



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

Psh. No.0425/26

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, Batisha Ibrahim and Kimete Gashi - Member, deciding upon the complaint of the Economic Operator (EO) ENGINEERING GROUP SH.P.K., against the Non-execution of the decision of the PRB of the MUNICIPALITY OF PEJA in the capacity of the Contracting Authority (CA) regarding the procurement activity Construction of the Plant in Jabllanic of Leshan LOT 1 Construction of the wastewater treatment plant LOT 2 Construction of the sewage network in Lugun of Leshan with procurement number 635-26-1622-5-1-1, on the 17/08/2026 has issued this:

DECISION

1. Approved, as grounded the complaint of the EO “ENGINEERING GROUP SH.P.K. with no. 2026/0425, dated 25/06/2026, regarding the procurement activity Construction of the Plant in Jabllanic, Leshan LOT 1 Construction of the wastewater treatment plant LOT 2 Construction of the sewage network in Lugun, Leshan with procurement number 635-26-1622-5-1-1.
2. Cancelled, Contract notice regarding the procurement activity Construction of the Plant in Jabllanic of Leshan LOT 1 Construction of the wastewater treatment plant LOT 2 Construction of the sewage network in Lugun of Leshan with procurement number 635-26-1622-5-1-1, initiated by the contracting authority (CA) - MUNICIPALITY OF PEJA The CA is obliged to make the necessary improvements to the tender dossier and extend the deadline for bidding.
3. Within 10 days, the CA must inform the PRB of all actions taken in relation to this procurement activity, otherwise, for non-compliance with the decision, the PRB may take measures against the CA as provided for in the provisions of Article 131 of the Law on Public Procurement of Kosova.
4. The fee paid upon filing the complaint shall be returned to the same. The complaining economic operator is obliged, in accordance with Article 33, point 6 of the PRB's Rules of Procedure, to submit a request for the return of the complaint security within sixty (60) days,

otherwise the deposit shall be confiscated and these funds shall be transferred to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 08.04.2026, ENGINEERING GROUP SH.P.K., in the capacity of Contracting Authority, has published B05 Contract Notice regarding the procurement activity with Construction of the Plant in Jabllanic, Leshan LOT 1 Construction of the wastewater treatment plant LOT 2 Construction of the fecal sewage network in Lugu, Leshan with procurement number 635-26-1622-5-1-1.

The contracting authority has implemented an open, negotiated, restricted procedure, type of contract: work, estimated contract value: 1,066,842.70. €

On the 22.06.2026, EO ENGINEERING GROUP SH.P.K., has submitted a request for review against the above-mentioned decision of the CA. On 22.06.2026, the Contracting Authority has rejected as unfounded the request for review.

On the 25.06.2026, the PRB has accepted the complaint from EO ENGINEERING GROUP SH.P.K., with no. 2026/0425 regarding the activity Construction of the Plant in Jabllanic of Leshan LOT 1 Construction of the plant for the treatment of wastewater LOT 2 Construction of the fecal sewage network in Lugun of Leshan with procurement number 635-26-1622-5-1-1.

-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 ENGINEERING GROUP SH.P.K., are presented as follows:

INTRODUCTION

The Contracting Authority, Municipality of Peja, has carried out the procurement activity entitled: "Construction of the Plant in Jabllanicë, Leshan - LOT 1 Construction of the wastewater

treatment plant; LOT 2 Construction of the fecal sewage network in Lugun i Leshan", with procurement number 635-26-1622-5-1-1.

For this procurement activity, the Economic Operator Engineering Group Sh.P.K. had initially submitted a Request for Reconsideration and then a complaint to the PRB, with which it had contested the discriminatory, disproportionate and technically unnecessary criteria of the Tender Dossier, as well as the unlawful shortening of the deadline for bidding.

The PRB, with Decision PSH. No. 2026/0283, has approved the complaint of the Economic Operator Engineering Group Sh.P.K. as well as cancelled the Contract Notice and has obliged the Contracting Authority to make the necessary improvements to the Tender Dossier and extend the deadline for bidding.

With the Conclusion on the correction and completion of the decision, the PRB has clarified that the correction is only related to the elimination of a technical error in the title of the procurement activity, while all other parts of the Decision PSH. No. 2026/0283 remain unchanged and in force.

Consequently, the Contracting Authority was obliged, after the PRB Decision, to correct the Tender Dossier in accordance with the enacting clause of the decision and with the conclusions of the review experts Agnese Ibrahim and Bujar Gashi, who have clearly identified the criteria that should be removed, changed or harmonized with the nature of the contract.

However, from the review of the Tender Dossier published after the PRB Decision, it results that the Contracting Authority has not implemented the PRB decision in a complete and fair manner. On the contrary, the Tender Dossier continues to contain contested criteria, unclear provisions, requirements not aligned with the recommendations of the technical expert, as well as a bidding deadline that does not represent a real and effective extension.

