



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

Psh. No.399/26

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 (LPP) composed by Vedat Poterqoi - President, Isa Hasani – Member, Batisha Ibrahimimi - Member, deciding on the appeal of the Economic Operator (EO) Smart X Industries” SH.P.K. against the Contract Notice or with tender documents related to the procurement activity “Supply of civilian clothes for officials” with procurement number: 214/30400-26-2381-1-1-1, initiated by the contracting authority (CA) Kosova Police, on the 04/08/2026 has issued this:

DECISION

1. Refused, as ungrounded the complaint of the EO Smart X Industries” SH.P.K. with no. 2026/0399, dated 19/06/2026 regarding the procurement activity “Supply of civilian clothes for officials” with procurement number: 214/30400-26-2381-1-1-1, while (AK) Kosovo Police is allowed to continue with the procurement activity.
2. The confiscation of the complaint fee in the amount deposited by the complaining economic operator is ordered based on Article 31, paragraph 5 of the PRB Rules of Procedure, while the funds are transferred to the budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

Kosova Police in the capacity of Contracting Authority has published the Contract Notice regarding the procurement activity “Supply of civilian clothes for officials” with procurement number: 214/30400-26-2381-1-1-1.

On the 04.06.2026 EO “Smart X Industries” SH.P.K. has submitted a request for review against the abovementioned decision of the CA. The Contracting Authority has rejected the request for review as unfounded.

PRB has received the complaint from EO “Smart X Industries” SH.P.K. with no. 0399/2026 regarding the procurement activity “Supply of civilian clothes for officials” with procurement number: 214/30400-26-2381-1-1-1.

-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 “Smart X Industries” SH.P.K. are presented as follows:

Dear Sirs,

On 30.04.2026, the tender for “SUPPLY OF CIVIL CLOTHES FOR POLICE OFFICERS” was published. After the analysis we have made of the tender dossier and the technical specifications for this procurement activity, we have come to the conclusion that the dossier and the technical specifications have not been drafted in accordance with the legal provisions of the LPP, since discriminatory and unclear specifications have been established, therefore our complaint claims are as follows:?

Initially, we are clarifying that from the analysis we have made in the procurement, we have noticed that the CA has published a decision on the rejection of the request for reconsideration of an economic operator.? From the analysis we have made of the CA’s decision, we have noticed that the contracting authority has allowed the tender to be submitted with polyester material instead of polyamide material. The contracting authority in this case has acted in contradiction.

In Article 24 paragraph 7 of Regulation No. 001/2022 on Public Procurement, which clearly specifies “If before the deadline for submission of tenders, it becomes necessary for the CA to change or improve the Tender Dossier, the Price List, the data in the contract notice, to extend the deadline for submission of tenders, then the changes or improvements by the CA are made only by preparing and publishing the Notice for additional information or correction of errors using the standard form B54”. The Contracting Authority, after allowing to offer with polyester material, but not notifying all EOs through the standard form for correction of errors, has created uncertainty and unequal treatment of economic operators. The economic operator that has accepted the response has been notified that polyester material is also allowed, while other operators have remained oriented by the request of the Tender Dossier which provides for

