



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

Psh. No.0781/25

The Review Panel, appointed by the Acting President of the Procurement Review Body (PRB), pursuant to Article 105, 106, and 117 of the Law on Public Procurement of the Republic of Kosova (LPP) composed of Batisha Ibrahimimi - Individual Panelist deciding upon the complaint of the Economic Operator (EO) "MEDPLUS" SH.P.K, against the Decision to cancel the procurement procedure regarding the procurement activity of "MUNICIPALITY OF PEJA" in the capacity of Contracting Authority (CA) regarding the procurement activity "013 Supply of medicines and medical consumables for the central pharmacy at the QKMF to fill the shortages with supply from the essential list" with procurement number 635-25-2045-1-1-1, on the 24/10/2025, has issued this:

DECISION

1. Approved, as grounded the complaint of the EO “MEDPLUS” SH.P.K”, against the Decision to contract award or a design competition regarding the procurement activity “Installation of the Gjakova III water supply for the villages of Lugbunar, Osek Hile and Skivjan of the Municipality of Gjakova” with procurement no.: “KRURGJA-24-9965-5-1-1”, initiated by the Contracting Authority (CA) - Gjakova Regional Water Supply Company SH.A.
2. Cancelled, B58 Notice on the Decision of the CA of “MUNICIPALITY OF PEJA” while the procurement activity “013 Supply of medicines and medical consumables for the central pharmacy at the QKMF to fill the shortages with supplies from the essential list” with procurement number 635-25-2045-1-1-1 is returned for 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. Since the complaint of the complaining EO is approved as grounded, the complaint fee is refunded in the amount deposited when submitting the complaint. The complaining EO is obliged, in accordance with Article 31, point 6 of the Rules of Procedure of the PRB, to make a

request for the return of the complaint security within a period of sixty (60) days, otherwise the deposit will be confiscated, and these funds will go to the Budget of the Republic of Kosova.

REASONING

-Procedural facts and circumstances -

On the 17.03.2025, “MUNICIPALITY OF PEJA” in the capacity of Contracting Authority has published Contract Notice B05 regarding the procurement activity entitled: “013 Supply of medicines and medical consumables for the central pharmacy at the QKMF to fill the shortages with supplies from the essential list” with procurement no.: 635-25-2045-1-1-1, while on 16.07.2025 Notification on the decision of the Contracting Authority B58..

The contracting authority has implemented an open procedure. Type of contract: supply, Estimated contract value: 160,272.00 €.

On the 04.08.2025, EO “MEDPLUS” SH.P.K. submitted a request for review against the aforementioned decision of the CA. On 05.08.2025, the Contracting Authority rejected as unfounded the request for review.

On the 15/08/2025, the PRB received the complaint from “MEDPLUS” SH.P.K. with no. 2025/0781 regarding the activity “013 Supply of medicines and medical consumables for the central pharmacy at the QKMF to fill the shortages with supply from the essential list” with procurement number 635-25-2045-1-1-1.

-On the preliminary review phase-

The PRB has found that the complaint contains all the elements set out in Article 111 of the LPP and as such has been submitted within the legal deadline in accordance with Article 109 paragraph 1 of the LPP after the preliminary procedure for the resolution of disputes in the sense of Article 108/A of the LPP, by the economic operator who is an interested party under Article 4 paragraph 1 subparagraph 26 of the LPP. In this way, the Review Panel has found that it is competent to review this complaint under Article 105 of the LPP and there is no procedural obstacle to continue with the review of the complaint on its merits.

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

Dear Sirs, on 16.07.2025, through the electronic e-procurement platform, we received the notification of the CA's decision recommending the EO MADEKOS SH.P.K. for a contract at a price of 156,748.00 €, while we were eliminated even though we offered the cheapest price, 114,891.70 €.

Following this notification, on the 21.07.2025, we submitted a request for reconsideration, elaborating the reason for our elimination, which was unfounded, and at the same time we argued the irresponsibility of the EO recommended for the contract.