For this reason, on 21.06.2026, within the legal deadline, the Complainant submitted to the Contracting Authority a Request for review due to the non-implementation of the PRB Decision No. 2026/0283.

The Contracting Authority, immediately, on 22.06.2026, issued a decision by which it rejected the Complainant's Request for review as unfounded, with the justification that all the requests of the PRB Decision No. 2026/0283 had allegedly been addressed.

NON-IMPLEMENTATION OF THE PRB DECISION AND OF THE EXPERT'S CONCLUSIONS

Decision of the PRB. No. 2026/0283, which gave credence to the expert report, has established that: a) The legal deadline for submitting bids has been shortened in violation of the rules on shortening deadlines and, consequently, should be at least 40 full days.

b) ISO 9001 for LOT 2 is not necessary.

c) ISO 14001 should not be an elimination criterion and, consequently, should be removed from the Tender Dossier.

d) ISO 3824-2:2021 for fusion welding of metals should be removed, as it is not a proportionate criterion.

e) ISO 39001:2021 should be removed, as it is a disproportionate criterion.

f) The requirement for a civil engineer, construction management, with ISO OHSAS 18001:2007 and ISO 14001:2015, should be removed, because in this case there is no direct link to the main nature of the contract, as an Occupational Health and Safety expert is required.

g) The ISO 9001:2015 criteria and the FIDIC contract management certificate should be removed, because FIDIC contracts cannot be applied according to public procurement rules.

h) The requirement for a graduate engineer or master in environmental protection should be removed, because in this case there is no direct connection to the main nature of the contract.

i) For point 5 - Graduate engineer or master of hydrotechnics - this criterion should be removed, because in this case two engaged hydrotechnics engineers are sufficient. Also, it is not necessary to be certified for water management and treatment, since during the study phase all hydrotechnicians have undergone the relevant courses and exams for water treatment, their management, etc.

Considering that the type of contract is executive and not design, the economic operator is only responsible for executing the works according to the technical description, the preliminary measurements and the graphic part.

j) The requirement for an architectural technician should be removed, since in this case there is no direct connection to the main nature of the contract.

k) The requirement for a machinery technician should be removed, since in this case there is no direct connection to the main nature of the contract.

l) The requirement for a certified crane operator should be removed, as in this case we do not have high-capacity cranes. The weight of the sewer manholes is around 400-700 kg and can be managed with an excavator or other technical methods.

m) For such a project, with about 8 km of sewer network, depth 1.5-4.0 m, diameters 0200-0630 mm, mainly in fields and with soil categories according to the II-IV parameter, according to engineering practice and normal organization of works, the main choice should be a crawler excavator, and not a wheeled excavator.

n) The requirement for an excavator with a minimum weight of 38-45 tons should be removed, as it has no direct connection with the main nature of the contract. o) The requirement that the economic operator prove that it possesses or has at its disposal adequate transport capacity for the transport of heavy machinery up to a minimum of 30 tons should be removed, as it has no direct connection with the main nature of the contract.

- p) The requirement for a wheeled excavator with a minimum of 20 tons should be removed, as it has no direct connection with the main nature of the contract.
- q) The requirement for an excavator with a minimum weight of 4 tons should be removed, as it has no direct connection to the nature of the contract and creates opportunities for favoring economic operators who possess such equipment.
- r) The requirement for a cylinder for compression with a maximum of 1.5 tons should be removed, as it has no direct connection with the main nature of the contract.
- s) The requirement for a trailer with electrical equipment for signaling road works with a total weight of up to 300 kg should be removed, as in this case there is no direct connection with the main nature of the contract.
- t) The requirement for an electric generator over 375 kVA should be removed, as in this case there is no direct connection with the main nature of the contract.
- u) The requirement for laser equipment of at least 4 kW for cutting steel up to 20 mm thick should be removed, as in this case there is no direct connection with the main nature of the contract.
- v) The request for equipment/vehicle for cleaning sewers and roads should be removed, as in this case there is no direct connection with the main nature of the contract.
- w) Regarding the requests for: hydraulic hammer mounted on an excavator, hydraulic shears mounted on an excavator, a machine for bending reinforcement, a tractor with a trailer, a hydraulic machine for soil compaction mounted on an excavator, a vibrating cylinder with tires weighing 8 and 3 tons, all these criteria should be removed, as they do not correspond to the nature of the works to be executed under the contract.

The PRB and the review experts did not give the Contracting Authority discretion to implement the expertise report only partially or selectively. The PRB approved the complaint and obliged the Contracting Authority to make the necessary improvements to the Tender Dossier and extend the deadline for bidding.

