



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

Psh. No.93/26

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 Vedat Poterqoi - President, Batisha Ibrahimimi and Kimete Gashi - Member, deciding upon the complaint of EO TONI O.P., against the Decision to contract award regarding the procurement activity "Restoration and conservation interventions in the Çoku Mosque in Junik and the Orllani Mosque in Podujeva" with procurement number 207-25-7067-5-1-1, initiated by the contracting authority (CA) - MINISTRY OF CULTURE OF YS AND ÇJK, on the 27/03/2026 has issued this:

### **DECISION**

1. Approved, as partly grounded the complaint of the EO TONI O.P. with no. 2026/0093, dated 12/02/2026 regarding the procurement activity ““Restoration and conservation interventions in the Çoku Mosque in Junik and the Orllani Mosque in Podujeva" with procurement number 207-25-7067-5-1-1, initiated by the contracting authority (CA) - MINISTRY OF CULTURE OF YS AND ÇJK.
2. Remains in force, B58 Notice on the Decision of the Contracting Authority - MINISTRY OF CULTURE YS AND ÇJK for the procurement activity “Restoration and conservation interventions in the Çoku Mosque in Junik and the Orllani Mosque in Podujeva”, with procurement number 207-25-7067-5-1-1.
3. The return of funds deposited in the name of the appeal fee is allowed according to paragraph 4 of Article 31 of the Rules of Procedure of the PRB, while the complainant has the right, according to paragraph 6 of the cited provision, to request the return of the funds within sixty (60) days from the date of receipt of this decision, otherwise the funds shall be confiscated and transferred to the Budget of the Republic of Kosova.

## REASONING

-Procedural facts and circumstances -

On the 04.08.2025, the MINISTRY OF CULTURE OF YS AND ÇJK, acting in the capacity of the Contracting Authority, has submitted the Contract Notice, for the procurement activity “Restoration and conservation interventions in the Çoku Mosque in Junik and the Orllani Mosque in Podujeva” with procurement number 207-25-7067-5-1-1.

The contracting authority has implemented an open procedure, contract type: work, estimated contract value: 542,389.30. €

On the 22.01.2026, the MINISTRY OF CULTURE OF YS AND ÇJK, acting in the capacity of the Contracting Authority, has published the Notice on the decision (B58), where the EO Eing Com. was recommended for the contract.

On the 26.01.2026, the complaining EO submitted a request for reconsideration, where on 02.02.2026 the CA rejected the request for reconsideration.

On the 12.02.2026, the EO TONI O.P. submitted a complaint to the PRB, which was recorded with protocol number 2026/0093, challenging the above-cited Decision of the CA for awarding the contract.

-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 TONI O.P. are presented as follows:

In support of Article 109 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented by Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092, we, the economic operator “TONI O.P.”, in the capacity of a party with legal and material interest, submit this appeal against the Notice on the Decision of the Contracting Authority dated 22.01.2026 and the Decision on the Request for Reconsideration dated 02.02.2026.

As a party dissatisfied with the bid re-evaluation process, we present our facts and arguments as follows.

Chronology of the circumstances of this procurement activity

This appeal is based on Decision No. 2025/0006, dated 17.03.2025, of the Procurement Review Body (PRB). The main claim in this appeal is related to the case previously adjudicated in complaint 2025/0006, in which we were an interested party and at the same time the appellant.

We request from the PRB to, with vigilance and in an objective and independent manner, review this complaint of the company “TONI O.P.” and accept it as well-founded, returning the case for re-evaluation.

Otherwise, a double standard of decision-making and violation of legal certainty would be created.

With the Notice on the Decision of the Contracting Authority dated 15.09.2025, we as an economic operator have been eliminated from the procedure. This decision was contested by us through a request for reconsideration, which was accepted as well-founded and with the decision dated 01.10.2025 we were recommended for a contract.

Subsequently, the economic operators “EING COM” Sh.P.K. and “FRONI 1” Sh.P.K. have filed complaints with the PRB under numbers 1000/2025 and 1012/2025. The review expert, in his report, has deviated from the complaint claims and has interpreted the law on relations and obligations as a whole, without relying on any concrete legal basis and without being requested by the parties. In this way, he has gone beyond his legal competences (*ultra vires*) and has recommended the return of the case for reassessment.

The Review Panel, in its decision regarding complaints 1000/2025 and 1012/2025, has supported the expert’s report for the return of the case for reassessment, while it has found the complaint claims of the complaining operators to be unfounded.

