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

Psh. No.0402/26

The Review Panel, appointed by the Acting President of the PRB, pursuant to 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) composed by Kimete Gashi Brajshori President, deciding upon the complaint of EO MEDPLUS SH.P.K., against the Decision to cancel the procurement procedure regarding the procurement activity “Supply of medicines and medical consumables for the Central Pharmacy of the QKMF” with procurement number 635-26-957-1-1-1, initiated by the contracting authority (CA) – MUNICIPALITY OF PEJA, on the 05/08/2026 has issued this:

DECISION

1. Approved, as partly grounded the complaint of the EO “MEDPLUS SH.P.K., with no. 2026/0402, dated 20.06.2026, regarding the procurement activity "Supply of medicines and medical consumables for the Central Pharmacy of QKMF", with procurement number 635-26-957-1-1-1, initiated by the contracting authority - MUNICIPALITY OF PEJA.

2. Cancelled, B58 Notice on the Decision of the Contracting Authority - MUNICIPALITY OF PEJA for the procurement activity "Supply of medicines and medical consumables for the Central Pharmacy of the QKMF", with procurement number 635-26-957-1-1-1.

3.The fee paid upon filing the complaint shall be returned to the same. The complaining economic operator is obliged, in accordance with Article 33, point 6 of the PRB's Rules of Procedure, to submit a request for the return of the complaint security within sixty (60) days, otherwise the deposit shall be confiscated and these funds shall be transferred to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 03.03.2026, the MUNICIPALITY OF PEJA, acting in the capacity of the Contracting Authority, has submitted the Notice for the contract, for the procurement activity “Supply of medicines and medical consumables for the Central Pharmacy of the QKMF”, with procurement number 635-26-957-1-1-1.

\The contracting authority has implemented an open procedure, type of contract: supply, estimated contract value: 250,000.00. €

On 05.06.2026, the MUNICIPALITY OF PEJE, acting in the capacity of the Contracting Authority, has submitted the Notice on the decision of the CA (B58), where the procurement activity has been cancelled.

On the 10.06.2026, the complaining EO submitted a request for review, where on 11.06.2026 the CA rejected the request for review as unfounded.

On the 20.06.2026, EO MEDPLUS SH.P.K., submitted a complaint to the PRB, which was recorded with protocol number 2026/0402, challenging the Decision to cancel the procurement activity.

-On the preliminary review phase -

The Procurement Review Body has found that the complaint contains all the elements specified in Article 111 of the LPP and as such has been submitted within the legal deadline in accordance with Article 109 paragraph 1 of the LPP after the preliminary procedure for dispute resolution in the sense of Article 108/A of the LPP, by the economic operator that is an interested party according to Article 4 paragraph 1 subparagraph 26 of the LPP. In this way, the Procurement Review Body has found that it is competent to review this complaint according to Article 105 of the LPP and there is no procedural obstacle to continue with the review of the complaint on its merits.

The claims of the complaining economic operator MEDPLUS SH.P.K., are presented as follows:

On the 05.06.2026, through the electronic platform e-Procurement, we received the Notice on the

Decision of the Contracting Authority (CA), by which the procurement activity was canceled, while we have received the Standard Letter for Eliminated Tenderers, with the following reasoning:

We clarify that the CA's reasoning for our elimination is unsustainable and unfounded, while we argue the objection to the elimination with the following facts:

1. The first reason for the elimination, that we allegedly offered significantly lower prices compared to the predicted value, is unsubstantiated, since we initially offered within the

predicted value and at prices that are in accordance with the Law on the Price of Medicinal Products. The provision of Article 14, paragraph 1, of this law clearly specifies that: "The basis for determining the purchase price or reimbursement of medicinal products by public institutions, according to the respective competence for contracting medicinal products, shall be the Official List of Wholesale Prices of Medicinal Products published by the Ministry." We have bid with prices that are within the provisions of the Official List of Prices, therefore the reason for elimination is completely contrary to the Law on the Price of Medicinal Products, as well as Article 61 of the LPP.

