



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

Psh. No.214/26

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 Kimete Gashi Brajshori - President, Batisha Ibrahim Member and Vedat Poterqoi Member deciding on the complaint of the Economic Operator (EO) AD-STAR, against the Decision on the award of a contract or a design competition of the MINISTRY OF CULTURE YS AND ÇJK in the capacity of Contracting Authority (CA) regarding the procurement activity Restoration and conservation interventions in the assets of Cultural Heritage in the Peja Region and the Deçan Region with procurement number 207-25-9871-5-1-1, on the 22/06/2026 has issued this:

DECISION

1. Approved, as partly grounded the complaint of the EO AD-STAR with no. 2026/0214, dated 03/04/2026, regarding the procurement activity Restoration and conservation interventions in Cultural Heritage assets in the Peja Region and the Deçan Region with procurement number 207-25-9871-5-1-1.
2. Remains in force, B58 Notice on the Decision of the CA of the MINISTRY OF CULTURE YS AND ÇJK, regarding the procurement activity Restoration and conservation interventions in the assets of Cultural Heritage in the Region of Peja and the Region of Deçan with procurement number 207-25-9871-5-1-1
3. The refund of the appeal fee in the amount deposited is allowed, so that the complaining economic operator is obliged to submit a request for the refund of the fee within a period of sixty (60) days after receipt of this decision, in accordance with Article 31, paragraph 6 of the Rules of Procedure of the PRB, with the warning that if the request is not submitted within the deadline, the deposit will be confiscated and all deposited funds will be transferred to the budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 15.12.2025. MINISTRY OF CULTURE YS AND ÇJK, acting in the capacity of the Contracting Authority, has submitted the Contract Notice, for the procurement activity "Restoration and conservation interventions in the assets of Cultural Heritage in the Peja Region and the Deçan Region" with procurement no.: "207-25-9871-5-1-1"

The contracting authority has implemented an open procedure, type of contract: work, estimated value of the contract: 747,570.60 €.

On the 19.03.2026. THE MINISTRY OF CULTURE YS AND ÇJK acting in the capacity of the Contracting Authority, has published the Notice on the decision (B58), where it was recommended for the contract EO "TONI O.P - Lot 2, HARISI Group shpk- Lot 3,4,5".

On the 23.03.2026, the complaining EO has submitted a request for reconsideration where on date 31.03.2026. CA has rejected as unfounded the request for reconsideration.

On the 03.04.2026, EO KSF MAJOR SH.A. has submitted a complaint to the PRB, which has been recorded with protocol number 2026/0214, attacking the above-cited Decision of the CA, for the contract award.

-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 "AD-STAR". are set out as follows:

II. CHRONOLOGY AND CONTEXT OF THE CASE

AD-STAR sh.p.k. regularly participated in the procurement procedures no. 207-25-9871-5-1-1 and 207-25-117-5-1-1, with the object: Restoration and conservation interventions in the Cultural Heritage assets in the Peja Region and the Deçan Region, announced by the Ministry of Culture, Youth and Sports.

AD-STAR bid in five (5) lots:

Lot 1: 140,034.75 EUR — lowest price bid
Lot 2: 377,104.38 EUR — lowest price bid
Lot 3: 93,221.26 EUR — sole participant
Lot 4: 37,276.00 EUR

Lot 5: 46,398.00 EUR

On the 19.03.2026, AD-STAR was notified that it was being eliminated on the grounds that, pursuant to Administrative Instruction No. 16/2016, the engineers did not have a nostrification certificate for diplomas obtained outside Kosova.

On the 23.03.2026, AD-STAR submitted a request for review to the Contracting Authority under Article 108/A of the LPP, with the main argument that the criterion on the basis of which the elimination was made was not part of the Tender Dossier.

On the 30.03.2026, the Contracting Authority issued a rejection decision, which AD-STAR challenges as procedurally and materially illegal.

