



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

Psh. No.240/26

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 Kosovo (LPP) composed by Vedat Poterqoi - Chairman, Isa Hasani and Batisha Ibrahim - Member, deciding on the appeal of the Economic Operator (EO) LIMITPROJECT SH.P.K., against the Decision to annul the procurement procedure of the MINISTRY OF CULTURE OF YS AND ÇJK in the capacity of the Contracting Authority (CA) regarding the procurement activity Work for the implementation of the detailed project [main implementer], of architecture and engineering, for the conservation and restoration of the National Library of Kosova, in Prishtina, in the Republic of Kosova. with procurement number 207-25-7189-5-1-1, on the 16/06/2026 has issued this:

DECISION

1. Approved, as partly grounded the complaint of the EO LIMITPROJECT SH.P.K. with no. 2026/0240, dated 15/04/2026, regarding the procurement activity Work for the implementation of the detailed project [main implementer], of architecture and engineering, for the conservation and restoration of the National Library of Kosova, in Prishtina, in the Republic of Kosova. with procurement number 207-25-7189-5-1-1.
2. Cancelled, B58 Notice on the Decision of the CA of the MINISTRY OF CULTURE OF YS AND ÇJK, while the procurement activity Work for the implementation of the detailed project [main implementer], of architecture and engineering, for the conservation and restoration of the National Library of Kosova, in Prishtina, in the Republic of Kosova with procurement number 207-25-7189-5-1-1 is returned to Re-evaluation.
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. The funds deposited in the name of the tariff fee for filing the complaint are returned to the account of the Economic Operator LIMITPROJECT SH.P.K.

REASONING

-Procedural facts and circumstances -

On the 07.08.2025, the MINISTRY OF CULTURE OF YS AND ÇJK, acting in the capacity of the Contracting Authority, has submitted the Contract Notice, for the procurement activity, “Work for the implementation of the detailed project [main implementer], of architecture and engineering, for the conservation and restoration of the National Library of Kosova, in Prishtina, in the Republic of Kosova with procurement no.: 207-25-7189-5-1-1.

The contracting authority has implemented an open procedure, type of contract: service, estimated value of the contract: 22,000,000 €.

On the 02.02.2026, the MINISTRY OF CULTURE OF RS AND KL, acting in the capacity of the Contracting Authority, has published the Notice on the decision (B58), against the cancellation of the activity.

On the 03.04.2026, the complaining EO submitted a request for reconsideration, where on 14.04.2026. CA rejected the request for reconsideration as unfounded.

On the 15.04.2026 LIMITPROJECT SH.P.K., submitted a complaint to the PRB, which was recorded with protocol number 2026/0240, challenging the above-cited Decision of the CA, against the cancellation of the activity.

-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 LIMITPROJECT SH.P.K. are presented as follows:

VIOLATED PROVISIONS AND COMPLAINT CLAIMS

Primary Legislation:

A.

Law on Public Procurement of the Republic of Kosovo No. 04/L-042 as amended and supplemented by

Law No. 04/L-237, Law No. 05/L-068 and Law No. 05/L-092

Specifically the articles:

Article 7. Equality of Treatment / Non-Discrimination

Article 10. Means for Promoting Transparency

Article 59. Examination, Evaluation and Comparison of Tenders

Article 60. Contract Award Criteria

Article 72. Additional Documentation and Information

Secondary Legislation:

B. A01. Regulation No. 001/2022 on Public Procurement

Specifically of Articles:

Article 40. Examination, Evaluation and Comparison of Tenders

C. A02. Guidelines No. 001/2023 on Public Procurement

Specifically of Provisions:

General Provisions

Purpose and Scope of the Operational Guidelines for Procurement

Clarification of Tenders during the Tender Evaluation Process

Based on Article 108/A of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo (LPP), as amended and supplemented, and in accordance with the Administrative Instructions issued by the KRPP, the Group of Economic Operators (GOE) submits this appeal against the decision of the Contracting Authority (CA) to eliminate the bid, a decision which is legally unfounded, not justified and in contradiction with the Tender Dossier, the LPP and the relevant Administrative Instructions.

