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# Issues in Public Procurement: Findings from the Analysis of Eleven Tenders at Central and Local Levels

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# **GOOD GOVERNANCE**

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# List of abbreviations

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**CA** ↗ Contracting Authority

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**CPA** ↗ Central Procurement Agency

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**DPC** ↗ Disinfection and Pest Control

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**EO** ↗ Economic Operator

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**GEO** ↗ Group of Economic Operators

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**LPP** ↗ Law on Public Procurement

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**MAFRD** ↗ Ministry of Agriculture, Forestry and Rural Development

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**MESPI** ↗ Ministry of Environment, Spatial Planning, and Infrastructure

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**MIA** ↗ Ministry of Internal Affairs

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**MIET** ↗ Ministry of Industry, Entrepreneurship, and Trade

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**L.L.C** ↗ Limited Liability Company

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**TD** ↗ Tender Dossier

# Introduction

Democracy Plus (D+) has been monitoring public procurement at both the central and local levels. The purpose of this monitoring report is to evaluate and analyze the public procurement process across various contracting authorities, including the Ministry of Environment, Spatial Planning, and Infrastructure (MESPI), the Ministry of Industry, Entrepreneurship, and Trade (MIET), the Ministry of Internal Affairs (MIA), the Municipality of Pejë/ Peć, the Municipality of Gjakovë / Đakovica, and the Municipality of Gjilan / Gnjilane. This report provides an analysis of tenders, identifying shortcomings in procurement processes.

These contracting authorities, like other budget organizations, utilize public funds to contract economic operators for works, services, and supplies in accordance with the Law on Public Procurement (LPP). The aim of this approach is to ensure that public spending is carried out fairly, transparently, and efficiently. Accordingly, the analysis and monitoring of tenders were conducted in compliance with this law and its associated bylaws.

This is the second public procurement monitoring report for 2024, covering the reporting period from July to December 2024. It builds upon the first report, which covered the period from January to June 2024.<sup>1</sup>

The report includes eleven tenders of various types, with a total estimated value of €8,545,218.00.

The monitoring findings reveal several issues within public institutions, including initiating procurement procedures without conducting a detailed needs analysis, applying discriminatory and preferential criteria in tender dossiers, awarding contracts to economic operators who fail to meet the requirements outlined in the tender dossiers, and making flawed evaluations that result in delays and cancellations of tenders.

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<sup>1</sup> The January–June 2024 Monitoring Report is accessible at the following link [https://dplus.org/wp-content/uploads/2024/09/03-09-2024\\_Monitoring-Public-Procurement-at-the-Ministerial-and-Local-Levels.pdf](https://dplus.org/wp-content/uploads/2024/09/03-09-2024_Monitoring-Public-Procurement-at-the-Ministerial-and-Local-Levels.pdf)

# Methodology

The research for the public procurement monitoring report began with the selection of procurement activities through the electronic e-procurement platform and D+'s "Red Flags" platform.<sup>2</sup>

The selection process was based on several indicators, including the estimated value of the tender, the subject matter of the procurement, the repetition of the activity, the procurement procedure used, the deadlines, the contract price being very close to the estimated contract value, and abnormally low contract price.

After selecting the tenders based on these indicators, D+ sent requests for access to public documents to the contracting authorities that were the focus of the project. The requests were based on the Law on Access to Public Documents.

The obtained documents were analyzed against public procurement rules to determine if they were drafted in accordance with the provisions of the primary and secondary legislation.<sup>3</sup>

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<sup>2</sup> Red Flags in Procurement is a platform managed and maintained by D+. This platform automatically retrieves procurement activities from the e-procurement platform. It identifies potential misuse based on specific red flags, such as deadlines, a single bidder winning the contract, the contract price exceeding the estimated value, and other relevant factors. For more details about the platform, visit <https://redflags.dplus.org/en>

<sup>3</sup> This report is based on the Public Procurement Regulation No. 001/2022, as the tender research was conducted before this regulation was amended and supplemented, with the new version coming into force on November 11, 2024.



# Ministry of Industry, Entrepreneurship, and Trade

## Air transport services for MIET<sup>4</sup>

Since 2022, the list of items for joint use, subject to the central procurement procedure according to decisions by the Government of the Republic of Kosovo, has been updated/amended three times. Under the most recent version of the list, air transport services are not within the scope of the Central Procurement Agency (CPA). This means that the CPA does not manage procurement procedures for contracting these services under centralized contracts. However, each contracting authority (CA) is responsible for managing air transport services for their internal needs, specifically for purchasing airline tickets.

As a result of this decision, the Ministry of Industry, Entrepreneurship, and Trade (MIET) has entered into two consecutive framework public contracts with the same economic operator to provide this service, with a total value of €129,003.50.

■ **TABLE 1.** Economic operator awarded for providing air transport services in 2023 and 2024.

No.	Procurement Subject	Procurement Number	Estimated value	Winning EO	Contract Value	Contract Duration
1.	Air Transport Services	204-23-8633-2-2-1	€60,000.00	AS Travel Club Sh.P.K	€57,001.50	12 months
2.	Air Transport Services for MIET	204-24-5742-2-2-1	€75,000.00	AS Travel Club Sh.P.K	€72,002.00	12 months

In the first contract signed in 2023 between MIET and AS Travel Club Sh.P.K., Article 2 specifies that the contract shall be valid for a period of twelve months, until September 21, 2024. However, before the first contract had been completed, on June 7, 2024, MIET initiated a new procurement procedure for “Air Transport Services for MIET” with the aim of contracting an economic operator to provide air transport services through an open procedure. This was done by shortening the legal deadlines for the submission of bids, in violation of the Law on Public Procurement (LPP).