III. ALLEGED VIOLATIONS

3.1 Violation of Article 108/A, paragraphs 3 and 6 — Failure to comply with the deadline and lack of notification of deadline extension

Article 108/A, paragraph 3 of the LPP provides that the Contracting Authority must decide on the request for review within three (3) days of receipt. AD-STAR's request was submitted on 23.03.2026; consequently, the 3-day legal deadline expired on 27.03.2026, while the CA decision was issued on 30.03.2026.

Paragraph 6 of Article 108/A provides for the only legal possibility for a decision after the third day:

a written notification to the complainant for an extension of the deadline within the initial 3-day deadline. This notification had to be issued no later than 27.03.2026.

AD-STAR confirms that it has not received any notification from the CA — neither in writing, nor by email, nor through the electronic procurement platform — for the extension of the review period. This constitutes a violation of the right to an effective legal remedy and makes the decision absolutely invalid.

3.2 Violation of Article 7 LPP — Equality in treatment

The application of Administrative Instruction no. 16/2016 as an elimination criterion, without being part of the dossier, places economic operators in an unequal position and violates transparency and fair competition.

3.3 Violation of Article 27 LPP — Tender Dossier

The tender dossier must contain all the criteria that will be used during the evaluation.

Administrative Instruction no. 16/2016 does not appear in any part of the dossier and was not made known to the operators before the submission of the bids.

3.4 Violation of Article 51 LPP — Notification of selection criteria

The criteria must be defined in advance and explicitly included in the tender dossier.

The notification criterion was not defined in the procedure documents; any elimination on this basis is procedurally invalid.

3.5 Violation of Article 56 LPP — General provisions on selection

The rejection of a bid is lawful only when it does not meet the requirements specified in the tender dossier. AD-STAR's bid was rejected on the basis of a condition that does not exist in the dossier.

3.6 Violation of Article 59 LPP — Examination and evaluation of tenders

The evaluation should be made only on the basis of the published criteria. The use of Administrative Instruction No. 16/2016 constitutes an excess of competence and an illegal evaluation.

3.7 The CA's reasoning is inconsistent and self-contradictory

The administrative interpretation by another institution does not constitute a source of the right to an exclusion criterion. The use of an unpublished interpretation constitutes the use of hidden criteria and undermines transparency, equality and legal predictability. Requesting an interpretation after the submission of the bids shows that the criterion has not been determined in advance. The phrase "we recommend that you read other laws" is unacceptable, shifts the burden to the economic operator and acknowledges the lack of clarity of the file.

3.8 Previous practices of the CA

In previous procedures of this contracting authority, the notification criterion has not been a basis for exclusion. Its inclusion in this procedure without prior publication creates an arbitrary situation and violates Articles 7, 27 and 59 of the LPP.

IV. MATERIAL DAMAGE

The unlawful decision of the CA has caused direct damage to AD-STAR. The total value of lots 1, 2 and 3 — where AD-STAR had the lowest price and was the only bidder — amounts to EUR 610,359. The material damage corresponds to the profit lost from the execution of these contracts. AD-STAR reserves the right to compensation under Article 118 of the LPP.

IN CONCLUSION, WE EMPHASIZE THAT:

The tender dossier does not provide for the validation of diplomas as a qualification criterion.

The contracting authority cannot establish unpublished criteria.

Administrative Instruction No. 16/2016 is not mentioned in the tender dossier.

Elimination for an unpublished condition conflicts with transparency, equality and fair competition.

V. REQUEST

Based on Article 109 of the LPP, AD-STAR requests from the PRB:

Acceptance of the complaint as timely and well-founded;
Immediate suspension of the procedure according to Article 112;
Finding of violation of Article 108/A paragraphs 3 and 6;
Declaring the decision of the CA (30.03.2026) illegal and its annulment;
Re-evaluation of the bids without applying the unpublished criteria;
Any other corrective measure that the PRB considers necessary.

