



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

Psh. No.529/23

Review Panel, appointed by the President of the Procurement Review Body (PRB), Pursuant to the article 105, article 106, and 117 of the Law on Public Procurement of the Republic of Kosova (Law no. 04/L-042, supplemented and amended by Law 04/L-237, Law 05/L-068, supplemented and Law 05/L-092) composed of: Vedat Poterqoi - President, Vjosa Gradinaj Mexhuanj - Member, Agon Ramadani - member, deciding according to the complaint of the EO “Doctor Exterminator Ddd Sh.P.K”, against the Contract Notice or the tender documents related to the procurement activity: “Services for Deratization, Disinfection, Disinsecting for Government Buildings” with procurement no.: 214-23-6093-2-1-1, initiated by the Contracting Authority (CA) - Ministry of Internal Affairs, on the 06/09/2023 has issued this:

### DECISION

1. **Approved** as partly grounded the complaint of the “Doctor Exterminator Ddd Sh.P.K”, with number 529/23 of the 31/07/2023, for the procurement activity with title: “Services for Deratization, Disinfection, Disinsecting for Government Buildings” with procurement no.: 214-23-6093-2-1-1, initiated by the Contracting Authority (CA) - Ministry of Internal Affairs.
2. **Cancel** the contract notice for the procurement activity with title: “Services for Deratization, Disinfection, Disinsecting for Government Buildings” with procurement no.: 214-23-6093-2-1-1, initiated by the Contracting Authority (CA) - Ministry of Internal Affairs. Obligated CA to make the necessary improvements in the tender dossier according to the reasons given by the review panel.
3. Within 10 days, the CA must inform the PRB about all the actions undertaken in relation to this procurement activity, otherwise, for non-compliance with the decision, the PRB can take measures against the CA as provided by the provisions of the article 131 of the Law on Public Procurement of Kosova.
4. Since the complaint of the complaining EO is approved as grounded, the complainant’s fee is returned to the amount deposited when the complaint was submitted.

5. Complaining economic operator is obliged, in accordance with Article 31 point 6 of the PRB's Work Regulations, within a period of sixty (60) days to make a request for the return of the complaint insurance, 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 20.06.23, Ministry of Internal Affairs, in the capacity of the Contracting Authority, published the contract notice for the procurement activity with title: “Services for Deratization, Disinfection, Disinsecting for Government Buildings” with procurement no.: 214-23-6093-2-1-1.

On the 07.07.2023, the Attachment Document: Request for Additional Information is published.

On the 14.07.2023, the Attachment Document: Request for Additional Information 2 is published.

On the 26.07.2023, the EO "Doctor Exterminator D.D.D." submitted a request for reconsideration to the CA. Sh.P.K"- Prishtina, which the CA rejected by decision dated 28.07.2023.

On the 31.07.2023, EO Doctor Exterminator D.D.D. Sh.P.K"- Prishtina filed a complaint at the PRB with number 2023/0529 (protocol number).

*During the preliminary review phase*

The PRB concluded that the EO's complaint was made in accordance with Article 109.1 of the LPP, according to which any interested party can submit a complaint to the PRB against any decision taken by the CA. Since the EO has also applied for reconsideration, it means that its actions also refer to Article 108/A of the cited Law. Since the applicant has the status of the

interested party in the sense of article 4, paragraph 1.26, and the complaints contain the essential elements provided for in the article 111 of the cited Law, it means that they meet the prerequisites in terms of the cited provisions and fall under the powers of this Body, in the sense of Article 105, of the LPP.

Based on the actions described above, the PRB has engaged the evaluation expert in accordance with Article 111, paragraph 5 of the LPP, with the duty that the same in the sense of Article 113 of the cited Law, make the initial review of the dossier and the complaining claims, in relation to the procurement activity described above. In this regard, on the 14.08.2023, the review expert submitted the evaluation report with the following recommendations:

- The complaint of the complaining EO is approved as partly grounded;
- CA to make improvements to the tender dossier and extend the deadline for bidding

## RESPONSE TO THE COMPLAINING CLAIMS OF THE COMPLAINANT EO

Introductory note:

On the: 31.07.2023, EO "DOCTOR EXTERMINATOR DDD SH.P.K" - Prishtina, filed a complaint with no: 2023/0529, against the contract notice, related to the procurement activity: "Services for Deratization, Disinfection, Disinsecting for Buildings Government" with no. of procurement: "214-23-6093-2-1-1", initiated by the Contracting Authority (CA) - Ministry of Internal Affairs. The contracting authority has implemented an open procedure, type of contract: service, estimated value of the contract: 316,560.00 €.

