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# COVID-19 as an Excuse for Urgent Public Procurement Contracting (II)

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## **RULE OF LAW**

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# List of Abbreviations and Acronyms

<b>CA →</b>	Contracting Authority
<b>CEC →</b>	Central Election Commission
<b>EO →</b>	Economic Operator
<b>GEO →</b>	Group of Economic Operators
<b>HUCSK →</b>	Hospital and University Clinical Center of Kosovo
<b>KAS →</b>	Kosovo Agency of Statistics
<b>LPP →</b>	Law on Public Procurement
<b>MAFRD →</b>	Ministry of Agriculture, Forestry and Rural Development
<b>MESTI →</b>	Ministry of Education, Science, Technology, and Innovation
<b>MFMC →</b>	Main Family Medicine Center
<b>MoH →</b>	Ministry of Health
<b>OPRK →</b>	Office of the President of the Republic of Kosovo
<b>PRB →</b>	Procurement Review Body
<b>ROGPP →</b>	Rules and Operational Guidelines for Public Procurement
<b>TAK →</b>	Tax Administration of Kosovo
<b>TD →</b>	Tender Dossier

# Introduction

Since the pandemic outbreak in Kosovo in March 2020, institutions started purchasing protective materials and disinfecting facilities in an effort to combat COVID-19. To purchase such supplies, institutions have largely used the negotiated public procurement procedure, i.e., without publishing a contract notice. Shortly after the first COVID-19 cases emerged, the Public Procurement Regulatory Commission (PPRC) issued a notification allowing Contracting Authorities (CAs) to apply emergency procedures for the procurement of supplies related to the pandemic response. By way of notification, the operators were exempt from certain requirements, such as court certificate, Tax Administration of Kosovo (TAK) certificate, and tender security. The decision was in effect until June 12, 2020, when it was repealed by the Public Procurement Regulatory Commission (PPRC).

Notwithstanding the repeal of this decision and considering that the COVID-19 pandemic is no longer an emergency, CAs continued to conclude procurement contracts through negotiated procedure. Considering that the prices offered through this procedure have proven to be much higher, their further use goes to the detriment of public funds.

In view of the significance of tracking this phenomenon in public procurement, Democracy Plus (D+) has examined another set of ten tenders. The findings show that some institutions have taken positive steps in contracting supplies and services related to protection against COVID-19. However, procurement procedures continue to suffer from various issues spanning the entire chain and not just one link. Certain tenders had problems in the drafting of specifications; some during the evaluation of bids, often ignoring the shortcomings of bids, where in some cases unresponsive bids got the award. Certainly, findings in part focus on contract implementation, namely improper contract management ending with the delivery of products, which are not contracted at all.

Some of the contracts were concluded at exceedingly high prices, while there were institutions that entered into contracts at extremely low prices. On the other hand, many CAs required documents that do not correspond to the nature of initiated procurement and as a result, many EOs did not bid, resulting to marred competition. On the other hand, some CAs defined minimum requirements in the tendering procedure, allowing room for many non-specialized companies to submit bids. The associated risk is delivery of poor-quality products and services and inadequate implementation of award. The report also includes other violations that are tender specific.



## Tender 1: COVID-19 related Funeral Services

Following the examination of the call to tender for funeral services, initiated by the Hospital and University Clinical Service of Kosovo (HUCSK), with the application of the emergency procedure in August 2020, D+ examined another tender of the same nature concluded by the HUCSK. This procurement activity was conducted through open procedure.

In a meeting that D+ had with HUCSK procurement officers<sup>1</sup>, the latter stated that the report published by D+ in June 2021 on the set of ten (10) tenders from 2020<sup>2</sup>, prompted them to introduce some changes while initiating subsequent procurement activities. As a reminder, in the relevant Bill of Quantities (2020 tender) that was examined in the first report, the positions were broken down individually, such as: preparation of the deceased for burial (COVID-19 and similar diseases); preparation of the deceased for burial (hemorrhagic fever and similar diseases); sealing the bodies in metal or wooden caskets; and transportation from the location of the corpse to the designated destination throughout Kosovo.

**Table 1:** Bill of Quantities with contracted prices for the COVID-19 related Funeral Services tender

Item	Description	Unit of Measurement	Quantity	Price per Unit, with VAT	Total Price, with VAT
1.	Preparation of the deceased for burial (COVID-19 and similar diseases)	case	500	€50.00	€25,000.00
2.	Preparation of the deceased for burial (hemorrhagic fever and similar diseases)	case	500	€50.00	€25,000.00
3.	Hermetically Sealed Metal Casket	each	500	€150.00	€75,000.00
4.	Wooden Casket	each	500	€170.00	€85,000.00
5.	Price per kilometer for transportation of the deceased (corpse) from the place where the corpse is located or hospital to the designated destination throughout Kosovo.	km	1	€1.00	€1.00
<b>GRAND TOTAL WITH VAT:</b>					<b>€210,001.00</b>

This contract was concluded for 12 months as a framework contract, but the ceiling of indicative value of 30% was breached, which is prohibited by the Law on Public Procurement (LPP). In this case, the HUC-

<sup>1</sup> Meeting with Selami Krasniqi and Besnik Cenaj, October 1, 2021.

<sup>2</sup> COVID-19 as an Excuse for Urgent Public Procurement Contracting (Report I): <https://bit.ly/3HXFlqm>



SK was correct to place orders only up to EUR 273,001.30, but the amount that was spent went to EUR 399,116.60. Accordingly, with this overrun, the HUCSK spent EUR 126,115.30 more than allowed by the +30% rule.

After this tender, the institution announced several other tenders of the same nature, with successive reductions in prices, to include the last contract where the contracted price is cheaper than the first time by half. This time, the HUCSK listed all positions in the Bill of Quantities in a single line item. Nine economic operators submitted bids for this procurement activity, providing for significantly greater competition than in the first contract, which was conducted through negotiated procedure. Among these nine EOs, the lowest price responsive bid was by *Funerali Sh.P.K.*, with a unit price of EUR 158.00, for all services listed in the below table.

**Table 2** – Bill of Quantities with contracted prices for the *COVID-19 related Funeral Services* tender - 00220-21-5733-2-1-1

Item	Description	Unit of Measurement	Quantity	Price per Unit, with VAT	Total Price, with VAT
1.	Preparation of the deceased for burial (COVID-19, hemorrhagic fever, and similar diseases) Transportation from the place where the corpse is located or hospital to the designated place of burial in the entire territory of the Republic of Kosovo.	case	1,000	€158.00	€158,000.00
<b>GRAND TOTAL WITH VAT:</b>					<b>€158,000.00</b>

Table 2 shows that the findings published from the monitoring of the first tender that the HUCSK had concluded for such services have proven beneficial in effecting reductions in prices. Now the HUCSK pays for all services only EUR 158.00 (per case), which is close to what it paid for a wooden casket only, according to the first contract signed with EO *Ngushëllimi*.