VI. RELATED DOCUMENTS

CA's decision on rejection, 30.03.2026;
Request for reconsideration, 23.03.2026;
Notice of elimination, 19.03.2026;
Minutes of public opening;
Proof of payment of the fee of 6,104 EUR (1% of the amount of 610,359 EUR).
Based on the serious procedural and material violations documented, AD-STAR requests the review of the complaint and the restoration of legality in this procurement procedure.
Response to the request for reconsideration:

Claim 1

Law No. 04/L-042 on Public Procurement has been violated, in particular the following provisions:

Article 7 - Equality of treatment (paragraphs 1, 2 and 3)

The contracting authority is obliged to ensure equal treatment, non-discrimination and transparency. The application of an unpublished criterion undermines the transparency of the procedure, puts economic operators in an unequal position and harms fair competition.

Article 27 - Tender dossier (paragraph 1)

The tender dossier must contain all the criteria and requirements that will be used during the evaluation. In this case, Administrative Instruction No. 16/2016 is not part of the dossier, however, it was used as a basis for elimination, which makes the procedure non-transparent and in violation of the legal requirements.

Article 51 - Announcement of selection criteria (paragraph 1)

The selection criteria must be determined in advance, included in the tender dossier and be clear and equal for all. In the specific case, the criterion on which the elimination was based was not defined as a selection criterion at all.

Article 56 - General provisions on the selection of participants and the award of contracts (paragraphs 1 and 3)

A tender may only be rejected if it does not meet the requirements set out in the tender dossier. In this case, our tender was rejected on the basis of a requirement that does not exist in the tender dossier; consequently, the rejection is unfounded in law.

Article 59 - Examination, evaluation and comparison of tenders (paragraph 4)

The evaluation must be made only on the basis of the published criteria. The use of an act that is not part of the tender documents constitutes an excess of competence and an illegal evaluation of the offers.

In conclusion, we emphasize that:

The tender dossier does not provide for the validation of diplomas as a qualification criterion. According to the Public Procurement Law, the contracting authority cannot establish additional criteria that have not been published in advance. Administrative Instruction No. 16/2016, used as a basis for the elimination, was not mentioned in any part of the tender dossier and no prior request was made to economic operators. Elimination for an unclear and unmentioned condition conflicts with the principle of transparency, equality, fair competition and efficient use of public funds.

Therefore, we request the review of the elimination decision and the acceptance of the submitted documents, as they meet the announced criteria.

Position of the Contracting Authority - The complaint claim is rejected as unfounded.

The Contracting Authority, the Ministry of Culture, Youth and Sports, cannot include all applicable laws in Kosovo in the Tender Dossier in order for economic operators to verify the documents before submission. The fact that an interpretation has been received from the Ministry of Education, Science, Technology and Innovation, which has emphasized that a document not certified in Kosovo is an invalid document for both foreign and local citizens, indicates that the Contracting Authority has dealt with your offer in detail and has treated it, but the provisions of other applicable laws in Kosovo have led to rejection. For this reason, in order to be prepared next time, we recommend that you read other laws that are broader than the criteria established in a procurement procedure. Consequently, you have been eliminated in all lots:

Lot 1: 140,034.75€

Lot 2: 377,104.38€

Lot 3: 93,221.26€

Lot 4: 37,276.00€

Lot 5: 46,398.00 €

From the review of the submitted documentation, it was found that the submitted staff (engineers) does not possess evidence for the validation, namely the recognition and equivalence of diplomas obtained outside the Republic of Kosova.

Based on Administrative Instruction no. 16/2016 on the Principles and Procedures for the Recognition of Diplomas, Degrees and Higher Education Qualifications Obtained Outside the Republic of Kosovo, specifically Article 3 (General Principles and Equivalence), point 6, stipulates that foreign citizens are obliged to request the recognition and equivalence of diplomas obtained outside the Republic of Kosova, if they have a legal interest in this in the Republic of Kosova.