The CA on the 23.07.2025 issued a decision by which it partially approved the request for reconsideration as grounded only with regard to our complaint claim in relation to the EO's bid recommended for the contract, while with regard to the reason for elimination, it did not approve our complaint claim.

On the 29.07.2025, a new notification on the decision was issued, where now the procurement activity was canceled with the justification that there is no responsible bidder, while we were again eliminated with the same justification as with the notification on the decision of 16.07.2025.

We have received the standard letter for eliminated bidders with the following justification:

We clarify that the CA's justification for our elimination is unfounded and unfounded, therefore we will prove this with the following elaborations:

Regarding this reason for elimination, we clarify that before bidding in this tender, we communicated with the manufacturer ACMED, discussing the catalogs for the requested products, while the same company sent us their original catalogs, where the catalog also included a QR Code.

The contracting authority claims that when the QR Code is scanned, one less product appears than in the catalog submitted by us.

We initially guarantee that the catalog sent to us by the manufacturer is the same as we have included in the offer. After receiving the standard letter for eliminated tenderers (dated 16.07.2025), we contacted the manufacturer, explaining the reason for the elimination and requesting clarifications about the catalog. The manufacturer sent us an email on 17.07.2025 confirming that the catalog they sent us (which we have attached to the offer) is their original and that the manufacturer has added some products to that catalog, taking responsibility for the supply of these products, and at the same time they have clarified that these added products do not appear when the QR Code is scanned because an update has not been made.

The manufacturer again on 19.07.2025 sent us an email explaining that the catalog they sent us was a new catalog, while regarding the QR Code, they explained to us that due to numerous commitments and work, the responsible persons were unable to immediately update the electronic catalog or update it, but they confirmed that they have now updated the QR Code and you can now find our products through the updated QR Code. They also informed us that we can also find their products on their website.

For the sake of correctness, we are also attaching the communications with the manufacturer ACMED.

From the evidence that we are attaching to this complaint, it is clearly understood that in this case we are not dealing with different versions of the catalogs as the contracting authority has

claimed, but we are dealing with the manufacturer's original catalog and with an unupdated QR Code at the same time as the new catalog, but what is more important is the fact that the manufacturer has clarified this issue and that the catalog presented by us is the manufacturer's original and that the issue of updating the QR Code is an internal matter of the manufacturer as to when it was made.

The contracting authority has referred to the catalog with the QR Code as the original, while the catalog that we have presented is referred to as the version presented by us, but we clarify that the catalog that we have attached to the offer is original, as the manufacturer has also claimed by email, and the catalog in the QR Code is also original and from the manufacturer, but that the update of the catalog in the QR Code was not made at the same time as the new catalogs were made.

So, until the manufacturer himself has confirmed the evidence that it is in order and that it is from the manufacturer, then the fact is clearly proven that the contracting authority's claim that we have provided a false statement is unfounded. It would be a false statement if we had provided the manufacturer's catalog, while the manufacturer ascertained the opposite of this.

We would like to clarify that after the manufacturer updates the QR code, everyone can verify that the catalog submitted by us is on the manufacturer's website and this is verified when the QR code is scanned, the manufacturer's website immediately appears and the catalog is 100% as submitted by us, therefore we encourage the PRB to verify this fact.

The contracting authority in this procurement activity has acted in a biased manner, with the sole aim of eliminating us from the procurement activity and canceling the tender now, since it has itself ascertained and verified that the former EO recommended for the contract, MADEKOS, is irresponsible.

The evidence that the CA has discriminated against us in this procurement activity is clearly proven by the fact that the CA has not requested any clarification from us or from the manufacturer regarding the catalog, but without any additional clarification has eliminated us and has drawn biased conclusions against our company. Therefore, the provisions of Article 59.2 and 72 of the LPP clearly stipulate that the CA may request additional clarification on any aspect of the tender, but surprisingly the CA has not done such an action by discriminating against us as a responsible EO with the cheapest price in this procurement activity.

