracts for LOT 1. Food services (supply, preparation and serving) barracks in Pristina, which was awarded the contract to the EO Group: NTP "GLOBAL PARAJSA"; Delfin L.t.d. SH.P.K in the value of: 3,998,750.00 €. Claim 1: Contracting Authority, in the Tender dossier (TDS) of article 9.1 & 9.2 - Requirements on technical and/or professional opportunities and in the Contract Notice of article III.2.4) Technical and professional capacity, of requirement no. 13 requested: Request 13. The economic operator must provide evidence for the products offered with which he offers that will be part of the food preparations, (according to the menus presented in TD annex 1, the mandatory technical specifications); Evidence 13. The list of articles including the catalog or photo for the products offered with a description, the name of the manufacturer, the country of origin, as well as the content on the composition of the article, for articles that have a technical description, trees and vegetables do not need a technical description - sealed and signed by EO in original. To complete Request no. 13, EO Group: NTP "GLOBAL PARAJSA"; Delfin L.t.d.

Sh.P.K., together with the offer, submitted a generalized catalog of Delfin Company L.t.d. SH.P.K, in which are reflected several types of food items that this company trades in the Kosovo market, but in none of them is the content of the composition of the items as requested by CA in request no. 13. Also in this catalog there are articles for which only the photo was sent, which were taken in different stores without any description of the composition of the articles. There are cases when they only took photos of the windows of the meat shop and sent the same photos to the CA together with the offer without any description. (Evidence 1- Generalized catalog of the Company Delfin L.t.d. SH.P.K). Also, together with the offer, a catalog of the trading company ANANAS IMPEX was submitted, in which several items of various sweets that this trading company trades in the Kosovo market are listed, but even in this catalog none of them are listed the content of the composition of the articles as requested by CA in request no. 13. (Evidence 2- Generalized catalog - ANANAS trading company). This EO Group has also sent Lists of articles without any content of the composition of the articles as requested by CA in request no. 13. (Evidence 3 - Lists of items that the EO Group: NTP"GLOBAL PARAJSJA" Delfin L.t.d. SH.P.K. submitted together with the offer). Therefore, the catalogs, photographs and Lists of articles sent by the EO Group: NTP "GLOBAL PARAJSJA"; Delfin L.t.d. Sh.P.K., together with the CA's offer, not even because the relatives do not fulfill the request no. 13 requested by the CA in the Tender Dossier and Contract Notice, where exactly it requested - The list of items including the catalog or photo for the products offered with a description, the name of the manufacturer, the country of origin, as well as the content on the composition of the item, for the items that have a technical description, while only the trees and vegetables did not require a technical description. Contracting Authority - Ministry of Defence, on page 45 of the Tender dossier of Annex no. 1- Mandatory Technical Specifications - established the Economic Operator (EO) Identification table, where it was the obligation of every EO that bids in this procurement activity to complete this table, sign, stamp and send it to the CA together with the offer.

EO group: NTP "Global Parajsa"; Delfin L.t.d. Sh.P.K. has not completed, signed, sealed and sent to CA - Annex no. 1- Mandatory Technical Specifications. (Evidence 4- Page 45 of the Tender File). Based on article 56 paragraph 1 point 1.1 of LPP, article 59 paragraph 4 of LPP, article 25 paragraph 1 of Regulation No. 01/2022 for Public Procurement and Article 40 paragraph 40.2 of Regulation No. 01/2022 for Public Procurement, the Contracting Authority - the New Commission for the Evaluation of Bids was required to accept the bid of the EO Group: NTP "GLOBAL PARAJSJA"; Delfin L.t.d. SH.P.K., I automatically consider it as an irresponsible offer and eliminate it from the procurement activity due to the fact that it has not met all the criteria - the requirements required by the Contracting Authority in the Tender dossier and Contract Notice, specifically request no. 13 of Technical and Professional Capacity and the request for completing and sending Annex no.1 - Mandatory Technical Specifications. Claim 2: The Contracting Authority - Ministry of Defence in the Tender dossier in Article 2.5 of the TDS - Division into Lots, noted: Division into Lots: Yes [X]. The object of the contract is divided into [3] parts (lots). The tenderer may submit a tender [for one or more parts (lots)]. Each part of the lot is listed in the technical specification, see Annex 1, and the financial offer Part. II. Price list. While in article 2.6, of TDS - The estimated value for three years has noted: Part: 3,340,000 6; Lot2: 5,280,000.00 6; Lot3: 4,380,000.00 6; Contracting Authority - Ministry of Defense with