Regarding the Notice on the Decision of the CA dated 22.01.2026

The operator recommended for the contract “EING COM” Sh.P.K., based on our facts and arguments, is administratively irresponsible and in violation of the Law on Public Procurement, the Labor Law and the Law no. 06/L-011 on the Prevention of Conflict of Interest in the Exercise of Public Function. Also, this situation is in violation of Decision no.2025/0006 dated 17.03.2025 of the PRB.

Regarding the operator “FRONI 1” Sh.P.K., we consider that this operator is also administratively irresponsible and in violation of the Law on Public Procurement, as well as in violation of Decision No. 2025/0006 of the PRB.

Regarding our elimination, we consider that it was done unjustly. The reasons presented in the Letter of Elimination Standards are incorrect and discriminatory, and constitute a repetition of the reasoning of the decision dated 15.09.2025, which we have opposed through the request for reconsideration and which the Contracting Authority itself had accepted as well-founded.

Our request for reconsideration was rejected arbitrarily, without legal support and in violation of our right to equal competition.

Claim 1

The operator recommended for the contract “EING COM” Sh.P.K.”, in the notification dated 22.01.2026, was declared the winner even though in two previous decisions dated 15.09.2025 and 01.10.2025 it had been eliminated.

This operator is irresponsible, as it does not meet the criteria of the Tender Dossier and is in contradiction with Decision no. 2025/0006 of the PRB.

Specifically, the operator is in contradiction with:

Criterion No. 2

Criterion No. 3, point 3.1

This is because it has not engaged architects according to the requirements of the Tender Dossier.

Criterion No. 2 requires that the Contract Manager be a Master or Engineer of Architecture or Construction - constructive, while criterion 3.1 requires a graduate Engineer of Architecture (or Master) as part of the list of professional staff.

From the list of staff presented, it results that the operator has engaged only one architect, Ms. Ilirjana Azizi Mejzini, whom it has appointed as Contract Manager, while architect Zgjim Lepaja has only a Bachelor of Architecture, therefore he does not meet the requirements of the Tender Dossier for Master level and professional experience after graduation.

Consequently, the operator does not meet criterion 3.1, as one of the two required architects with Master level is missing.

Claim 2

In reviewing complaints 1000/25 and 1012/25, we consider that the Review Expert did not compile the report based on real facts and allegations, but interpreted the Law on Relations and Obligations, even though neither party requested such an interpretation.

With this action, he has gone beyond his legal competence (*ultra vires*).

We request that during the review of this complaint, the expert's report be prepared in an objective and impartial manner, based on Decision No. 0006/2025 of the PRB.

Claim 3 - Conflict of Interest

The Contract Manager Ms. Ilirjana Azizi Mejzini, engaged by the operator “EING COM” Sh.P.K., is in conflict of interest with the Contracting Authority - MCYS.

According to her CV, she was employed as an Architect in the Division of Integrated Management and Cultural Tourism at MCYS, during the period November 2022 - December 2023.

In accordance with Article 18 paragraph 1.3 of Law No. 06/L-011 on the Prevention of Conflict of Interest, a former public official cannot represent or assist an economic operator in business

relations with the institution for a period of up to two (2) years after the end of the public function.

Since the contract notice was published on 04.08.2025, her engagement by the economic operator constitutes a conflict of interest.

#### Claim 4 - Failure to meet staff criteria

The recommended operator does not meet Criterion No. 4, which requires the presence of at least 20 professional and support staff.

The documents submitted show that the staff list, contracts and CVs are contradictory, creating inaccuracies regarding the actual staff positions.

Some of these contradictions are:

Fexhri Podvorica - on the list plasterer, on the contract laborer

Venhard Oruqi - on the list sheet metal worker, on the contract driver

Visar Bajgora - on the list manual worker, on the contract general foreman

Fisnik Bislimi - on the list manual worker, on the CV master facader/painter

Muhamet Lahi - on the list manual worker, on the contract master paint

Hyzri Mehmeti - on the list manual worker, on the CV welder, on the contract general foreman

Afrim Pervetica - on the list manual worker, on the contract electrician

These contradictions show that the operator does not have a clear and defined staff according to the requirements of the

Tender Dossier, therefore it is administratively irresponsible.

#### Claim 5 - Employment contracts in violation of the Labor Law

Operator "EING COM" Sh.P.K." has submitted employment contracts in violation of Article 57 of the Labor Law, which regulates the minimum wage.

Examples:

Visar Bajgora - monthly salary €250, full-time contract

Fisnik Bislimi - monthly salary €300, full-time contract

These contracts are in violation of legal provisions and there is a reasonable suspicion that they may be fictitious contracts.

#### Claim 6

Operator "FRONI 1" Sh.P.K." does not meet the criteria for professional staff, as it lacks a Civil Engineer - constructive, according to the requirements of the Tender Dossier.