polyamide material. If we had not analyzed the CA's decision, we would not have been aware of this change. Therefore, such a change should have been officially published through form B54 and the amendment of the Tender Dossier, so that all economic operators would be informed equally. Therefore, we request that such a change be made in the tender dossier as well, so that all EOs are informed of such changes.? In the above-mentioned decision, we have noticed that the CA has noted “The EO during the provision of samples must also bring the color code catalog”. In this case too, the CA has acted in violation of the above-mentioned provision, since EOs who have not analyzed the response that the CA has given to the EO that has submitted a request for reconsideration at the time of the tender would be eliminated if they did not present the color code catalog. We, as a company, consider that such clarification is unnecessary, as this requirement is already defined in the technical specifications, which require that a catalog be provided for the items and that the catalog specify all types of colors according to the relevant codes. Consequently, we consider that the requirement foreseen in the Tender Dossier is sufficient and there is no need for additional requirements or interpretations that may create ambiguities during the implementation of the procedure. In the tender dossier, in the technical specifications for the items: ELEGANT CLOTHES [KAT] FOR POLICE OFFICERS and SUITS FOR POLICE OFFICERS/INVESTIGATORS, the tolerance of the material is specified as $\pm 3\%$, while for other products the tolerance is specified as $\pm 5\%$. We request that a tolerance of $\pm 5\%$ be allowed for all requested items, since it is unclear and incomprehensible why a tolerance of $\pm 5\%$ is allowed for trousers, while for suits and coats only a $\pm 3\%$ tolerance is allowed.? Also, since a tolerance of $\pm 5\%$ is allowed for the suit and the floor for police officers, we request that the composition of the materials be specified precisely through the minimum and maximum allowable intervals for each component of the material. We request that the Contracting Authority clarify the method of application and calculation of the tolerances set for the composition of the materials. For example, for the requirement “70% wool, 26% polyamide/polyester, 4% elastane with a tolerance of $\pm 5\%$ ”, will the composition of 65%-75% wool, 21%-31% polyamide/polyester and 1%-9% elastane be considered acceptable, or will the tolerance be calculated in some other way? The current specification does not clearly indicate the method of calculating the tolerance, which may lead to different interpretations by economic operators and during the evaluation of samples.

Therefore, we request that the CA clearly clarify this requirement and allow a tolerance of $\pm 5\%$ for the floor and the seat. At the same time, we request that the weight of the material be determined, where the ideal weight for the product ELEGANT CLOTHES [FLOOR] FOR POLICE OFFICERS is 235-265 g/m²? In the decision on the request for review published in the procurement by the contracting authority, we have noticed that the EO that submitted a request for review regarding the technical specifications requested: Trousers for police officers/investigators to have a composition of: 86% wool, 10% polyamide, 4% elastane ($\pm 5\%$); While for the other product it was requested: Suit for police officers/investigators to have a composition of: 70% wool, 26% polyamide, 4% elastane ($\pm 3\%$); The CA justified that the reason why the material of the trousers and suit changes is because these are combined with each other and are not like a clothing set and must be adapted for police needs. According to the above, we as the EO also think that the composition of the material of the trousers and suit should be the same, but only the weight of the material should change. Considering the climatic conditions of

the Republic of Kosovo and the fact that police officers use these garments for long periods of time during the day, we do not recommend the use of compositions with a high percentage of wool for daily use. Wool-based materials are more suitable for ceremonial or formal use and usually do not provide optimal comfort during continuous use for more than 4-5 hours. For this reason, we recommend that for everyday jackets and trousers the composition be allowed: • 60-70% polyester; • 25- 35% viscose; • 1-10% elastane; While for the weight, we recommend that it be specified as follows: For trousers: 270-285 g/m², while for the suit: 310-330 g/m². Our recommendation ensures high comfort during prolonged use, better ventilation of the material, increased durability against wear, as well as an elegant and professional appearance. It also contributes to easier maintenance of the clothing, making it more practical for daily use in various operating conditions. Based on the above clarifications, we request that the composition of the material of the trousers be the same as the composition of the material of the suit, while the only difference between them is the weight of the material. This would ensure a more unified approach to the technical specifications and would enable wider participation of economic operators in the procurement procedure. At the same time, for the trousers, we request that the requirement be specified that the trousers be produced without a final finish at the bottom, because this would enable users to individually adjust to the required length. In the product SHIRT FOR POLICE OFFICERS/INVESTIGATORS, the composition is marked: 75% cotton, 25% polyester tolerance +-5%. We request that the composition of the shirt be changed to 55-65% cotton and 35-45% polyester, as this composition provides a higher level of comfort, breathability and moisture absorption compared to the 75% cotton and 25% polyester composition. Meanwhile, the 35-45% polyester content continues to guarantee the durability, wear resistance and dimensional stability of the shirt.

For this reason, the composition of 55-65% cotton and 35-45% polyester represents a better balance between comfort and technical performance of the material, therefore we request that our complaint claim be taken into account by the CA. At the same time, we request that the technical specifications for the aforementioned product be met with the minimum requirements for Wrinkle Recovery according to the ISO 2313 testing standard with the following requirements: hem slope - min. 100°/weft - min. 100°. We also consider that the weight of the shirt material should be determined, as this is an essential characteristic that affects the quality, comfort and durability of the product. For this purpose, we recommend a weight of 110-130 g/m², which is considered suitable for daily and long-term use.