the decision it has taken to award contracts to the EO Group: NTP "Global Parajsa"; Delfin L.t.d. SH.P.K for LOT 1. Food services (supply. preparation and serving) barracks in Pristina, in the value of 3,998,750.00 €, the offer that substantially exceeds the value estimated by the CA itself for 658,750.00 €, not only has it committed a substantial violation of article 1 of LPP, article 6 paragraph 1 of LPP, and article 18 paragraph 8 of Regulation no. 01/2022 on Public Procurement. but we consider that there are indications of causing a criminal offense as well. If the CA - Ministry of Defence had acted in accordance with the primary and secondary public procurement legislation applicable in the Republic of Kosovo and the requirements that the CA itself has defined in the Tender File and Notice for contracts, including the estimated value and the opportunity having the contract to reward EO for more than one Lot in case there are no responsible offers, which in this case only the offer of our company Beni Dona Plast SH.P.K. is the responsible offer, the budget of the Republic of Kosova only for Lot 1- would not be misused for €862,350.00. This misuse of budget funds would have been prevented if the Contracting Authority had acted in accordance with Article 18.8 of Regulation 001/2022 on Public Procurement and the criteria it set in the Tender Dossier in Article 2.5 of the TDS - where also for Lot 1 it was necessary that with contracts to reward the only responsible offer of our company Beni Dona Plast with the total price for Lot 1 of 3,136,400.00 €. Unfortunately, the Contracting Authority - the Ministry of Defense, does not act in accordance with the primary and secondary public procurement legislation, but decided to reward the EO Group: NTP "Global Parajsa" with contracts for Lot 1; Delfin L.t.d. Sh.P.K, whose offer not only because the relative does not meet all the criteria - the requirements required by the CA, but is also 658,750.00 € higher compared to the value estimated by the CA itself for Lot 1 and is for 862,350.00 € higher compared to our company's offer as the only responsible offer in this procurement activity. The Bid Re-Evaluation Committee on page 25 of the Tender Re-Evaluation Report noted: From these data noted in the Bid Re-Evaluation Report, it can be seen that the EO Group: NTP "GLOBAL PARAJSA"; Delfin L.t.d. SH.P.K, in total for the three lots has exceeded the value predicted by the CA for a total of 2,598,870.00 € and compared to our offer for the three lots, it has submitted offers for 4,010,520.00 € more expensive than the offer of our company Beni Dona Plast SH.P.K. The Bid Re-evaluation Committee on page 26 of the Tender Re-Evaluation Report noted: From these data noted in the Tender Re-Evaluation Report, it can be seen that the bid re-evaluation committee had a lot clear e Group of EO: NTP"GLOBAL PARAJSA"; Delfin L.t.d. Sh.P.K. has substantially exceeded the value predicted by the CA itself, but it has continued to award contracts to this EO Group for Lot 1, damaging the budget of the citizens of the Republic of Kosovo, only for Lot 1 for 862,350.00 €. The question arises from which interest group this EO Group was encouraged to bid with such staggering prices in this procurement activity to attempt to damage the budget of the Republic of Kosovo for over four million euros. It should be noted that the representatives of the NTP company "GLOBAL PARAJSA" in cooperation with interest groups within the institutions, have been trying for years with blackmail and speculation to eliminate our company Beni Dona Plast SH.P.K. from the market by making demands for putting our company on the Black List, without any arguments, by sending letters and untrue claims to other institutions with the sole purpose of damaging the reputation of our company. They do all this blackmail and speculation with the sole purpose of eliminating competition from the market and continuing with the extortion of the budget of the citizens of the Republic of

Kosova as they are attempting in this procurement activity, where they bid for 4,010,520.00 € for three lots at the highest price offered by our company Beni Dona Plast SH.P.K. If these substantial violations of the public procurement legislation continue and damage the budget of the citizens of the Republic of Kosova for millions of euros, we are obliged to raise the issue to other law enforcement institutions. The Contracting Authority, in the Tender File (FDT) of article 9.1 & 9.2 - Requirements on technical and/or professional capabilities and in the Contract Notice of article 111.2.4) Technical and professional capacity, of requirement no. 10 requested: Request 10. The economic operator must provide proof that he has successfully completed contracts of the same or similar nature in the field of gastronomy (preparation and serving of food) during the last 3 (three) years (from the date of publication of contract notice), with public and private institutions, not less than Part 1 2,000,000.00 €; the minimum of this required amount must be for services 50% (1,000,000.00 €), and the rest can be for supplies; Part 2 2,000,000.00 €; the minimum of this requested value must be for services 50% (€1,000,000.00), and the rest can be for supplies; Part 3 2,000,000.00 €; the minimum of this requested value must be for services 50% (1,000,000.00 €), and the rest can be for supplies; Supplementary Note In the event that the Economic Operator submits a tender with more than one part, then it is required that the highest amount required for the Lots for which it competes must be fulfilled by the EO it is as follows. 1. If the EO decides to compete for Parts 1 and 2, then the minimum requirement that must be met by the EO is 2,000,000.00 Euro 2. If the EO decides to compete for Parts 2 and 3, then the minimum requirement that must be met by The EO is 2,000,000.00 Euro 3. If the EO decides to compete for all 3 Parts, then the minimum requirement that must be fulfilled by the EO is 2,000,000.00 Euro NOTICE In case you apply for the tender in question as a group of EO then the consortium leader must fulfill 50% of the value requested for services € (minimum 50% or 1,000,000.00 € services are requested, then the leader must cover at least 50% of the value for services (500,000.00 €) with executed contracts and the other value can be filled by the members other of the group including services and supplies. Evidence 10 Required documentary evidence List of contracts - projects completed during the last three years, in original, signed and sealed by the Economic Operator, certified with references in copies signed and sealed by Relevant authority for services, the supplies made and received, which must show the number of the procurement or contract, the value of the contract, the date of signing the contract, the nature of the services and the location of the services. a. When the services are supplied to a public authority in Kosova or in another country, the certificate of acceptance or references (the value of the services should be mentioned in the references) issued by such authority must be submitted as evidence. To complete Request no. 10, Group of EO: NNH "Verona"; N.T.P Hajdini Comerc; Bylmeti-KS" together with the offer submitted a List of Contracts of NNH "Verona" where the data of six contracts are recorded in this list, where their total value is €1,357,809.36. All these contracts are supply contracts that NNH "Verona" has executed in the Contracting Authority - Trepça SH.A Mitrovica. Attached to this list of contracts are six references issued by AK Trepça SH and two pages of the contract for each contract. From the data listed in the List of Contracts, the Reference and the first page of the contract, it is very clear that all these contracts have the title of the contract: Supply of shoes for Stantërgu workers and when the procurement activity was developed according to the Open Procedure, the last three digits of the procurement number were: 111- which means: Supply - Great Value - Open