GOE is the only bidder in this procurement procedure, a fact which, according to Article 7 of the LPP

(Principles of Public Procurement) obliges the CA to evaluate the bid objectively, proportionately and substantially, avoiding formal rejections and extended interpretations that do not stem from the previously established criteria.

Purpose of the Law on Public Procurement - Article 1:

In accordance with Article 1 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, the purpose of this law is to ensure efficient, transparent and rational use of public funds, as well as the implementation of public contracts through fair competition and objective evaluation of bids.

In the specific case, the Contracting Authority, by eliminating the sole bid submitted in the procedure on formal grounds and interpretations that do not stem from the Tender Dossier, has acted in contradiction with the fundamental purpose of the Law on Public Procurement. Such an action does not serve the implementation of the public contract, but on the contrary hinders it, undermining the efficiency of the procedure and the rational use of public funds.

The elimination of the sole bid, in circumstances where the Economic Operator has fulfilled the substantial requirements of the Tender Dossier, constitutes a formalistic application of the law and a deviation from the purpose of Article 1 of the LPP, which requires that procurement procedures lead to the signing and implementation of public contracts, and not to unjustified cancellations or refusals.

CLAIM

The Contracting Authority in the standard letter to the eliminated tenderer has emphasized this reason that we are administratively irresponsible:

After evaluating the bid, the commission has found that the economic operator has not fulfilled requirement no. 2 of the Economic and Financial Capacity presented by the CA in the Contract Notice and in the Tender Dossier, quote:

“Requirement number 2. The economic operator must provide evidence of the economic situation and financial capacity to meet the requirements of the subject of this procedure; and for this purpose, must prove that it has sufficient capital for the implementation of the contract, either funds available in the bank account OR access to a bank loan, unconditional in the name of this project, respectively in the name of this procurement activity, in the amount as follows -

2,000,000.00 € [Two million euros]; while as evidence it has been requested by the CA, quote:

Required documentary evidence - One [1] certificate from a first class bank, which proves that the Economic Operator has available funds in the bank account, in the amount specified above [In the case of a Group of Economic Operators, the leader (‘leader’) of The group must meet at least 60.00% of this requirement] - One [1] copy of the original.

OR - A [1] certificate from a first class bank, which proves that the Economic Operator has access to an unconditional bank loan on behalf of this project, in the amount specified above [In the case of a Group of Economic Operators, the leader of the Group must meet at least 60.00% of this requirement] - A [1] copy of the original.”

The Economic Operator for this request has provided evidence from the bank - SUPPORT LETTER, quote:

“That if the company Limit Project SH.P.K is awarded a contract by the CA - MCYS, for the contract titled: ‘Work for the implementation of the detailed project [main implementer], of architecture and engineering, for the conservation and restoration of the National Library of Kosova, in Prishtina, in the Republic of Kosova’, with procurement number: 207-25-7189-5-1-1 and with internal procurement number: 207-25-088-5-1-1, NLB Banka Sh.A. will financially support it in the amount of up to EUR 2,000,000.00 (Two million euros).”

According to the evaluation committee, the CA's request is that at the time of application, the EO must submit to the CA a certificate from the bank that it has cash in the bank account in the amount determined by the CA or the EO must submit to the CA a certificate from the bank that it has access to an unconditional bank loan on behalf of this project, in the amount determined by the CA.

In our case, GOE has provided evidence from the bank - SUPPORT LETTER which proves that the EO will be financially supported by the banking institution in the event that the company is awarded the contract, therefore it is unacceptable as evidence for the CA because it does not show that GOE has available funds in the bank or an approved credit limit for the implementation of this project.

Also, after evaluating the GOE's offer, it was found that the request with no. 3 of Technical and/or Professional Capacity, quote:

“Requirement number 3. The economic operator must provide evidence of sufficient competence and experience in the relevant sector and to this end must demonstrate that during the past three [3] years, it has implemented contracts [always in a regular and lawful manner] as follows:

[a.] Works for the implementation of detailed [main implementing] projects, of architecture and engineering, for the conservation and restoration of cultural heritage assets [which are part of the official list of registered protected cultural heritage assets], in an amount of at least €5,000,000.00 [Five million euros]; and

[b.] Works for the implementation of detailed [main implementing] projects, of architecture and engineering, for the construction and/or renovation of public/social buildings [as defined below], in an amount of at least €10,000,000.00 € [Ten million euros]; while as evidence requested by the CA, quote:

Evidence for requirement no. 3: Professional License - Category B2 for the implementation of conservation and restoration works of immovable cultural heritage, OR Board Decision for the granting of a professional license for category B2 for the implementation of conservation and restoration works of immovable cultural heritage, for a legal entity [Issued by the Ministry of Culture, Youth and Sports] - One [1] copy of the original.