Regarding the feasibility of the contract at these prices, for which the CA claims to have doubts, we clarify that, if there were doubts, it could have requested additional security, such as increasing the contract execution security. However, the contracting authority did not in any way argue the reason for the elimination. As evidence that our company is serious and will complete the contract, the preliminary contract that we have implemented with this contracting authority, with maximum commitment and in accordance with the contractual terms, serves. We are confident and convinced that we can implement the contract at these prices and we are able to argue the method of implementation, as well as to guarantee, in any form and manner, the feasibility of this contract. The contracting authority did not respect the provision of Article 61.1 of the LPP, as it did not request any clarifications about the prices offered by us. Meanwhile, this provision stipulates that, if a tender appears to contain abnormally low prices, the contracting authority must send a written request to the tenderer, requesting: (i) a breakdown of the constituent elements of the tender and (ii) explanations regarding the basis of the tender, in accordance with paragraph 2 of this article.

Therefore, the contracting authority did not apply the legal procedure provided for abnormally low prices and, consequently, acted contrary to the law when it eliminated us from the competition. Moreover, it acted arbitrarily, since an economic operator cannot be eliminated without first being asked for clarification. 2. The second reason for the elimination is related to the fact that we offered the product "AHD 2000 G Hygienic and Surgical Hand Disinfectant", which, according to the label and manufacturer's data, contains 75 g of ethanol in 100 g of product, respectively 75%. We clarify that we have offered an equivalent product, while equivalence for this product has also been allowed by the Review Panel with Decision no. 186/26, dated 21.04.2026. The claim of the CA that the product offered does not meet the minimum requirement and does not present an equivalent or more advanced specification is unfounded and unsubstantiated. We confirm and argue the equivalence also through the expertise of the judicial expert - Pharmacist, Specialist in Toxicology and Medicines, Mr. Nardi Sh. Sheqerxhiu, whom we have engaged after receiving the Standard Letter for Eliminated Tenderers. He has analyzed the requirements and specifications for product no. 68 of the tender dossier, comparing them with the specifications of the product we have offered. The professional judicial expert, in the expertise dated 08.06.2026, has concluded as follows: Attached is the expertise in question.

From this professional expertise it results that the product offered by us is equivalent, both in technical and functional terms, to the requested product. Therefore, it results that we have been unfairly eliminated from this procurement activity and we request that this assessment be corrected, being recommended for award of the contract. It is not scientifically accurate that a higher ethanol content automatically implies higher disinfectant effectiveness. The contracting authority's reasoning that the product offered with 75 g ethanol/100 g does not represent an equivalent or more advanced specification in relation to the request of 89.1 g ethanol/100 g, claiming that the ethanol content is the essential element for the effectiveness of the disinfectant product, is unsubstantiated and unsupported by scientific evidence. It also does not demonstrate in any way that the concentration of 89.1 g/100 g provides superior effectiveness to the product offered with 75 g/100 g. In addition to the attached expertise, the World Health Organization (WHO) also recommends formulations with 60-80% ethanol for disinfection. Attached is the WHO guideline.

Also, the scientific literature states that very high alcohol concentrations are not necessarily more effective, since the presence of water is necessary for the denaturation of microbial proteins and for increasing the contact time. Consequently, the contracting authority has not proven with any technical, laboratory analysis or scientific reference that the product with 75 g/100 g ethanol does not achieve the same disinfectant result or that it is inferior in performance to the product with 89.1 g/100 g ethanol. Attached, please find the WHO Guidelines on Hand Hygiene in Health Care, where on page 32 it is specified that 60-80% alcohol solutions are more effective, while higher concentrations are less potent. Therefore, both from the expertise, as well as from the aforementioned scientific evidence and the recommendations of the WHO, it results that our product, with the composition it possesses, is even more effective than the product with the required composition. Consequently, the CA's reasoning for our elimination is unfounded, unsustainable and unsupported by any evidence, scientific evidence or professional expertise. The contracting authority, in this procurement activity, has acted in a tendentious manner, with the sole aim of eliminating us from the procurement activity and canceling this tender, after it saw that it had failed to award the contract to the favored economic operator, who had made substantial errors, by not providing the sworn statement and the statement on the establishment of the group, thus being administratively irresponsible.

The group of eliminated economic operators "BRT Pharm SHPK & NSHT Neramed" has offered unusually high prices and above the prices set by the Law on the Price of Medicinal Products, i.e. above the ceiling allowed by this law. The prices set by this law are market prices, analyzed by experts and researchers of the prices of medicines and medicinal products.

For example:

The price of alcohol was offered at 8 euros, while on the market it is around 1.50 euros.

The price of gloves was offered at 7 euros, while on the market it is around 2.50 euros.