Procedure and when the activity of the procurement was conducted according to the Negotiated Procedure without Publication of the Contract Notice, the last three digits of the procurement number were: 125 - which means: Supply - Average Value - Negotiated Procedure without the Publication of the Contract Notice. (Evidence 1- List of NNH "Verona" contracts). All of these contracts are supplies and not services, as evidenced by the fact that NNH "Verona" together with the offer submitted to CA a Declaration stating: "All references presented by NNH Verona are Supplies, in fact they are services and food preparation for Trepca workers in the Stan Terg Mine - Mitrovica. This statement best proves that the EO Group: NNH "Verona"; N.T.P HAJDINI COMERC; Bylmeti-KS", they knew very well that they do not have any contracts executed as services as requested by the CA, but with a misleading statement they try to mislead the CA to accept these contracts as service contracts, which unfortunately up to this stage they have achieved the goal of deceiving the CA. (Evidence 2 - Statement of NNH Verona dated 14.07.2023.

Also to fulfill the request no. 10- this EO Group together with the offer has submitted a List of Contracts of N.T.P HAJDINI COMERC, where the data of six contracts are recorded in this list, where their total value is 5,037,360.43 €. References issued by the Contracting Authorities where supplies of food items have been made have been attached to this List. All these contracts are the supply of various food items that N.T.P HAJDINI COMERC has carried out in the Contracting Authorities - AQP, the Correctional Service of Kosovo and the Municipality of Pristina. (Evidence 3- List of contracts and References of N.T.P HAJDINI COMERC). Therefore, based on what I mentioned above, it is clearly seen that the EO Group: NNH "Verona"; N.T.P HAJDINI COMERC; Bylmeti-KS" has not completed even a single service contract as requested by the CA in the Tender File and Contract Notice. The amount of €2,000,000.00 was requested from the CA; the minimum of this required value must be for services 50% (1,000,000.00 €), therefore, the Contracting Authority during the evaluation and Re-evaluation of the offers had to act in accordance with Article 59 of the LPP and Article 40 of Regulation 01/2022 on Public Procurement and the offer of the EO Group: NNH "Verona"; N.T.P HAJDINI COMERC; Bylmeti-KS", I consider it as an irresponsible offer and eliminate it from the procurement activity since it has not even come close to fulfilling Request No. 10 requested by the CA in the Tender dossier and Contract Notice. For more detailed information on why these contracts, whose last three numbers have 111 or 125, cannot be taken as valid to complete Request no. 10 of CA- Technical and Professional Capacities, we attach to the Complaint the Decision of the Review Panel no. PRB- 2023/0503 dated 11.10.2023 and Review expert No. 2023/0503 dated 27.07.2023. Claim 2: Contracting Authority, in the Tender dossier (TDS) of article 9.1 & 9.2 - Requirements on technical and/or professional capabilities and in the Contract Notice of article 111.2.4) Technical and professional capacity, of requirement no. 11 requested: Request 11. The EO must provide the list of employees with the specification of the educational and professional qualifications of the leading personnel of the economic operator and, in particular, of the person or persons who is directly or are responsible for providing the services part of this tender, the minimum must For LOT.1- Prishtina (two facilities), minimum number of 20 kitchen employees and minimum 4 professional staff employees - chefs qualified in the field of gastronomy as well as one (1) food technologist (the technologist must have at least a bachelor's degree). For LOT.2 Istog, Gjakovë, Mitrovica and Gjilan (four facilities), the minimum number of 35 kitchen