This obligation does not only mean a formal change of the tender opening date, but requires a real correction of the Tender Dossier in accordance with the technical and legal findings of the experts' report.

Experts Agnese Ibrahim and Bujar Gashi have found that the complaint was well-founded regarding the shortening of the deadline, since the Prior Notice was not published at least 40 days before the publication of the Contract Notice.

According to the review experts, the Contracting Authority had not acted in accordance with Article 45 of the LPP, Articles 6.5 and 6.6 of the Public Procurement Regulation, as well as point 6 of the Public Procurement Guidelines.

Despite this finding, the Tender Dossier continues to contain the formulation that the activity is carried out with an accelerated deadline, based on the Prior Notice.

This formulation is in direct contradiction with the findings of the experts and the PRB Decision, as precisely the use of the accelerated deadline was found to be unfounded and unlawful.

Furthermore, the Tender Dossier bears the date of preparation 31.03.2026 and the deadline for submission/opening of tenders on 30.06.2026, although the PRB Decision was issued on 15.06.2026.

A deadline of only a few days after the PRB Decision cannot be considered a real and effective extension of the deadline for bidding. This represents only a formal extension and does not enable economic operators, after the actual correction of the Tender Dossier, to prepare bids in an equal, complete and competitive manner.

The Contracting Authority was obliged, after the PRB Decision, to publish a corrected Dossier and to set a new sufficient deadline for bidding, which should be calculated from the publication of the corrected Dossier.

Otherwise, the PRB Decision remains unimplemented in its essential aspect. This means that the deadline must be complete from the date of correction of the Tender Dossier until the day of opening the bids.

II. INCONFORMITY OF THE EQUIPMENT LIST WITH THE FINDINGS OF THE TECHNICAL EXPERT

The technical expert Bujar Gashi has provided concrete conclusions regarding the equipment and plants that are disproportionate, discriminatory or technically unnecessary for this contract.

These conclusions are not general recommendations, but concrete guidelines on which criteria should be removed or replaced with proportionate requirements and related to the object of the contract.

Despite this, Annex 7 of the Tender Dossier for LOT 1 continues to list equipment that the technical expert has found to be removed or changed, including:

Minimum 20 ton wheeled excavator;

Minimum 38 ton excavator;

Minimum 30 ton semi-trailer for transporting machinery;

Minimum 4 ton excavator;

Trailer with electrical equipment for signaling road works with a total weight of up to 300 kg;

Vibrating plate mounted on an excavator.

The technical expert has concluded that for this project the professional and technically acceptable choice is the main excavator 18-26 tons with tracks/chains, and not the excavator 38-45 tons or the excavator with tires 20 tons.

According to the expert, the request for an excavator 38-45 tons should be removed, because it has no direct connection with the nature of the contract and is disproportionate for a sewerage network with a depth of up to about 4 meters and pipe diameters foreseen in the project.

However, the Contracting Authority has not implemented this conclusion. Instead of replacing the criterion with the recommended request for an excavator 18-26 tons with tracks/chains, the request for an excavator with a minimum weight of 38 tons continues to remain in the Tender Dossier.

This action represents a direct non-implementation of the PRB Decision and the technical conclusion of the expert. The technical expert also concluded that the requirement for a semi-trailer for transporting machinery with a minimum capacity of 30 tons should be removed, as an adequate transport capacity of up to a minimum of 26 tons is sufficient for this project.

According to the expert, the requirement for 30 tons is not directly related to the nature of the contract and may also be problematic in relation to the limitations of the road infrastructure.

However, the Tender Dossier continues to contain the request for a semi-trailer with a minimum capacity of 30 tons, disregarding the conclusion of the technical expert and the obligation set forth by the PRB Decision.

The technical expert has concluded that the request for a minimum 20-ton wheeled excavator should be removed, as this request favors certain economic operators and is not necessary for the nature of the works to be carried out.

Despite this finding, the request for a minimum 20-ton wheeled excavator continues to appear on the list of equipment required for LOT 1.

The technical expert has also concluded that the request for a trailer with electrical equipment for signaling works with a total weight of up to 300 kg should be removed, as the economic operator can prove the implementation of signaling works through relevant signs, safety measures and work methodology.

However, this equipment continues to remain part of Annex 7 of the Tender Dossier, despite being found to be an unnecessary and disproportionate criterion.

Even for LOT 2, the Tender Dossier continues to contain equipment that the technical expert has found to be removed or harmonized with the real nature of the works, including:

Vibrating cylinder with a minimum weight of 8 tons;

Rubber-tyre cylinder with a maximum weight of 3 tons;

Hydraulic machinery for soil compaction mounted on an excavator;

Hydraulic hammer mounted on an excavator;

Rebar bending machine;

Dump truck with a minimum gross weight of 32 tons;

Dump truck/dumper-crane with a minimum gross weight of 18 tons;

Dumper trucks with cranes with a maximum carrying capacity of 0.8 tons;

Tractor and dumper trailer for tractor;

Wheeled excavator with a minimum weight of 15 tons;

Other equipment that unnecessarily determines the methodology of the contractor's execution of the works, without necessarily being related to the technical result of the contract.