The CA has noted in the tender dossier: The delivery deadline shall be 60 days. We, as a company interested in bidding in this procurement activity, clarify that based on industrial experience and the real deadlines for the production of institutional textile materials, consider that this deadline is not feasible. The process of developing and producing textile materials alone usually requires a minimum of: 60 days. This is followed by Dyeing of materials Technical treatments Laboratory tests Sewing process/Quality control; Packaging International transport. Considering that these garments are not produced from stock but are developed and produced specifically for the Kosovo Police, we recommend that the minimum delivery deadline

be: 160 days. This deadline would ensure quality production, adequate testing and successful supply according to the required standards. To confirm the fact explained above, we are also presenting confirmation from a manufacturer who deals exclusively with the production of elegant clothes.

We request that in all cases where certain laboratory or technical standards are specified, equivalent international standards be accepted. For example: ISO, EN, DIN, ASTM, AATCC or other internationally recognized standards that prove the same level of performance. This request of ours is in accordance with the principles of free competition and equal treatment of economic operators.? In the technical specifications, it is requested that the EO should provide accurate measurements by taking measurements for each police officer who is supplied with civilian clothes, about 2,800 officers. We recommend that detailed measurements be carried out for about 180 officers representing different body types. Based on these measurements, a standard system of sizes and “drop sizes” can be developed, according to international practices of the professional clothing industry and at the same time the cost will be reduced, so the EO will offer at a cheaper price.? We as a company also recommend that after the winner is announced, a PPS (Pre-Production Sample) phase be allowed before the start of mass production. This procedure allows:

Verification of materials; Verification of colors; Verification of construction; Verification of sizes; Elimination of errors before production. This practice is widely used in international police and military contracts, therefore we request that our request be taken into account. - In relation to our complaint claims, the contracting authority on 09.06.2026 has published the decision on the rejection of the request for reconsideration, where the same in this decision has in no way been able to prove the opposite of our complaint claims, but has given some completely unfounded and unsupported reasonings. Regarding our complaint claim where we have stated that the CA has not published the standard form for the correction of errors even though it has made changes to the tender dossier where it has approved a claim to an economic operator, the CA has justified that there was no correction due to the fact that the deadline for submitting bids has been over 10 days and the interested parties have had access to the request for reconsideration and the decision on refusal of that company. Such a finding of the contracting authority is unsustainable and not based on legal provisions, because such a reasoning does not find support in Article 24 paragraph 7 of Regulation No. 001/2022 on Public Procurement. This provision clearly states that any change or improvement of the Tender Dossier shall be made only through the publication of the Notice for Additional Information or Correction of Errors (form B54), without providing any exception for cases where more than 10 days remain until the deadline for submission of bids. In the specific case, allowing polyester material in addition to the polyamide material provided for in the Tender Dossier constitutes a change in the technical specifications, while the access of economic operators to the request for review and the decision of the CA cannot be considered an official notification nor replace the publication of form B54. The lack of formalization of this change has created unequal treatment between economic operators and has violated the principle of transparency, since at the moment the decision states that the request for review is rejected, then the EO may not analyze the decision at all because the rejection implies non-approval of any of the claims.