employees and a minimum of 7 professional staff employees - chefs qualified in the field of gastronomy as well as one (1) food technologist (the technologist must have minimum bachelor's degree). Evidence 11; EO must provide evidence A) List of professional staff (a tabular overview of personnel), technologists, cooks and company workers with the following data Name, surname, age of the worker, profession, experience (years) and position in the company, signed and sealed by EO in original B). A written decision on the appointment of the project manager and 14 assistant managers must be made for each part for which you bid (if you apply for 3 parts, then separate assistant managers are required for all three parts and cannot be the same) C For the required staff, professional staff, chefs qualified in the field of gastronomy and food technologists must provide the evidence • Copy of Diploma or Certificate, • CV, • Copy of employment contracts or pre-contracts in original with name of the project in question. To fulfill Request II, EO Group: NNH "Verona"; N.T.P HAJDINI COMERC; Bylmeti-KS" together with the offer submitted the following evidence: List of Technologists, Decisions on appointment of contract managers, CV, Diplomas of the company "Bylmeti-KS". The list of cooks of the company N.T.P Hajdini Comerc. The list of employees of the N.T.P Hajdini Comerc company. List of Employees of the company "Bylmeti-KS". The decision of the Assistant Contract Manager signed by the owner of the company N.T.P Hajdini Comerc. After analyzing these documents marked above, we found: In the List of Technologists signed and sealed by the representative of the company "Bylmeti-KS", these two names are listed: Argjenta Breznica and Marjola Memoçela, while the Decisions for the appointment of the Project Manager for Lot 1 and Lot 2 were signed and sealed by Musaj Leku, owner of the company N.T.P Hajdini Comerc. (Evidence 4- Decisions on the appointment of the Project Manager for Lot 1 - Mrs. Argjenta Breznica and Lot 2 - Mrs. Mariola Memoçela). We consider that the signing of the decisions of the Project managers for Lot 1 and Lot 2 by the owner of the company N.T.P HAJDINI COMERC is in complete violation of Article 26, paragraph 26.1, point (c) of Regulation 01/2022 on Public Procurement, since according to this article it is obligatory for the group to authorize the leading partner to act on behalf of the group and not accept other persons on behalf of the group. According to this article of the regulation, it is not possible for two leaders to be appointed and two people to sign documents on behalf of the same group. In the specific case, the EO Group: NNH "Verona"; N.T.P Hajdini Comerc; Bylmeti- KS" in the Declaration of Establishment of the EO Group, in the preamble of this declaration it has noted: On behalf of the NNH Group "VERONA" ME NUI 811309097, (hereinafter "the tenderer". Also in point d) of the Declaration it states: d) The parties clearly declare that all members of the group authorize the main partner NNH "VERONA". To act on behalf of the group and will be Kajtaz Kajtazi the person authorized to sign the Tender Form and the signing of the Contract. (Evidence 5 - Declaration on the Establishment of the Group dated 14.07.2023). Point d) of the EO Declaration mentions some of the documents that will be signed by Hajdini Comerc, but this clause is in complete contradiction with Article 26, paragraph 26.1, point (c) of Regulation 01/2022 on Public Procurement, as it does not it is possible for two leaders to be appointed and two people to sign documents on behalf of the group on behalf of the same EO group. In the Declaration of guarantees for food items, it states: Group of Economic Operators: Accordingly, NTP "Hajdini Commerce", with NUI: 810248220 as Leader, gives a guarantee that the food items that will be offered in the preparation of Food are of the standards required in Annex No. .I see the attached

catalog with technical specifications and photos". (Evidence 6 - Declaration for the guarantee of articles dated 14.07.2023).

Claim 3: In the List of Chefs of the company N.T.P HAJDINI COMERC, the names of 11 Chefs are listed, but in three Diplomas - Certificates the seal of the Institution that issued the Diplomas - Certificates is not visible and in two of them there may have been interference in it the data noted in this Certificate. These releases are: No. 2- Fatmir Nika- Unstamped diploma- (Evidence 8- Fatmir Nika's diploma dated 03.09.2001); No. 3- Drita Çuni - The seal is not visible on the certificate and there may have been interference. (Evidence 9- Certificate of Drita Çuni dated 08.06.2015); No. 6- Fatima Redja- The seal is not visible on the certificate and there may have been interference. (Evidence 10- Certificate of Fatima Redza dated 28.10.2013);