Also, part of the equipment requirements are:

Bucket for mixing concrete mounted on an excavator;

Hydraulic shears;

Hydraulic hammer mounted on an excavator;

Rebar bending machine;

Self-loading concrete mixer truck for mixing concrete, minimum 3 tons;

Mini-excavator with tires for fast opening of channels, with chains, maximum 5 tons;

Mini-excavator with rubber chains, minimum 3.5 tons.

The technical expert has found that some of these equipment, such as hydraulic hammer, hydraulic machines mounted on the excavator, tractors with trailers, machines for bending the reinforcement and the specified cylinders, do not correspond to the nature of the works to be executed under the contract.

Despite this finding, the Contracting Authority has left these requirements in the Tender Dossier, not respecting the technical conclusions of the reviewing expert.

This approach shows that the Contracting Authority has not implemented the expert's report in a full and fair manner, but has made selective changes, removing some requirements and leaving in force other requirements that have been found to be discriminatory, unnecessary or disproportionate.

The PRB has obliged the Contracting Authority to, in addition to the improvements in the Tender Dossier, extend the deadline for bidding. The purpose of the extension of the deadline is to give economic operators sufficient time to analyze the corrected Tender Dossier, to prepare bids, to provide the required documents and to participate in a competitive, free and equal process.

If the new deadline for submission remains on 30.06.2026, while the PRB Decision was issued on 15.06.2026 and the revised Dossier was published on 17.06.2026, then the economic operators did not have real and sufficient time to prepare bids on the basis of a corrected Dossier. This makes the extension of the deadline merely formal and empties the PRB Decision of its content.

The Contracting Authority is obliged to set a new sufficient deadline, which should be calculated from the date of publication of the corrected Dossier. Given that in the specific case it has been established that the conditions for the application of the accelerated deadline have not been met, the deadline should be no shorter than the minimum legal deadline for large value contracts, namely 40 days.

The failure to implement the PRB Decision and the maintenance of disproportionate criteria directly harms the Economic Operator Engineering Group Sh.P.K., as it places it in an unequal position compared to economic operators who may have available the specific equipment required without a real technical need.

These criteria limit competition, artificially increase the burden of bidding, create a risk of unfair elimination and make participation on equal terms impossible.

The harm is not only individual, but also affects the public interest, as limited competition increases the risk that the Contracting Authority will accept fewer bids and higher prices, in contradiction with the principle of economy and efficiency of public procurement.

Consequently, due to the non-implementation of the Final Administrative Decision, the PRB is respectfully requested to consider taking the measures set out in Articles 130 and 131 of the Public Procurement Law.

RESPONSES FROM THE REQUESTING UNIT REGARDING THE CLAIM OF THE ECONOMIC OPERATOR

The claims of the Economic Operator that the Contracting Authority has not implemented the PRB Decision are unfounded, both in factual and legal terms.

After receiving the PRB Decision, the Contracting Authority has undertaken all necessary actions to harmonise the Tender Dossier and the Contract Notice, in accordance with the findings and recommendations of the Review Panel.

All requested changes have been reflected in the tender documentation and have been published on the electronic procurement platform.

1. Regarding the requirements for professional staff

One of the main issues raised by the Economic Operator in the previous complaint to the PRB was related to the requirements for professional staff, namely the engagement of certain engineers.

The Contracting Authority has fully respected the findings of the PRB and, in accordance with its Decision, has removed from the requirements of the Tender Dossier the positions and professional profiles that were the subject of the Economic Operator's claims.

Consequently, the current professional qualification criteria no longer contain the requirements contested by the Economic Operator and, for this reason, the claim that the PRB Decision has not been implemented is incorrect and contrary to the factual situation of the tender documentation.

2. Regarding Annex 7 - List of Equipment As regards the claims related to Annex 7 - List of Equipment, the Contracting Authority has carried out a full review and harmonization of the technical requirements, in accordance with the Decision of the Review Panel.

The amended documentation clearly defines the minimum technical requirements for the equipment necessary for the performance of the contract, including the specification of the minimum capacity and weight of the equipment, where this is required by the nature and complexity of the works.

These requirements have been defined in an objective, proportionate and reasonable manner, with the aim of ensuring the minimum capacities for the performance of the contract and not restricting competition.

Furthermore, the Equipment List itself explicitly explains that economic operators can prove the availability of equipment not only through ownership, but also through agreements for use, rental, lending or other forms permitted under the legislation in force.