Regarding our complaint regarding the allowed tolerances, the CA has reasoned that the technical specifications drafted by the CA have not been adapted to any manufacturer and the specifications have sufficient tolerances, therefore our request for changing the tolerance from $\pm 3\%$ to $\pm 5\%$ for all items and not just for certain items is rejected. While regarding the complaint claim where we have requested changes to the technical specifications and parameters, the CA has noted that the request from the commission for drafting the technical specifications is rejected, because the specifications were drafted to adapt to the work of the officials who were dedicated. As for the CA's response regarding our complaint claims regarding tolerances and technical parameters, we consider that the CA has not addressed our claims in a concrete and reasoned manner, but has deviated from their essence by giving a general response. Specifically, we have requested that the CA justify why a tolerance of $\pm 3\%$ has been set for the items Elegant Clothes [Floor] for Police Officers and Suits for Police Officers/Investigators, while a tolerance of $\pm 5\%$ has been allowed for other items, including trousers. We have also requested clarification of the method of calculating these tolerances, as the current specification does not make it clear whether the tolerance is calculated for each component of the material or in some other way, which could lead to different interpretations and unequal assessment of the samples. However, the CA has not provided any clarification on these issues, but has limited itself to the general statement that the specifications are not tailored to any manufacturer and that the tolerances are sufficient. Such a response does not respond at all to our claim, as we have not claimed that the specifications were drafted for a specific manufacturer, but have requested the technical and professional basis on which different tolerances for different items have been determined. With this action, the CA has violated Article 108/A of the LPP, because it has not responded in a concrete manner to our complaint claims, but has satisfied itself with general justifications that do not argue the contrary of our complaining claims. Also, regarding the technical parameters specified in the tender dossier, we have presented concrete arguments and technical recommendations, requesting that the material composition of the trousers and the suit be the same and that the difference between them be made only through the weight of the material. This claim was also presented taking into account that the CA itself, in its response to another economic operator, has reasoned that the trousers and the suit are combined with each other and must be adapted for police needs. However, despite this reasoning, the CA has determined for the trousers the composition of 86% wool, 10% polyamide and 4% elastane with a tolerance of $\pm 5\%$, while for the suit the composition of 70% wool, 26% polyamide and 4% elastane with a tolerance of $\pm 3\%$, without providing any technical or professional justification as to why two items that, according to the CA itself, are combined with each other and are part of the same set should have different material compositions and different tolerances. Instead of addressing this contradiction and presenting any analysis or professional basis that justifies these differences, the CA has limited itself to the general statement that the specifications were drafted to adapt to the work of police officers. Furthermore, we have presented concrete recommendations regarding the composition of the materials, their weight, as well as other technical characteristics, arguing that these recommendations aim to ensure the highest comfort during daily use, better sustainability and increased competition between economic operators. However, the CA has not addressed any of these arguments and has not presented any analysis, study, professional report or any objective basis on which the current parameters have been determined. On the contrary,

its response has been limited to general findings, without concretely opposing the arguments presented by us.

Therefore, in conclusion, we consider that the CA has failed to prove the contrary of our complaint claims with evidence, analysis or professional reasoning, but has deviated from their essence by providing general answers, without addressing the specific issues raised by us. The failure to provide a technical justification for the difference in tolerances, the lack of clarification on the method of their calculation, as well as the discrepancy between the CA's own reasoning that the trousers and suits are combined with each other and the different specifications set for these items, indicate that the rejection of our claims is not based on objective and professional analyses, but only on general findings, which cannot be considered as a complete and reasoned treatment of our request for reconsideration. - As for our claim regarding the delivery deadline of 60 days, we consider that the CA has not provided any technical or professional justification on the basis of which it has concluded that this deadline is sufficient. In our complaint we have explained that the requested clothing is not produced from stock, but is developed and produced specifically according to the requirements of the Kosovo Police, a process which includes the development and production of the material, dyeing, technical treatments, laboratory testing, the sewing process, quality control, packaging and international transport. Furthermore, we have also submitted written confirmation from the manufacturer YUNSA, a specialized manufacturer of materials for institutional clothing, which has explained that the development and production of customized materials alone requires at least 120 to 150 days under normal industrial conditions and that a deadline of 60 days is considered extremely challenging to achieve. Although we have proven our complaint claim with concrete facts, the CA has not addressed the arguments and evidence presented by us, including the confirmation of the manufacturer, but has been satisfied with the general finding that the delivery deadline is sufficient, without presenting any analysis, professional opinion or technical basis that would contradict our claims. Consequently, the rejection of this claim was made without an objective and reasoned assessment, leaving unaddressed the fact that the 60-day deadline may limit competition and favor economic operators that possess ready stock or immediate access to previously produced materials. - Regarding our complaint claim for the acceptance of equivalent international standards, the CA has deviated from our claim itself, reasoning that the required standards are necessary to guarantee quality and that they do not favor any manufacturer. We have not contested the need for testing nor the importance of the required standards, but we have requested that in addition to the specified standards, other equivalent international standards be accepted, which demonstrate the same level of performance and quality. Consequently, the CA's reasoning does not address the essence of our claim and does not provide any explanation as to why equivalent standards, such as ISO, EN, DIN, ASTM, AATCC or other internationally recognized standards, cannot be accepted. Furthermore, the CA has not presented any analysis or technical argument that would prove that only the standards requested in the dossier cannot prove the required parameters, while other equivalent standards would not guarantee the same level of quality. - In relation to our claim of complaint regarding the method of measuring police officers, the CA has only concluded that the request remains unchanged and that economic operators must adhere to the tender dossier and contract notice. Such a response does not constitute an address of our claim, as we have presented a recommendation based on

