



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

Psh. No.0481/25

The Review Panel, appointed by the Acting President of the Procurement Review Body (PRB), based on Article 105, 106, and 117 of the Law on Public Procurement of the Republic of Kosova (LPP) according to the authorization dated 15.08.2025, composed of Batisha Ibrahim - Individual Panelist, deciding upon the complaint of the Economic Operator (EO) MEDPLUS” SH.P.K., against the Decision on awarding a contract or a design competition of the CA of the “MUNICIPAL ASSEMBLY OF PRIZREN in the capacity of the Contracting Authority (CA) regarding the procurement activity “Supply of medicines for the needs of the Public Health Service” with procurement number 622-25-2408-1-1-1”, on the 26.08.2025, has issued this:

DECISION

1. **Dismissed**, the complaint of EO “MEDPLUS” LLC with no. 2025/0481, dated 12/06/2025, regarding the procurement activity “Supply of medicines for the needs of the Public Health Service” with procurement number 622-25-2408-1-1-1..
2. **The Contracting Authority - “CA “PRIZREN MUNICIPAL ASSEMBLY” is allowed to proceed further with the procurement activity as described in provision 1 of this decision, with regard to this complaint, if there is no other complaint regarding this procurement activity.**
3. Within 10 days, the CA must inform the PRB of all actions taken regarding this procurement activity, otherwise, the PRB has the right to take measures against the CA for non-compliance with the decision as provided for in the provisions of Article 131 of the LPP.
4. In accordance with Article 31, points 4 and 6 of the Rules of Procedure of the PRB, the complaining economic operator shall be refunded the complaint fee in the amount deposited when filing the complaint. The complaining EO is obliged, in accordance with Article 31, point 6 of the Rules of Procedure of the PRB, to submit a request for the return of the complaint security within sixty (60) days, otherwise the deposit shall be confiscated, and these funds shall be transferred to the Budget of the Republic of Kosova

REASONING

-Procedural facts and circumstances -

On the 25.03.2025, "PRIZREN MUNICIPAL ASSEMBLY" in the capacity of the Contracting Authority has published B05 Notice for contract regarding the procurement activity with "Supply with medicines for the needs of the Public Health Service" with procurement no.: 622-25-2408-1-1-1. Whereas on date 02.06.2025 Notice on the decision of the Contracting Authority for contract award. EO "MADEKOS SHPK"

The contracting authority has implemented an open procedure, type of contract: supply, estimated value of the contract: 180,000 €.

On the 05.06.2025, EO "MEDPLUS" SH.P.K., has submitted a request for review against the aforementioned decision of the CA. On 10.06.2025, the Contracting Authority has rejected as unfounded the request for review.

On the 12/06/2025, the PRB has accepted the complaint from EO "MEDPLUS" SH.P.K., with no. 2025/0481, regarding the activity "Supply with medicines for the needs of the Public Health Service" with procurement no.: 622-25-2408-1-1-1.

-On the preliminary review phase -

The PRB has found that the complaint contains all the elements set out 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 the resolution of disputes in the sense of Article 108/A of the LPP, by the economic operator who is an interested party according to Article 4 paragraph 1 sub-paragraph 26 of the LPP. In this way, the Review Panel has found that it is competent to review this complaint according to Article 105 of the LPP and there is no procedural obstacle to continue with the review of the complaint on its merits.

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

Dear Sirs, on 02.06.2025, through the electronic e-procurement platform, we have received the notification of the decision of the CA where the EO MADEKOS SH.P.K was recommended for contract, while we have received the standard letter for eliminated tenderers with the justification:

The Economic Operator MEDPLUS SH.P.K., Rr. Pranvera e Lirisë, 10000, Prishtina, is irresponsible because there is a DECISION OF THE PSH of the PRB with no. PSH.nr.156/24 where it is DISQUALIFIED by this body for participation in PUBLIC PROCUREMENT from the date: 24/10/2024 to 23/04/2025.

Contracting Authority Municipality of Prizren - Notice for Contract for supply of medicines with no. prok.622-25-2408-111 dated 25/03/2025 stating that EO MEDPLUS SH.P.K., has already

been sanctioned in the BLACK LIST on these dates of Economic Operators according to this decision of the PRB with no. PSH-156/24.

The CA's justification for our elimination from this procurement activity is illegal, unfounded and subjective.

We as a company have completed the measures that were determined by the PRB decision for disqualification from participation in public procurement on 23.04.2025, since we were disqualified from participation in procurement procedures as also stated by the CA from 24.10.2024-23.04.2025.