### **Complaining claim 1**

*According to the complaining EO: "The Contracting Authority has failed to act according to Article 7 par.1 of the LPP, which states that "The Contracting Authority will treat economic operators equally and non-discriminatory and will act transparently ", related to par. 5 of article 7 of the LPP, it is stated that "The contracting authority will not require the economic operator to (i) hire or use, or not hire or use, any particular person or enterprise for the execution of any aspect of a public contract, or (ii) to supply or provide, or not to supply or provide, products or services that are derived from a particular person, enterprise or geographic region. In the event that such a request is specifically authorized by this law, any other law or international agreement, the exact parameters of such a request shall be specified in the contract or in the design competition notice, invitation to participate or tender, and in the tender dossier. The contracting authority violates Article 7 of the LPP, in all six paragraphs when preparing such a specification in the tender file because it requires a qualified manager, certified for environmental management with work experience min. 3 years, in the performance of DDD services. And at the same time, I point out that the economic operator or the group of economic operators must prove that they have 1 Epidemiologist or Agronomist or Veterinarian or Ecologist, which represents a double professional standard, and these are requirements that contradict or contradict each other because the economic operator or the group of economic operators that falls under it except that e.g. The same person 1 Epidemiologist or Agronomist or Veterinarian or Ecologist, in any case, he must also be a manager, so this point of the tender file,*

*according to the first question asked to us as EO, represents a favorable standard for any EO, certain and for us at the same time, it is also a discriminatory criterion”.*

The review expert clarifies that in the Tender dossier, the CA - Ministry of Internal Affairs has included the request as follows in the part of the eligibility and professional requirements:

The CA has requested that the EO also submit in their offers the permit issued by the relevant institutions for the use and performance of services for DDD, permit which is issued by the Ministry of Agriculture, Forestry and Rural Development and is known as a temporary permit for disinfection, disinsection and deratization. The permit, which is issued by this relevant institution, is issued to all those who meet the conditions and certain criteria required for the provision of these relevant services. Taking into account that in order to be equipped with this permit an EO must have staff of certain profiles to provide these services, we estimate that such a requirement that the EO must have an Epidemiologist or an Agronomist or a Veterinarian or an Ecologist who must also be a manager with at least 3 years of work experience in environmental management is a requirement that limits competition since even Economic Operators who are licensed to exercise this activity are being denied the right to participate in this procurement activity. The reviewing expert assesses that in terms of the titles and qualifications that the EO that provides the equipment with the DDD Permit should have, it is entirely within the competence of the MAFPHR and not of the CA to determine what profile the EO should have for providing these services.

Therefore, we consider that this claim raised by the complaining EO is grounded.

### **Complaining claim 2**

*“The contracting authority has violated Article 7 par.1 of the LPP, again in the case when they requested a university degree for a manager and certified for environmental protection with work experience of min. 3 years in the performance of DDD services, pertaining only to the environment, agriculture, biology, chemistry and ecology. This point as an answer given by the CA is contrary to the first answer given, because there it was mentioned that the epidemiologist is also required, whereas in the second answer it is not, that these are now in contradiction with each other, also why should be an environmental manager and why should he be certified, this is discriminatory and professional double standard”.*

As we have also mentioned in the above claim all the requirements of the tender file regarding the profiles and experience of the staff when it was requested that the EO prove that they have received the temporary permit for Disinfection, Disinsect and Deratization from the relevant institution - MBPZHR, we appreciate that this permit covers all these requirements, so it is entirely the competence of the relevant institution to decide whether an EO is allowed to carry out this activity or not. Therefore, the relevant institution for issuing this permit for DDD requires EOs to fulfill some requirements, including the necessary profiles for the performance of this service. Therefore, this claim raised by the complaining EO is also grounded.