Claim 4: In the List of Employees of the "Bylmeti-KS" company, the names of 55 employees are listed and the column - Position in the company, for 53 of the employees, says - Kitchen Helper. We consider that these data recorded in this list are not correct and can be considered as misleading, due to the fact that a company that deals exclusively with milk production, in no way has the possibility to employ 53 Kitchen Helpers. (Evidence 11 - List of employees of the company "Bylmeti-KS"). Claim 5: In the decision of the member of the Hajdini Commerce consortium dated 14.07.2023 on the appointment of the Assistant Project Manager, among other things, it states: Project Manager, appoints Mr. Fatmir Nika - Cook. This description in this decision automatically makes the Decision on the appointment of the Assistant Project Manager invalid due to the fact that in one place of this decision it says "On the appointment of the Assistant Project Manager" while in another place of the same decision it says: " Project Manager, appoints Mr. Fatmir Nika - Cook". (Testimony 12 Decision on the assignment of Assistant Project Manager dated 14.07.2023). From the recorded data it can be seen that the Offer of the EO Group: NNH" Verona; N.T.P Hajdini Comerc; Bylmeti - KS", does not even come close to meeting the criteria - requirements of CA required in the Tender File and Contract Notice. Based on article 56 paragraph 1 point 1.1 of LPP, article 59 paragraph 4 of LPP, article 25 paragraph 1 of Regulation No. 01/2022 for Public Procurement and Article 40 paragraph 40.2 of Regulation No. 01/2022 for Public Procurement, the Contracting Authority - the New Commission for the evaluation of offers was supposed to also offer the offer of the EO Group: NNH" Verona; N.T.P Hajdini Comerc; Bylmeti-KS", I automatically consider it as an irresponsible offer and eliminate it from the procurement activity due to the fact that it has not met all the criteria - the requirements required by the Contracting Authority in the Tender dossier and Contract Notice, specifically request no. 10 and 11 of the Technical and Professional Capacity and the substantial violations committed by the two leaders within this EO group.

Findings of the review expert regarding the claims of EO "Beni Dona Plast" with No.

0008/2024

Findings regarding the complaining claims against the recommended GEO for LOT 1- GEO "Global Parajsa & Delfin LTD"

The first finding (I): After analyzing and examining the documents of the case, the Reviewing Expert clarifies that, in the GOE offer recommended for the contract for LOT 1, in folder no. 9

there are catalogs, which include photographs of the offered products for service, some products have specified only the mass/weight, expiration date, etc., but the CA in TD has requested to specify "the composition of the article, for articles that have a technical description":

Requirement 13. The economic operator must provide evidence for the products offered with which the offer will be part of the food preparations, (according to the menus presented in TD annex 1, the mandatory technical specifications):

Evidence 13. The list of articles including the catalog or photos for the products offered with a description, the name of the manufacturer, the country of origin, as well as the content on the composition of the article, for articles that have a technical description, trees and vegetables do not need a technical description - sealed and signed by EO in original. Therefore, as such, the claim of the complaining EO is found to be grounded.

The second finding (II): The review expert related to - Annex no. 1- Mandatory Technical Specifications. (Exhibit 4 - Page 45 of the Tender dossier) clarifies that, in the GOE offer recommended for LOT 1, respectively in the folder no. 12, it does not have the complete signed annex, so the last page is missing, which was necessary to be signed and stamped by the said EO, and as such the claim of the complaining EO is found to be grounded.

Third finding (III): The review expert regarding the tender dossier for the procurement activity in question clarifies that, CA in TD in section II. The Tender Data Sheet (TDS) according to point number 2.5 Division into Lots, has specified and announced that: According to Article 18.8 of Regulation 001/2022 on Public Procurement. AK- reserves the right that if it does not accept responsible offers for any LOT, then it will be awarded with more LOTs than one part: Example: In case we have awarded an EO with one part, but for the other lots we have not even a responsible CA offer - I will continue with the same EO reward in other LOTs in case it is responsible. As for the offer of the recommended EO for LOT 1, after analyzing the list, we clarify that the complaining EO is cheaper than the recommended GEO, therefore the claim of the complaining EO is grounded.

Findings related to the complaint claims against the recommended GOE for LOT 2- NNH" Verona; N.T.P HAJDINI COMERC; Bylmeti - KS"

First finding (I): The review expert clarifies that, in the GOE offer recommended for LOT 2, there are lists of projects, which according to the title and procurement number are supplies, while the CA has requested that 50% of the projects from the Leader of services of a similar nature to procurement activities are offered, therefore, as such, the claim of the complaining EO is founded.

The second finding (II): The review expert related to the statement of the consortium, which is summarized with an agreement on three points a, b, c according to the regulation, but as far as the leader is concerned, the claim is found to be founded, due to the fact that, according to statements in the agreement, it turns out that there are two leaders of the group, with separate responsibilities, who will act in this procurement activity.

The third finding (III): The review expert related to the third claim clarifies that, the EO recommended for LOT 2, has attached the list of staff, where in their testimonies, for the persons claimed by the complaining EO, I consider that the claim is partially found based on the fact that these documents do not show seals, signatures, etc., which the CA was obliged to clarify.

Fourth finding (IV): The Review Expert regarding the fourth claim, considers that the CA has the discretion to confirm the same, as such the claim is partially grounded.