Note - In the case of a Group of Economic Operators, the leader ('leader') of the Group and all members of the Group must fulfill this requirement.”

The Group of Economic Operators does not meet the requirements, because the evidence provided does not reach the financial value as requested by the CA.

The GOE has provided 4 lists of completed projects. The projects provided in the GOE lists are projects repeated in the three lists of projects submitted by the Economic Operators LIMIT PROJECT SH.P.K., RINESA SH.P.K. and DELTA-CCD SH.P.K.

Since the leader of the GOE is EO LIMIT PROJECT SH.P.K., all completed projects of a similar nature that are found in the three lists of projects provided have been attributed only to the leader

of the group and after calculating the financial value of all projects presented in the project lists, it has been found that the GOE does not reach the financial value requested by the CA.

REFUSAL FOR EXPERIENCE OF THE WORKS COMPLETED

2.1 Criteria of the Tender Dossier and the Administrative Guide for GOE

The Tender Dossier has expressly requested that the group leader has at least 60% of the value of the works performed.

According to the Administrative Guide for Public Procurement - the part regulating Groups of Economic Operators - professional and economic capacities can be fulfilled in a cumulative manner, as long as the main criterion set out in the Tender Dossier (in this case 60% for the leader) is fulfilled.

Requirement no. 3 of the Tender Dossier expressly stipulates that the Economic Operator must demonstrate experience in the implementation of contracts during the last three (3) years, namely:

Work on architectural and engineering projects for the conservation and restoration of cultural heritage assets worth at least €5,000,000.00, and

[b.] Work on architectural and engineering projects for the construction and/or renovation of public/social buildings worth at least €10,000,000.00.

Also, in the documentary evidence section, the Tender Dossier clearly stipulates that in the case of a Group of Economic Operators, the leader of the Group must meet at least 60.00% of this requirement.

2.2 CA's reasoning and factual harmonization

The CA justified the elimination by claiming that:

“The projects are repeated between the members of the GOE and the financial value is not divided according to the real participation.”

This claim is factually incorrect, since:

the projects were presented separately for each company;

there are no identical contracts calculated twice or more;

the group leader covers alone over 60% of the requested value.

The Tender Dossier and the Administrative Instructions do not foresee a ban on the submission of the same projects, as long as there is no double calculation of the financial value.

In this procedure, the leader of the GOE, LIMIT PROJECT SH.P.K., not only meets the minimum requirement of 60%, but alone reaches and exceeds the required value of the works

performed according to points [a] and [b] of Request No. 3, based on the lists of works performed and the relevant evidence submitted in the bid. Consequently, the criteria of the Tender Dossier are fully met only by the leader of the GOE.

In violation of this clear provision, the Contracting Authority has: unfoundedly reduced the number of lists of works performed submitted by the GOE; presented an erroneous financial calculation claiming that the leader of the GOE does not reach the required threshold.

Below, we present the totals of the works performed for each EO part of the GOE in this procedure:

- a) LIMIT PROJECT SH.P.K. - inheritance: 6,439,308.36€
 - b) LIMIT PROJECT SH.P.K. - construction and renovation works: 8,430,939.52 €
 - c) RINESA SH.P.K. - 3,429,385.35€
 - d) DELTA-CCD SH.P.K. - 4,053,165.98 €
 - e) ALPING Sh.P.K. - €2,733,911.66
- Total: €25,086,710.87

The list of works performed for LIMIT PROJECT Sh.P.K. has been divided to argue that only LIMIT PROJECT Sh.P.K. meets criterion 3 - point [a], work on architectural and engineering projects for the conservation and restoration of cultural heritage assets worth at least 5,000,000.00, € and that it has more than 80% of point [b] - work on architectural and engineering projects for the construction and/or renovation of public/social buildings worth at least 10,000,000.00. €

Attached: Clarification of the list of works completed with technical acceptances or references of works, proven by the list submitted to the CA.