We also clarify that we have requested access to the documents of EO MADEKOS SH.P.K. and, after we have been granted access and after we have analyzed the documentation of EO MADEKOS SH.P.K., we have concluded that the same is irresponsible for the following facts:

Below we are clarifying for each of the positions-products requested in the pre-measure, the shortcomings of MADEKOS SH.P.K.'s offer:

Based on the above table, it is clearly seen that EO MADEKOS SH.P.K has not fulfilled requirement no. 2 of the tender dossier, which is specified in the technical and professional capacity.

The tender dossier correctly specifies:

Requirement 2 Authorization and catalog from the manufacturer or authorized dealer

Evidence 2 Copy of the Authorization and catalog from the manufacturer or dealer.

EO MADEKOS SH.P.K, as long as it has not presented the catalog and authorization for the majority of the requested products, is irresponsible.

The lack of documentation such as technical catalogs and authorizations from manufacturers or authorized distributors creates complete uncertainty regarding the origin, quality and compliance of the products with the requirements of the contracting authority, especially when we consider the fact that the request was very clear and EO MADEKOS SH.P.K did not provide the requested documents.

The authorization and catalogs are key documents that contain almost all of the tender documentation, therefore in this case the failure to present these products cannot be exceeded in any way.

At the same time, according to the above table, it is clearly seen and confirmed that EO MADEKOS SH.P.K in some of the positions has offered a higher price than the price specified in the official list of prices of medicinal products, article 14 of the LAW ON THE PRICE OF MEDICINAL PRODUCTS.

In the aforementioned provision, paragraph 1 is clearly specified as follows:

1. The basis for determining the purchase price or reimbursement of medicinal products by public institutions according to the respective competence for contracting medicinal products shall be the official list of wholesale prices of medicinal products published by the Ministry.

Since EO MADEKOS SH.P.K has bid with higher prices than the price determined in the standard list compiled by the Ministry, then in this case there is no need to request additional clarifications, but the same EO should have been eliminated from the procurement activity automatically since in addition to the prices, it also lacks the catalog and authorizations.

It cannot be allowed to bid in the tender with prices outside the official prices, otherwise the economic operator must be eliminated. Institutions are also obliged to take care of this issue to prevent laws from being violated and paying prices higher than the official price issued by the competent institution, the Ministry of Health.

With the notification of the decision dated 29.07.2025, the contracting authority itself eliminated the EO MADEKOS SH.P.K. for the reasons as follows:

We agree with the reason for the elimination by the CA, but we assess that the CA should have included in the standard letter for eliminated tenderers all our complaint claims because they all stand and for all those claims the EO MADEKOS SH.P.K. should have been eliminated.

We received the decision to reject on 05.08.2025, while the CA in the decision to reject did not provide any concrete reason that would prove the opposite of our claims in the complaint.

It is also clear from the decision to reject the request for reconsideration that the CA was unable to justify and prove the reason for our elimination in any way, but gave a generalized response.

The CA's claim that a difference was found between the documents submitted in the initial phase of the tender and those that we claim have been adjusted is an incorrect and unfair finding because there is no inconsistency between the documents submitted with those we submitted with the request for reconsideration and this claim of the CA cannot be proven at all.

The CA's assertion that we claim that the documents have been adjusted is untenable, but we clarify that the catalog that was submitted was the manufacturer's and this was accepted and confirmed by the manufacturer himself, where the CA also has this evidence, therefore there is no change as the contracting authority tries to present the situation.

Regarding the CA's claim that the Scan Code was changed after the end of the deadline for submission of documents, we clarify that the tender dossier requested a catalog and no Scan Code or anything like that was requested, therefore we have provided the catalog according to the request of the tender dossier and with this evidence we have fulfilled the request in question.

Any elimination from this procurement activity for reasons and requests that are not in the tender dossier is in contradiction with Article 56.3 of the LPP, therefore in this case we cannot be eliminated because the Scan Code was changed earlier or later because there was no request for a SCAN code.