international practices of the professional clothing industry, proposing that detailed measurements be carried out for a representative number of officials and on this basis a system of sizes and “drop sizes” be developed. This approach would enable cost reduction and consequently a more economical offer for the Contracting Authority. However, the CA has not presented any technical, economic or professional analysis with which It would oppose this claim, but limited itself to a general statement, without providing any justification as to why the individual measurement of around 2,800 officials is considered the most appropriate and economical solution. - Also regarding our recommendation to allow the PPS (Pre-Production Sample) phase, the CA has not provided any concrete position, although this practice is widely used in international police and military supply contracts and serves to eliminate errors before the start of mass production. In conclusion, the reasoning of the contracting authority regarding the rejection of the request for review is unsustainable and not based on concrete legal provisions, moreover, it is a discriminatory decision, since such reasoning is preventing companies interested in this procurement activity from bidding. These requirements are in complete conflict with Article 7 of the LPP, namely paragraphs 1, 2, 3 and 6. Paragraph 1 of Article 7 clearly provides that “The contracting authority shall treat economic operators equally and non-discriminatory and shall act in a transparent manner”. With these requirements, not that there cannot be equal treatment of economic operators, but there will be open discrimination and determination of the winner from the start of this procurement activity, without open competition. Paragraph 6 of the provision of Article 7 clearly provides: In conducting procurement activities, all contracting authorities shall ensure; (i) the widest possible participation of interested economic operators regarding the price and subject matter of the procurement. These requirements do not enable broad participation of economic operators, but in this way competition is excessively limited and these requirements are directly inconsistent with the price and subject matter of the procurement because when competition is limited with unnecessary requirements, the bidding price of the automatically favored economic operators is much higher because they have no competition and in fact the price is determined by the contracting authority based on the requirements of the tender dossier. Based on all the evidence and our objections mentioned above, it results that you as the contracting authority have not compiled the tender dossier in accordance with Article 27 of the LPP and at the same time you have not taken into account Article 17.7 of Regulation No. 001/2022 on Public Procurement, which clearly states that “The tender dossier shall be prepared in a manner that does not: Limit competition among EOs, or Discriminate against or act in favor of one or more EOs”. Based on all those discriminatory-favoring requirements and on those required evidence, it results that in this way the purpose of the LPP cannot be achieved, as provided for in Article 1 of this Law, which clearly states: The purpose of this Law is to ensure the most efficient, transparent and fair way of using public funds, public resources and all other funds and resources of contracting authorities in Kosovo. The aforementioned requirements contradict Article 7, paragraphs 1, 3, 4 and 6 of the LPP, because these paragraphs clearly stipulate that economic operators cannot be discriminated against in any way and in any variant. Therefore, the requirements that we contested above should be removed/changed in order to have a normal procurement activity and not to discriminate/favor certain companies.

The requirements that were objected to above are very favorable/discriminatory and at the same time close the doors of bidding to many companies with experience in this field and these requirements also contradict Article 25.4 of Regulation No. 001/2022 on Public Procurement, because it clearly states that "When determining the minimum qualification requirements, the CA will pay special attention to the development of the EO and will formulate the minimum qualification requirements in a way that does not exclude newly established EOs that possess reasonable and sufficient economic, financial and/or technical capabilities".

Based on Article 111 paragraph 5 in conjunction with Articles 113 and 114 of the LPP, the Procurement Review Body on date 23/06/2026 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 0399/2026, while on 06/07/2026 the review expert's report with no. 2026/0399 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 is rejected as unfounded and the CA is allowed to continue with the procurement activity.