We are also attaching the clarification of the list of completed works according to the situations submitted before the date of the contract notice, in accordance with Article 72 of the LPP:

- a) RINESA SH.P.K. - 2,113,410.55 €
 - b) DELTA-CCD SH.P.K. - 1,157,575.65 €
 - c) ALPING Sh.P.K. - 3,558,542.21 €
- Total: 6,829,528.41 €

Additional evidence for the work carried out is provided by the photos of the buildings that were built within the Drenas Square and Vushtrri Boulevard, which argue that the buildings in question are high-rise public buildings. The CA has committed a flagrant violation by not accepting the contract with the Contracting Authority - Prizren Municipality, worth over 2.8 million euros, as a heritage project. This is just one of the examples of violations in the assessment. We attach the document that proves that this asset is part of the cultural heritage.

Also, the division of values according to percentages (we do not know how the CA - Ministry of Culture, Youth and Sports divided the values) is inappropriate and unfounded in the LPP. 2.3 Legal violations of the CA

With this interpretation, the CA has violated:

Article 71 of the LPP (Groups of Economic Operators),

Article 59 and 60 of the LPP,

Article 7 of the LPP,

by interpreting the criteria in a restrictive manner and outside the Tender Dossier.

DEEP CLAIM FOR THE OVERRULING OF THE DECISION OF THE CONTRACTING AUTHORITY

The decision of the Contracting Authority to eliminate the Economic Operator and cancel the procurement activity is unlawful, arbitrary and based on a distorted assessment of the facts and criteria of the Tender Dossier.

This decision does not represent a legitimate exercise of administrative discretion, but a clear deviation from the provisions of Law No. 04/L-042 on Public Procurement and its fundamental principles.

I. PRESENTATION OF FULFILLMENT OF THE CRITERION OF TECHNICAL AND PROFESSIONAL CAPACITY

The Economic Operator emphasizes that the submitted offer fully meets the requirements of the Tender Dossier regarding technical and professional capacity, namely the criterion for proof of experience in carrying out works of a similar nature.

In accordance with the requirements of the Contracting Authority, the EO has submitted:

detailed lists of completed works, signed and sealed;

contracts and certificates of technical acceptance;

as well as other relevant evidence that confirms the implementation of the relevant projects.

These documents clearly demonstrate that the EO has carried out work in the requested field, including projects for the conservation and restoration of cultural heritage assets, as well as construction and renovation of public/social facilities, in accordance with the requirements set out in the

Tender Dossier.

II. NATURE OF REFERENCES - WORKS COMPLETED AND EVIDENCED

The references submitted by the EO represent real work performed, supported by official documentation, including:

contracts executed;

technical acceptance reports;

and other evidence confirming the completion of the works.

The experience presented is concrete, verifiable and in full compliance with the requirements of the

Tender Dossier.

III. FULFILMENT OF THE CRITERION BY THE GROUP OF ECONOMIC OPERATORS

In the case of participation as a Group of Economic Operators, the experience criterion is fulfilled by the group as a whole, in accordance with the requirements of the Tender Dossier.

The group leader meets the required level of involvement in this criterion, while the references of the other members complement and strengthen the overall capacity of the group.

The references are complementary and demonstrate full capacity for the performance of the contract.

IV. VIOLATIONS OF THE CONTRACTING AUTHORITY IN THE EVALUATION

Despite the clear fulfillment of the criteria by the EO, the Contracting Authority has developed an unlawful, biased evaluation process and in contradiction with the provisions of the Law on Public Procurement. Deviation from the criteria of the Tender Dossier The Contracting Authority has interpreted the criterion incorrectly, treating it as a criterion for “completed contracts”, while the request is for “work performed”. This change of the criterion after the opening of the bids constitutes a violation of Article 7 and Article 59 of the LPP. Incorrect and selective calculations The Contracting Authority has carried out incorrect and inconsistent calculations of the values of the completed works, not accurately reflecting the submitted documentation. It is clearly seen from the decision of the Contracting Authority itself that the evaluation is built on a fragmented and non-objective processing of the data. Failure to consider relevant references

The Contracting Authority has not taken into consideration all submitted references, excluding projects that clearly demonstrate compliance with the criteria.