The price for Hyoscine Butylbromide was offered above the official price of the Price List.

Likewise, the price for Glucose 5% 500 ml was offered above the official price of the Price List.

Attached please find the Official List of Prices of Redeclared Medicinal Products 2026, from which it can be seen that the group of economic operators "BRT Pharm SHPK & NSHT Neramed" has offered prices above the ceiling allowed by law.

The contracting authority did not have to compare prices between companies, as this is not a real comparison. The real comparison is between the bid price and the market price, while in this case the most objective comparison is with the Official Price List of Redeclared Medicinal Products 2026. When this comparison is made, it turns out that we have bid within this price framework, while the group of economic operators "BRT Pharm SHPK & NSHT Neramed" has bid with prices above the ceiling allowed by law. This evidence confirms that we have bid with real prices, in accordance with the market and within the price framework determined by the state. The contracting authority, instead of saving the state budget and stimulating compliance with the laws, including the Law on the Official List of Prices of Re-declared Medicinal Products 2026, has acted in the opposite way, eliminating us without legal basis and risking damage to the public budget. On 11.05.2026, we received the decision rejecting the request for reconsideration, on the grounds that it is unfounded. However, in no part of this decision has any concrete evidence been presented that would argue or prove the opposite of our complaint claims.

The CA, regarding our complaint regarding the reason for our elimination, has responded as follows:

This response of the CA is subjective and without any concrete legal support.

An economic operator cannot be eliminated on the basis of allegedly serious doubts, as the contracting authority presents the situation, because the doubts in this case are entirely subjective and unsupported by factual or legal arguments.

The contracting authority has not expressed any interest in seeking clarifications, as required by Article 61 of the LPP and Article 41 of the Public Procurement Regulation no. 001/2022.

On the contrary, the contracting authority has assumed and imagined, according to its subjective assessment, our ability to perform this contract. This action of the CA is arbitrary and tendentious.

The contracting authority has made an erroneous, biased and subjective interpretation of Article 61 of the LPP, as this provision does not allow the elimination of an economic operator for abnormally low prices without first requesting additional clarifications. Therefore, the actions of the CA are in direct contradiction with this provision. Regarding claim no. 2, the CA has given the following response: It is also understood from this response that the CA has analyzed only the numerical values and quantity, but not the content and composition of product no. 68, completely disregarding equivalence.

Also, the expertise of the judicial expert, nor the scientific arguments that we presented in the request for reconsideration, were not taken into account.

We did not request the removal, change or modification of any criteria during the tender evaluation process, as the CA claims. On the contrary, we requested that equivalence be taken into account and that the composition of the product be analyzed in substance, not only from a quantitative aspect, but also from a qualitative and qualitative aspect.

Regarding equivalence, the PRB has allowed it with the relevant decision, but the contracting authority has not respected this decision. For this reason, the PRB decision should be implemented and the equivalent composition of the product that we have offered should be taken into account.

The claim of the CA that there is no favored economic operator in this tender is unsustainable, because precisely the group of economic operators "BRT Pharm SHPK & NSHT Neramed" has been favored with the cancellation of this tender, as it has been given the opportunity to compete again in a future procedure, although it has been administratively irresponsible in this procurement activity.

Based on the evidence and facts presented above, it results that the action was taken in contravention of Article 59 of the LPP, and the main criterion for awarding the contract was not respected, which was the selection of the responsive tender with the lowest price, in accordance with Article 60, paragraph 1.1, of the LPP.

From the above facts it is understood that the cancellation of this procurement activity was made in contravention of Article 62 of the LPP, since we are a responsive bidder and none of the conditions set out in this provision for the cancellation of the tender were met.

Also, none of the conditions set out in Articles 43.5 and 43.7 of the Public Procurement Regulation No. 001/2022 for the cancellation of this procurement activity were met.

Paragraph 1 of Article 7 of the LPP clearly provides that: "The contracting authority shall treat economic operators equally and non-discriminatory and shall act in a transparent manner." However, the CA has not implemented this provision, as we have been eliminated and discriminated against without any legal basis, not being recommended for the award of the contract.

Likewise, Article 1 of the LPP has not been taken into consideration, given that the purpose of this law is to ensure the most efficient, transparent and fair use of public funds, public resources, as well as all other funds and resources of contracting authorities in Kosovo.