On the second tender, the HUCSK did not include any requirement for technical and professional capabilities or evidence of financial turnover,<sup>3</sup> although it is a large value tender; however, this is at the discretion of the CA. The only eligibility requirements under this call to tender were Declaration under Oath, tax certificate, and court certificate, in addition to professional eligibility requirements: business registration certificate, VAT certificate, and fiscal number certificate. The awardee, EO *Funerali*, did not submit the fiscal number certificate, which the CA had to request through additional clarifications.

<sup>3</sup> The purpose of this criterion is to assess whether the tenderer has sufficient financial and economic stability to perform the proposed contract: <https://bit.ly/3cR7cKJ>

The mandatory technical specification in the Tender Dossier (TD) also required the disinfection of casket, vehicle, and space, but on the other hand, no special permit was required for fumigation, disinfection, and pest control, which must be issued by Ministry of Agriculture, Forestry and Rural Development (MAFRD). Since there were no such requirements by the CA, this service may not be performed properly or may even fail.

## Tender 2: Supply of Personal Protective Equipment against COVID-19

The Ministry of Health (MoH), as one of the key institutions in the fight against the pandemic, has consistently initiated tenders intended to protect public health. Recently, the MoH initiated a tender for the purchase of personal protective equipment against COVID-19, divided into 14 lots, with a total estimated value of EUR 2,414,423.00. Because certain lots contain important items for protection against COVID-19, for purposes of our analysis we have selected lots 1, 2, 9, and 14. The estimated value for Lot 1 was EUR 14,040.00, for Lot 2 was EUR 713,250.00, for Lot 9 was EUR 241,554.00, and for Lot 14 was EUR 9,984.00.

Lot 1 required the supply of disposable facial masks, 234,000 each, for a period of 12 months. Lot 2 was for respiratory masks of type FFP2, with an expected order of 317,000 each over a 12-month period. Lot 9 required the supply of sanitizer in 1-liter containers with dispenser, where the 12-month forecast provided for 76,200.00 liters in total, while Lot 14 provided for 2,400 each body bags during this period.

Under Lot 1, there were eight Economic Operators (EOs) that submitted bids with different prices, while the contract was awarded to the Group of Economic Operators (GEO) *Exclusive Corporation Sh.P.K. & Pharma Leader L.L.C.*, in the amount of EUR 4,680.00.

**Figure 1** – Table showing EOs that bid for Lot 1 and respective bid value

LOT 1	Emri dhe adresa e Operatorit Ekonomik	Vlera totale e ofertës
112	Grup i Operatorëve Ekonomik EXCLUSIVE CORPORATION SH.P.K.; PHARMA LEADER L.L.C., Hilmi Rakovica Nr 43, 10000, Prishtine	4,680.00
34	Ardi SH.P.K., 187,Nënë Tereza,Fushë Kosovë, 12000, Fushë Kosovë	7,020.00
44	N.T.SH. Koshabor, Lagja e re, 23000, SUHAREKË	7,020.00
50	" Agani L.L.d " Sh.p.k., Magj. Prishtine-Ferizaj, Km.5 Graçanice, 10000, PRISHTINE	7,020.00
62	MADEKOS SH.P.K., Vragoli ( Magjistralja Prishtinë-Pejë), 12000, Fushë Kosovë	7,020.00
99	KO MED L.L.C., Jakov Xoxa, 10000, PRISHTINË	9,126.00
3	MATKOS PHARM SH.P.K., SHPETIM ROBAJ NR. 289, -, PRISHTINË	11,700.00
27	REDONI HM SH.P.K., Rr. Behar Begolli p.n, 10000, Prishtinë	11,700.00

Under Lot 2, nine EOs submitted bids, where the contract was awarded to the same EO as for Lot 1. The awardee EO under the second lot, *GEO Exclusive Corporation Sh.P.K. & Pharma Leader L.L.C.*, bid EUR 31,700.00, which was the cheapest bid.

**Figure 2** – Table showing EOs that bid for Lot 2 and respective bid value

LOT 2	Emri dhe adresa e Operatorit Ekonomik	Vlera totale e ofertës
113	Grup i Operatorëve Ekonomik EXCLUSIVE CORPORATION SH.P.K.; PHARMA LEADER L.L.C., Hilmi Rakovica Nr 43, 10000, Prishtine	31,700.00
63	MADEKOS SH.P.K., Vragoli (Magjistrallja Prishtinë-Pejë), 12000, Fushë Kosovë	53,890.00
100	KO MED L.L.C., Jakov Xoxa, 10000, PRISHTINË	85,590.00
51	" Agani L.t.d " Sh.p.k., Magj. Prishtine-Ferizaj, Km.5 Graçanice, 10000, PRISHTINE	91,930.00
4	MATKOS PHARM SH .P.K., SHPETIM ROBAJ NR. 289, -, PRISHTINË	155,330.00
35	Ardi SH.P.K., 187,Nënë Tereza,Fushë Kosovë, 12000, Fushë Kosovë	187,030.00
80	" Liri - Med " SH.P.K., Agim Ramadani Nr. 80, -10000, PRISHTINË	216,954.80
89	Medical Group SH.P.K., Fehmi Agani 69 /B 10, -, PRISHTINË	475,500.00
17	" LEGO " SH.P.K., Veternik, 10000, Prishtina	490,018.60

Twelve EOs submitted bids for Lot 9, where again the winner was GEO Exclusive Corporation Sh.P.K. & Pharma Leader L.L.C., having bid EUR 114,300.00.