Fifth finding (V): The review expert regarding the fifth claim clarifies that, as far as the decision on the appointment of the manager is concerned, the claim is founded, due to the fact that in the decision, at the beginning it is stated that the assistant manager of the project is appointed, while at the end known as the project manager.

In conclusion, regarding the procurement activity entitled "Food services (supply, preparation and serving) in the barracks Prishtina, Gjilan, Mitrovica, Istog, Ferizaj, Pomozotin, Gjakovë, Prizren" for the needs of the KSF, divided into 3 LOTs -e. LOT 1. Food services (supply, preparation and serving) barracks in Pristina. LOT 2. Food services (supply, preparation and serving) in Istog Gjakovë, Mitrovica and Gjilan barracks. LOT 3. Food services (supply, preparation and serving) barracks in Ferizaj, Pomozotin and Prizren with no. of procurement: "217-23-5070-2-1-1", initiated by the Contracting Authority (CA) - Ministry of Defence, first of all, it is worth noting that the CA in the first evaluation has published the decision B58 Notice on the cancellation of the procurement activity against the legal provisions of the LPP, but with the decision of the review panel with no. 2023/0768 dated 22.11.2023, the CA was forced to return the case to re-evaluation, where then in the process of re-evaluation, three economic operators were recommended for contract in three lots: LOT 1: NTP "Global Parajsa & Delfin SHPK; LOT 2: NNH "Verona & NTP Hajdini Commerce & Bylmeti SHPK; LOT 3: "Beni Dona Plast" SH.P.K.

Further, in the published decision B58-Revaluation, the aforementioned, after the rejection of the requests for reconsideration by the CA, have complained to the PRB with the case numbers 2024/008, 2024/018, 2024/026, who have submitted complaints against each other. Whereas, after reviewing the case files, analyzing the offers with the requirements of the CA, as a result according to the clarifications in the review of the appeal claims in the cases with ratios 8/24 18/24 and 26/24, it results that the three recommended GOE for three lots they are irresponsible and do not meet the requirements of the tender dossier determined by the CA - Ministry of Defence.

Therefore, I consider that this procurement activity should be canceled in accordance with Public Procurement Regulation no. 001/2022 article 43.5 point b. 43.5 The procurement procedure after the opening of bids must be canceled for one of the following reasons: b. none of the accepted tenders is responsible;

The expertise's report has been duly accepted by all procedural parties. CA declares that it does not agree with the recommendations of the expertise report, while EO has declared that it partially agrees.

*Complaining claims of the economic operator "Global Parajsa" according to complaint No.
0018/2024*

The first claim (I): The procurement activity entitled: The complaining EO is recommended for a contract for LOT 1, while not satisfied with the notification for recommendation B58 -LOT 2- GOE NNH Verona & NTP Hajdini Commerce & Bylmeti-KS", and LOT 3 - GOE "Beni Dona Plast SHPK", then submits a complaint to the PRB against the GOE recommended for LOT 2 and 3. Furthermore, the same in the complaint claims that the CA did not evaluate the offers in accordance with the LPP, i.e. it violated articles 1, 7 , 52, 59 60, 69, 72.

Complaining claims against GOE recommended for LOT 2- GOE NNH Verona & NTP Hajdini Commerce & Bylmeti-KS":

The EO recommended for the contract does not meet the Requirement regarding the technical and/or professional capacity defined in Article 9.1 & 9.2 of the FD where it is requested: Requirement 10. The economic operator must provide evidence that he has successfully completed a contract of the nature the same or similar in the field of gastronomy (preparation and serving of food during the last 3 (three) years (from the date of publication of the contract notice), with public and private institutions, not less than: 2,000,000.00 €; minimum of of this requested value, 50% (1,000,000.00 €) should be for services, and the rest may be for supplies; while as documentary evidence, the following is requested: List of contracts - projects completed during the last three years, in original, signed and sealed by the Economic Operator, certified with references in a copy signed and sealed by the relevant Authority, for the services provided and received, which must indicate the number of the procurement or contract, the value of the contract, the date of signing the contract , the nature of the services and the place of realization of the services.

- a. When the services are supplied to a public authority in Kosova or in another country, the certificate of acceptance or references (the value of the services should be mentioned in the references) issued by such authority must be submitted as evidence.
- b. When the services and supplies are made for a private buyer, the acceptance certificate or reference (in the references the value of the services and supplies) issued by such buyer must be submitted. For references from private institutions, it must be proved by bank transfer from any licensed bank for the value of the presented reference.

The EO recommended for the contract in the list of references provided as evidence to fulfill requirement 9.1 and 9.2, has provided several contracts and references which do not reach the required amount of minimum 1,000,000.00 euros in the field of food preparation and serving.

Specifically, he did not provide evidence of experience in gastronomy services, but he did provide evidence of food supply contracts. Even all these contracts and references that have been offered as evidence are contracts for supplies. Based on this fact, we clarify that the EO recommended for the contract is an irresponsible EO because it does not meet the aforementioned requirement and as such will have to be eliminated from this procurement activity.