Response to the request for reconsideration:

1. On the claim for abnormally low price

The Applicant claims that the elimination for abnormally low price is unsustainable, since he bid within the stipulated value and within the framework of the Law on the Price of Medicinal Products, referring to Article 14, paragraph 1, of this Law, according to which the basis for determining the price is the Official Wholesale Price List published by the Ministry. The Contracting Authority considers this claim to be legally unfounded.

The Official Price List, within the meaning of the aforementioned provision, determines the maximum ceiling of the purchase price of medicinal products; it does not constitute either a guarantee or evidence that a specific bid is economically feasible. The fulfillment of the ceiling and the abnormality of the price are two completely separate issues: the first concerns the legal upper limit of the price, while the second concerns the feasibility of the contract and the coverage of the real costs of the supply. Therefore, the fact that the applicant has bid below the ceiling of the Official List does not exclude the possibility that its bid is abnormally low, nor does it replace the assessment that the Contracting Authority is obliged to make under Article 61 of the LPP and Article 41 of the Public Procurement Regulation.

In the present case, the applicant's financial offer of €120.42 represents a deviation of approximately 78.37% below the pre-calculated value of €556.22. This significant deviation was ascertained by the Evaluation Commission not in a general manner, but by analyzing the prices item by item and comparing them with the market reference prices for products with the same or similar characteristics. A deviation of this magnitude raises serious and objective doubts regarding the operator's ability to supply according to the required specifications and to cover the real costs, which, according to Article 61 of the LPP, gives the Contracting Authority the right to reject the offer as abnormally low. Neither does the applicant's proposal that the Contracting Authority could require an additional performance security change this conclusion. Article 61 of the LPP recognizes the Contracting Authority the right, but not the obligation, to reject an abnormally low bid, while no additional security eliminates the technical inconsistency that the applicant's bid presents in position 68. Even if the price issue were completely ignored, the bid would remain irresponsible for technical reasons. Also, the reference to a previous contract concluded with the Contracting Authority has no legal weight in this procedure, since each bid is evaluated only according to the terms and criteria of this Tender Dossier.

2. On the claim for the equivalence of the product in position 68

The Applicant claims that the offered product "AHD 2000 G", with 75 g of ethanol in 100 g, is equivalent to the request of 89.1 g, that the equivalence was allowed by the Decision of the Review Panel no. 2026/0186 and supports this position with the expertise dated 08.06.2026, as well as with the guidelines of the World Health Organization (WHO). The Contracting Authority has carefully reviewed this argumentation, but it does not refute the position expressed in the letter of elimination.

The Tender Dossier, corrected precisely in implementation of the Decision of the PRB no. 2026/0186, through Form B54 dated 23.04.2026, establishes for position 68 at least 89.1 g of 96% ethanol in 100 g of solution as the minimum admissibility requirement. The note that the specifications are minimum and that a better specification can be offered does not soften, but rather strengthens this limit. This means that the economic operator can offer an equivalent or superior product, provided that it meets or exceeds the minimum specified. A content of 75 g in 100 g is below this minimum and, by its very nature, cannot be considered either equivalent or more advanced than the requirement, since it is quantitatively lower. The legality of this specification is already a res judicata matter. The applicant has contested the technical requirements for positions 68 and 69 twice: first with complaint no. 2026/0186, which was partially approved and obliged the Contracting Authority to allow equivalence, an obligation which the Authority implemented through the correction of the Tender Dossier; and then with complaint no. 2026/0284, where it claimed that the determination of the value of 89.1 g favors a certain manufacturer.

By Decision No. 2026/0284, the PRB Review Panel rejected this complaint as unfounded, confirming that the Contracting Authority had implemented the previous decision and that the specifications were minimal, allowing the bidding with an equivalent or more advanced product. This decision is final. Consequently, the applicant cannot reopen in the evaluation phase the legality of a specification that it failed to meet, much less request that the Contracting Authority accept a product below the minimum confirmed by the PRB itself. As for the independent expertise and the reference to the WHO guideline, they do not change the factual or legal situation. Despite their content, none of them proves the decisive element, namely that the product offered meets the minimum requirement of 89.1 g of 96% ethanol per 100 g, set out in the Tender Dossier. The required specification is not met and the Contracting Authority cannot go beyond the criteria set out in the Tender Dossier and confirmed by the decision of the PRB. Furthermore, Article 40 of the Public Procurement Regulation expressly prohibits the change, modification or removal of criteria previously set out during the evaluation phase. Accepting a product with a content below 89.1 g/100 g would constitute an unlawful change of the criteria and unequal treatment of other economic operators.