The last date for bidding in this procurement activity was 06.05.2025, therefore we have the right to bid in this procurement activity because the disqualification from participation in public procurement expired on 23.04.2025, since we have been disqualified for 6 months. If we are not allowed to bid in this tender, it is because the disqualification measure is lasting over 6 months, therefore we should not bear consequences longer than the measure imposed by the PRB decision.

Nowhere in the law or in the secondary legislation on public procurement does it state that an EO cannot participate in a tender if the contract notice was published within the period of the disqualification measures in force, even though the last date for bidding is after the expiry of the disqualification measure. On the contrary, Article 99.2 clearly states that economic operators are disqualified from participating in public procurement, therefore, in this case, the disqualification would only apply if the last date for bidding was within the disqualification period.

Furthermore, we as a company, in order to reinforce our conviction that we have the right to bid in these cases, on 28.04.2025 we addressed the PPRC for an interpretation of the specific case, while on 20.05.2025 we received the following response:

From this interpretation it is clearly understood that we had the right to bid and normally our regular and responsible bid should be announced.

On this basis, it results that we have been eliminated without right in this procurement activity and in fact in an illegal manner.

We received the decision to reject on 10.06.2025, while the CA in the decision to reject did not provide any concrete reason that proves the opposite of our complaint claims.

The same in its reasoning stated as follows:

The CA's reasoning is untenable due to the fact that the CA has incorrectly referred to the aforementioned interpretation in the reasoning since the same interpretation does not apply in this case.

We have attached the interpretation which is precisely related to the disputed issue and in the PPRC's interpretation it is clearly stated that "the EO, upon completion of the measure determined in the decision, has the right to participate in the public procurement".

So while the PPRC's interpretation clearly specifies such a thing, then we consider that the CA is issuing completely unfounded reasoning and in contradiction with the PPRC's interpretations.

We are clarifying once again that nowhere in the law or in the secondary legislation on public procurement does it state that an EO cannot participate in a tender if the contract notice has been published within the period of the disqualification measures in force, even though the last date for bidding is after the expiry of the disqualification measure.

Therefore, based on the interpretation of the PPRC and all the above-mentioned facts, it results that we have been unfairly eliminated in this procurement activity and in reality in an illegal manner, at the same time the decision of the CA to reject the request for reconsideration is unsustainable.

Based on the evidence and facts mentioned above, it results that the action was taken in violation of Article 59 of the LPP and at the same time the main criterion for awarding the contract was not respected, which was the responsive tender with the lowest price, according to Article 60 paragraph 1.1 of the LPP.

It is clearly seen from both the opening minutes and the notification of the decision that we are the cheapest bidder in this procurement activity, therefore, based on the above clarifications and concrete evidence, it results that we should be the winner of this contract.

Paragraph 1 of Article 7 of the LPP clearly stipulates that “The contracting authority shall treat economic operators equally and non-discriminatory and shall act in a transparent manner, while the CA has not implemented this provision because we have been eliminated and discriminated against without any legal basis, by not recommending us for a contract.

Article 1 of the LPP has also not been taken into consideration, since it is known that 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 Kosova.

Referring to the allegations as above, “MEDPLUS” SH.P.K. considers that the Contracting Authority has acted in violation of Article 1 of the LPP, Article 6 of the LPP, Article 7 of the LPP, Article 56 of the LPP, Article 59 of the LPP, Article 60 of the LPP, Article 99 of the LPP, Article 40 of the Regulation No. 001/2022 on Public Procurement. Considering all the legal reasons mentioned above, we request the PRB to: APPROVE, based on the complaint of EO MEDPLUS SH.P.K and CANCEL, the notification on the decision of the CA (B58) for the award of the contract and the case is returned for RE-EVALUATION and during the re-evaluation, the examination, evaluation and comparison of the offers shall be carried out in accordance with the requirements of the tender dossier, the contract notice and in accordance with the provisions of the LPP.

CA's response to the request for review: The Economic Operator MEDPLUS Shpk from Prishtina on 05/06/2025 has submitted a request for review, regarding the procurement activity entitled: The Contracting Authority, on 10/06/2025, has reviewed the request in question as follows: The Economic Operator MEDPLUS Sh.P.K., Rr. Pranvera e Lirisë, 10000, Prishtina, is irresponsible because it has a DECISION OF THE PRB of the PRB with no. PSH.nr.156/24

where it is DISQUALIFIED by this body for participation in PUBLIC PROCUREMENT from date: 24/10/2024 to 23/04/2025. Even according to the interpretations of KRPP-DRR-20-05 70/2025 regarding the disqualification of EO, the same EOs are not entitled to participate in the projects from the date of disqualification which for you was 24. 10. 2024 until 23.04.2025, while the notification of the CA contract took place on 25.03.2025 (at the time you were on the black list of disqualified EOs).

