



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

Psh. No.168/26

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 Batisha Ibrahim-President, Isa Hasani - Kimete Gashi-Brajshori - Member of the Review Panel deciding upon the complaint of “EO “Beni Dona Plast SH.P.K., against the Decision to cancel the procurement procedure regarding the procurement activity “Food Services (Supply, Preparation and Serving) for the needs of the KP” with procurement number 214/30400-25-8322-2-1-1, initiated by the contracting authority (CA) - KOSOVA POLICE, on the 05/05/2026 has issued this:

DECISION

1. Approved, as partly grounded the complaint of the EO Beni Dona Plast SH.P.K. with no. 2026/0168, dated 19/03/2026, regarding the procurement activity "Food Services (Supply, Preparation and Serving) for the needs of the KP", with procurement number 214/30400-25-8322-2-1-1, initiated by the contracting authority - KOSOVA POLICE.
2. Remains in force, B58 Notice on the Decision of the Contracting Authority - KOSOVO POLICE for the procurement activity "Food Services (Supply, Preparation and Serving) for the needs of the KP", with procurement number 214/30400-25-8322-2-1-1.
3. A warning is issued to the Contracting Authority due to the prolongation of this procurement activity with an open procedure, and the findings according to this decision.
4. Since the complaint of the complaining economic operator is partially approved, the fee paid upon filing the complaint is returned to the same. The complaining economic operator is obliged to, in accordance with Article 33, point 6 of the PRB's work regulations, within a period of sixty (60) days, make a request for the return of the complaint security, otherwise the deposit will be confiscated and these funds will be transferred to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 11.09.2025, the KOSOVA POLICE, acting in the capacity of the Contracting Authority, has submitted the Contract Notice, for the procurement activity "Food Services (Supply, Preparation and Serving) for the needs of the KP" with procurement number 214/30400-25-8322-2-1-1,

The contracting authority has implemented an open procedure, type of contract: service, estimated contract value: 2,700,000.00. €

On the 27.02.2026, the KOSOVA POLICE, acting in the capacity of the Contracting Authority, has submitted the Notice on the decision for the contract (B58), where the activity was canceled.

On the 04.03.2026, the complaining EO has submitted a request for review, where on date 09.03.2026 the CA has rejected the request for review as unfounded.

On the 19.03.2026, the EO "Beni Dona Plast SH.P.K., has submitted a complaint to the PRB, which has been recorded with protocol number 2026/0168, attacking the Decision cited above of the CA, against the cancellation of the activity 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 "Beni Dona Plast SH.P.K., are presented as follows:

The Contracting Authority - Kosova Police, after the re-evaluation of the bids in implementation of the Decision of the Public Prosecutor's Office no. PRB: 2025/1248, dated 09.02.2026, on 27.02.2026 on the E-Procurement platform has published Form B58 - Notification on the Decision of the Contracting Authority for the cancellation of the procurement activity and the Standard Letters for the Eliminated Tenderers, which bear the date 25.02.2026, while on the E-Procurement platform they were published on 27.02.2026.

In Form B58 - Notice of the Contracting Authority's Decision, the Contracting Authority has noted: "Kosovo Police cancels the procurement activity in the absence of a responsive bid". In the Standard Letter to the Eliminated Tenderer of our company, which bears the date

25.02.2026 and was published on the platform on date 27.02.2026, it is noted, we quote: "EO is irresponsible for the following points: EO has offered prices that are higher than the real market prices. The reevaluation commission has requested that market research be conducted and from the market research after the PRB decision it results that EO has offered prices many times higher than the real ones in the market. Referring to Article 4.1 point C of Regulation No. 002/2024 on the amendment and supplementing of Regulation No. 001/2022 on Public Procurement, which stipulates that during the administration of procurement procedures the Contracting Authority must ensure that the contracted price is not higher than the market price, you have offered prices many times higher than the real market prices. Referring to the financial offer, the EO has offered prices many times higher for all items than the real market value and planned by the CA. Referring also to the interpretation of the PPRC, the CA in full harmony with the LPP has requested clarifications during the first phase of the evaluation on the prices many times higher than the real ones in the market and the EO has only provided a breakdown, but no evidence or documentation on how it has reached the formation of these prices."