This means that every economic operator has a real and equal opportunity to meet the required criteria, without necessarily being the owner of the equipment, which eliminates any claim of discrimination or restriction of competition.

3. Lack of evidence for the claims of the Economic Operator

The Contracting Authority notes that in the Request for Review, the Economic Operator has not presented any concrete evidence, any specific provision of the Tender Dossier and any legal argument that would prove which element of the PRB Decision has not been implemented.

The claims presented remain declarative and are not based on facts or documents that would prove the inconsistency of the Tender Dossier with the PRB Decision.

According to the ongoing practice of the PRB and the fundamental principles of the administrative procedure, the burden of proof for the claims raised falls on the party presenting them.

In the specific case, the Economic Operator has failed to argue or prove the existence of any concrete violation by the Contracting Authority.

4. Compliance with the Law on Public Procurement

The Contracting Authority considers that the criteria set out in the Tender Dossier are in full compliance with the provisions of Law No. 04/L-042 on Public Procurement and its amendments.

The criteria set out:

are directly related to the subject matter of the contract;

are proportional to the nature and complexity of the works;

do not favor or discriminate against any economic operator;

guarantee equal treatment for all economic operators;
ensure effective competition in the procurement procedure.

Consequently, the claims for violation of the Law on Public Procurement or for non-implementation of the PRB's Decision do not stand.

Based on Article 111 paragraph 5 in conjunction with Articles 113 and 114 of the LPP, the Review Panel on 30.06.2026 authorized the review expert to conduct the initial review of the file and the claims according to the complaint with no. 0425/2026, while on 05.07.2026 the review expert's report with no. 2026/0425 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 CA make improvements to the tender dossier and extend the deadline for bidding.

The expertise report has been duly accepted by all procedural parties, the Contracting Authority does not agree with the report of the reviewing expert, while the EO does not respond to the report of the reviewing expert.

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 complainant's submissions and documents, 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 EO ENGINEERING GROUP SH.P.K., the review expert through report no. 2026/0425 has assessed as follows:

The complaining EO's complaint claims are that the CA has not implemented the decision of the PRB: 2026/0283 dated 08.06.2026. Through this decision, the complaint of the complaining EO was approved as partially grounded with the reasoning that the Review Panel has given full confidence to the report of the review expert and the technical expert. While according to the report of the review expert and the technical expert dated 18.05.2026, the CA should remove/change from the tender dossier the requests formulated as follows:

1. ISO standard -ISO 9001 2015 - Certificate for Quality Management System -
2. ISO 3834-2 2021 - Certificate for Fusion Welding of Metallic Metals-
3. ISO 39001 2012 for improvement in safety at work

4. A graduate engineer (master) of Environmental Protection, with 5 years of work experience in the same or similar field
5. Graduate engineer or master of hydrotechnics
6. Construction engineer, constructive management, ISO OHSAS 18001 2007 and ISO 14001 2015
7. Certificate for FIDIC contract management
8. An Architectural Technician, this criterion should be removed because in this case there is no direct connection with the main nature of the contract,
9. A Machinery Technician, this criterion should be removed because in this case there is no direct connection with the nature main contract,
10. a certified specialist as a crane operator,
11. we have high capacity cranes, the weight of the sewer manholes is 400-700 kg and can also be monitored with an excavator or technical methodology,
12. The economic operator must prove that it possesses or has available adequate transport capacity (owned, rented, leasing or cooperation agreement) for the transport of heavy machinery up to a minimum of 30 tons,
13. Cylinder for compression with teeth max. 1.5 tons -
14. Trailer with electrical equipment for signaling road works with a total weight of up to 300 kg
15. Excavator with tires min 20 tons
16. Electric generator over 375 kVa
17. Laser equipment minimum 4kW for cutting steel up to 20mm thick
18. Vehicle equipment for cleaning sewers and roads
19. Hydraulic hammer mounted on an excavator,
20. Hydraulic shears mounted on an excavator,
21. Machine for bending reinforcement,
22. Tractor with trailer,
23. Hydraulic machine for compacting soil mounted on an excavator,
24. Vibratory cylinder with tires weighing 8 and 3 tons.
25. Minimum excavator weighing 38-45 tons - Main excavator 18 - 26 tons with tracks/tracks,

The review expert has analyzed the complaint claims of the complaint PRB:2026/0425 by comparing the requests and findings of the decision PRB:2026/0283 and the actions of the CA in

terms of the implementation of the PRB decision. In this case, the review expert has found that of all the DT requests that the review expert according to decision 2026/0283 has requested to be removed, the CA has not yet removed/changed the requests as follows:

For (LOT-1):

1. Excavator with tires min 20 tons (must be changed to min. 18 tons)
2. Trailer with electrical equipment for signaling road works with a total weight of up to 300kg
3. Excavator min weight min 38t (must be changed to min. 26 tons)