**Figure 3** – Table showing EOs that bid for Lot 9 and respective bid value

LOT 9	Emri dhe adresa e Operatorit Ekonomik	Vlera totale e ofertës
60	PRO MEDICAL SH.P.K., Rr.Kadri Zeka, 70000, Ferizaj	168,402.00
119	Grup i Operatorëve Ekonomik EXCLUSIVE CORPORATION SH.P.K.; PHARMA LEADER L.L.C., Hilmi Rakovica Nr 43, 10000, Prishtine	114,300.00
24	" LEGO " SH.P.K., Veternik, 10000, Prishtina	124,084.08
57	" Agani L.t.d " Sh.p.k., Magj. Prishtine-Ferizaj, Km.5 Graçanice, 10000, PRISHTINE	138,684.00
11	MATKOS PHARM SH .P.K., SHPETIM ROBAJ NR. 289, -, PRISHTINË	148,590.00
70	MADEKOS SH.P.K., Vragoli ( Magjistrallja Prishtinë-Pejë), 12000, Fushë Kosovë	148,590.00
46	N.T.SH. Koslabor, Lagja e re, 23000, SUHAREKË	175,260.00
42	Ardi SH.P.K., 187,Nënë Tereza,Fushë Kosovë, 12000, Fushë Kosovë	179,832.00
107	KO MED L.L.C., Jakov Xoxa, 10000, PRISHTINË	190,500.00
83	" Liri - Med " SH.P.K., Agim Ramadani Nr. 80, -10000, PRISHTINË	224,790.00
91	Medical Group SH.P.K., Fehmi Agani 69 /B 10, -, PRISHTINË	240,792.00
95	N.T.P "ERAMED", Vasil Andoni, -10000, PRISHTINË	403,860.00

Whereas, under Lot 14 and the last under this tender, the EO that got the award is *Madekos Sh.P.K.*, having bid EUR 12,000.00.

**Figure 4** – Table showing EOs that bid for Lot 14 and respective bid value

LOT 14	Emri dhe adresa e Operatorit Ekonomik	Vlera totale e ofertës
123	Grup i Operatorëve Ekonomik EXCLUSIVE CORPORATION SH.P.K.; PHARMA LEADER L.L.C., Hilmi Rakovica Nr 43, 10000, Prishtine	1.00
75	MADEKOS SH.P.K., Vragoli ( Magjistrallja Prishtinë-Pejë), 12000, Fushë Kosovë	12,000.00
33	REDONI IIM SH.P.K., Rr. Behar Begolli p.n, 10000, Prishtinë	12,552.00
16	MATKOS PHARM SH.P.K., SHPETIM ROBAJ NR. 289, -, PRISHTINË	14,400.00

Lots 1, 2, and 9 display huge discrepancy between the estimated value and the bid value. The estimated value for Lot 1 was EUR 14,040.00, while the EO that got the award bid EUR 4,680.00, or EUR 9,360 less. For Lot 2, the estimated value was EUR 713,250.00, while the bid of the winning EO was EUR 31,700.00, or EUR 681,550.00 less. Whereas, under Lot 9, the difference between the estimated value and the contract-ed price is EUR 127,254.00, as the estimated value for this lot was EUR 241,554.00 and the contract value is EUR 114,300.00. In these cases, the first suspicions arise with the abnormally low prices or the lack of market research, which should be conducted by the CA itself.

On September 27, 2021, EO *Agani LTD* submitted a request for reconsideration to the CA, for Lots 1, 2, and 5. The CA rejected the request in relation to the first two lots (1 and 2) with the reasoning that it was past due, while the request related to Lot 5 was rejected as unfounded. Concerning the same lots, this EO filed a complaint against the *Notice of Award* to the PRB. However, because the Board of PRB is yet to be fully staffed, the Secretary General of PRB decided that Lots 1 and 2 shall be dismissed as inadmissible on grounds of past due submission, while the complaint related to Lot 5 is still pending. The CA proceeded to conclude the contract with *GEO Exclusive Corporation & Pharma Leader*, for both Lot 1 and Lot 2.

Prices of disposable masks (Lot 1) are exceptionally cheap, where under this contract a mask will be purchased for EUR 0.02 only. From most of the contracts examined by D+, this tender managed to secure the purchase of masks at the lowest price, as the average price in the market is around EUR 0.04 and EUR 0.05.

**Figure 5** – Description of Prices under Lot 1

Pjesa II. PËRSHKRIMI I CMIMEVE

Nr. LOT	Emertimi i produkteve	Njësia	Sasia e planifikuar per 12 muaj	Çmimi për njësi pa tvsh €	TVSH (%)	Çmimi për njësi me tvsh €	Çmimi total me tvsh €	Prodhuesi dhe vendi i origjines	Afati i liferimit max. 30 dite
1	Facial mask for a single use (Maskë faciale për një përdorim)	Copë	234,000	0.0169Eur	0.0030	0.02 Eur	4,680.00 Eur	Pharmax Medical Turqi	30 dite
Totali (DDP):							4,680.00 Eur		

The same situation applies to Lot 2, where the respirator masks of type FFP2 were bought at EUR 0.10 each. The market price per one such mask is on average EUR 0.60. If we were to consider the estimated contract value, prices of other EOs, market prices, and import costs, it is questionable whether the con-



tract would be properly implemented, but also what would be the quality of masks to be delivered to the Ministry.

**Figure 6** – Description of Prices under Lot 2

Pjesa II. PËRSHKRIMI I CMIMEVE

Nr. LOT	Emertimi i produkteve	Njësia	Sasia e planifikuar per 12 muaj	Çmimi për njësi pa tvsh €	TVSH (%)	Çmimi për njësi me tvsh €	Çmimi total me tvsh €	Prodhuesi dhe vendi i origjines	Afati i liferimit max. 30 ditë
2	FFP2 respiratory masks, with valve, extra light, latex and PVC free (Respiratorë FFP)	Copë	317,000	0.084 Eur	0.0150	0.10 Eur	31,700.00 Eur	LDR TURQI	30 Dite
Totali (DDP):							31,700.00 Eur		

Same as with Lots 1 and 2, there was a request for reconsideration of Lot 9 submitted by EO *Lego Sh.P.K.* The latter filed a complaint for Lots 2, 3, 4, 5, 8, 9, and 13, however, the request was partially accepted for Lot 13 only, while the CA proceeded further with the rest of the lots. The complainant EO, did not forward the complaint to the PRB, therefore the CA proceeded with the execution of this contract.

From Figure 7, presented below, we see that a liter of sanitizer was purchased for only EUR 1.50, which is extremely low compared to current prices. E.g., Kosovo Property Comparison and Verification Agency, at the end of August 2021, purchased a 500 ml container of sanitizer in gel form at EUR 1.60, while paying EUR 2.00 per container of sanitizer in spray form, i.e., for half of the quantity, it paid more than MoH did per one-liter sanitizer container. In addition, in cases where a dispenser container is ordered, there are additional costs attached.