The SCAN Code was included in the reasons for elimination only to stage and exaggerate a situation that was very clear. The situation was clear because the catalog offered by us contained all the requested products and this catalog was from the manufacturer, and when the CA raised doubts, we wrote to the manufacturer and the manufacturer normally accepted that the catalog was theirs but that the Scan code was not updated or refreshed immediately when the new catalogs were made, therefore in this case nothing else can be invented than the real situation despite the fact that the CA tried to do so.

In the decision to reject, we have not received any response regarding our complaint claims against the former EO recommended for the contract, therefore in this case we have non-compliance with Article 108/A paragraph 9 of the LPP.

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

Also, the cancellation of this tender was made in violation of Article 62 of the LPP and Article 43.5 and 43.7 of the RRPP No. 001/2022, because none of the conditions set out in these provisions were met.

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

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

Article 1 of the LPP has also not been taken into consideration, since it is known that the purpose of this law is to ensure the most efficient, most transparent and fair way of using public funds, public resources and all other funds and resources of contracting authorities in Kosovo.

Referring to the allegations above, the complaining economic operator considers that the Contracting Authority has acted in violation of Article 1 of the LPP, Article 6 of the LPP, Article 7 of the LPP, Article 59 of the LPP, Article 60 of the LPP, Article 62 of the LPP, Article 72 of the LPP, Article 40 of Regulation No. 001/2022 On Public Procurement, Article 43 of Regulation No. 001/2022 On Public Procurement, Article 14 of LAW NO. 08/L-220 ON THE PRICE OF MEDICINAL PRODUCTS. Taking into account all the legal reasons mentioned above, we request the PRB to take: **DECISION I. APPROVED**, the complaint of EO MEDPLUS SH.P.K. is grounded. **II. CANCELLED**, the notification on the decision of the CA (B58) for the cancellation of the procurement activity and the case is returned for **RE-EVALUATION** and during the re-evaluation, the examination, evaluation and comparison of the offers shall be carried out in accordance with the requirements of the tender dossier, the contract notice and in accordance with the provisions of the LPP.

CA's response to the request for review: Economic Operator . MEDPLUS SH.P.K. on date 04.08.2025, has submitted a request for review, regarding the procurement activity titled Proc: Supply of medicines and medical consumables for the central pharmacy at the QKMF for filling the shortages with supply from the essential list with Proc No.: 635- 25-2045-1-1-1 nr. 635/25/010/111 issues:

The Contracting Authority, Municipality of Peja, informs you that the complaint submitted by you on date 04.08.2025 cannot be taken into account and is unfounded due to the fact that the specifications that you as an operator have not fulfilled are mentioned in the tender dossier.

We have carefully evaluated the tender dossier by a professional commission consisting of 3 members, analyzing and based on facts.

The Contracting Authority - Municipality of Peja, after reviewing the complaint submitted by the economic operator "MEDPLUS" in accordance with the legal provisions in force, specifically based on Article 59, point 4 of the Law on Public Procurement ("Examination, Evaluation and Comparison of Tenders"), clarifies that the tender submitted by the operator in question was not in full compliance with the requirements set out in the tender dossier and the contract notice.

According to this Article, a tender may be considered responsive only if the tender in question is in compliance with all the requirements set out in the contract notice and the tender dossier.

Based on the factual situation that you have presented in the tender dossier, a change has been found between the documents submitted in the initial phase of the tender and those that you now claim to have been adjusted. In particular, the SCAN Code where this change was made after the expiry of the deadline for submission of documents. This situation presents a discrepancy in the tender dossier and creates uncertainty regarding the validity and accuracy of the submitted documentation, thus violating the principles of transparency and equality in the tendering process.

In the specific case, the change of documents constitutes a material violation, for which no clarification or addition can be provided after the deadline for submission of the bid.

Considering that none of the participating economic operators has managed to meet the required criteria in a precise manner and in accordance with the established deadlines, it has been decided that the tendering activity should be cancelled.