On the 02.03.2026, through the E-Procurement platform - Standard Letters, we made a request for access to the tender documents, while on 03.03.2026 we had access to the tender documents at the premises of the CA - Kosova Police. From the procurement officers of the CA we received the Bid Re-evaluation Report on CD. In our request for access to documents, among others, we also requested access to documents that prove the market price research conducted by the officials of the Contracting Authority. The procurement officers have presented these documents to us, but we have not been given any document or evidence of this research. Dissatisfied with the decision of the Contracting Authority dated 27.02.2026 to cancel the procurement activity, our company Beni Dona Plast SH.P.K., on 04.03.2026, sent a request for reconsideration to the Kosova Police, together with reliable evidence of the current market prices for the food items that make up the "packages" that the CA requested to be supplied.

On 09.03.2026, through the E-Procurement platform, we received the CA's decision to reject our request for reconsideration. In this decision, as a reason for rejection, it was emphasized that the unit prices of the items we bid with are higher, but now instead of the prices planned by the drafters of the technical specifications, the CA refers to the prices of the market research conducted after the PRB's decision. Even at this stage, the CA has not provided any evidence for the source of these prices, but has only attached a table without explaining in which markets or companies the research was conducted.

From the percentages presented in the rejection decision, it is seen that the changes are very small, while in the Standard Letter it is claimed that the prices are "many times higher". This finding is unprofessional and tendentious, because "many times higher" means over 200% more, which does not result from any comparison.

Our complaining claim is based on the violation of Articles 59 and 62 of the LPP, as well as Articles 40, 43 and 97 paragraph (h) of Regulation 02/2024 on Public Procurement. The CA's finding that it requested clarifications and did not receive documentation is unfounded, since the breakdown of prices is only required for abnormally low tenders through Form B41, not for

prices considered high. However, on 01.12.2025 we sent a response and we have broken down all prices and elements that affect the cost.

Together with the request for reconsideration, we also submitted evidence of prices from ETC, Viva Fresh, Meny - Nazi Restorant, Me Luge and fiscal coupons, but the CA did not take them into account either in the first or in the final decision for rejection. The fact that our prices are real is also proven by the invitation for negotiations dated 15.12.2025 for the same services, where we offered an average of 2.7% cheaper for some items and the same prices for others. In the negotiated procedure, the contract was only 3 months, while in the open procedure the contract was 36 months, which justifies the small difference due to the risk of price increases. Our prices are realistic considering the continuous increase in food prices, transportation costs, workers' salaries, the risk of price increases over 36 months, payment delays of up to 5 months, packaging costs of over 4,000 € per month and other additional costs.

The staff salaries alone for 36 months reach 719,696.50 €, which constitutes 26.66% of the contract value of 2,700,000. €

Only two economic operators have bid in this activity. Our bid was the cheapest with a weighted price of 65.97 €, while the other EO 68.13 € and did not extend the validity of the bid. Based on these circumstances, the CA has violated Article 7 of the LPP by discriminating against us, Article 59 of the LPP and Article 40 of Regulation 02/2024 by not taking into account our explanations and evidence, Article 62 of the LPP and Article 43 of the Regulation by canceling the activity without legal basis, as well as Article 97 paragraph (h) of Regulation 02/2024 by not implementing the decision of the Review Panel. Based on all of the above, we request the PRB Review Panel to consider our complaint as well-founded, to order the Kosovo Police to annul the decision to cancel the procurement activity dated 27.02.2026 and to return the case for re-evaluation.