The review panel has assessed that the conditions have been met to decide on this case without a hearing session within the meaning 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 fully establish the factual situation, the review panel has administered as evidence the expert report, the opinions of the parties regarding the expert report, the submissions and documents of the complainant, the letters 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 “Smart X Industries” SH.P.K. the review expert through report no. 2026/0399 has assessed as follows:

Response to Claim No. 1

The complaining EO, „Smart X Industries SH.P.K” claims that the Contracting Authority, the Kosova Police, has not respected Article 1 of the LPP.

The expert emphasizes that, among other things, the purpose of this article is to instruct contracting authorities to ensure a more efficient, more transparent and fairer use of public funds, by determining the conditions, rules, procedures to be followed, the rights to be respected and the obligations to be fulfilled, as well as to ensure the integrity and responsibility of public officials.

The CA has treated the request for reconsideration of the complaining EO as unfounded, on the grounds that the criteria and specifications provided for in the contract notice and the tender dossier are not in conflict with the provisions mentioned by the complaining EO.

The EO claims that the Contracting Authority has changed the technical specifications during the procedure (allowing alternative material) without officially changing the Tender Dossier and without publishing the relevant annex.

Alternative material was allowed only through responses on the platform, without formal change of the documentation, however the CA has provided a response that has been uploaded to the electronic e-procurement platform and is accessible to all economic operators, because you yourself are emphasizing that you have read the response that the CA has allowed to offer also with Polyester material. The expert is of the opinion that the claim of the complaining EO does not stand.

Therefore, the expert finds that this claim is unfounded.

Response to Claim No. 2

The complaining EO, Smart X Industries SH.P.K., claims that the Contracting Authority, the Kosova Police, has not respected Article 7 of the LPP.

The expert emphasizes that, among other things, the purpose of Article 7 of the LPP is to instruct contracting authorities that they must treat all economic operators equally without discrimination and with transparency, during the conduct of procurement procedures.

The claim of the complaining EO: that the CA has violated Article 7 of the LPP

The expert clarifies that, as far as the claim of the complaining EO is concerned, it is unfounded because during the examination of the case and the requirements provided for in the contract notice and tender dossier, no discrimination or favoritism of any economic operator was observed.

Therefore, the expert clarifies that the claim is unfounded.

Response to Claim No. 3.

The complaining EO “Smart X Industries SH.P.K” claims that the Contracting Authority, the Kosovo Police, has violated Article 27 of the LPP and Article 17.7 of Regulation No. 002/2024 on Supplementing and Amending Regulation No. 001/2022 on Public Procurement (Consolidated Version).

The Expert emphasizes that, among other things, the purpose of this Article is to instruct contracting authorities on how to prepare a tender dossier that provides relevant information regarding the contract in question, including all its material terms and conditions, the applicable procurement procedures, any applicable eligibility requirements or selection criteria, the appeal procedures, and other relevant information as required by this law or as deemed necessary by the contracting authority.

If the relevant procurement activity requires the publication of a contract notice, the tender dossier shall contain a copy of such notice and such other relevant information as may be necessary to clarify and supplement the information contained in such notice. The contracting authority shall specify in the tender dossier the applicable technical specifications and, where

appropriate, the performance requirements, the possibility of variants and information regarding subcontracting in accordance with Articles 28, 29, 30 and 31 of this Law.

While among other things the purpose of article 17.7 is to quote:

Part C, Bid Submission Form, is the main part of the tender, because in this part the tenderer declares that he has checked and accepts all the conditions of the tender and submits his financial bid. Part C consists of: - Tender Form - Price List.

From the examination of the tender dossier it results that the Contracting Authority has determined for each item the composition of materials, technical parameters, tolerances and laboratory testing requirements. The dossier contains detailed specifications and requires that the offers be in accordance with them.

From the complaint it results that the EO objects to:

- the composition of some materials;
- the specified tolerances;
- the requirements for certifications and laboratory testing;
- some technical parameters that, according to him, may limit competition

On the other hand, in the decision for review, the Contracting Authority has reasoned that:

- the technical specifications have been drafted by the professional commission according to the functional needs of the Kosova Police;
- the technical requirements have not been drafted to favor any economic operator;
- the tolerances and testing have been determined to guarantee the quality and durability of the goods.