**Figure 7** – Description of Prices under Lot 9

Pjesa II. PËRSHKRIMI I CMIMEVE

Nr. LOT	Emertimi i produkteve	Njësia	Sasia e planifikuar per 12 muaj	Çmimi për njësi pa tvsh €	TVSH (%)	Çmimi për njësi me tvsh €	Çmimi total me tvsh €	Prodhuesi dhe vendi i origjines	Afati i liferimit max. 30 ditë
9	Hand disinfection substance with stand alone dispenser, active against viruses, mycobacteria and other microorganisms, non-hazardous to people and environment (Dezinfektues për duar së bashku me dispenzer)	litër	76,200	1.27 Eur	0.23 Eur	1.50 Eur	114,300.00 Eur	Naturel Medical Ilac Sanayi TURQI	30 dite
Totali (DDP):							114,300.00 Eur		

According to Article 61 of LPP, if an EO submits a tender that is or appears to be abnormally low, the CA shall send a written request to the tenderer asking for clarification. Based on the submitted clarifications, the CA will decide whether or not to proceed with contract execution. So, if the CA concludes that the tender is abnormally low, making it difficult to implement the contract, such tender shall be rejected.

**Figure 8 – Description of Prices under Lot 14**

Pjesa II. PËRSHKRIMI I ÇMIMEVE

Nr. LOT	Emertimi i produkteve	Njësia	Sasia e planifikuar per 12 muaj	Çmimi për njësi pa tvsh €	TVSH (%)	Çmimi për njësi me tvsh €	Çmimi total me tvsh €	Prodhuesi dhe vendi i origjines	Afati i liferimit max. 30 ditë
14	Body bags (Qese për kufoma)	Copë	2,400	€ 4.2373	18%	€ 5.00	€ 12,000.00	BYM MEDIKAL TURQI	30 DITE
Totali (DDP):							€ 12,000.00		

For Lot 14, the estimated value was exceeded by about EUR 2,000.00. In this regard, the CA failed to thoughtfully plan the procurement activity. According to the Rules and Operational Guidelines for Public Procurement (ROGPP), the cost estimate must be reasonable and realistic for the envisaged contract.

The submission of ISOS 13485 and the CE certificate was also required. The expiration date for these two documents is May 20, 2021; considering that the deadline for bidding was August 31, 2021, it turns out that their submission with an expired deadline has rendered the bid unresponsive.

### Tender 3: Purchase of disinfectant supplies for Kosovo schools

For purposes of supplying schools with sanitizer, the Ministry of Education, Science, Technology, and Innovation (MESTI), at the beginning of 2021, initiated the procurement activity for the *Purchase of disinfectant supplies for Kosovo schools*. This tender was conducted through open procedure, where on September 19, 2021, a contract was concluded between MESTI and the group of economic operators *Teknika Sh.P.K.* and the *Book Trade Enterprise “Rilindja”* (hereinafter *Rilindja*). This contract is of the framework type and the prices bid by the EOs were weighted prices.

Consortium *Teknika & Rilindja* bid with a unit price of EUR 1.41, while the total amount of the bid was planned at EUR 490,000.00, equal to the estimated value for this tender. In this procurement activity, there were four participating EOs, where two had lower prices per unit. However, according to the Evaluation Report<sup>4</sup> issued by MESTI, the two EOs that were cheaper than the winning GEO were eliminated, because they failed to meet all eligibility requirements listed in the TD.

<sup>4</sup> The Evaluation Report is part of the materials acquired by D+.

**Table 3** – EOs that participated in the procurement activity

Economic Operator	Weighted Price Bid
GEO Teknika Sh.P.K. & Book Trade Enterprise “Rilindja”	EUR 1.41
GEO Nita Macula B.I. & Graphic Trade Enterprise Blendi O.P.	EUR 1.49
GEO Ardi Sh.P.K. & Infinit Sh.P.K.	EUR 0.45
Pro Medical Sh.P.K. & Pharma Group	EUR 0.57

The Bill of Quantities features four positions, three for disinfectant supplies and one for masks. First position – Hand sanitizer, non-alcohol-based, 50 ml - was weighed at 10%, second position – Hand sanitizer, non-alcohol-based, 100 ml - was weighed at 30%, third position – Disinfectant 500 ml, with 70% alcohol - was weighed with 20%, and fourth position – Disposable three-layer surgical mask - was weighed at 40%. The unweighted price of the first position was EUR 1.14, while the weighted price per unit for this item was EUR 0.11.

For the second item, the unweighted price was EUR 1.73, while the weighted price was EUR 0.52. Under the third position, the unweighted price was EUR 3.63, while the weighted price was EUR 0.73. The last position, weighted at 40%, resulted in EUR 0.12 and EUR 0.05 for weighted and unweighted price, respectively. Under this type of contracting, such weighting only serves to evaluate bids, while the contract is implemented according to price per unit. E.g., in the first item, the CA will put orders for that item up to 10% of total contract value at a price of EUR 1.14.

**Table 4** – Price per Unit, unweighted and weighted

Ranking	Item	Price per Unit (with VAT), unweighted	Weighted Price	Price per Unit (with VAT), weighted
A	Item 1	1.14	10%	0.11
B	Item 2	1.73	30%	0.52
C	Item 3	3.63	20%	0.73
D	Item 4	0.12	40%	0.05
		6.62	100%	1.41



Based on the TD and the requirements that the CA has incorporated in it, we note that in some positions GEO Teknika & Rilindja have fallen short of requirements.

In the TD, the CA has introduced many requirements, ranging from certificates to the necessary staff to perform the work under this tender. In the TD, the CA has required the hiring of a pharmacist, which is unnecessary for such supplies, consequently harming the competition. On the other hand, the CA required the GEO to certify the quality and compliance of these items through ISO certificates, i.e., to provide evidence that the items are in compliance with European standards, requiring further authorizations and licenses. In cases where the EO manages to prove through this plethora of documents that the provided items are in accordance with the requirements of the CA, the role of the pharmacist would be moot.

The TD also required to provide a list of similar contracts, already implemented by the EO, that must be supported by references and reach the value of not less than EUR 250,000.00. The GEO provided the list of such contracts but submitted two references only. One reference is worth EUR 9,456.67, while the other reference is worth EUR 72,228.65. Other contracts that this consortium listed were supported by invoices, which do not provide proof of contract implementation. This is the second element that rendered this GEO unresponsive for this tender.

To prove the suitability of the items required in the price list, the CA required EOs to submit brochures or a catalog of all items, providing product descriptions and respective technical specifications. Among several foreign language documents, the brochure delivered for the mask, namely Item 4, was submitted in the Dutch language. This brochure should not have been accepted by the CA, as is provided in Article 13 of LPP.<sup>5</sup> This article stipulates that the EO may submit a document only in Albanian, Serbian, and English. Apart from these findings, the items themselves do not meet the requirements of the TD either. In positions 1 and 2 of the Bill of Quantities, it is required that the sanitizer in container of 50ml and 100ml be in spray form, while in the provided brochures we see that none of the required sanitizers are in spray form. Even if the CA has received sanitizer in spray form, such a brochure should not have been accepted, as it does not prove that these two items meet the required specifications.