For (LOT-2):

4. ISO standard -ISO 9001 2015 - Certificate for Quality Management System -
5. ISO 3834-2 2021 - Certificate for Fusion Welding of Metallic Metals-
6. ISO 39001 2012 for improvement in occupational safety
7. A graduate (master) Environmental Protection Engineer, with 5 years of work experience in the same or similar field
8. a machinery technician
9. a specially certified crane operator
10. Excavator-mounted hydraulic hammer
11. Excavator-mounted hydraulic soil compaction machine

All other TD requests have been removed/changed precisely according to the findings of the decision of PRB:2026/0283 respectively according to the experts of this complaint. From what was said above, it has been found that the complaint claims according to the complaint 2026/0425 are partially grounded while the CA should also change/remove the requests identified above.

It is also worth adding that in the expert report of the decision PRB:2026/0283 in some places it has been requested to add new criteria to the tender dossier. However, the establishment of requests in the TD is not the competence of the experts but is the exclusive competence of the CA. Otherwise, the establishment of new requests during the above procedure as recommended by the experts in the specific case constitutes a flagrant violation of Article 7 of the LPP.

-Findings of the Review Panel -

The Review Panel found that there are no elements for preventing conflict of interest, as required in the sense of Article 11 of the Regulation on the Work of the PRB, therefore it analyzed all the documents of this case, including all acts and actions of the parties and considered that it is necessary to convene a public hearing with the parties because there is insufficient evidence to decide according to paragraph 2, Article 24 of the cited Regulation. Therefore, the Panel in this

case on date 06.08.2026, held a hearing where all parties were invited, including representatives of the EO, representatives of the CA, the professional expert.

The chairman of the panel opened the session of the main review of the complaint at 10:30, which was attended by all members of the review panel, representatives of the complaining EOs, and the review expert. The chairman of the panel informed the attendees of the composition of the panel, and after ascertaining that there were no objections from the attendees to this composition, he continued with the session.

The Contracting Authority after confirming via email that it could not be present at the session.

The Chairman of the Panel informed the attendees with the object of the review as well as the case files and then gave the floor to the representative of the complaining EO Engineering Group Sh.P.K., - Mr. Lawyer Isuf Zejna and Mr. Fidan Povataj who declared:

We remain in full agreement with the complaint of the Economic Operator Engineering Group Sh.P.K., submitted within the framework of the procurement activity with procurement number 635-26-1622-5-1-1.

The main issue that requires the assessment of the Panel is whether it has fully, fairly and effectively implemented the Decision of the PRB PSH. No. 2026/0283 and the conclusions of the review experts Agnese Ibrahim and Bujar Gashi.

With the above-mentioned decision, the PRB has approved the complaint of Engineering Group Sh.P.K. as grounded, has cancelled the contract notice and has obliged the Contracting Authority to make the necessary improvements to the tender dossier and extend the deadline for bidding. The CA has formally made some corrections with the conclusion for the correction and completion of the decision, while the main parts, especially regarding the machinery, have remained unchanged.

The revised dossier continues to contain criteria and equipment that the technical expert has expressly identified as unnecessary, disproportionate or not directly related to the nature of the contract. These include requirements for excavators with a minimum weight of 38 tons, wheeled excavators, semi-trailers with a minimum capacity of 30 tons, trailers with electrical equipment for signaling, hydraulic hammers and shears, rebar bending machines, tractors with trailers, vibratory rollers and other equipment that unnecessarily interfere with the methodology for carrying out the works.

The technical expert has not given general recommendations, but has specifically identified requirements that should be removed or adapted to the real nature of the contract.

The non-implementation is particularly evident with regard to the deadline for bidding. The experts have established that the conditions for the use of the accelerated deadline were not met and that the full deadline of at least 40 days should be applied. Despite this, the revised dossier was published on 17.06.2026, while the deadline for submission of bids was set on 30.06.2026. Such a period does not constitute a real extension of the deadline, but only a formal change of

date, which does not enable economic operators to analyze the corrected dossier and prepare bids on equal terms.