After analyzing the available documentation, it does not appear that the mere existence of detailed specifications constitutes, in itself, a violation of Article 27 of the LPP or Article 17.7 of the Regulation. The Contracting Authority has the right to determine the technical characteristics of the goods it intends to purchase, as long as they are related to functional needs and do not unreasonably restrict competition.

After reviewing the complaint of the Economic Operator, the tender dossier and the decision of the Contracting Authority, it is found that the majority of the complainant's claims consist of technical recommendations regarding the composition of materials, tolerances, laboratory standards, the method of taking measures, the PPS (Pre-Production Sample) phase, the delivery deadline and the technical parameters of the items.

According to Article 27 of the Law on Public Procurement, the Contracting Authority is responsible for drafting the technical specifications in accordance with the functional needs of the institution, respecting the principles of competition, proportionality and non-discrimination. Also, Article 17.7 of Regulation No. 001/2022, as amended by Regulation No. 002/2024,

prohibits the drafting of tender documents in a manner that unreasonably restricts competition or favors certain economic operators.

It does not appear from the documentation administered that the Contracting Authority has drafted the technical specifications by referring to a specific manufacturer, brand or economic operator. On the contrary, in the decision on the request for review, the Contracting Authority has reasoned that the specifications were drafted by the professional commission based on the operational needs of the Kosova Police.

As regards the claim that the Contracting Authority did not provide sufficient technical justifications for the rejection of the request for review, the expert assesses that the reasoning of the decision is in some parts general and does not specifically address each technical argument presented by the complainant, such as the method of calculating the tolerances, the reasoning for the difference between the tolerances of $\pm 3\%$ and $\pm 5\%$, or the analysis regarding the technical recommendations of the economic operator. However, the lack of a more detailed reasoning does not automatically mean that the technical specifications are unlawful, if they are based on the functional needs of the Contracting Authority. Therefore

Regarding the claim for the acceptance of equivalent international standards (ISO, EN, DIN, ASTM, AATCC, etc.), the expert assesses that, according to the principles of public procurement, when the technical specifications are based on certain standards, the Contracting Authority should also allow evidence or equivalent standards, if they guarantee the same level of performance. If the tender documentation excludes without justification the acceptance of equivalent standards, this should be reviewed by the panel in relation to the principle of competition and proportionality. However, the complaining EO in this case has not achieved that with evidence and that even the permission by the CA with equivalent standards have the same level of performance. Therefore, the complaining claim is also unfounded.

Regarding the claim for the delivery deadline of 60 days, the complainant has submitted a statement by the manufacturer regarding the production time. However, it does not appear from the documentation submitted that a market analysis has been presented which proves that the 60-day deadline is objectively unfeasible for most economic operators. For this reason, the mere submission of a declaration by a manufacturer is not sufficient to prove that the Contracting Authority's requirement restricts competition.

Also, the recommendations for changing the way of taking measures, developing the system of sizes ("drop sizes") and applying the PPS phase before mass production represent technical alternatives and industry practices, but the Public Procurement Law does not oblige the Contracting Authority to accept any technical recommendation of economic operators, as long as the drafted specifications are objectively related to the needs of the contract and are not proven to be discriminatory.

After reviewing the documentation administered, the expert assesses that:

- the claims related to the technical recommendations for changing the composition of materials, weight, measurement method, PPS phase and delivery time are not substantiated, as they represent technical alternatives and not proven violations of the Public Procurement Law;
- the claim that the Contracting Authority did not provide detailed reasoning for some technical issues is partially founded, in the sense that the decision could have been more complete in addressing the appellant's arguments, but this, in itself, does not prove the illegality of the technical specifications;
- the claim for the acceptance of equivalent international standards - However, the complaining EO in this case has not been able to prove that with evidence and that even the CA's permission with equivalent standards has the same level of performance. Therefore, the complaining claim is also unfounded;
- overall, from the evidence administered it does not result that the Contracting Authority has drafted the tender documentation in violation of Article 27 of the LPP, Article 7 of the LPP or Article 17.7 of Regulation no. 001/2022, to the extent that it would justify the cancellation or amendment of the procedure solely on the basis of the claims presented. The contracting authority, in accordance with both articles, acted because it drafted the file with the specifications that the contracting authority needed without favoritism or discrimination. Therefore, the Expert finds that this claim is unfounded.