Consequently, in order to exercise professional activity or to engage in institutions within the Republic of Kosovo, it is necessary that diplomas obtained abroad are recognized and equivalent by the competent authorities, in accordance with the legislation in force.

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 10.04.2026. authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 2026/0214, while on 20.04.2026 the review expert's report with no. 2026/0214, 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 cancelled and the case be returned for re-evaluation.

The expertise report has been duly accepted by all procedural parties. The CA has not responded to the recommendations of the review expert report, while the EO has agreed with the review expert report.

The review panel has assessed that the conditions have been met to decide on this case without a hearing session 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 report of the review expert provide sufficient data to decide on the merits of the case.

- Administration and evaluation of evidence -

In order to correctly establish the factual situation, the review panel has administered as evidence the Report of the Review Expert, the submissions and documents of the complaining economic operator, the 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 “AD-STAR”, the review expert through report no. 2026/0214 has assessed as follows:

The review expert explains that the complaining EO, dissatisfied with the Decision (B58) of the CA for the award of the contract, has filed a complaint with the PRB, alleging that the contracting authority has not mainly respected the provisions of Article 59 of the LPP.

The review expert explains that the Contracting Authority, after receiving the bids, has formed a bid evaluation commission and, at the end of the bid evaluation, notifies the economic operators participating in this procurement activity regarding the result of the bid evaluation, where the complaining EO is notified as an eliminated tenderer in all lots.

The complaining EO is eliminated with the following justification:

The complaining EO claims that there is no request for the validation of diplomas in the tender dossier, consequently it declares that it was eliminated for a request that was not foreseen in the tender dossier.

The review expert, after analyzing the evidence, specifically the request of the tender dossier, assesses that the claim of the complaining economic operator is valid, because such a request does not exist in the tender dossier and the elimination of an economic operator for a request that was not previously foreseen in the tender dossier is in violation of Article 56.3 of the LPP, which stipulates that:

Article 56.3 of the LPP:

“The tenderer, during open procedures, or the candidate, during restricted procedures and competitive procedures with negotiations, shall not be disqualified or excluded from such procedures on the basis of any requirement or criterion not specified in the contract notice and the tender dossier.

- Findings of the Review Panel -

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 procurement activity “Restorative and conservation interventions in cultural heritage assets in the Peja and Deçan regions” with procurement no.: "207-25-9871-5-1-1".

The Review Panel, administered all the documents of this case, including the acts and actions of the CA, the complainant's submissions and evidence and the report of the review expert and by analyzing all of them in the general context of this case, has created his/her independent conviction that the complaint of the complaining EO is approved as partially grounded. Consequently, the Review Panel does not support the recommendation of the review expert in its entirety because the CA, regarding the main claim submitted by the complaining EO, has presented a fact, letter/email contacting the relevant institution in this case the Ministry of Education that is in contradiction with the recommendation of the review expert.

The complainant claims that the Contracting Authority has decided on the request for review after the expiry of the three (3) day deadline set out in Article 108/A of the LPP, and that it has not been notified of any extension of the decision-making deadline. The PSH, after reviewing this claim, assesses that the issue of respecting the procedural deadline for handling the request for review does not constitute a circumstance that makes the CA's decision regarding the content of the case illegal. Since the complainant has used the legal remedies provided for by law and has filed a complaint with the PRB, his right to legal protection has not been violated. For these reasons, the RP considers that this claim is partially well-founded.