Response to the request for review:

Response to the complaint claims of the EO "Beni Dona Plast SH.P.K.,

EO "Beni Dona Plast SH.P.K.", Prishtina, as a party dissatisfied with the Notice on the Decision to cancel the procurement activity by the CA for the activity entitled "FOOD SERVICES (SUPPLY, PREPARATION AND SERVING) FOR THE NEEDS OF THE KP - CORRECTED RE-ASSESSMENT", with procurement number 214/30400-25-8322-2-1-1; 214-25-106-211, claims that there have been violations of the provisions of the LPP, Law no. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented by Law no. 05/L-068 and Law no. 05/L-092, specifically:

Article 7 - Equality in treatment / non-discrimination;

Article 59 - Examination, evaluation and comparison of tenders;

Article 62 - Completion of the procurement activity.

Regarding the alleged violations of the Regulation 02/2022 on Public Procurement (RRPP

002/2024), the EO claims violation of:

Article 40 - Examination, evaluation and comparison of tenders;

Article 43 - Termination of procurement procedures;

Article 97, paragraph (h) - Failure to comply with the decision of the PRB.

The Contracting Authority has not violated Article 7 of the LPP, since all economic operators have been treated equally according to the requirements of the tender dossier, the contract notice and the technical specifications. The CA has not discriminated or favored any EO through this procedure; the technical specifications have been drafted in accordance with the LPP and do not contain restrictions or favoritism. The bids have been treated in full compliance with the requirements of the tender dossier and the technical specifications, while the bid of the complaining EO has been eliminated because it offered prices much higher than the real market ones; consequently, this complaint claim is unfounded.

The CA has not violated Article 59 of the LPP and Article 40 of the Regulation on the examination, evaluation and comparison of tenders. The Contracting Authority has evaluated the tenders in accordance with all the requirements of the contract notice, the FDT and the mandatory technical specifications. The evaluation and comparison of bids was done in an equal and non-discriminatory manner, in accordance with the requirements of the tender documentation.

Following the decision of the PRB no. 2025/1248 dated 09.02.2026, the reassessment commission requested from the Public Procurement Office to conduct market research. This request was addressed to the CAO, which established a commission for market research. The commission submitted the report on the market research and a comparison of real market prices with the EO's offer, finding that the EO's offer is around 30% higher. As a result, the commission found that the EO has bid at prices much higher than the real market prices. Referring to Article 4.1 point C of Regulation no. 002/2024 (amendment of Regulation no. 001/2022), the CA has the obligation to ensure that the contracted price is not higher than the market price. For this reason, the complaint claim is unfounded.

The CA has requested clarifications for abnormally high prices and, in accordance with the LPP and the PPRC interpretation, the same logic applies as for abnormally low prices. The clarifications provided by the complaining EO do not contain justifications, facts or arguments, but only a breakdown of the prices for each item, without evidence on their formation; consequently, the claim is unfounded. The CA has not violated Article 62 of the LPP and Article 43 of Regulation 02/2022, since the procurement activity has been cancelled in accordance with point (b) of Article 43 - "none of the tenders accepted is liable". Therefore, this claim is also unfounded. The claim for violation of Article 97 paragraph (h) does not stand, since in accordance with the PRB decision no. 2025/1248, the CA has annulled the preliminary decision, formed a reassessment commission and acted in accordance with the requirements of the decision; consequently, we do not have a serious violation.

The CA has requested clarifications for prices higher than the real market prices through a standard letter, in accordance with Article 4.1 point C of Regulation No. 002/2024 and the interpretation of the PPRC, which obliges the CA to analyze the prices to ensure that they are not higher than the market prices. In the clarifications of 26.11.2025 and the response of 01.12.2026, the EO has only presented prices for the items without explaining their formation, while the justifications for additional costs do not stand, since the market research commission has foreseen all costs and expenses. The comparison with the other procedure with a duration of 3 months is not accurate, since the prices for the same item vary significantly. For example, for the item "Chicken Pasta" the EO has offered a price of €1,375, while the evidence presented by the EO itself shows a price of 0.98, € i.e. over 40% higher, while the value of this item is 166,357.00. €

The CA has the right to request the breakdown of prices that are considered higher than market prices, based on the interpretation of the PPRC. Also, the EO uses the CA's facilities in Kampin Vrella and Kampin Enver Zymberi without cost for rent, electricity, water, waste or space insurance, facilities that are created to ensure more favorable offers, not offers with high prices like that of the complaining EO.