Therefore, relying on the legal provisions and principles of public procurement, the Contracting Authority assesses that the rejection of the economic operator's tender was done in a fair and legal manner. Consequently, the complaint submitted is not supported and 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 07.10.2025 authorized the review expert to conduct the initial review of the file and claims according to the complaint with no. 0781/2025, while on 20.10.2025 the review expert's report with no. 0781/2025 was submitted with the following recommendations: Based on the above-mentioned clarifications, the expert proposes to the review panel that the complaint of the complaining EO be approved as grounded, the Notice on the Decision to Cancel the Activity be canceled and it recommends that the case be returned for re-evaluation.

The completed expertise report has been duly received by all procedural parties. The CA has requested the cancellation of this procedure, while we have not received a response from the complaining EO.

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 parties' opinions regarding the expert report, the complainant's submissions and documents, the contracting authority's letters and documents, the relevant documents related to the procurement activity, as well as all evidence proposed by the procedural parties.

Regarding the claims of EO “MEDPLUS” SH.P.K, the review expert through report no. 2025/0781 has assessed as follows:

The complaint was filed by the Economic Operator “MEDPLUS SH.P.K.”, regarding the Notice on the Decision of the Contracting Authority for Cancellation of the Procurement Activity entitled:

“013 Supply of medicines and medical consumables for the central pharmacy at the QKMF, to fill the gaps from the essential list”, initiated by the Municipality of Peja.

Legal basis and documents reviewed

This report has been prepared in accordance with:

Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented by Laws No. 04/L-237, No. 05/L-068 and No. 05/L-092;

Regulation No. 001/2022 on Public Procurement.

During the review, the following documents were also taken into consideration:

Complaint of the economic operator “MEDPLUS SH.P.K.”;

Re-evaluation report and relevant decisions of the Contracting Authority;

Decision of the CA regarding the request for review;

Clarifications provided by the Contracting Authority, at the request of the review expert;

Clarifications provided by the complaining economic operator, at the request of the review expert.

Review methodology

The review expert has analyzed in a comprehensive manner and with particular care all claims presented by the complaining economic operator in its complaint.

For the purposes of clarity, coherence and avoidance of unnecessary repetition, the complaint claims in this report are presented in a summarized form, preserving the essence and factual content of each claim as raised by the complainant.

After each summarized claim, the assessment and the respective response of the review expert are given.

Complaining claim no. 1 (summary)

In this complaint claim, the complaining EO claims that it has been eliminated unfairly and without legal basis, emphasizing that the decision of the CA is unstable and unsupported by facts or relevant legal provisions. According to it, during the evaluation process, the principles of equality, transparency and proportionality provided for by the Law on Public Procurement were violated.

Unfair elimination from the competition

The EO claims that it was eliminated without legal basis and with unsustainable justification, although it bid at a lower price and met all the requirements of the tender dossier.

Catalog and QR Code

The catalog submitted is original from the manufacturer ACMED.

The failure to update the QR Code is an internal technical issue of the manufacturer, not manipulation by the EO.

The CA did not request additional clarification from the EO or the manufacturer, even though it had the right to do so based on Article 59 and Article 72 of the LPP.

Lack of communication and discrimination

The CA did not request any explanation for the clarification of the catalog and drew unilateral conclusions.

The EO considers that it has been treated unfairly and discriminatory.

Lack of reasoning in the CA's decisions

The decision to reject the request for reconsideration does not contain concrete arguments.

The CA has given a general response, without addressing the facts submitted by the EO.

Non-compliance with legal provisions

The EO emphasizes violations of articles 1, 6, 7, 59, 60, 62 and 72 of the LPP and Regulation 001/2022 (articles 40 and 43).

The tender was canceled without meeting the legal conditions for cancellation.

Response to complaining claim no. 1

EO "MEDPLUS" SH.P.K. claims that it was unfairly eliminated from the procurement activity, although it offered at a lower price and fulfilled the requirements of the tender dossier.