### **Complaining claim 3**

*The complaining EO claims that "The contracting authority has violated Article 7 of the LPP, again in the case when they requested that the CV be signed, while in the response they only stated that the request remains the same as in the file of tender, but this request for the CV to be signed is an absurd and very unnecessary request because the CV only briefly presents the profile of the person to whom it is dedicated and it is a well-known fact that the CV, never signed is required, therefore this should be removed/improved as a requirement in the tender dossier".*

In the third claim raised by the complaining EO regarding the request of the Tender dossier where it is requested that the sent CVs are also signed, the reviewing expert clarifies that such a request is right to be made by the CA as long as it is not it is a request that represents an additional burden for EOs that participate in this procurement activity. Therefore, we estimate that this claim is unfounded.

#### **Complaining claim 4**

*"The contracting authority has violated this above-mentioned article again in the case when they requested only one Ultra Low Volume -ULV generator, for over 224,7000.00 m<sup>2</sup>, noting in the CA's response that only one such generator is enough for the reason that the Palace of Justice alone has an area of 13,960.00 square meters whereas other objects with a surface area of up to 20 m<sup>2</sup>, which according to them can be carried out with other pumps, but such a finding of the CA is not correct because this tendering process is with all government objects and that a government object is also the facility of KIA, or other relevant Ministries, which as such does not have 20 m<sup>2</sup>, so we have a much larger area that cannot be carried out with other pumps and without a generator, therefore this request for only one generator is contrary to Article 7 of the LPP, because it is clear that this is favoring any EO , which has only one generator. It is worth noting that the CONTRACTING AUTHORITY does not require any vehicle for the performance of services, where for this major project there must be at least 5 vehicles for carrying generators, workers, motor pumps, etc."*

#### **Complaining claim 5**

*The contracting authority has failed to act in accordance with Article 6 of the LPP, in which it is stated that "All contracting authorities are obliged to ensure that public funds and public resources are used in the most economical way, while taking into consideration the purpose and the procurement subject.", while the contracting authority acts against this article and therefore against the law on public procurement as a whole in the case of deciding the request for 3 Electric ULV pumps and 3 Electrostatic ULV pumps, i.e. requesting a total of 6 pumps that automatically harms the public budget of the state, as well as the response of the CA, that these pumps are not the same, that is, the electric ULV pumps are pumps that can be used for disinsection and disinfection, while the Electrostatic ULV pump is only for disinfection, but that this is a finding of wrong and not correct on the part of the CA, because ULV Electrostatic pumps are used both for disinfection and disinsection, and they are also very professional."*

The technical expert finds this claim to be unfounded because at the moment when only one ULV generator is required in the tender dossier, the disinfection must be done by other methods in this case with the use of pumps such as electric and electrostatic ones.

While the statement of the EO, which states that electrostatic ULVs are not only used for disinfection, but also used for disinsection, he founds to be well-founded, because most of the chemicals that can be used in electric ULVs can be used in electrostatic ULVs. Disinfectants, pesticides, fungicides and other anti-microbial chemicals can be used more effectively to cover surfaces, both indoors and outdoors. It is mentioned that electrostatic pumps are very professional because they reduce the time it takes to spread and cover, as well as disinfect all surfaces, corners and cracks.

Efficiency: Chemicals are applied in a much more controlled, efficient and regular manner. It improves infection control and the spread of viruses and bacteria becomes better.

### **Complaining claim 6**

*The Contracting Authority has also violated Article 9 par.1 of the LPP, it is determined that "Before starting any procurement activity, the ZKA of the contracting authority must ensure that a formal assessment of needs is made and that the results of this assessment to be formally recorded in writing and kept in the documentation of the contracting authority. This assessment determines (i) the exact type and size of the special needs of the contracting authority that the proposed procurement is expected to meet; (ii) the estimated value, the proposed type and the content conditions of the public contract that will be the subject of the planned procurement; (iii) the proposed functional specifications of each facility to be covered by such contract; (iv) the benefits expected from each such facility; (v) in the case of equipment, durable goods and works, the calculation of disposal costs during the entire period of use of the object, including the purchase, operating, maintenance and residual value costs; (vi) a notice on whether such procurement activity was included in the procurement planning, in accordance with Article 8 of this law, and if it was not included, then a statement on the reasons for such non-inclusion; and (vii) the exact finding on how the relevant procurement will advance the institutional goals of the contracting authority" therefore we estimate that the CA has violated this article in the case of the request for an adequate device for insects with hot steam and dry (clarification: Steam is heated and dry does not exist), for the release of hot steam from temp. 60 C to 200 C, and the CA has requested a minimum of 60 C, so that this temperature is sufficient to eliminate insects, their eggs and larvae, and this requirement is not to eliminate competition, but that the CA, here they violated the competition by favoring any EO that has this equipment, it is also worth noting that the adequate temperature to eliminate larvae and eggs is 100 C, up to 180 C, and in no way 60 C."*