Maintaining these requirements directly harms the Complainant, limits competition and creates a real risk of unfair elimination of bids. At the same time, it also violates the public interest, because limiting participation may result in a smaller number of bids and higher prices. Regarding the expertise of expert Visar Shehu, we do not agree with it as it has several shortcomings:

1. Despite this, Annex 7 of the tender dossier for LOT 1 continues to include equipment that the technical expert has found should be removed or changed, including:

- o Excavator with a minimum weight of 38 tons;
- o Semi-trailer for transporting machinery of at least 30 tons;
- o Excavator with a minimum weight of 4 tons;
- o Trailer with electrical equipment for signaling road works with a total weight of up to 300 kg; Vibrating plate mounted on an excavator;

The expert has listed the equipment that must be removed:

- o Excavator with tires of at least 20 tons;
- o Excavator with a minimum weight of 38 tons;
- o Trailer with electrical equipment for signaling road works with a total weight of up to 300 kg;

Missing:

Semi-trailer for carrying machinery minimum 30 tons;

- o Excavator with minimum weight 4 tons;
- o Vibrating plate mounted on the excavator;

2. Even for LOT 2, the tender dossier continues to contain equipment that the technical expert has

found to be removed or harmonized with the real nature of the works, including:

- o Vibrating cylinder with minimum weight 8 tons;
- o Rubber-tyre cylinder maximum 3 tons;
- o Hydraulic machine for soil compaction mounted on the excavator;
- o Hydraulic hammer mounted on the excavator;

- o Machine for bending reinforcement;
- o Dump truck with total weight minimum 32 tons;
- o Dump truck/dumper-crane with total weight minimum 18 tons;
- o Dumper trucks with crane with maximum carrying weight 0.8 tons;
- o Tractor and tipper trailer for tractor;

Wheeled excavator with a minimum weight of 15 tons;

- o Concrete mixing bucket mounted on the excavator

The expert has listed the equipment that must be removed:

Hydraulic hammer mounted on the excavator

Hydraulic soil compaction machine mounted on the excavator

He has not mentioned:

- Cylinder weighing 8 tons
- Rubber cylinder max 3 tons
- Rebar bending machine
- Self-loading tipper truck weighing 32 tons
- Tipper truck with crane 0.8
- Tractor and tipper trailer
- Wheeled excavator weighing min 15 tons

For these reasons, we request the Review Panel to approve the complaint as well-founded, to find that the Decision PSH. No. 2026/0283 has not been fully implemented and to oblige the Contracting Authority to correct the tender dossier and Annex 7 in accordance with the conclusions of the experts. After the publication of the corrected dossier, a new deadline of 40 days for the submission of tenders should be set.

Honorable members of the Review Panel, from the review of the evidence, the tender dossier and the administered expertises, it has been established that the Contracting Authority has not fully and effectively implemented the Decision of the PRB PSH. No. 2026/0283 and the conclusions of the experts Agnese Ibrahim and Bujar Gashi. The changes made to the tender dossier have remained mainly formal, while in Annex 7 continue to appear equipment that has been found to be unnecessary, disproportionate or not directly related to the nature of the contract. The expertise of the expert Visar Shehu has not fully addressed these inconsistencies. For LOT 1, the expert only mentioned the minimum 20-ton tire excavator, the minimum 38-ton excavator and the signaling trailer, while leaving the minimum 30-ton semi-trailer, the minimum 4-ton excavator and the vibrating plate mounted on the excavator unaddressed. For LOT 2, only the

hydraulic hammer and the hydraulic soil compaction machine were addressed, while the minimum 8-ton vibrating cylinder, the maximum 3-ton rubber-rubber cylinder, the rebar bending machine, the required trucks, the tractor with trailer and the minimum 15-ton wheeled excavator were left unassessed. These shortcomings make the expertise incomplete and insufficient to conclude that the PRB's preliminary decision has been implemented.

The non-implementation of the decision is also evident in relation to the deadline for bidding, as the revised dossier was published on 17.06.2026, while the deadline for submitting bids was set on 30.06.2026, although the experts had concluded that the conditions for using the accelerated deadline did not exist and that the full deadline of at least 40 days should have been applied. Maintaining the contested criteria in force and setting a purely formal deadline restrict competition, place the Complainant in an unequal position and create a risk of unfair elimination of economic operators. For these reasons, we propose that the complaint be approved as well-founded, and that it be established that the Decision of the Public Prosecutor's Office. No. 2026/0283 has not been fully implemented and the Contracting Authority is obliged to correct the tender dossier and Annex 7 in accordance with the conclusions of the experts, and, after the publication of the corrected dossier, to set a new deadline of 40 days for the submission of bids".

The Review Expert, in the session, states that: "My report had as its object the verification whether the Contracting Authority has implemented the decision of the Panel no. 2026/0283 that was previously taken during this procurement activity. For this reason, I have made a direct comparison between three documents: the decision of the PRB, the corrected tender dossier and the complainant's claims. From this comparison, I have concluded that the complaint is only partially well-founded. First, it is important to note that the Contracting Authority has implemented the largest part of the Panel's decision. Most of the criteria that were considered restrictive in decision 2026/0283 have been removed or modified. Therefore, it was not right for the complaint to be considered fully well-founded. However, I have also concluded concrete inconsistencies.