**Figure 9** – Brochures related to Items 1 and 2



<sup>5</sup> Law No. 04/L-042 on Public Procurement, Article 13: <https://bit.ly/3cket5s>

This activity was initiated to equip schools with disinfectant supplies and masks. However, since the signing of the contract, in August 2021, the Finance Office of MESTI does not have a single bill,<sup>6</sup> which proves their purchase, while the school year started at the end of September 2021. Lack of bills and payments proves that no supplies have been delivered yet. As a result, the schools have not been provided with either sanitizers or masks.

Moreover, the two companies that formed the consortium are not specialized in such activities. Primary activity of the two companies is retail of newspapers and stationery and other production related activities.

#### Tender 4: Purchase of protective masks for students in pandemic conditions

The *Purchase of protective masks for students in the Republic of Kosovo in pandemic conditions* procurement activity was initiated by MESTI with the application of negotiated procedure, shortly before the start of the school year in 2020. Specifically, on September 11, 2020, MESTI decided that the new school year in Kosovo would start on September 14, 2020. On that same day (September 14), the Department of Pre-University Education filed an urgent request to initiate the procurement procedure for the supply of masks for students in the Republic of Kosovo.

For the purpose of this procurement activity, the estimated value is EUR 70,000.00, while the contract awarded to Yoobopo Sh.P.K., was executed on September 22, 2020. This procurement activity was conducted through negotiated procedure and the CA invited several EOs to submit their bids. According to the bid opening record, we note that the only EO that submitted a bid is Yoobopo Sh.P.K., subsequently invited, on September 17, 2020, to negotiate with the ministry. EO Yoobopo bid EUR 0.15 per mask and did not agree to reduce the price in negotiations, as according to them the bid price is low compared to the current market price.

**Table 5** – EOs invited to this procurement activity

No.	Economic Operators invited to participate
1.	Blendi
2.	Teknika Sh.P.K.
3.	Yoobopo Sh.P.K.

In this case, the CA should have invited companies that specialize in this field, such as the winning EO, and not invite companies like *Blendi* and *Teknika*, whose primary activity is not trade in medicinal products.

The CA concluded this framework contract with EO Yoobopo Sh.P.K., at a price of EUR 0.15 per unit. The practice of concluding framework contracts for items whose prices drop day by day, is an inappropriate line of action, yet one that has been consistently applied by the CAs. Masks as such, since the viral outbreak, have been the most sought-after product on the market, resulting in dramatic price increases. However, in the second half of 2020 and onwards, prices for masks have been declining progressively. For illustration purposes, in the period when the contract was executed, there were CAs who bought masks at

<sup>6</sup> Consultation of D+ with MESTI, pursuant to Request for Access to Public Documents, date: October 19, 2021.

even lower prices. E.g., the Municipality of Fushë Kosovë/Kosovo Polje, on August 26, 2020, concluded a contract with *Sh.P.K. Agani* to procure surgical masks at EUR 0.10 each. Another case is the Institution of the Ombudsperson, which in November 2020 signed a contract with *Matkos Pharm*, where the price per mask was set at EUR 0.06 only.

The amount that is allowed to be spent for this contract is EUR 70,000.00, however, because it involves a public framework contract, this value can change to +/- 30% of the indicative contract value. In case of reaching the allowed threshold, the CA may not place other orders. This does not mean that the CA should pay for any unordered supplies, but it must order at least 70% of the determined indicative value. The first and only invoice until the moment of allowing access to this tender, was delivered on September 24, 2020, two days after contract conclusion. The amount on this invoice is EUR 60,225.64, which means that most of the contract has been completed and more than half of the budget has been spent.

## Tender 5: Supply of Protective Equipment against COVID-19

The Office of the President of the Republic of Kosovo (OPRK), in August 2020, initiated a tender for the acquisition of disposable masks, sanitizer, and disinfection services. The tender is divided into two lots, with an estimated value of EUR 30,500.00. The first lot, for disposable masks and sanitizer, was awarded to *Matkos Pharm Sh.P.K.*, for a total contract value of EUR 22,000.00. The contract is of the framework type and ends on September 30, 2023, meaning orders can be placed through this date depending on the needs of the institution.

One of the issues in the TD is the failure to specify the required quantity of sanitizer, resulting in companies submitting bids on different quantities. This issue, drawing from the meeting<sup>7</sup> with representatives of the Procurement Office of this institution, has also presented a problem in the evaluation of bids. The awardee, EO *Matkos Pharm* bid on providing sanitizer in containers of 100 ml, yet delivered sanitizer in containers of 500 ml.

I.e., one of the invoices paid by the OPRK, includes an item that is not provided in the contract. Instead of sanitizer in containers of 100 ml as bid with the price of EUR 0.80, the invoice indicates sanitizer in containers of 500 ml at EUR 4.00.

**Figure 10** – Invoice including uncontracted product – antiseptic sanitizer, 500 ml

Whs. No. / : 100 / DEPO

Kodi	Pershkrimi	Sasia	Njsia	Çmimi per njesi	TVSh	Çmimi me TVSH	Vlera
SP.MAT.0001	MASKA MBROJTESE KIRURGJIKE NJE PERDORIMSHE	150	KUTI	6.7	18	7.91	1186.5
SP.SHQ.0029.U	DEZINFETUES ANTISEPTIC 500ML	30	COPE	3.389	18	4	120

Baza e TVSH-se 18 1,107.20  
Baza e TVSH-se P. K.

This breach of contract directly affects harm to the state budget, as the price of EUR 4.00 for 500 ml of sanitizer is twice as high as the prices contracted by other CAs. For one such sanitizer, the average price

<sup>7</sup> Meeting with representatives of the OPRK, on November 17, 2021.

at which it was purchased by other CAs, in the same time period, is about EUR 2.00.

On the day of the meeting with the OPRK, D+ was informed that this institution and the winning company had entered into an agreement<sup>8</sup> to terminate supply of the contracted sanitizer, which is not allowed.

On the other hand, it should be noted that concluding framework contracts for such long periods is a risky move, as prices for these products have been steadily declining since the pandemic outbreak. Considering this constant reduction in prices, the conclusion of framework contracts always goes to the detriment of public funds, as it involves an obligation to comply with contracted prices.