The technical expert finds that the claim raised by EO is well-founded because the adequate temperature for eliminating eggs and insects is 100-180 C.

The obvious advantage of steam treatment is its chemical-free nature, appealing to individuals concerned about the potential health risks associated with insecticides. Relying only on the power of heat, steam eliminates insects without leaving behind any chemical residue, this not only offers a safe and environmentally friendly alternative, but also reduces the risk of exposure to substances harmful to human health because in the file of the tender, it is stated that it will be

used in places such as: in the facilities of centers for housing and repatriation where disinfection of beds and furniture will be done.

### **Complaining claim 7**

*The Contracting Authority has violated the provisions of the LPP, in the case of the request for repellent for the removal of rodents with organic content and not dangerous for people and the environment, but this is a wrong finding on the part of the CA, for the reason that first for rodents, repellants should not be used, but the Deratization service should be performed, which serves to eliminate and control rodents, not repellants, because with repellants, e.g. In large spaces such as the palace of justice, it only removes the rodents from one space/object and sends them to another, so there is no need for a repeater, but the extermination service must be performed as explained above."*

The claim raised by the complaining EO is not grounded because in the tender file it is clearly stated where the repellents should be used and where the aromatic plates. The CA in the internal spaces has requested the use of plates with the sticky smell of rats, while in the external spaces it has requested the use of repellent products.

### **Complaining claim 8**

*According to the complaining EO: "The Contracting Authority in the point that it concerns the fact that the EO must collect the dead rodents and their disposal is their responsibility, also in the tender file they mentioned that the dead rodents must be sent to landfills authorized for the same, and according to the CA, in Kosova there may have been landfills authorized for these things, which is not true, and they automatically leave the responsibility to the EO."*

The claim raised by the complaining EO is grounded, explains the technical expert, because there is no authorized landfill for rodents in Kosova.

### **Complaining claim 9**

*The Contracting Authority in the technical specification asked for the Prevention - Removal of other pests (reptiles and birds), stated that Cinnamon oil, Canfora oil or equivalent should be used, but put them in one category, which is a mistake, but that this is a mistake because the CA, in a wrong way, has given the same products as for the removal of reptiles and birds, but for the removal of birds there are other products that are much more efficient such as spikes, electric strips. The CA has also ignored the questions asked by the EO, so it has not answered."*

According to the technical expert, this claim is unfounded because the tender files require ecological devices such as: Cinnamon and camphor oil.

- Camphor and cinnamon oil are effective snake repellents.

-Also, cinnamon oil is not liked by birds because it makes them irritated and uncomfortable.

### **Complaining claim 10**

*"The Contracting Authority in the technical specification requested the use of aromatic plates with non-toxic mice adhesives for humans, while our question as EO was how to prove that the adhesives are non-toxic, while the CA emphasized that in order to prove the quality of the preparations requested, copies of the certificates of analysis and MSDS must be provided, but this answer is incorrect because initially stickers and not preparations were requested here, these stickers as such do not have certificates of analysis or MSDS, but are only forwarded by letter from the manufacturer that does not are toxic, therefore CA in this way reduces or eliminates competition between economic operators or discriminates to the detriment or benefit of one or more economic operators."*

The claim raised by the complaining EO is grounded because the adhesives are only conveyed by the manufacturer as non-toxic. There are no copies of certificates and MSDS for this product.