3. On the claim of favoritism, discrimination and the prices of the other operator

The Applicant claims that the Contracting Authority has acted in a tendentious manner, with the sole aim of eliminating it and cancelling the tender, since it failed to award a favored operator with a contract. He also claims that the Group of Economic Operators "BRT Pharm

SH.P.K. & N.SH.T. NERAMED" has bid with prices above the ceiling set by the Law on the Price of Medicinal Products. Both of these claims contradict the actual factual situation of the case.

First of all, there is no favored operator and no contract has been awarded.

The Group of Economic Operators "BRT Pharm SH.P.K. & N.SH.T. NERAMED" has also been eliminated from the procedure, as an administratively irresponsible bid, due to the lack of the

Affidavit of N.SH.T. NERAMED and the Agreement of the Group of Economic Operators.

The Contracting Authority did not award a contract to any economic operator, but cancelled the entire procurement activity, which is exactly the opposite of the alleged favoritism. The equal treatment required by Article 7 of the LPP was fully respected, as both economic operators were evaluated according to the same criteria of the Tender Dossier and both were eliminated for actual non-fulfilment of the requirements.

Secondly, the very claim that the competing economic operator has bid above the legal ceiling, even if it were to be taken for granted, does not help the applicant, but, on the contrary, reinforces the finding of the Contracting Authority that there is no responsive bid left in this procedure, which supports the cancellation of the procurement activity and does not invalidate it. However, the evaluation of the bid of another economic operator does not render the applicant's own bid responsive, which was rightfully rejected on two independent grounds. For this reason, the applicant has no legal interest in contesting the manner in which the bid of the other operator was evaluated.

4. On the legality of the cancellation of the procurement activity

The applicant claims that the conditions of Article 62 of the LPP and Article 43 of the Public Procurement Regulation for the cancellation of the procurement activity have not been met, since, according to him, he is a responsive tenderer and the criterion of the responsive tender with the lowest price has been circumvented. This claim is based on a false premise and, consequently, falls apart.

After examining and evaluating the bids, in accordance with Article 59 of the LPP, the Evaluation Commission found that neither of the two submitted bids is responsive. The applicant's offer was assessed as irresponsible due to the abnormally low price and technical non-compliance in position 68, while the offer of the Group of Economic Operators "BRT Pharm SH.P.K. & N.SH.T. NERAMED" was assessed as irresponsible due to the lack of mandatory documents.

The criterion for awarding the contract, according to Article 60 of the LPP, namely the lowest price, is applied only among responsive bids. In the absence of a responsive bid, this criterion cannot be applied and, consequently, the contract cannot be awarded. In these circumstances, the cancellation of the procurement activity, in accordance with Article 62 of the LPP and Article 43 of the Public Procurement Regulation, is not only lawful, but also constitutes the only possible legal solution. Since the applicant's bid is irresponsible, the premise that he is a "responsible bidder" does not hold and, consequently, the claim that the conditions for the cancellation of the procurement activity were not met does not hold either. Far from being contrary to the purpose of the law, the cancellation of the procurement activity serves precisely this purpose. Article 1 of the LPP aims at the most efficient, transparent and fair use of public funds. This aim is protected by not awarding a contract to either an abnormally low bid, which raises serious doubts about its feasibility and does not meet the technical specifications, or to an administratively irresponsible bid. Finally, the applicant's request for compensation for material damages in the amount of €5,000.00 is also unfounded, since the Contracting Authority has not committed any illegal action. Moreover, according to the Tender Dossier itself, all costs for the preparation and submission of the bid are borne by the tenderer, while the Contracting Authority has no obligation to compensate in the event of cancellation of the procedure.

Conclusion

Based on the above, the Contracting Authority finds that all the complaint claims of EO MEDPLUS SH.P.K. are unfounded.

The applicant's offer was rightfully rejected on two independent grounds, each of them sufficient and decisive for its rejection. The technical specifications are legal and confirmed by a final decision of the PRB, while the absence of any responsive offer makes the cancellation of the procurement activity legal and mandatory.

Therefore, it is decided as in the provision of this decision.