In this regard, the prices bid by this company are much higher than those prevalent in the market. Many institutions buy disposable masks at about EUR 0.04 each, while the OPRK bought one for EUR 0.15, which is almost four times more expensive than the market price.

The examination of the TD shows that *Matkos Pharm Sh.P.K.* has failed to meet one of the requirements of the CA that is noted in the technical specification. The Office of the President had required the sanitizer be listed as antiviral sanitizer by the IHO<sup>9</sup> and be VAH certified<sup>10</sup>. According to the Public Procurement Law, “A contracting authority shall formulate a technical specification by reference to (i) a Kosovo standard implementing a European standard, (ii) a European standard, (iii) a European technical approval, (iv) a common technical specification, (v) an international standard or (vi) any other technical reference system produced by European standardization bodies.”<sup>11</sup> According to this provision, the CA may not require such standards that are applicable in only one country, such as Germany. However, although it was incorporated as a requirement, *Matkos Pharm* did not provide any evidence of meeting this condition, therefore its bid should have been rejected. In other words, non-compliance with this requirement did not result in penalty, rather an award.

The Tender Dossier also required that the sanitizer contain at least 75g of propane, dexpanthenol, ethylglycerin, dhe panthenol, but the sanitizer bid by the awardee had other ingredients according to the safety data documentation. According to the documents submitted in the bid, the sanitizer of the manufacturer offered by *Matkos Pharm* has the following ingredients: 70% denatured ethyl alcohol, carbomer, glycerin, vitamin E, aloe vera gel, triethanolamine, fragrance, and deionized water. According to this, even *Matkos Pharm* fell short of requirements in the TD, in which case its bid should have been rejected.

The second lot of this procurement activity was referred to the PRB twice. Initially, this lot was awarded to *Samire Osmani B.I.*, resulting in *EO Crazy Pet* filing a complaint to the PRB, claiming that the awardee failed to meet the technical specifications according to the TD. The Review Panel of the PRB decided in favor of the complainant by referring back the case for re-evaluation. Upon re-evaluation, the CA awarded the contract to *Crazy Pet* at EUR 0.39 per square meter, in which case the value of the contract is EUR 8,000.00. The price of EUR 0.39 per square meter is considered an exceptionally high price compared to market prices. Prices for disinfection services, according to fumigation, disinfection, and pest control experts, range from EUR 0.17 to EUR 0.20.

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<sup>8</sup> Written agreement between OPRK and EO Matkos Pharm Sh.P.K., concluded on November 11, 2020.

<sup>9</sup> IHO is the German Industrial Association for Hygiene and Surface Protection.

<sup>10</sup> The Association for Applied Hygiene (VAH) is a recognized authority for quality assurance in prophylactic disinfection in Germany.

<sup>11</sup> Law No. 04/L-042 on Public Procurement, Article 28 paragraph 4.

## Tender 6: Supply of COVID-19 Protective Supplies for Local Elections

The Central Election Commission (CEC) conducted a re-tender<sup>12</sup> of the procurement activity for supply of COVID-19 protective materials for the local elections held in October 2021. The tender was subject to negotiated procedure, as an emergency procurement activity. In this re-tender, the CA invited the three EOs that had bid the first time, *GEO IRIS PHARM Sh.P.K. & Ardi Sh.P.K.*, *ECO SOLUTION Sh.P.K.*, and *GEO Blendi O.P. & PHARMA GROUP Sh.P.K.* Among the three bidders, the consortium comprised of *GEO IRIS PHARM Sh.P.K. & Ardi Sh.P.K.*, actually the highest bid of EUR 86,555.20, was declared responsive.

For a single disposable mask, this EO bid EUR 0.10, while a pair of gloves purchased under this contract were EUR 0.15. The same products can now be found at a much cheaper price in the market, due to the constant drop in prices.

In one of the requirements of the TD, the CA required the ISO 13485:2016 certificate for masks, which the awardee failed to submit. In the bid of *IRIS PHARM Sh.P.K. & Ardi Sh.P.K.*, this ISO certificate exists, but only for gloves, not for masks as required.

In addition, the winning consortium did not meet another requirement too. The TD also requires the submission of an ISO-CE for surface disinfectants and hand sanitizers. *IRIS PHARM & Ardi Sh.P.K.* submitted an ISO-CE which lists only hand sanitizers, but not surface disinfectants. Moreover, these two positions required authorization from the manufacturer, but even in this case the authorization was submitted only for one of the disinfectants, this time for the surface disinfectant, but not for the hand sanitizer.

Further, for tenders that are conducted through negotiated procedure, the Law on Public Procurement provides for negotiations with the EO to reduce the price, which in this case has not happened. I.e., in the TD there is no evidence that the CA has made an effort to achieve a reduction in price bid by *GEO IRIS PHARM & Ardi*.

## Tender 7: Supply of Protective Materials against COVID-19

The Municipality of Obiliq/Obilić continued to purchase protective materials against COVID-19, but this time through open procedure. The Contract Notice on this procurement activity was published on November 20, 2020, with the subsequent submission of six bids. The cheapest bid among the responsive operators was that of *PRO MEDICAL Sh.P.K.*, at EUR 48,408.55.

Upon tender examination, it was established that the CA contracted different prices for the same product and under the same Bill of Quantities. Under the Bill of Quantities prepared by the Municipality of Obiliq/Obilić, the awardee bid different prices for the ready to use hand sanitizer in containers of 1 liter, resulting in contracting at EUR 2.60 and EUR 1.70 for the Main Center of Family Medicine (MFMC) and the Department of Education, respectively.

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<sup>12</sup> This re-tender was conducted after the first tender procedure was suspended through the Decision on Suspension of Procurement Activity dated September 29, 2021.

**Figure 11** – Price provided for the MFMC

4	Dezinfektues per duar te gatshem (permbajtja min.70% alkool)	Liter	2000	2.60	5,200.00 €
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**Figure 12** – Price provided for the Department of Education

4	Dezinfektues per duar te gatshem (permbajtja min.70% alkool)	Liter	7953	1.70	13,520.10 €
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If the product in question were contracted at the same price (EUR 1.70) for the MFMC and the Department of Education, there would be budget savings in the amount of EUR 1,800.00. Considering that it is the same CA, the municipality should have drafted a single Bill of Quantities for the two units, which would have avoided this discrepancy in prices.