For LOT 1, three requirements remained unharmonized: the requirement for a minimum 20-ton wheeled excavator, although according to the decision it should have been changed to a minimum of 18 tons; the requirement for a trailer with electrical equipment for signaling the works; and the requirement for an excavator with a minimum weight of 38 tons, although according to the decision it should have been reduced to a minimum of 26 tons.

For LOT 2, I found that three ISO standards - ISO 9001:2015, ISO 3834-2:2021 and ISO 39001:2012 - have still been maintained, although the previous decision had required their removal. The requirements for an environmental protection engineer, a machinery technician, a certified crane operator, and two special equipment remained: a hydraulic hammer and a hydraulic soil compaction machine mounted on an excavator. These were also requirements that according to the Panel's decision should have been removed or changed. Therefore, my conclusion is not the result of a new technical assessment, but of the objective fact that these requirements continue to exist in the tender dossier despite the PRB's decision.

I have made another clarification in the report. In the experts' report in the previous case, in some cases it was recommended to add new criteria. I assessed that such a recommendation should not be implemented, because the expert does not have the competence to create new qualification criteria. This is the exclusive competence of the Contracting Authority and adding new criteria at this stage would be in contradiction with Article 7 of the Law on Public Procurement.

For these reasons, I have recommended that the complaint be partially approved, that only the specific inconsistencies that I just mentioned be eliminated and then the deadline for bidding be extended, so that the procedure continues in accordance with the Panel's decision and the principles of the LPP. The expert adds that this case was quite complicated and that he may have missed some part as a technical error, since the file itself was not properly completed, but the complaint was also complicated. Considers that the preliminary decision of the PRB with no. 283 should be implemented, but the claims related to the addition of equipment and staff, if any, were not supported, regarding the addition of new equipment and new staff in the TD, only to remove the equipment and others as foreseen by decision 283/26.

The member asks whether, in addition to the equipment, there have been any claims regarding the engineers. The expert replies that he has reviewed all the claims, including those related to the staff. All the claims that I have responded to are included in the expertise and I stand behind them. If I have not reviewed any claim, I declare that the preliminary decision should be respected, as it may have missed any claim unintentionally as a technical error."

The Review Panel, after reviewing and analyzing all documentation on the e-procurement platform, the complaint claims, the responses provided by the expert on the matter engaged by the PRB, considers that the expertise reports contain a priori the essential elements of such a document as provided for by the provision of Article 113 in conjunction with Article 114 of the LPP, according to which the provision requires the expert to review all procurement documentation, including all complaint claims and to provide the panel and all parties with an independent and professional assessment of the procurement activity and the validity of the complaint claims. However, it should be noted that the expertise report is not binding on the Review Panel and that any such report is evaluated and/or analyzed in the overall context of the case files, the alleged facts and any other evidence, taking into account the nature of the possible violations, the course, nature and purpose of the procurement activity. Therefore, the fact in which cases and for what, the Panel relies or not, on any report and/or any of the recommendations, is a matter for his/her independent and professional judgment, as these responsibilities are addressed in terms of Article 98, 99 in conjunction with Article 105 of the LPP.

The review panel has independently and objectively, with due diligence and professional care, evaluated all the evidence of the case. In this way, it has been found that the Contracting Authority has not acted in accordance with the legal provisions on public procurement and the requirements of the Tender Dossier regarding the activity of Construction of the Plant in Jabllanic, Leshan LOT 1 Construction of the Wastewater Treatment Plant LOT 2 Construction of the Fecal Sewage Network in Lugun, Leshan with procurement number 635-26-1622-5-1-1.

The review panel, after administering and evaluating the evidence, fully ascertaining the factual situation, relying on the LPP as the applicable material law, after reviewing the complaint claims, taking into account all the case files and the recommendations of the review expert, has found that the complaint of the Economic Operator is approved as well-founded. Consequently, the Review Panel has decided regarding the procurement activity entitled Construction of the Plant in Jabllanic, Leshan LOT 1 Construction of the Wastewater Treatment Plant LOT 2 Construction of the Fecal Sewage Network in Lugu, Leshan with procurement number 635-26-1622-5-1-1. Based on the above-mentioned clarifications, the Review Panel obliges the Contractor to make improvements to the tender dossier and extend the deadline for bidding, in accordance with the previous recommendation of the PRB no. 2026/0283.

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's Rules of Procedure.

For point II of the decision, it was decided based on Article 131 of the LPP in conjunction with Article 29 paragraph 3 of the PRB's Rules of Procedure.

For point III of the decision, it was decided based on article 31 paragraph 4 and paragraph 6 of the Rules of Procedure of the PRB in relation to article 118 of the LPP.

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

President of the Review Panel

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 – **MUNICIPALITY OF PEJA;**

1x1 EO – **“ENGINEERING GROUP SH.P.K.;**

1x1 Archive of the PRB