According to the EO, the reason for the elimination related to the discrepancy between the submitted catalog and the version that appeared after scanning the QR code is unfounded, since the submitted catalog is original of the manufacturer ACMED, while the discrepancy is caused by the non-technical update of the QR code.

The EO emphasizes that the CA did not request additional clarifications, although it had the right and opportunity to do this according to Article 59.2 and Article 72 of the LPP, considering the elimination as an unfair and discriminatory action.

Clarifications received from the Contracting Authority and the Complaining EO

From the reviewed documentation it results that the CA has eliminated the EO due to the differences found between the catalog submitted with the bid and the version that appeared after scanning the QR code in the catalog.

After receiving the notification of elimination, the EO communicated with the manufacturer ACMED, who confirmed by email that the catalog is original and that the non-compliance occurred due to the non-update of the QR Code at the time of the bid.

In the request for review, the EO notified the CA that the manufacturer had already updated the catalog and the QR code, requesting that this be taken into account during the review.

The CA, in the decision to reject the request for review, did not carry out a new technical verification through the QR Code, but remained in the initial justification for the elimination.

Analysis of the review expert

During the review of the bid documentation of the complaining EO “MEDPLUS” SH.P.K., the catalog submitted in PDF format was analyzed, which contains an active QR Code that leads to the official address of the manufacturer:

?? <https://www.acmed.com.cn/wp-content/uploads/2025/07/Katalog-Acmed.pdf>

After scanning this code, the same products as those presented in the catalog submitted with the bid were displayed, which indicates that at the current moment it is an original catalog of the manufacturer ACMED and the content fully matches that of the bid.

See the view of the catalog page no. 39 from the QR Code verification:

See the view of the catalog page no. 39 which is presented in the catalog as a zip.1 catalog document in the case of the bid:

However, it should be noted that in the initial phase of the evaluation, during the verification by the Contracting Authority, other views of the catalog were presented through the QR Code, which differed from the version submitted with the bid. This visually presented difference constitutes the fact on which the CA based the elimination.

The complaining EO itself has admitted that after the notification of elimination it requested clarifications from the manufacturer, who confirmed that the catalog had been updated after the submission of the bid, making the new version accessible in the QR Code only after their technical intervention.

In this context, the action of the CA at the time of the evaluation can be considered understandable, since the differences actually existed at the time of the initial check.

However, in the review phase, after receiving new information from the complaining EO regarding the update of the catalog by the manufacturer, it would have been reasonable and necessary for the CA to carry out a new verification through the QR Code to assess the factual situation after the update.

From the verification carried out by the review expert it results that currently there are no differences between the submitted catalog and the one published on the manufacturer's website, which could make the offer irresponsible.

This shows that the situation ascertained by the CA in the initial phase has changed after the update by the manufacturer and no longer stands in the current state.

Opinion and conclusion of the review expert

Based on all the data and verifications performed, it results that:

- The catalog submitted with the offer is the same as the one that appears after scanning with the QR Code;
- The non-compliance ascertained in the initial phase is a consequence of the failure to update the QR Code, and not of any change by the Economic Operator, as also emphasized by the manufacturer of the product itself;
- The Contracting Authority, in the review phase, had the opportunity to carry out additional technical verification, but this was not carried out;
- The elimination of the Economic Operator was made without a full factual and technical verification of the documents.

In these circumstances, the elimination of the complaining EO for this reason is not legally justified, while the EO's claim is assessed as well-founded.

Complaining claim no. 2 (summary)

In this complaint claim, the complaining EO claims that the Contracting Authority, when eliminating EO MADEKOS SH.P.K., did not state all the reasons for the elimination, even though the complaining EO agrees with the CA's decision to eliminate this economic operator.

According to the complainant, after analyzing the documentation of the bid of MADEKOS SH.P.K., it was found that the same did not fulfill request no. 2 of the tender dossier, for the submission of the authorization and catalog from the authorized manufacturer or distributor, for most of the requested products.