In conclusion, the CA has not violated any of the above-mentioned articles, since during the evaluation it has respected all the criteria of the tender dossier, the provisions of the LPP and secondary legislation, ensuring that the offers are in accordance with the requirements and the real market value.

The complaining claims of the EO are unfounded. The attached financial analysis shows that, compared to the planned and market research prices, the CA would receive fewer packages - 132,640.72 fewer packages, which in financial value amounts to 766,823.47. €

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 23.03.2026 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 2026/0168, while on 02.04.2026 the review expert's report with no. 2026/0168 was submitted, with the following recommendations: Based on the above-mentioned clarifications, the technical review expert proposes to the review panel that the complaint of the complaining EO is rejected as unfounded and the decision of the CA remains in force.

The expertise report has been duly accepted by all procedural parties. The CA responded to the recommendation of the review expert's report, and the EO did not agree with the review expert's report.

The review panel assessed that the conditions were met to decide on this case without a hearing 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 review expert's report 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 the EO Beni Dona Plast SH.P.K., the review expert through report no. 2026/0168 has assessed as follows:

The review expert clarifies that the complaining EO, dissatisfied with the Decision (B58) of the CA - Kosovo Police, has filed a complaint with the PRB alleging that the contracting authority has not respected the provisions of Article 59 and 62 of the LPP.

The contracting authority, after the re-evaluation of the bids, on 27.02.2026 notifies the complaining EO with the standard letter of the eliminated tenderer.

The complaining EO is eliminated with the following justification:

Interpretation by the PPRC as follows:

Claim No. 1

The review expert clarifies that the CA - Kosovo Police eliminates the complaining EO with the same reasoning, an issue that was addressed in the preliminary expertise report and for the same review panel issued the decision with No. PRB: 2025/1248 dated 09/02/2026.

The review expert clarifies that the response regarding this claim was given in the expertise report No. 1248/25, which he assesses is the right of the contracting authority.

Also, the review expert clarifies that the CA, after receiving the decision of the review panel, has formed the commission for the re-evaluation of the offers, which have researched the market prices. All case files related to the re-evaluation of the bids and the research of the prices by the re-evaluation commission are attached to the re-evaluation report of the CA published on the E-Procurement platform. The review expert explains that the complaining EO in its complaint again provides its own evidence, which it considers valid, and that the prices are not higher than the market prices. Finally, the review expert, as he has assessed in the previous report, explains that the evaluation of prices is the right of the contracting authority, based on paragraph 4 of Article 61 of the LPP.

- Findings of the Review Panel -

The Review Panel assesses that the Review Expert Report, drafted at the request of the PRB regarding the dispute in this case of public procurement activity, contains the essential elements of such a document as foreseen by the provision of Article 113 in conjunction with Article 114 of the LPP, according to which the expert is required to review all procurement documentation, including all complaint claims and to provide the Panel and all parties to the dispute with an

independent and professional assessment of the procurement activity and the validity of the complaint claims. However, it should be noted that the legal fact that the expert report is not binding on the Review Panel and that each such report is assessed and/or analyzed in the general context of the case files, the alleged facts and other possible evidence, taking into account the nature of the possible violations, the course, nature and purpose of the procurement activity, therefore the fact that in which cases and for what, the Panel relies or not, on the expert report and/or any of the recommendations, is a matter of his/her independent and professional judgment, as these responsibilities are addressed in the sense of Article 98, 99 in conjunction with Article 105 of the Public Procurement Law. In the specific case, from the review expert report, the evidence presented by the complaining economic operator, the tender dossier documents as well as from other evidence of the case, it was found that the complaining claims are partially founded. Based on the factual situation established above, the Review Panel has given full credence to the findings and recommendations in the review expert's report. Consequently, the Review Panel has found that the claims of the complaining economic operator are unfounded.