### **Complaining claim 11**

*The Contracting Authority has violated Article 9 of the LPP, in the case of the non-harmonization of the requirements on the ground and the number of workers needed and necessary for the completion of this project because even according to the CA itself, this project is major, and on the other hand, in the tender file, it claims that in the deadline of 30 days I will complete it with 8 workers, it is very unclear and difficult to realize, because we, as EO, have planned for this tender to eventually complete it with 15 workers due to the deadline short of the execution of works.*

According to the technical expert, this claim raised by the EO is unfounded because the minimum number of workers is mentioned in the tender dossier, it is the responsibility of the EO how to manage all the activities for the realization of this process.

### **Complaining claim 12**

*The claims were repeated in the complaint as well as in the request for reconsideration for the reason that the CA, intentionally or unintentionally, failed to justify in detail all our raised claims, so we only have paraphrases of the legal provisions without any elaboration, then only what they have received copy and paste all claims, while none of them have been treated accurately and completely, it is worth noting that on page 6 of the decision, in the first paragraph, the CA stated that "the CA for the Professional Staff for the realization of this project did not request have an employment relationship, but it has enabled the participating Economic Operator to offer a valid contract or employment agreement with the employer for this project..." this reasoning is given to the claims raised regarding the request that the economic operator or group of economic operators must prove that they have 1 Epidemiologist or Agronomist or Veterinarian or Ecologist, while our claim had nothing to do with whether they should have an employment contract or employment agreement, that the CA's explanation regarding this is completely wrong because regardless of whether you have a work contract, for whatever term, it is an employment relationship, but our claim has been that the same person 1 Epidemiologist or Agronomist or Veterinarian or Ecologist, in any case, it must also be a manager, so this point of the tender file, according to the first question asked by us as EO, represents a favorable standard for any EO, and this is an essential difference, so our claims were presented without an answer*

*in the CA's decision , and the answers are distorted. A simple comparison can only be made by the PRB regarding the claims presented in the request for reconsideration and it is easily established that the decision of the CA has failed to justify the claims raised and in this case has violated the aforementioned provisions of the LPP ”.*

We assess that the CA's response to the claim raised by the complaining EO in the Request for Reconsideration is not in accordance with the claim raised. So at no point did the complaining EO criticize the CA for the request made regarding the contracts or work agreements that the EO has with the staff that will be engaged, but the claim was why one of the profiles required for DDD should also be a manager of the environment. Therefore, we consider that this claim raised by the complaining EO is grounded.

### **Complaining claim 13**

*The decision of the 28.07.202 from the CA Ministry of Internal Affairs - Procurement Division, for the rejection of the request for reconsideration, is not based on any legal provision, in this decision there is no reasoned part of it noted as to why such a decision was made , the same is mentioned at the beginning that it is a decision, while at the end there is a conclusion in the form of a provision, it also does not have the legal advice for the exercise of legal remedies, which are not only legal violations but also Constitutional violations.*

*Also the decision of dt. 28.07.2023, the part of the Legal Council is also missing as the main element, for instructing the party to exercise legal remedies, which is a constitutional category sanctioned by Article 32 of the Constitution of the Republic of Kosovo, it is determined that "Each person has the right to use legal remedies against judicial and administrative decisions that violate his/her rights or interests in the manner defined by law". This right is also regulated by Article 13 of the Law on General Administrative Procedure, which states that "Except when expressly excluded by law, each person has the right to exercise administrative and judicial remedies, in the manner determined by law, against an administrative action or inaction of the public body that violates a right or a legal interest", as well as article 109 par. 1 of the LPP, it is determined that "The complaint can be submitted by any interested party at any stage of the procurement activities or procedures and in relation to any activity or omission of the contracting authority that is supposed to have violated this law". Thus that the CA has first violated the Constitution of Kosova, Article 32, the Law on General Administrative Procedure as well as the Law on Public Procurement itself, through an illegal decision and without justification or guidance on the legal remedy.*

The review expert regarding this claim raised by the complaining EO that the decision issued by the CA which rejects the request for review as unfounded does not contain all the elements of a decision as foreseen by the laws in force, assesses that the deficiency of the decision issued by the CA lies in the absence of Legal Advice which should be included at the end of every decision. Therefore, the claim raised by the complaining EO is partially grounded.

The parties are aware of the documents of this case as required in accordance with paragraph 2 of Article 20 of the cited Regulation and it is established that there are no elements to prevent conflict of interest, as required in the sense of Article 11 of the Regulation on the Work of PRB.