Claim 7 - Unfair elimination of EO "TONI O.P."

The reasons for our elimination are the same as those of the decision dated 15.09.2025, which were previously accepted as unfounded by the Contracting Authority itself.

The contracts that were mentioned as active in the decision have already been completed, such as:

Conservation of the Ymer Poga Tower - completed on 30.09.2025

Emergency interventions in cultural heritage sites in Prizren - completed on 05.06.2025

Restoration of the Astrit Kryeziu Tower - works have been completed and a request for technical acceptance has been submitted

Therefore, according to criterion no. 7, the person in question is not engaged in active contracts.

Response to the request for reconsideration:

After reviewing your claims, the Contracting Authority provides the following responses:

Response to the first claim:

Each tender evaluation is independent and carried out impartially, respecting the fundamental principles of public procurement. In this case, the evaluation process was treated equally for all participating economic operators. The Economic Operator recommended for the contract meets criteria no. 2 and no. 3, as set out in the Tender Dossier. Consequently, the Contracting Authority is not in conflict with Article 7 of the Law on Public Procurement (LPP), which guarantees equality of treatment and prohibits discrimination.

Response to the second claim:

The contract manager, Ms. Ilirjana Mejzini, appointed by the winning EO "EING SH.P.K.", does not constitute a conflict of interest. This finding is based on the Law on Prevention of Conflict of Interest, which clearly defines the cases when a conflict of interest may be considered to exist. In this case, its engagement does not conflict with the legal provisions and does not affect the impartiality of the evaluation process or the implementation of the contract. Response to the third claim: The Economic Operator recommended for the contract meets criterion no. 4 by submitting the necessary documentation, which proves compliance with the requirements set out in the Tender Dossier. The assessment carried out by the Evaluation Commission has confirmed that this criterion has been fully met.

Response to the fourth claim:

Regarding the contracts submitted by "EING SH.P.K.", the Contracting Authority does not have the competence to control the contract values or the amount of salaries of the engaged staff.

The evaluation is made only on the basis of the criteria set out in the Tender Dossier, focusing on the fulfillment of the technical and professional requirements and not on the internal financial aspects of the economic operator.

Response to the fifth claim:

All criteria set out in the Tender Dossier have been respected and verified during the bid evaluation process. The Evaluation Commission has reviewed the documentation submitted by the economic operators and has concluded that the EO recommended for the contract meets the requirements set out in the tender documentation.

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 13.02.2026 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 2026/0093, while on 26.02.2026 the review expert's report with no. 2026/0093 was submitted, with the following recommendations: Based on the above-mentioned clarifications, the review expert proposes to the review panel that the complaint of the complaining EO be approved as partially grounded while the decision of the CA remains in force. The expertise report has been duly accepted by all procedural parties. The CA did not respond to the recommendations of the review expert's report, while the EO did not agree with the review expert's report.

The review panel has assessed that the conditions have been met to decide on this case without a hearing session 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 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 documents and documents of the Contracting Authority, the relevant documents related to the procurement activity and all the evidence proposed by the procedural parties. Regarding the claims of EO TONI O.P., the review expert through report no. 2026/0093 has assessed as follows:

Claim no.1

The complaining EO claims that the reason for the elimination according to the CA:

“Your tender has been rejected for these reasons: in the request of the Tender Dossier - Criterion number 7. The EO must ensure that there are no more than three active contracts with the MCYS of the same nature, respectively in the dynamic work plan the same licensed architect or licensed master cannot be engaged in more than three other contracts of the same nature. And 7. If the EO competes in several restoration projects in the dynamic work plan the same licensed architect or licensed master cannot appear in more than three contracts engaged at the same time (same calendar dates). You do not meet this criterion because you have engaged a Master with License A2-3 in more than three contracts. Master with License A2-3 (Mr. Sh.B.) is engaged in these contracts: 1. Conservation Restoration of the Ymer Poga Tower - Rugova e Hasit, Emergency interventions in Cultural Heritage objects in the Prizren Region, 3. Restoration and Conservation of the Astrit Kryeziu (Tosun Bey) Tower, 4. Conservation and restoration interventions in the

Ymer Elshani House in Drenas 5. Restoration and Conservation - Astrit Kryeziu - Tosun Bey Tower in Gjakova.