Also, the complaining EO emphasizes that MADEKOS SH.P.K. has bid at higher prices than those specified in the Official List of Prices of Medicinal Products, in violation of

Article 14 of the Law on the Price of Medicinal Products, arguing that such a bid should have been automatically eliminated as irresponsible.

Response to Complainin claim No. 2

The review expert, after having evaluated and analyzed the complaining claim, as well as having reviewed the bid evaluation report and the standard letters, specifically the standard letter for the eliminated tenderer, concludes the following:

The claim of the complaining EO is assessed as partially grounded, because from the analysis of the documentation it results that the decision of the CA to eliminate EO MADEKOS SH.P.K. was fair and based on the lack of catalogs and authorizations for the products offered, which constitute essential requirements of the tender dossier.

However, the complaint of the EO that the CA did not reflect all the reasons for the elimination in the standard letter for the eliminated tenderer is fair and well-founded, since from the reviewed documents it is seen that in addition to the lack of catalogs and authorizations, in the offer of EO MADEKOS SH.P.K. there are also prices higher than those specified in the Official List of Prices of Medicinal Products, which also constitute valid reasons for elimination.

Therefore, even though the decision for elimination is correct in content and based on the requirements of the tender dossier, the lack of full reflection of the reasons in the official notification document is assessed as a formal deficiency, and for this reason the claim is assessed as partially founded.

- Findings of the Review Panel –

The Review Panel, after reviewing and analyzing all documentation on the e-procurement platform, complaint claims, and responses provided by the expert on the matter engaged by the PRB, considers that the expert reports contain a priori the essential elements of such a document as provided for in 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 complaining claims. However, it should be noted that the expert report is not binding on the Review Panel and that any such report is assessed and/or analyzed in the overall context of the case file, 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 that in which cases and for what, the Panel relies or not, on any report and/or any of the recommendations, is a matter of his/her independent and professional judgment, as these responsibilities are addressed in the sense of Article 98, 99 in conjunction with Article 105 of the LPP.

After the suspension of the decision PRB: no. 2025/978 by the Commercial Court with number: KA.nr.598/25 for which the PRB has filed an Appeal in the Second Chamber of the Commercial Court against the Decision KA.nr.598/25 of the First Chamber, however, the Review Panel assesses that according to the provision of Article 100 paragraph 6, of the Law on Administrative Conflicts, the Appeal against the court decision, does not have a suspensive effect. Therefore, the decision of the PRB 978/2025 for disqualification is suspended.

The Review Panel, taking into account the description and the above-mentioned facts and after reviewing the case, the complaint of the complaining economic operator, the concrete analysis and the documentation of the case, finds the operator's complaint to be well-founded, recommending that the procurement activity with "013 Supply of medicines and medical consumables for the central pharmacy at the QKMF to fill the shortages with supply from the

essential list" with procurement no.: 635-25-2045-1-1-1, be cancelled B58Notification on the decision of the CA, and the case be returned for re-evaluation.

The Review Panel has decided in accordance with the legal competences within the meaning of Article 104, paragraph 1, in conjunction with Article 103, Article 105 and Article 117 of the LPP to implement the procurement review procedure in a prompt, fair, non-discriminatory manner, with the aim of resolving the case legally and effectively. Therefore, the Review Panel based its findings on the relevant provisions of the LPP, which foresee and regulate such situations, which may arise during a procurement activity.

Point I of the decision was decided based on Article 117 of the LPP in connection with Article 29 and 31 paragraph of the PRB Work Regulations.

Point II and III of the decision was decided based on Article 131 of the LPP in connection with Article 29 paragraph 3 of the PRB Work Regulations.

Point IV of the decision was decided based on Article 31 paragraph 4 and paragraph 6 of the PRB Work Regulations in connection with 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

Mrs.Batisha Ibrahim

Legal advice:

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

Decision to be submitted to:

1x1 CA – **MUNICIPALITY OF PEJA;**

1x1EO – **“MEDPLUS SH.P.K;**

1x1 Archive of the PRB;