The list of supply contracts should not be taken into account because it is contrary to the requirement of the TDS and the contract notice. So the EO recommended for the contract failed to prove that it performed services worth at least 50% (1,000,000.00 €) of the value of 2,000,000.00 €. Regarding the request for the tender file, we clarify that there is a decision of the PRB with No. . 2023/0503 dated 11.10.2023 where the supply contracts were not taken as a basis, since there a contract was requested for services of the same nature, therefore also in this case it is requested that the contracts be for services specifically preparation and serving of food.

LOT 3: EO Beni Dona SHPK, is irresponsible for the following facts: After having access to the documents of the EO recommended for the contract, we noticed that the same EO was asked for additional clarifications by the CA, regarding with ISO certificates ISO 9001/2015 and ISO 22000/2018, because the validity of the same has expired after bidding. ISO 9001/2015 expired on 25.11.2023, while ISO 22000/2018 expired on 24.11.2023.

So when analyzing the ISO certificates presented by the EO recommended for the contract with clarifications, it is clear that in this case we are dealing with material changes, since completely different ISO certificates have been presented, from those whose validity has expired and for which CA has requested additional clarifications. In this case, the contracting authority itself was misled, in fact they were deceived by the EO recommended for the contract. We also doubt the authenticity of these documents and request that their authenticity be proven in accordance with Article 52.7 of the LPP. In order for these ISO Certificates to be considered in order, it was necessary to provide the evidence for their continuation and not to provide all other documents, which are not related to the evidence that was presented with the tender dossier.

It should be noted that this economic operator, even in the preliminary tender of the Ministry of Defence, had presented forged documents, and even now in this procurement activity he is trying to manipulate with false documents and testimonies. It is known that this company is in the process of disqualification from participating in public procurement at the request of the CA dated 01.02.2023. While the procedure for disqualification is continuing and a final decision has not been issued, then reference No. 3/2/2008 dated 11.07.2023 and reference No. 3/2/002 dated 12.01.2023 issued by the Ministry of Protection for prior contracts should not be considered valid.

Findings of the review expert regarding the complaining claims of EO "Global Parajsa" No.

0018/2024

First finding (I): The review expert clarifies that, in the GOE offer recommended for LOT 2, there are lists of projects, which according to the title and procurement number are supplies, while the CA has requested that 50% of the projects from the Leader of services of the similar nature of procurement activities are offered, therefore, as such, the claim of the complaining EO is founded.

The second statement (II): LOT 3: EO Beni Dona LLC. After analyzing and examining the documents of the case, the Reviewing Expert clarifies that, in the GOE offer recommended for LOT 3, there are ISO standards valid until 24/25.11.2023, while in clarification EO has brought

ISO valid until 01.06.2025, but from another company, which in the present case represents a material change, due to the fact that the dates in the ISO standards, which are attached to the offer, are not consistent, therefore the claim of the complaining EO is found to be grounded.

Further, in the published decision B58-Revaluation, the aforementioned, after the rejection of the requests for reconsideration by the CA, have complained to the PRB with the case numbers 2024/008, 2024/018, 2024/026, who have submitted complaints against each other.

Whereas, after reviewing the case files, analyzing the offers with the requirements of the CA, as a result according to the clarifications in the review of the appeal claims in the cases with ratios 8/24 18/24 and 26/24, it results that the three recommended GOE for three lots they are irresponsible and do not meet the requirements of the tender file determined by the CA - Ministry of Defence.

Therefore, I consider that this procurement activity should be canceled in accordance with Public Procurement Regulation no. 001/2022 article 43.5 point b.43.5 The procurement procedure after the opening of bids must be canceled for one of the following reasons: b. none of the accepted tenders is responsive;

The expertise's report has been duly accepted by all procedural parties. CA declares that it does not agree with the recommendations of the expertise report, while EO "Global Parajsa" has declared that it partially agrees.

Claims of the complaining economic operator EO N.T.P "Hajdini Comerc" No. 0026/2024 are submitted as follows:

The first claim (I): the complaining EO is recommended for the contract for LOT 2, and not satisfied with the recommendation notice B58 -LOT 1 - GOE Global Parajsa & Delfin LTD, then submits a complaint to the PRB against the recommended GOE. Further, the same in the complaint claims that the CA did not evaluate the offers in accordance with the LPP, that is, it violated articles 1, 4.1.26, 6 par. 1 and 2, 7 par. 6, 27/A par. 1 and 2, 59 par. 4, 60 par. 1, 1.1, 108/A par. 8, 8.4, 12; II. Provisions of Regulation no. 01/2022 of public procurement (in the following text we will refer to RRPP) and that: Article 18, Division of contracts into Lots, par 18.8; III. Non-compliance with the decision of PRB, No. 2023/768 dated 22.11.2023. 1. Initially, the complaining EO claims that the recommended GOE is a disinterested party in this procurement activity, because after the first assessment it did not submit a request to the CA/Complaint to the PRB.