Therefore, the Panel further analyzed the documents of this case, including all the acts and actions of the parties and their statements, considered that there is no need to convene a public session with the parties because there is sufficient evidence and there are conditions to decide meritoriously regarding the complaint in the specific case, as provided by paragraph 1, of article 24 of the cited Regulation. In this case, the Panel preliminarily concluded that the CA has implemented:

- a. open procedure, as defined by paragraph 1.37. of Article 4 of the LPP;
- b. type of contract: Service, as provided by paragraph 3, article 27, of LPP;
- c. estimated value of the contract: 316,560.00 € large value, as defined by paragraph 1.28 of article 4, related to paragraph 1, of article 19, of the LPP.

*- Administration and evaluation of evidence -*

Referring to article 104.1, of the LPP, according to which it is required that the review procedure be implemented in a fast, legal and effective manner and also analyzing in their entirety the documents of this subject in the context of this procurement process, The panel did not consider it necessary to elaborate again in detail and without need in this case each complaint claim, as long as they are specifically singled out especially in the contested decision of the contracting authority and have been analyzed and argued by this panel. Among other things, in the challenged decision of the contracting authority and in the report of the reviewing experts (professional and technical), explanations were given regarding the complaining assertions. The reviewing panel, after reviewing the case documents, reviewing the complaining claims of the complaining EO, findings, concrete analysis and recommendations of the reviewing expert, the statement of the parties in the procedure, discussions and sifting of the evidence as a whole during the main review session, clarifies: When determining selection criteria, PSH takes into consideration the clarification provided by the CA that this contract requires a professional company due to its complexity as well as the fact of the location itself where this activity will take place, but PSH considers that all CAs should be extra careful in so that the selection criteria will not have to be unfairly strict that lead to discrimination and restriction of competition, as well as to ensure as much competition as possible, without risking the contracting of non-professional companies, as well as with the understandable purpose of filtered and excluded unstable companies that cannot implement the specific contract so the selection criteria must meet its objective and practically filter unstable companies, in relation to the volume and complexity of the work foreseen in the activity, but not to the extent that the established criteria lead to discrimination. Therefore, the PSH has finally decided that, regarding the complaining claims of the complaining EO that the Contracting Authority has discriminatory criteria in the Tender File, the PSH relies on the report compiled by the review expert appointed by the PRB, whose duty was to review all the complaint claims and his professional opinion is that the request mentioned in the complaint claims of the complaining EO, as such, represent discrimination, therefore, the PSH obliges the CA to make the improvements in accordance with the review expert's assessment, made in the expertise report. Therefore, even the justifications given by the review expert are counted as the review panel's reasons, in all claims except in the

following points where the PS considers that the expert did not explain sufficiently and convincingly for the review panel. Therefore, the review panel supports the reasonableness given in the report of the review experts for complaining claims listed in relation to no. ordinal 1, 2, 4, 5, 7, 9, 11, 12 and 13, which this panel does not consider necessary to repeat. but the panel will stop only at the appeal claims which have a different opinion from the experts regarding the answers to these appeal claims:

*Complaining claims of the complaining EO in which the panel has a different opinion from the expert*

For claim 3, always ranked according to the experts' report, where the Complainant (with data as above) attacked the request of the Tender File where the complaining EO claimed that the contracting authority violated Article 7 of the LPP, again in the case when they asked for the CV to be signed, and even in the answer they only mentioned that the request remains the same as in the tender dossier, but this request for the CV to be signed is an absurd and very unnecessary request for the reason that CV, it only briefly presents the profile of the person to whom it is dedicated and it is a well-known fact that the CV is never required to be signed, therefore this should be removed/improved as a requirement in the tender file." Regarding this, the reviewing expert clarifies that such a request is right to be made by CA as long as it is not a request that represents an additional burden for EOs that participate in this procurement activity. For the review panel, this claim is based on the fact that the CV signature is irrelevant and the review panel did not take into account such a request even in other preliminary decisions, when other documents may be requested for the CV data.