The complainant claims that the CA has not implemented the legal provisions of Article 7, 27, 51, 56 and 59 of the LPP, thus opposing the decision of the CA to eliminate his bid with the justification that the lack of evidence for the validation of the diplomas of the professional staff

was not a specified requirement in the tender dossier. The RP after analyzing the case documentation, has concluded that the complaining EO has presented professional personnel with diplomas issued outside the Republic of Kosova,

The RP assesses that the request for recognition and equivalence of diplomas obtained abroad does not represent an additional request established by the CA during the course of the procedure, but stems from the provisions of the laws in force that regulate the validity of professional qualifications in the Republic of Kosovo. Consequently, the CA, before making the final decision, has requested interpretation and clarification from the competent institution, namely the Ministry of Education, Science, Technology and Innovation. From the response of this institution, Ms. K.G., Head of NARCIS/ to the Ministry of Education, precisely on 24.02.2026, it results that diplomas obtained outside the Republic of Kosova cannot be considered valid for professional purposes without going through the procedure of recognition and equivalence according to the legislation in force, part extracted from the email.. "In accordance with the legislation in force, all diplomas of higher vocational schools and those of universities obtained abroad when used for the purpose of employment in the Republic of Kosova are subject to the procedure of recognition/equivalence in NARIC. The administrative instruction in force does not provide for special exceptions for any specific category from the procedure of recognition of diplomas obtained abroad...." In these circumstances,, the PS finds that the CA has acted in accordance with the legal provisions regulating the recognition of professional qualifications., Consequently, the RP, regarding this complaint claim, trusts the response given by the CA.

The complainant claims that in previous procedures conducted by the same Contracting Authority, the lack of nostrification of diplomas was not treated as a reason for elimination. Regarding this claim, the ASP assesses that previous administrative practices cannot create acquired rights nor replace legal obligations, therefore the ASP assesses that each procurement activity must be reviewed based on the concrete circumstances and the relevant documentation of the respective procedure.

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 complainant's complaint no. 2026/0214, should be approved only as partially grounded, while the Notice on the Decision of the Contracting Authority - MINISTRY OF CULTURE YS AND ÇJK regarding the procurement activity entitled ""Restorative and conservation interventions in the assets of Cultural Heritage in the Peja Region and the Deçan Region"" with procurement no.: "207-25-9871-5-1-1" should remain in force, since there are no sufficient legal arguments to order the CA to return the procurement activity to re-evaluation, for the reasons elaborated above in this decision.

The evaluation panel, in accordance with its independent assessment in accordance with Article 105, taking into account the requirement of Article 104, paragraph 1, of the cited Law, according to which, quoted: "The procurement review procedure shall be implemented and carried out in a prompt, fair and non-discriminatory manner, aiming at the fair, lawful and effective resolution of

the case...” and in accordance with Article 1, of the LPP, according to which, the purpose of this Law is, inter alia, quoted: “...to ensure the integrity and accountability of public officials, civil servants and other persons carrying out or involved in a procurement activity by requiring that the decisions of such individuals and the legal and factual basis for such decisions are not influenced by personal interests, are characterized by non-discrimination and a high degree of transparency and are in accordance with the procedural and substantive requirements of this Law”. 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.

The Review Panel, after reviewing all facts and arguments, has concluded that the CA, during the conduct of this procurement activity, has not respected the legal provisions of the LPP, so it orders the CA to fully comply with the legal provisions of the LPP during the reassessment of this procurement activity.

Therefore, acting in accordance with the powers cited above and Article 104 paragraph 4 in conjunction with paragraph 1, according to which the procurement review procedure shall be implemented and carried out in a prompt, fair and non-discriminatory manner, aimed at the legal and effective resolution of the case, and referring to Article 117 of the LPP, and in the evidence presented above, the Review Panel decided as in the provision of this decision.

President of the Review Panel

Mrs. Kimete Gashi Brajshori

Legal advice:

An appeal is not allowed against this decision, but the dissatisfied party can appeal to the Commercial Court, to the Department for Administrative Affairs for annulment of the decision within 30 days from the date of acceptance of the decision.

Decision to be submitted to:

1x1 CA – **MINISTRY OF CULTURE OF YS AND ÇJK;**

1x1 EO – **AD-STAR;**

1x1 Archive of the PRB