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on date 24.06.2026 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 2026/0402, while on 13.07.2026 the report of the review expert with no. 2026/0402 was submitted, with the following recommendations. Based on the above-mentioned clarifications, the technical expert proposes to the review panel that the complaint of the complaining EO be rejected as unfounded and that the decision of the CA remain in force. The expertise report has been duly accepted by all procedural parties. The CA agreed on the recommendation of the review expert report, and the EO did not agree with the review expert report. The review panel has assessed that the conditions have been met to decide on this case without a hearing session in accordance with 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 and the report of the review expert provide sufficient data to decide on the merits of the case.

-Administration and evaluation of evidence -

In order to correctly establish the factual situation, the review panel has administered as evidence the Report of the Review Expert, the submissions and documents of the complaining economic operator, the submissions and documents of the Contracting Authority, the relevant documents related to the procurement activity, as well as all evidence proposed by the procedural parties.

Regarding the claims of OEMEDPLUS SH.P.K., the review expert through report no. 2026/0402 has assessed as follows:

The review expert explains that the complaining EO, dissatisfied with the decision of the CA, has filed a complaint with the PRB with the claim that the contracting authority has not mainly respected the provisions of Article 59 and 61 of the LPP.

The review expert explains that the complaining EO was notified by the contracting authority with the Decision (B58), where the CA cancels the entire procurement activity Supply of medicines and medical consumables for the Central Pharmacy of the QKMF. The complaining EO is eliminated on the grounds that the prices offered are abnormally low and the second reason for elimination has to do with the technical specifications of the product.

The review expert, regarding the first justification for the elimination of the contracting authority, assesses that it does not stand, because the estimated value cannot be taken into account and compared with the price offered for one or several products. In the specific case, the CA has stated that for 69 positions of the preliminary estimate and preliminary calculation, the value is 78.37% lower than the estimated value. The legal provisions of Article 61 of the LPP provide for a procedure that the contracting authority must implement and ultimately determine the price offered by an economic operator and cannot be compared with the estimated value of the contract. Therefore, the claim of the complaining EO stands. The complaining EO, in its complaint, has claims regarding the second participating bid, regarding the prices offered, the sworn statement, the consortium agreement of the EO BRT Pharm&Neramed. The review expert explains that the same claims were also mentioned by the contracting authority in the standard letter of the eliminated tenderer EO BRT Pharm&Neramed, therefore the same has been eliminated from this procurement activity and at the same time the review expert explains that the same has not filed a complaint with the PRB, has not expressed interest in this procurement activity, therefore the treatment of these claims is unnecessary. As for the second reason for the elimination of the complaining EO, which is eliminated with the reasoning that: Findings by the Technical Expert Description of the claim

The complaining EO opposes the second basis for elimination - non-fulfillment of the technical specification for position 68 (hand disinfectant with at least 89.1 g of Ethanol 96% in 100 g of solution). The complainant has offered the product "AHD 2000 G - Hygienic and Surgical Hand Disinfectant" with 75 g of ethanol in 100 g of product and claims that this product is equivalent to the requested one, citing the preliminary decision of the PRB review panel no. 186/26 dated 21.04.2026, which forced the CA to allow equivalence for this position. In support of the equivalence, the complainant presents the expertise of the judicial expert - pharmacist, toxicology and drug specialist - dated 08.06.2026, according to which the offered product can be considered equivalent in terms of technical and user aspects, as well as the WHO guideline on hand hygiene, according to which formulations with 60-80% ethanol are effective and higher concentrations are less potent. The complainant claims that the CA has analyzed only the quantitative aspect of the product and not the qualitative one and has not taken into account the PRB's decision on equivalence.

Assessment of the technical expert

First, regarding the power of decision no. 2026/0186: from the case files it results that that decision obliged the CA to allow bidding with an equivalent or more advanced product, an obligation which the CA implemented by correcting the Tender Dossier through form B54 dated 23.04.2026, where for position 68 a value of at least 89.1 g of Ethanol 96% in 100 g of solution was determined as the minimum requirement for acceptance. Allowing equivalence does not imply the removal or reduction of the quantified minimum; it implies that any product - regardless of the trade name or manufacturer -is accepted if it reaches or exceeds that value. The product offered at 75 g/100 g is objectively around 16% below the minimum required and, due to the quantitative nature of the parameter itself, cannot be considered either equivalent or more advanced. Secondly, the legality of the specification itself is a matter of res judicata. The complainant has contested the technical requirement of position 68 twice: first with complaint no. 2026/0186 (partially approved, with the obligation to allow equivalence, already implemented), and then with complaint no. 2026/0284, where it claimed that the value of 89.1 g favors a certain manufacturer - a complaint which the PRB review panel rejected as unfounded, confirming that the specifications are minimal and allow for the offering of an equivalent or more advanced product. In accordance with Article 67.1 of the RRPP (res judicata), as well as with the limitation period of Article 60.1(a) of the RRPP for contesting tender documents, the complainant cannot reopen at the evaluation stage the legality of a specification confirmed by the PRB itself.