For claim 6, always listed according to the experts' report, where the Complainant (with data as above) has attacked the request of the Tender File where the complaining EO has claimed that CA has violated the LPP in the case of the request for an adequate device for insects with hot and dry steam (clarification: Hot and dry steam does not exist), for the release of hot steam from temp. 60 C to 200 C, and a minimum of up to 60 C has been requested by the CA, that this temperature is sufficient for the elimination of insects, their eggs and larvae, and that this requirement is not to eliminate competition, but that CA, here they violated exactly the competition by favoring any EO that has this equipment, it also applies It should be noted that the adequate temperature to eliminate larvae and eggs is 100 C, up to 180 C, and in no way 60 C." The technical expert finds that the claim raised by EO is well founded because the adequate temperature for eliminating eggs and insects is 100 -180 C. The obvious advantage of steam treatment is its nature without the use of chemicals, attracting individuals concerned about the risks potential health risks associated with insecticides. Relying only on the power of heat, steam eliminates insects without leaving behind any chemical residue, this not only offers a safe and environmentally friendly alternative, but also reduces the risk of exposure to substances harmful to human health because in the file of the tender, it is stated that it will be used in places such as: in the facilities of centers for housing and repatriation where disinfection of beds and furniture will be done. For the review panel, this claim is partially based and the CA is obliged to prove this fact, which was established by the technical review expert.

For claim 8, always listed according to the experts' report, where the Appellant (with data as above) has attacked the request of the Tender dossier where the complaining EO has claimed that the contracting authority in the point that concerns that the EO must collect the rodents dead and their disposal is their responsibility, also in the tender file they mentioned that the dead rodents should be sent to authorized landfills for the same, and according to the CA, in Kosovo there are no authorized landfills for these things that are not is true, and they automatically leave the responsibility to the EO. The technical expert, because there is no authorized landfill for rodents in Kosovo. Even for the review panel, this claim is well-founded, but the CA must determine a place that exists in Kosova where these rats can be sent or at least determine a way to eliminate them, but not leave it to the responsibility of the CA.

For claim 10, always listed according to the experts' report, where the Appellant (with data as above) has attacked the request of the Tender File where the complaining EO has claimed that the contracting authority in the technical specification has requested the use of scented plates with non-mouse adhesive toxic to humans, while our question as EO was how to prove that the adhesives are non-toxic, while CA emphasized that to prove the quality of the required preparations, copies of the analysis certificates and MSDS must be provided, but this answer is incorrect because initially, adhesives and not preparations were requested here, these adhesives as such do not have certificates of analysis or MSDS, but are only sent by letter from the manufacturer that they are non-toxic, therefore the CA in this way reduces or eliminates the competition between economic operators or that discriminates to the detriment or benefit of one or more economic operators. According to the reviewing expert, this claim is well-founded because the stickers are only conveyed by the manufacturer and are not toxic. There are no copies of certificates and MSDS for this product. For the review panel, this claim is partially based, and obliges the CA to prove the existence or not of these certificates for which the review expert declared that they do not exist.

#### *Conclusion -*

The review panel considers that some of the complaining statements are well-founded, as explained above, while the CA did not act in accordance with the provisions of Article 27 and 28 of the LPP. The return of a procurement activity for the improvement of the Tender Dossier, with facts and evidence and/or legal basis, is in harmony with Article 1 of the LPP, according to which, the purpose of this Law is, among others, quoted: "...to ensure the integrity and responsibility of public officials, civil servants and other persons who perform or are involved in a procurement activity by requiring that the decisions of such individuals and the legal and factual basis for such decisions, not be influenced by personal interests, be characterized by non-discrimination and a high degree of transparency and be in accordance with the procedural and essential requirements of this law".

Regarding Article 105, taking into account the requirement of Article 104, paragraph 1, of the cited Law according to which, quoted: "The procurement review procedure will be implemented and carried out in a fast, fair and non-discriminatory manner, which aims at the fair, legal and effective resolution of the matter..." 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.

Therefore, from the above, the review panel in accordance with article 117 of the LPP decided as in the provision of this decision.

**President of the Review Panel**

Mr. Vedat Poterqoi

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**Legal advice:**

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

Decision to be submitted to:

1x1 CA –**MINISTRY OF INTERNAL AFFAIRS**;  
1x1 EO – **“DOCTOR EXTERMINATOR DDD SH.P.K”**;  
1x1 Archive of the PRB;  
1x1 For publication on the website of the PRB.