This action constitutes a violation of Article 59 of the LPP and seriously violates the principle of full and objective evaluation.

Formal and unrealistic re-evaluation

After returning to the re-evaluation, the Contracting Authority did not reflect in a real way, but reproduced the same errors, making the re-evaluation formal and ineffective, despite having approved the request for re-examination dated 03.02.2026 as well-founded.

Unjustified and disproportionate delay

The extension of the re-evaluation procedure for more than 50 days, in a case with only one bidder, constitutes a violation of the principles of efficiency and transparency.

Unlawful cancellation of the procedure

The conclusion that there are no responsive bids is unfounded and stems from an erroneous and biased assessment.

Unilateral failure to comply with the previous decision approving the request for reconsideration and reassessment It is of fundamental importance to note that for the same disputed point, the Contracting Authority has eliminated the Economic Operator both in the initial decision and in the decision following the reassessment.

Also, in the first decision, the EO was eliminated for an additional point regarding the bank support, for which, after the request for review, the Contracting Authority itself found that our claim is well-founded and decided to return the case for re-evaluation.

Therefore, the Contracting Authority:

has accepted that the initial evaluation was erroneous;

has returned the case for re-evaluation to correct these errors;

and has been obliged to act in accordance with these findings during the re-evaluation.

However, contrary to this:

The Contracting Authority has repeated the same elimination for the same point;

without providing a new substantial analysis;

and without reflecting on the previous decision.

This clearly proves that the re-evaluation was not real, but formal and with a predetermined result.

Furthermore, the Contracting Authority has kept the case under review for the maximum allowed time, despite the fact that the disputed issues have been limited and already addressed.

This behavior:

violates the principle of impartiality;

contradicts the principle of efficiency;

and creates a well-founded suspicion for the purpose of prolonging the procedure and justifying the same decision - the elimination of the EO and the cancellation of the procedure.

V. CONCLUSION AND REQUEST

Based on all the above arguments, we request the Public Procurement Review Body to:

annul the decision to eliminate the Economic Operator;

annul the decision to cancel the procurement procedure;

and return the case for a fair, complete and in accordance with the Law on Public Procurement

Response to the request for review:

The complaining claim is rejected as unfounded:

The Contracting Authority - Ministry of Culture, Youth and Sports has analyzed in detail the complaint submitted by Limit Project SHPK regarding the finding that Requirement No. 3 is not met. According to this requirement, the economic operator must provide evidence of sufficient competence and experience in the relevant sector and, to this end, must prove that during the last three (3) years it has implemented contracts in a regular and legal manner as follows: a) Work for the implementation of detailed (main implementing) architectural and engineering projects for the conservation and restoration of cultural heritage assets, which are part of the official list of registered protected cultural heritage assets, in a value of at least €5,000,000.00; and

b) Works for the implementation of detailed (main implementing) architectural and engineering projects for the construction and/or renovation of public social buildings worth at least

10,000,000.00 €.

Based on the data in the system, it has been established that the Group of Economic Operators (Limit Project SHPK, Rinesa SHPK, Delta CCD SHPK and ALPING SHPK) does not meet

criterion no. 3, as the references for cultural heritage objects amount to 4,925,546.61 €

(while 5,000,000.00 € are required), while the references for construction amount to 6,651,495.40 €

(while 10,000,000.00 € are required). So, in total, references worth €11,577,042.01 have been submitted, while €15,000,000.00 is requested (divided by 5+10).

According to the economic operators within the GOE:

Limit Project SHPK: €2,606,386.98 (inheritance) and €2,762,771.58 (construction)

Rinesa SHPK: €1,345,207.00 (inheritance) and €420,802.91 (construction)

Delta CCD SHPK: €768,233.44 (inheritance) and €446,671.39 (construction)

ALPING SHPK: €205,719.25 (inheritance) and €2,528,192.41 (construction)

Total: €4,925,546.61 (inheritance) and €6,651,495.40 (construction), respectively 11,577,042.01 €

total.

From the list of completed works submitted, it appears that Limit Project SHPK has over 25 contracts that are either still ongoing or have expired before the date of application (more than 3 years before the date of opening the procedure). The same situation is also found for Delta CCD

SHPK, Rinesa SHPK and ALPING SHPK. Consequently, the Group of Economic Operators does not meet the required references.