The Contract Manager was appointed on December 9, 2020, on the day the contract was executed. The decision for the appointment of Contract Manager states that delivery must be completed within ten (10) days from the signing of the contract, i.e., on December 19, 2020. However, just two days before this date (December 17, 2020), the Contract Manager drafted the *Contract Management Plan*, which should have been done immediately upon his appointment as Contract Manager and not on the day delivery and hand-over of goods started.

In addition, during tender examination, it was noted that the awardee did not meet the professional suitability requirements.<sup>13</sup> The TD required, *inter alia*, the fiscal number certificate, but it is not on the bid file submitted by the awardee. Further, it is not recorded on the Bid Evaluation Report, where in the column, which should note whether it is in compliance or not with the requirements of professional suitability, the Evaluation Committee has noted it as a fulfilled condition.

**Table 6** – Excerpt from Evaluation Report

Required Document	PRO MEDICAL Sh.P.K.
	Compliant / Non-Compliant
Requirement No.1 Business Registration Certificate, Completed	Compliant
Requirement No.2 Fiscal Number Certificate	Compliant
Requirement No.3 Economic Operator licensed by KMA	Compliant

According to the Law on Public Procurement,<sup>14</sup> during the evaluation and examination of bids, the CA should have requested additional information or clarification. In addition, the Rules and Operational Guideline for Public Procurement<sup>15</sup> provide that “*The Contracting Authority may invite economic operators to supplement or clarify the certificates and documents submitted in accordance with Articles 65-71 of the PPL, i.e.,*

<sup>13</sup> Law No. 04/L-042 on Public Procurement, Article 66.

<sup>14</sup> Law No. 04/L-042 on Public Procurement, Article 72.

<sup>15</sup> Rules and Operational Guideline for Public Procurement, Article 39 paragraph 5: <https://bit.ly/3xsGmC9>



evidence submitted on the eligibility requirements, professional suitability requirements, economic and financial standing as well as technical and professional capability, quality certificates, requirements of the groups of EOs”. While, if the EO fails to reply within the time limit specified by the CA, its tender shall be rejected.<sup>16</sup>

## Tender 8: Supply of Hygienic Material against COVID-19 for Public Institutions

In April 2021, the Municipality of Deçan/ Deçane published a tender for the supply of hygienic material for COVID-19, in the amount of EUR 120,000.00. Four companies submitted bids in this call to tender: Ardi Sh.P.K.; N.T.Sh. Gipa; Matkos Pharm Sh.P.K., and N.Sh.T. MADE-KOS. The latter, MADE-KOS, got the award, having bid EUR 84,986.50.

The winning company, in tendering for this procurement activity used two designations, the old name N.Sh.T. MADE-KOS and the new name MADEKOS Sh.P.K. This company changed its status in the Kosovo Business Registration Agency (KBRA) on April 12, 2021, i.e., 10 days before it submitted a bid for the tender in question.

**Figure 13** – Source KBRA - Status of Company N.T.Sh. MADE-KOS

Status on KBRA	Dissolved
Date of Dissolution	April 12, 2021

As one of the requirements in the TD was to post tender security<sup>17</sup>, the company in question did post such security however under designation N.Sh.T. MADE-KOS, dated April 21, 2021, which is an invalid document. Such a document should not have been accepted, as it was issued after the dissolution of the company as a business and under a designation that can no longer be used. In addition, on the record of bid opening for this procurement activity, it appears as N.Sh.T. MADE-KOS, while the contract was signed by MADEKOS Sh.P.K.

This is a framework contract, for a one-year term and is valid until May 10, 2022.<sup>18</sup> Concluding framework contracts at a time where prices are increasingly declining due to competition is considered an ill-considered action by the CA. One of the products that the municipality contracted from this company is the FFP2 mask. At the start of the pandemic, this mask was a high-price item, selling between EUR 8-12. According to Kosovo Customs, this type of mask was imported for EUR 2.50.<sup>19</sup>

While now, after almost two years that Kosovo is facing the COVID-19 pandemic, prices have dropped significantly. Currently, the market price per one such mask is about EUR 0.60, while the price contracted by the respective municipality is EUR 1.20. In this case, the municipality will purchase masks at a higher than the market price, due to being bound by a framework contract and must adhere to it until its term expires or up to 70% completion, as is provided by law.

<sup>16</sup> Rules and Operational Guideline for Public Procurement, Article 39.7.

<sup>17</sup> In a procurement activity leading to the award of large or medium value contract, a CA may require a tenderer to post tender security.

<sup>18</sup> Contract was executed on May 11, 2021.

<sup>19</sup> Watch the video produced by D+, noting the import price of this mask type: <https://bit.ly/3crqeXQ>



## Tender 9: Supply of flour for families in need in wake of the pandemic

The Municipality of Malishevë/Mališevo at the end of 2020 initiated a procurement procedure for the supply of flour to families in need, wallowing in indigence due to the COVID-19 pandemic and residing in the territory of the Municipality of Malishevë/Mališevo.

Four economic operators participated in this procedure as shown in the following table. The estimated value for this tender was EUR 20,000.00.

**Table 7:** EOs that bid for the tender and respective bid value

No.	Economic Operator	Bid Price
1	Dauti Komerc Sh.P.K.	EUR 18,000.00
2	Gashi 4 Compani Sh.P.K.	EUR 17,700.00
3	N.P.Sh. Vëllezëri Telaku	EUR 18,480.00
4	Viva Fly Sh.P.K.	EUR 18,000.00

Upon bid evaluation, the Municipality of Malishevë/Mališevo awarded the contract to EO *Gashi 4 Compani*. The contract was executed on December 30, 2020, in the amount of EUR 17,700.00 as the cheapest bid.

Since the tender in question involves flour, as the key ingredient for making bread, the CA should have required proof concerning the quality of the flour. According to Kosovo legislation<sup>20</sup>, any type of flour that enters the market must pass quality assurance tests, which are performed by the Food and Veterinary Agency (FVA). In this regard, the CA should have required either a grain processing license or laboratory tests, or any other document attesting to the quality of the flour.

If the CA opted out of requiring any proof for the sake of not harming the competition, the CA should have at least required a list of similar contracts implemented in the last three years, supported by contracts, references, or handover reports. Concluding such contracts, without any information on the quality of flour, in the worst-case scenario could endanger public health, where in addition to the EO, the primary responsibility shall fall on the CA, in this case the Municipality of Malishevë/Mališevo.

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20 Law No. 03/L-016 on Food and Regulation (GRK) No.18/2016 for Registration and Approval of Food Business Operators.

## Tender 10: Supply of food / hygiene packages for families in need in wake of the pandemic

The Municipality of Malishevë/Mališevo, at the same period (December 2020), initiated the procedure for supply of food / hygiene packages for families in need in wake of COVID-19.