Response to Claim No. 4.

The Economic Operator "Smart X Industries SH.P.K." claims that the Contracting Authority has acted in violation of Article 69 of the Law on Public Procurement, by not accepting its proposals for changing the technical specifications, tolerances, composition of materials and delivery deadline.

After reviewing the tender documentation, the complaint and the decision of the Contracting Authority, it is established that the claims of the EO are not related to the process of reviewing, evaluating or comparing the offers, but are related to the content of the technical specifications and tender conditions, which were drafted before the deadline for submitting offers.

Article 69 of the LPP regulates the procedure that the Contracting Authority must follow during the review and evaluation of the submitted offers, verifying their compliance with the criteria and requirements set out in the tender dossier. This article does not oblige the Contracting Authority to change the technical specifications and criteria provided for in the contract notice and the tender dossier, where all criteria are in accordance with the public procurement legislation, or to accept the technical recommendations of economic operators during the phase of questions and requests for review.

It does not result from the reviewed documentation that the Contracting Authority has established criteria in the contract notice and the tender dossier in violation of article 69 of the LPP.

The complaining claim of violation of article 69 of the LPP is unfounded,

Response to Claim No. 5.

Regarding the claim for violation of Article 24 and 25 of Regulation No. 001/2022 on Public Procurement

The Economic Operator "Smart X Industries SH.P.K." claims that the Contracting Authority, during the procurement procedure, provided clarifications and responses regarding the technical specifications, tolerances, color catalog, composition of materials and delivery deadline, which according to it should have been reflected through a formal amendment to the Tender Dossier.

The review of the administrative documentation shows that the Contracting Authority has handled the requests for clarification and the request for reconsideration, reasoning that the technical specifications were drafted by the professional commission according to the functional needs of the Kosova Police and that it did not seem necessary to amend them.

Article 24 of Regulation No. 001/2022 regulates the procedure for providing additional information and amending tender documents. When the Contracting Authority's responses or clarifications materially change or supplement the content of the tender documents, they must be reflected through a formal amendment to the documentation and, where necessary, be accompanied by an extension of the deadline for submission of tenders, so that all economic operators are treated equally.

It does not appear from the reviewed documentation that the response regarding the colour code catalogue has created a new requirement, as this requirement was also included in the technical specifications of the tender dossier. To reiterate, no material change is found in this part. Therefore, the Expert finds that this claim is unfounded.

As regards Article 25 of the Regulation, which relates to the content and administration of tender documents and ensuring that economic operators have equal access to relevant information, it does not appear from the documentation that the Contracting Authority has treated economic operators unequally or that it has kept information hidden from participants. The responses and the decision have become part of the procedure documentation and have been available to economic operators through the electronic e-procurement system.

The expert concludes that after analyzing the documentation administered, it is not established that the Contracting Authority has acted in violation of Article 24 and Article 25 of Regulation No. 001/2022 on Public Procurement, since: • it has not been proven that material changes have been made to the tender documents that would require the publication of a formal change; • the response regarding the color code catalog has only clarified a request that already existed in the tender dossier; • the rejection of the economic operator's proposals for changing the technical specifications does not constitute, in itself, a violation of Article 24 or 25 of the Regulation. The complaint of the EO "Smart X Industries SH.P.K." for violation of Article 24 and 25 of Regulation No. 001/2022 is considered unfounded based on

- 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 deciding.

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. Based on the factual situation established as above, the Review Panel has given full confidence to the findings and recommendations in the report of the review expert, without the need to repeat them again, it was found that all the claims of the complaining economic operator are unfounded.

The Review Panel, after administering and evaluating the evidence, fully establishing 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 recommendations of the expert, has found that the complaint of the Economic Operator “Smart X Industries” SH.P.K. is rejected as unfounded. Consequently, the Review Panel has decided that the Contracting Authority Kosovo Police is allowed to continue with the procurement activity. “Supply of civilian clothes for officials” with procurement number: 214/30400-26-2381-1-1-1.

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 point I 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 II 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

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 – **KOSOVA POLICE;**

1x1 EO – **Smart X Industries SH.P.K.;**

1x1 Archive of the PRB