The second claim (II): the complaining EO claims that the CA has recommended an EO that exceeds the budget by more than 20% of the estimated value.

The third claim (III): The complaining EO claims that the CA has recommended a GOE which is more expensive than our offer, over 43%.

Findings of the reviewing expert regarding the complaint claims according to complaint 0026/2024 of EO "Hajdini Comerc"

First finding (I): The review expert regarding the claim clarifies that, after accepting the decision 768/23 of 22.11.2023, it continued with the re-evaluation of all offers, i.e. it returned the procurement activity to the zero point.

The second finding (II): The review expert regarding the claim clarifies that, in this procurement activity, the CA has initiated a framework public contract for 36 M, which in accordance with article 38 of the LPP, the CA can apply +/- 30% if there is inconsistency, therefore the claim of the complaining EO is not found to be founded.

The third finding (III): The review expert regarding the claim clarifies that, after analyzing the list, we clarify that the complaining EO is cheaper than the recommended GOE, therefore the claim of the complaining EO is founded.

Further, in the published decision B58-Revaluation, the aforementioned, after the rejection of the requests for reconsideration by the CA, have complained to the PRB with the case numbers 2024/008, 2024/018, 2024/026, who have submitted complaints against each other. Whereas, after reviewing the case files, analyzing the offers with the requirements of the CA, as a result according to the clarifications in the review of the appeal claims in the cases with ratios 8/24 18/24 and 26/24, it results that the three recommended GOE for three lots they are irresponsible and do not meet the requirements of the tender file determined by the CA - Ministry of Defense. Therefore, I consider that this procurement activity should be canceled in accordance with Public Procurement Regulation no. 001/2022 article 43.5 point b. 43.5 The procurement procedure after the opening of bids must be canceled for one of the following reasons: b. none of the accepted tenders is responsive;

The expertise's report was properly accepted by all procedural parties, in which case both parties disagreed with the opinion and findings of the review expert.

In this case, the review panel has assessed that the conditions have been met to decide on this case without a hearing in the sense of Article 24 paragraph 1 of the Rules of Procedure of the PRB, taking into account that the claims of the parties and their submissions, the evidence as well as the review expert's report provides sufficient data to decide on the merits of the case.

- Findings of the Review Panel -

The review panel independently and objectively, conscientiously and professionally evaluated all the evidence of the case. From the clarifications given above, it is concluded that the expert handled the claims of the complaining economic operators in a professional and objective manner. The arguments in the expertise reports are quite detailed, comprehensible and completely based on the relevant documents that refer to the procurement activity. The given findings can be confirmed through the tender file and other documents, so without the need for additional declarations, the panel supports the findings of the reviewing expert that the complaints of the complaining economic operators are approved as well-founded, while the procurement activity cited as in the provision of this the decision to be annulled in its entirety.

The review panel further finds that it supports the positions given in the expert report that this procurement activity was not developed in accordance with the basic provisions of the LPP,

more precisely, during the reassessment, the examination, comparison and evaluation of the offers was not done in accordance with Article 59 of the LPP- of.

Whereas, after reviewing the case documents, analyzing the offers with the requests of the CA, as a result, according to the clarifications in the review of the appeal claims in the cases according to the complaints with protocol number 8/24, 18/24 and 26/24, it results that, the three GOEs recommended for three lots are irresponsible and do not meet the requirements of the tender dossier set by the CA-Ministry of Defense.

Therefore, based on the fact that the three Complainants (with data cited as above) who are complaining against each other in the procurement procedure divided into lots, are not responsible and did not bid in accordance with Public Procurement Regulation no. . 001/2022 article 43.5 point b., which states that the procurement procedure after opening the bids must be canceled if none of the accepted tenders is responsible, the review panel decides to cancel this procurement activity and if the CA has further retender the same interest.

-Conclusion-

The Review Panel has decided in accordance with the legal powers in the sense of Article 104 paragraph 1 in relation to Article 103, Article 105 and Article 117 of the LPP for the implementation of the procurement review procedure in a fast, fair, non-discriminatory manner, in order to legal and effective resolution of the case. Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations, which may appear during a procurement activity.

For point I of the decision, it was decided based on article 117 of the LPP in relation to article 29 and paragraph 31 of the Rules of Procedure of the PRB.

For point II of the decision, it was decided based on article 131 of the LPP in relation to article 29 paragraph 3 of the PRB Work Regulations.

From what was said above, it was decided as in the provision of this decision.

President of the Review Panel

Mr.Vedat Poterqoi

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 DEFENCE;**

1x1 EO – **Beni Dona Plast SH.P.K., N.T.P "HAJDINI COMERC ", ISUF MUSLIU B.I;**

1x1 Archive of the PRB;

1x1 For publication on the website of the PRB.