Six EOs participated in this procurement procedure, as shown in the following table. The estimated value to be spent on this tender was EUR 40,000.00, while the contract was awarded to EO *N.T.Sh. Tradita Tregtare* at EUR 32,355.00, as the cheapest responsive offer.

**Table 8** – EOs that bid for the tender and respective bid value

No.	Bidding EOs	Bid Price
1	Dauti Komerc Sh.P.K. & Dauti Komerc AD	EUR 32,420.00
2	Beni Dona Plast Sh.P.K.	EUR 32.21
3	N.T.Sh. Tradita Tregtare	EUR 32,355.00
4	Viva Fly Sh.P.K.	EUR 29,950.00
5	ATC Sh.P.K.	EUR 35,120.00
6	ITC A&B Market	EUR 34,280.00

However, though EO *Viva Fly* was established as a cheaper bidder than the awardee, it was eliminated due to errors in the calculation of position No. 16, in multiplying the item (pepper, 0.5kg) with the price of EUR 1.15, resulting in EUR 1.25, which actually should be EUR 0.575. While *Beni Dona Plast Sh.P.K.* added a position where there was a discrepancy between the price per package and the total price of packages.

The CA required 19 different food and hygiene items per package. Based on the invoices that have been submitted, it is noted that the purchase was package-based. The invoice states “supply of food packages COVID-19”, i.e., the items were not purchased separately, but as package.

**Figure 14** – Invoice, Description of Goods

Email: tradita.tregtare@gmail.com

Data: 28-12-2020

Nr.	Emërtimi i Mallit	Njesia	Sasia	Vlera pa TVSH	TVSH %	Vlera e TVSH	Çmimi për njesi	Vlera Totale me TVSH
1	Furnizim me pako ushqimore Covid 19	Pako	700	19.193,64 €	18%	3.454,86 €	32,36 €	22.648,50 €

	Baza per TVSH	TVSH	Total me TVSH
8%	0,00 €	0,00 €	0,00 €
18%	19.193,64 €	3.454,86 €	22.648,50 €
Totali:	19.193,64 €	3.454,86 €	22.648,50 €

Per Pagesë:  
22.648,50 €

As shown, the invoice does not prove that all items are included in the package. Moreover, delivery of packages as such complicates the work of the Contract Manager, having to check each package whether or not it contains the contracted items. In this case, the issued invoice would have to be itemized, as the concluded contract is item-based.

It is worth noting that, in April 2020, the Municipality of Istog/Istok concluded a similar contract, but its procurement was not package-based, rather each product was purchased as required in the Bill of Quantities and subsequently the products were placed in packages, according to demand and need for distribution.

**Figure 15** – Invoice, Description of Goods

08.12.2020		08.12.2020		L01				
1	228	MIELL EURO VER TIP 400 25KG	75.00	COPE	9.72	8.00	10.50	787.50
2	3902581860127	SHAMP.DUAR KOKOS 12 1L FRESH	75.00	Copë	0.74	18.00	0.87	65.25
3	8714789700052	SAPUN PALMOLIV ALMOND 6/90GR	150.00	Copë	0.31	18.00	0.36	54.00
4	6001067021605	PASTE HERBAL 12/50ML	75.00	Copë	0.51	18.00	0.60	45.00
5	8690637895166	DOMESTOS 750ML 20/1	75.00	Copë	0.92	18.00	1.08	81.00
6	3902720960091	FASULE EDONA- 1KG	75.00	Copë	1.67	18.00	1.97	147.75
7	8005121000535	MAKARON DIVELLA NR.53 24 500GR	150.00	Copë	0.59	8.00	0.64	96.00
8	5319990534705	ORIZ ANDREA 10/1KG	75.00	COPE	0.81	8.00	0.87	65.25
9	3870114001708	PASHTETE PULE ARGETA 95GR*12	450.00	Copë	0.64	18.00	0.75	337.50
10	3850105124821	FAKS BIOAKTIV FLOWER FRES4 3KG	75.00	Copë	2.34	18.00	2.76	207.00
11	3900013030018	KRIPE KUZHINE E JODIZUAR 14/1KG	75.00	Copë	0.24	8.00	0.26	19.50
12	3901843660055	SHEQER KRISTAL AGROKOR 1/1	300.00	Copë	0.55	18.00	0.65	195.00
13	3902581860776	BRILIANT DET.ENVE 16/1L	75.00	Copë	0.69	18.00	0.82	61.50
14	3900372010034	QUMESHT VITA 3.2 12 1L	225.00	Copë	0.81	8.00	0.88	198.00
15	3903976460052	VAJ PREMIUM 1L/15	225.00	Copë	0.86	18.00	1.01	227.25
16	8714789880471	SHAMPO PALMOLIV OLIVE 6/500ML	75.00	Copë	0.83	18.00	0.98	73.50
								SubTotal: \$2,346.59
Normat Tatimore								Frieght: \$0.00
Baza								Vlera pa TVSH : 2,346.60
0.00								TVSH : 314.40
TVSH e llogaritur 0%								Vlera per pagese: 2,661.00 EUR
1,079.86								
1,266.74								

This form of purchase should not become a precedent for any CA, as it provides room for abuse, such as non-inclusion of all contracted items.

# Conclusion and recommendations

According to the situation as described above, it can be concluded that the contracting authorities have extensively used COVID-19 as an excuse for the use of negotiated (urgent) procedure on public procurement. Civil servants working in procurement offices in the contracting authorities (public institutions in both central and local level) have not followed appropriately the procurement (bid) rules and restrictions. Therefore, this has then resulted in mismanagement of public procurement procedures and waste of public money.

Democracy Plus (D+) forwards the following recommendations for the contracting authorities:

1. The negotiated procedure should be used by the CAs in cases of emergency and as provided by law only.
2. There should not be unnecessary requirements, especially in terms of ISOs, which do not correspond to the nature of procurement and harm competition.
3. Every requirement listed in the TD must be observed and relevant evidence must be submitted, to be examined by evaluation committees and ensure contract award to responsive operators only.
4. The CAs should not impose minimum requirements on EOs in cases of high value and complex tenders, requiring certain professional capabilities and experience related considerations.
5. Market research should be conducted for any purchased goods or any required services or works before the call to tender is announced to ensure better management in the spending of public funds.
6. Record abnormally low prices and seek written clarifications on bid prices from respective EOs to eliminate problems during contract implementation.
7. Persons responsible for contract management should exercise more diligence and care in the supervision of EOs.





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