In rejecting the request for reconsideration, the CA states that:

“After reviewing your claim, Response to the first claim: Each tender evaluation is independent and carried out impartially, respecting the fundamental principles of procurement. In this case, the process in which the evaluation was carried out was treated equally for all participating economic operators. The EO recommended for the contract meets criteria no. 2 and no. 3, as set out in the Tender Dossier. Consequently, the Contracting Authority is not in conflict with Article 7 of the Law on Public Procurement (LPP), which guarantees equality of treatment and prohibits discrimination. Response to the second claim: The contract manager, Ms. Ilirjana Mejzini, appointed by the winning EO “EING SH.P.K.”, does not constitute a conflict of interest. This finding is based on the Law on Conflict of Interest, which clearly defines the cases when a conflict can be considered to exist. In this case, her engagement does not conflict with the legal provisions and does not affect the impartiality of the evaluation process or the implementation of the contract. Response to the third claim: The Economic Operator recommended for the contract meets criterion no. 4, by submitting the necessary documentation proving compliance with the requirements set out in the Tender Dossier. The assessment made by the Commission has confirmed that this criterion has been fully met. Response to the fourth claim: Regarding the contracts submitted by "EING SH.P.K.", the Contracting Authority does not have the competence to control the values of the contracts or the amount of salaries of the staff engaged. The assessment is made solely on the basis of the criteria set out in the Tender Dossier, focusing on the fulfillment of the technical and professional requirements, not on the internal financial aspects of the economic operator. Response to the fifth claim: All criteria set out in the Tender Dossier have been respected and verified during the review process. Based on the above, your claims are considered unfounded and are rejected in their entirety.”

The review expert, after analyzing the case files, in particular the request for reconsideration and the appeal to the PRB, gives the opinion that the contracts for which the complaining EO claims to be completed cannot be taken as a basis for eliminating the complaining EO since the request of the dossier limits the staff not to be involved in three (3) “active” contracts. Based on the above, we assess that the complaining claim is well-founded even though there is no technical acceptance for one contract, if the other contracts highlighted by the EO are indeed completed/closed, the complaining EO is still in compliance with the requirements/limitations of the tender dossier. Claim no.2

Regarding the complaint claims against the EO now recommended for a contract regarding the architect/architects, the review expert clarifies that this issue has been addressed [through PRB decisions no. 1000/25 and 1012/25, consequently we assess that this is a decided issue and that the complaint claim at this point is not grounded.

Regarding the complaint claims of the complaining EO referring to PRB decision 06/2025, we clarify that this decision primarily concerns another procurement activity, and also (according to the expert's opinion) is not a situation or circumstance identical to the concrete case.

For this procurement activity and this concrete issue, the decisions of PRB no. 1000/25 and 1012/25 are relevant.

Claim n.3

Regarding the complaint claims regarding staff/workers, the review expert explains that the requirements of the tender dossier were: “4.6. At least 10 workers in various jobs, such as tilers, plasterers, installers, roofers, sheet metal workers, welders, etc.”

While the documentary evidence regarding this request was:

“For staff number 4.6, they must have at least 3 years of work experience (to be proven with a CV signed by the employee) and an Employment Contract or Pre-contract (signed by both parties and stamped by the EO).”

In the specific case, for the ten employees “in various jobs”, (unlike other professional positions) no evidence was requested regarding the qualifications/skills of these employees, such as a certificate, diploma, or any other document that proves the qualifications of the staff in various jobs, consequently the review expert gives the opinion that this cannot be used as a reason for eliminating the EO and the complaint claim is unfounded.

-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 has been found that the complaining claims are partially grounded. Based on the factual situation established as above, the Review Panel has given full credence to the findings and recommendations in the report of the review expert. Consequently, the Review Panel has found that the claims of the complaining economic operator are partially grounded.

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 complaint claims, taking into account all the case files and the expert's recommendations, has found that the complaint of the Economic Operator should be approved as partially grounded. Consequently, the Review Panel has decided to leave in force the Notice on the Decision of the Contracting Authority MINISTRY OF CULTURE OF YS AND ÇJK, regarding the procurement activity “Restoration and conservation interventions in the Çoku Mosque in Junik and the Orllani Mosque in Podujeva” with procurement number 207-25-7067-5-1-1.

The Review Panel has decided in accordance with the legal competences in terms of Article 104, paragraph 1, in conjunction with Article 103, Article 105 and Article 117 of the LPP for the implementation of 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 that may arise during a procurement activity.

For points I and II of the decision, it was decided based on Article 117 of the LPP in conjunction with Article 29 of the PRB Rules of Procedure.

For point III of the decision, it was decided based on Article 31, paragraph 5 of the PRB Rules of Procedure in conjunction with Article 118 of the LPP.

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

**President of the Review Panel**

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**Mr. Vedat Poterqoi**

**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 – MINISTRY OF CULTURE OF YS AND ÇJK;

1x1 EO – **TONI O.P.**;

1x1 Archive of the PRB