Also, during the request for reconsideration, GOE did not raise any concrete claim regarding the justification for the elimination and the table of references presented above, not presenting facts and arguments that prove the fulfillment or exceeding of the criteria. The request submitted is general and without concrete evidence that proves references of a similar nature. The claim that references over 25 million euros are possessed does not hold true, as some projects have exceeded the 3-year deadline, some are not "a copy of the original" as requested, while some are still being implemented.

Clarification: "Public social building" in this procurement activity includes all typologies of sports, culture, education, health and administration buildings (under state ownership - local or central, inside and outside Kosovo, as well as under the administration of other states or international organizations), while excluding other typologies. It has also been found that in some cases a contract was submitted twice (once as a basic contract and once divided into lots), resulting in doubling of financial values (cases of projects 42, 43 and 44 with a doubled value of €455,994.84). Also, at ALPING

SHPK projects 3, 4, 7, 12 and 13 are still being implemented. For these reasons, the complaint is rejected as unfounded.

Based on Article 111 paragraph 5 in connection with Articles 113 and 114 of the LPP, the Procurement Review Body on 16.04.2026 authorized the review expert to conduct the initial review of the file and claims under the complaint with no. 2026/0240, while on 28.04.2026 the review expert's report with no. 2026/0240 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 notice for cancellation of the procurement activity be canceled and recommends that the case be returned for re-evaluation.

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

The review panel assessed that the conditions were 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 review expert's report provide sufficient data to decide on the merits of the case.

-Administration and evaluation of evidence -

In order to correctly establish the factual situation, the review panel has administered as evidence the Report of the Review Expert, the submissions and documents of the complaining economic operator, the 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 LIMITPROJECT SH.P.K., the review expert through report no.

2026/00240 has assessed as follows:

RESPONSE TO THE COMPLAINT CLAIMS OF THE COMPLAINING EO

Claim no. 1

The first complaint allegation concerns the CA's reason for eliminating the complaining EO, where according to the CA, the same did not fulfill the tender dossier's request for cash or access to unconditional credit on behalf of this project. In the case of the first request for review (partially approved by the CA), the complaining EO has emphasized that: According to the Administrative Guide for Public Procurement (AGP), the part regulating Economic and Financial Capacity, evidence of access to bank credit can be provided through: bank certificate, bank supporting letter, or other equivalent documents that prove the availability of financial means. This reasoning is not valid and directly contradicts the criteria of the Tender Dossier and the Administrative Guide, since:

any bank financing for public contracts is activated only after winning the contract;

The Tender Dossier did not request disbursed credit, but only evidence of access to credit;

The Administrative Guide expressly accepts the bank support letter as a valid document.

By not consuming Article 59 of the LPP, clarification of the tender dossier, you could have requested clarification/confirmation from the bank regarding this document and you would have understood that the bank has provided a confirmation of unconditional access to credit for this project, where it also highlighted the tender title and procurement number.

Therefore, you have acted in violation of the LPP.

1.3 Legal violations of the CA regarding this claim:

With this action, the CA has violated:

Article 59 of the LPP (Examination, evaluation and comparison of offers),

Article 60 of the LPP (Criteria for awarding the contract),

Article 72 of the LPP (Documentation and additional information),

Article 7 of the LPP (Equality in Treatment / Non-Discrimination),

by imposing an additional criterion that is not foreseen in the Tender Dossier nor in the Administrative Instructions”.

The complaining EO has attached to the bid a supporting letter from the bank confirming that, if the Company Limit Project SH.P.K. is awarded a contract by the CA-MCYS, for the contract with the title: “Work for the implementation of the detailed project (main implementer), of architecture and engineering, for the conservation and restoration of the National Library of Kosova, in Prishtina, in the Republic of Kosova”, with procurement number: 207-25-7189-5-1-1

and with internal procurement number: 207-25-088-511, NLB Bank Sh.A. will financially support it in the amount of up to EUR 2,000,000.00 (two million euros).

The review expert gives the opinion that the support from the bank is sufficient. It is clear that, if the EO is awarded the contract, the bank will financially support it in the amount of €2,000,000.