Thirdly, the private expertise engaged by the complainant after receiving the letter of elimination and the references to the WHO guide do not change the factual or legal situation of the case.

None of them proves the only decisive element - that the product offered meets the minimum requirement of 89.1 g of Ethanol 96% in 100 g set out in the Tender Dossier. They, in substance, contest the appropriateness of the criterion itself, an issue that is untimely and exhausted according to the reasoning above. The evaluation of the offers is made exclusively against the requirements set out in the contract notice and in the tender dossier (Article 40.2 and 40.13 of the RRPP), and not against the ex post evidence of the parties.

Fourth, accepting a product below the minimum specified would constitute precisely what Article 40.2 of the RPP expressly prohibits - changing, modifying or removing requirements previously determined during the evaluation - as well as unequal treatment in violation of Article 7 of the PPL towards economic operators who did not bid or bid with more expensive products precisely to meet the minimum. The deviation found constitutes a fundamental departure within the meaning of Article 40.7, subparagraphs (i) and (ii) of the RPP, as it differs essentially from the specifications of the tender dossier and affects the quality of the execution of the contract. Consequently, the CA's finding that the bid for position 68 is irresponsible is fair and in accordance with Article 40.6(b) of the RPP.

Opinion of the technical expert: The claim is unfounded. The elimination of the bid on the technical basis is legal and sufficient for the rejection of the bid in its entirety. Consequently, the technical experts recommend to the review panel that the complaint of the EO "MEDPLUS SH.P.K." be REJECTED as unfounded as regards the technical specifications, while the decision of the Contracting Authority to cancel the procurement activity remains in force. The review expert explains that the responses to the technical complaint claims were provided by the technical expert.

- Findings of the Review Panel -

The Review Panel, having analyzed the documents of this case and the actions taken by the parties, their statements and the evidence administered during the course of this procurement activity, considers that the findings of the review expert and his opinions are acceptable and that the Review Panel rightly took into consideration his Report when making the decision.

In the specific case, from the report of the review expert, the evidence presented by the complaining economic operator, the documents of the tender dossier and other evidence of the case, it was found that all the complaining claims are unfounded. However, based on the factual situation established as above, taking into account that no damage to the budget has been caused and also taking into account that the procedure is canceled in its entirety, the Review Panel has found that the complaint should be partially approved. The Review Panel, after administering and evaluating the evidence, fully ascertaining the factual situation, relying on the LPP as the applicable material law, after reviewing the complaining claims, taking into account all the case files and the expert's recommendations, has found that the complaint of the Economic Operator MEDPLUS SH.P.K. to be approved as partially grounded

Consequently, the Review Panel has decided that the Contracting Authority Municipality of Peja remains in force with the decision regarding the procurement activity “Supply of medicines and medical consumables for the Central Pharmacy of the QKMF” with procurement number 635-26-957-1-1-1.

The Review Panel has decided in accordance with the legal competences within the meaning of Article 104 paragraph 1 in connection with Article 103, Article 105 and Article 117 of the LPP to implement the procurement review procedure in a prompt, fair, non-discriminatory manner, with the aim of resolving the case legally and effectively. Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations, which may arise during a procurement activity.

Point I of the decision was decided based on Article 117 of the LPP in connection with Article 29 of the PRB's Rules of Procedure.

Point II of the decision was decided based on Article 31 paragraph 5 of the PRB's Rules of Procedure in connection with Article 118 of the LPP.

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

President of the Review Panel

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Mrs. Kimete Gashi

Legal advice:
An appeal is not allowed against this decision, but the dissatisfied party can appeal to the Commercial Court,to the Department for Administrative Affairs for annulment of the decision within 30 days from the date of acceptance of the decision.

Decision to be submitted to:

1x1 CA – **MUNICIPALITY OF PEJA;**
1x1 EO **– “MEDPLUS SH.P.K.;**
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