Based on these facts:

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 30.06.2025 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 0481/2025, while on 08.07.2025 the review expert's report with no. 0481/2025 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 grounded, the contract award notice be canceled and the case be returned for re-evaluation.

The expertise report has been duly accepted by all procedural parties. The CA does not agree with the recommendations of the review expert's report, while the EO agrees 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 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 review expert's report 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 complainant's submissions and documents, the contracting authority's letters and documents, the relevant documents related to the procurement activity, as well as all evidence proposed by the procedural parties.

Regarding the claims of EO "MEDPLUS" SH.P.K., the review expert through report no. 2025/0481 has assessed as follows:

Claim no. 1

The first and main claim of the complaint according to complaint 481/25 is related to the reason for the elimination of the complaining EO, where according to the CA the same was eliminated because upon the publication of the notice for the contract for this procurement activity, the EO in question was on the black list and therefore was eliminated from participation in the public procurement.

The complaining EO claims that upon the bidding and the fate of the tender submission, the same was not on the black list and that the decision of the CA is unlawful.

The complaining EO claims, among other things, that:

“...We are clarifying once again that nowhere in the law or in the secondary legislation on public procurement does it state that an EO cannot participate in a tender if the contract notice has been published within the period of the disqualification measures in force, even though the last date for bidding is after the expiry of the disqualification measure. Therefore, based on the interpretation of the PPRC and all the above-mentioned facts, it results that we have been unfairly eliminated from this procurement activity and in reality illegally, at the same time the decision of the CA to reject the request for reconsideration is unsustainable.”

The complaining EO has also provided as evidence the interpretation of the PPRC which, among other things, states: “...the EO, upon completion of the measure specified in that decision, has the right to participate in public procurement...”

Based on all of the above, we assess that the complaint is well-founded and that the CA's interpretation regarding the period/duration of the measures for exclusion from procurement is incorrect.

In public procurement, we often encounter procedures that last for years, and this way of interpreting would cause harm to EOs whose exclusion measure from public procurement ended years ago!

The assessment of the review expert is that if on the day of bidding, the EO did not have a measure for exclusion from participation in public procurement, the same cannot be denied the right to participate.

- Findings and conclusions of the Review Panel -

The Review Panel, after reviewing all the facts and arguments, has concluded that this EO cannot have the right as provided for in Article 67 of REGULATION NO.002/2024 ON SUPPLEMENTATION AND AMENDMENT OF REGULATION NO. 001/2022 ON PUBLIC PROCUREMENT Decision of the PRB, 67.9 quote ‘’. In the event that the PRB issues a decision to disqualify an economic operator from participating in public procurement, then the disqualified EO has no right to participate in public procurement from the date of the decision. For the purposes of implementing this article, “Participation in public procurement” is a process that includes the entire cycle from notification, application, including any objection or complaint, to the decision to award the contract, consequently preventing any action that the Economic Operator may take throughout the entire procurement process from the stage of publication of the contract notice to the moment of signing the contract, including the submission of complaints. This exclusion applies to all types of contracts and to all procurement procedures. Where, according to the decision with no. PSH no. 978/25 dated 18.08.2025, this EO is disqualified from participating in public procurement procedures (for a period of 1 year), until the date. 17.08.2026.

Therefore, analyzing the complaint in question, it is assessed that the complaint of EO “MEDPLUS SH.P.K., is inadmissible as provided for in Article 99 of the LPP, and Article 67.9 of the RrPP. From all the clarifications mentioned above, the complaint filed on 12.06.2025

“with no.2025/0481, of EO MEDPLUS” SH.P. K is dismissed as inadmissible according to the above-mentioned reasoning, thus allowing the procedure not to be prolonged further considering the procedure for the supply of medicines.

The contracting authority - “PRIZREN MUNICIPAL ASSEMBLY “, may proceed further with the procurement activity: ‘Supply with medicines for the needs of the Public Health Service” with procurement number 622-25-2408-1-1-1.

The Procurement Review Body informs that in each activity the CA must act in accordance with the provisions and legal authorizations as defined in the LPP, and REGULATION

NO.002/2024, ON SUPPLEMENTATION AND AMENDMENT OF REGULATION NO. 001/2022 ON PUBLIC PROCUREMENT.

Given that the complaining EO has paid a fee when submitting the complaint, the same in accordance with Article 31, paragraphs 4 and 6 of the PRB Rules of Procedure, is returned to the complaining EO. The same is obliged to submit the request for the return of funds within sixty (60) days according to Article 31, paragraph 6 of the aforementioned regulation.

Based on what was said above, it 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 – MUNICIPAL ASSEMBLY OF PRIZREN;

1x1EO-“**MEDPLUS**”;
1x1 Archive of the PRB;