That is, the support from the bank is not conditional in any way, as often happens in procurement activities, where support is usually conditioned by the expression “if the client meets the conditions” or “after the assessment of the competent body”, etc.

In the specific case, the support from the bank is clear and unconditional.

Based on the above, we assess that the decision of the CA was taken in violation of the requirements of the dossier.

Claim no. 2

The second reason for the elimination of the complaining EO by the CA is related to the experience of the EO. The CA claims that a number of the projects presented are older than the required three years, that a number of the projects/contracts have not yet been completed and that a number of them are not of the appropriate nature. The complaining EO, among other things, claims that:

“The Tender Dossier has expressly requested that the Group Leader have at least 60% of the value of the completed works. According to the Administrative Instruction on Public Procurement - the part regulating the Groups of Economic Operators - the professional and economic capacities can be fulfilled in a cumulative manner, as long as the main criterion set out in the Tender Dossier (in this case 60% for the leader) is met.

Requirement no. 3 of the Tender Dossier expressly stipulates that the Economic Operator must demonstrate experience in the implementation of contracts during the last three (3) years, namely:

[a] work on architectural and engineering projects for the conservation and restoration of cultural heritage assets worth at least €5,000,000.00, and

[b] work on architectural and engineering projects for the construction and/or renovation of buildings public/social in the amount of at least 10,000,000.00 €.

Also, in the documentary evidence section, the Tender Dossier clearly stipulates that, in the case of a Group of Economic Operators, the leader of the Group must meet at least

60.00% of this requirement.

CA's reasoning and factual harmonization

The CA justified the elimination by claiming that:

“The projects are repeated among the GOE members and the financial value is not divided according to the real participation.”

This claim is factually incorrect, since:

the projects are submitted separately for each company;

there are no identical contracts calculated twice or more;

The Group Leader covers alone and solely over 60% of the requested value.

The Tender Dossier and the Administrative Guide do not provide for a ban on submitting identical projects, as long as there is no double calculation of the financial value.

In this procedure, the GOE leader, LIMIT PROJECT SH.P.K., not only meets the minimum requirement of 60%, but alone reaches and exceeds the required value of the works performed according to points [a] and [b] of Request no. 3, based on the lists of completed works and the relevant evidence submitted in the bid. Consequently, the criteria of the Tender Dossier have been fully met only by the leader of the GOE.”

The review expert, regarding contracts older than three years, initially clarifies that the requirement of the tender dossier has decisively been “during the past three years”.

In the specific case, the CA has not set a specific deadline with a date and has not highlighted any threshold as the beginning of the calculation of the time/period, as is usually used in the tender dossier “from the date of the contract notice”.

In the specific case, the requirement is for contracts during the past three years.

Since the contract notice was published in 2025, in the expert’s opinion, the three years past from 2025 are 2024, 2023 and 2022, therefore any contract concluded from 2022 onwards should be accepted as granted (according to the dossier requirement itself).

Also, regarding the reasoning that the EO has described contracts that are under implementation, the CA in the tender dossier and in the documentary evidence in no case has requested “completed contracts”, however, it has been requested to prove that the EO has “implemented contracts” and evidence of work in the implementation of detailed projects has been requested. The expert gives the opinion that the complaining claims are partially grounded and recommends that, in the event of re-evaluation, additional clarifications be requested and an evaluation be made according to the recommendation given above and in accordance with the requirements of the 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 in relation to the procurement activity “Work for the implementation of the detailed [main implementing] project, of architecture and engineering, for the conservation and restoration of the National Library of Kosovo, in Pristina, in the Republic of Kosovo.” with procurement no.: "207-25-7189-5-1-1

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 grounded. In this case, the Panel explains that the expertise report was drafted in a professional manner and the same contains all the complaining statements and the analysis related to them, explaining them specifically in relation to the violated provisions, as required at least by the provision of Article 113 and 114 of the LPP. Consequently, the Review Panel supports the recommendation of the review expert that the complaint of the complaining EO be approved as grounded, the notice for cancellation of the procurement activity be cancelled and the case be returned for re-evaluation.

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 competencies 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

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 – **MINISTRY OF CULTURE OF YS AND ÇJK;**

1x1 EO – **LIMITPROJECT SH.P.K;**

1x1 Archive of the PRB