The review panel, after administering and evaluating the evidence, fully ascertaining the factual situation, relying on the LPP as the applicable substantive 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 partially approved because although the expert has justified in this form the market research by the CA according to the previous decisions for this procedure with PRB: 2025/0984 and PRB: 2025/1248 -quote "... the review expert, clarifies that the CA, after receiving the decision of the review panel, has formed the commission for the re-evaluation of the bids, which have researched the market prices. All case files related to the re-evaluation of the bids and the research of prices by the re-evaluation commission are attached to the report of the re-evaluation of the CA published on the E-Procurement platform... " The Review Panel does not support the expert's response because the CA itself is in contradiction with its own decisions/assessments, all this when comparing the bid from the same complaining EO who has benefited from the contracts from the CA according to the negotiated procedures without publication of the Contract Notice as provided for in Article 35 of the LPP and with this open procedure, where the Review Panel, in order to verify the prices offered by the same EO according to the last negotiated contract and for this open procedure, finds that regarding the prices for which the items set by the CA in the negotiated procedure have been eliminated, there are missing, as in the open procedure, items not included in the open procedure, such as hazelnuts, almonds, spoons, knives, forks. Foil packaging, where in some items in the negotiated procedure the item soup, chocolate yogurt is missing. calorie-protein etc. The Public Procurement Agency may consider that the EO in the open procedure has offered the highest prices regarding the item mr 1 (Beef Riste), at the offered price of 9.50 Euro, Smoked chicken ham of 8.47 Euro, Chicken pâté at the offered price of 9.50 Euro, Beef ham in the value of 8.5 Euro, however the Review Panel notes that for the items Sandwich and Burek, where the items as in this procedure and negotiated, and from the same EO in the contract with the negotiated procedure without publication of the PU has offered higher prices: Sandwich price 3.70 Euro, while Burek 2.80 Euro, which for the Public Procurement Agency is unacceptable that the CA in the negotiated procedure accepts the highest prices where it is understood that these items can be

used the most, while in the open procedure qualifies as high prices in relation to the market, where according to the price research by the CA for the package of 18 Sandwiches, the price breakdown has been determined to be higher by: 16.67%, while for Pies: 8%.

Consequently, the Review Panel from the entire elaboration of this procedure described above has decided to remain in force, B58 Notification on the decision to cancel the activity of the Contracting Authority - KOSOVA POLICE, regarding the activity entitled "Food Services (Supply, Preparation and Serving) for the needs of the KP", with procurement number 214/30400-25-8322-2-1-1",

The Review Panel issues a warning to the Contracting Authority due to the prolongation of this procurement activity with an open procedure, while in the absence of regular contracts, the Authority has continued with the continuous initiation of emergency procedures based on Article 35 of the LPP, and with continuous actions that violate the principles of free and fair competition, therefore this warning is considered as the last warning taking into account Considering that the open procedure has been prolonged and the same has remained suspended due to negligence, not yet providing a final epilogue in the open procedure due to the non-responsibility of the CA. Therefore, the Review Panel, based on the above, obliges the CA to take action based on the legal provisions of the LPP, in order to avoid an urgent procedure as is currently being carried out with this procedure and not to implement Article 1 and 7 of the LPP.

Conclusion-

The Review Panel considers that the decision adopted in this matter is based on the administration of all evidence available in this case and that in making decisions, it always takes into account Article 1 of the LPP, where 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 by determining the conditions and rules to be applied, the procedures to be followed, the rights to be respected and the obligations to be fulfilled by persons, economic operators, undertakings, contracting authorities, works concessionaires and public bodies that develop, are involved in, participate in or are interested in procurement activities or that are involved in or are related to such funds and/or resources.

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.

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

President of the Review Panel

Mrs. Batisha Ibrahim

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 – **Beni Dona Plast SH.P.K.;**

1x1 Archive of the PRB