According to MIET’s justifications, this action was taken due to the exhaustion of the approved contract amount and the need to ensure continuous air transport services for the institution to cover its operational needs. This situation clearly highlights a mismatch between contract planning and execution, and it underscores the need for a review and analysis of future contract management practices that could impact the integrity of this contracting authority’s public procurement process.

<sup>4</sup> Procurement Number: 204-24-5742-2-2-1.

In the second tender for contracting air transport services, discrepancies were noted between the total estimated contract value in the Tender Dossier and the Price List. According to the Tender Dossier, the estimated value for contracting this service is €75,000.00. However, based on calculations in the Bill of Quantities, the correct estimated value of the contract is €72,000.00.

**Unit price (€360) × Quantity for 12 months (200 units) = Total Value for 12 months (€72,000.00).**

Thus, MIET contracted the winning economic operator, AS Travel Sh.P.K, for 100% of the estimated contract value.

This tender is clearly marked by legal and procedural violations, as reflected in how the process was organized and managed. One of the major violations was the involvement of a member of the Evaluation Commission in the evaluation, examination, and comparison of the bids, while this same individual was also the author of the technical specifications for the procurement activity in question. Public procurement rules require that procurement processes be fair, transparent, and objective, and that those involved in bid evaluation should not have any role in drafting the tender documents to ensure that the evaluation process is impartial. According to the interpretation of Article 75 of the Public Procurement Regulation by the PPRC on March 29, 2023, an official from a department that has prepared the specifications and/or Terms of Reference (ToR), or has determined quality standards, or prepared drawings, cannot be appointed as a member of the Evaluation Commission.<sup>5</sup>

The linking of two parallel contracts by MIET for the provision of air transport services is in violation of the transparency and competition principles established by public procurement legislation and rightfully raises concerns about favoritism toward the winning EO. In both procurement procedures conducted by MIET, the winning economic operator was the sole bidder.

Furthermore, this action contradicts one of the most important principles of public procurement: the principle of economy and efficiency. This principle requires all contracting authorities to ensure that public funds and resources are used economically, while also highlighting poor planning by the contracting authority in contracting services as needed.<sup>6</sup>

## Design of the Conceptual and Main Project for Industrial Park 2 in Drenas / Glogovc<sup>7</sup>

MIET, through an open procedure and using the “lowest price” contract award criterion, signed a contract with the economic operator “News Sh.P.K” for the design of the conceptual and main project for Industrial Park 2 in Drenas, with a value of €18,000.00.

According to the criteria set in the Tender Dossier, the contracted economic operator is responsible for creating the conceptual and main design for Industrial Park 2 in Drenas / Glogovc. The estimated value for this contract was initially set at €60,000.00. Therefore, considering the criteria for contract award in this tender, eight economic operators submitted bids, and the winning operator submitted the lowest price.

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<sup>5</sup> Public Procurement Regulatory Commission. Interpretations. Question 23. 29.03.2023. Accessible at <https://e-prokurimi.rks-gov.net/HOME/Cla-nakItemNew.aspx?id=544>

<sup>6</sup> Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 6.

<sup>7</sup> Procurement Number: 204-23-8829-2-2-1.

**TABLE 2.** Economic Operators and bid values

No.	Economic Operator	Bid Value
1.	GEO Enggroup Sh.P,K & Armiring Sh.P.K & Alping Sh.P.K	€58,460.00
<b>2.</b>	<b>News Sh.P.K</b>	<b>€18,000.00</b>
3.	Proing&Partners Sh.P.K	€54,000.00
4.	N.N.SH. Vizion Project	€33,400.00
5.	Studio Hapsira Sh.P.K	€36,889.00
6.	GEO Rimi Eng Sh.P.K & 3D Project & N.T.Sh Studio Zero	€35,000.00
7.	Institute of Science and Technology Insi Sh.P.K.	€54,219.00
8.	GEO Vizioni B Sh.P.K & Hidro-Project Sh.P.K & Eni Desing Sh.P.K	€33,400.00

According to the bids submitted by the companies listed in the table above, it is evident that there are significant price differences among the bidders. The winning economic operator's bid is 70% lower than the estimated contract value. In this context, the members of the Evaluation Commission, when assessing and reviewing the bids, should have considered the rules for tenders with abnormally low prices, strictly adhering to the applicable public procurement legislation, and reflecting this in the Evaluation Report.

Public procurement rules clearly determine the conditions under which a tender may be considered abnormally low.<sup>8</sup> In this case, eight bids were submitted with varying prices. The lowest bid was €18,000.00, and compared to the other bids, it is significantly lower than the average price. Based on calculations, the average bid price is €40,421.00, and the lowest bid is approximately 55% lower than the average price. Furthermore, the lowest bid price (€18,000) is 46% lower than the second-lowest bid price (€33,400), which is the last bid that can be considered to potentially classify the economic operator's bid as abnormally low.

<sup>8</sup> Regulation No. 001/2022 on Public Procurement, Article 41.3.

GEO Rimi Eng Sh.P.K. & 3D Project & N.T.Sh. Studio Zero, which had submitted a bid in this tender, filed a request for reconsideration with MIET, claiming that there was a violation of equal treatment for economic operators, and that the examination, evaluation, and comparison of the tenders, as well as the contract award criteria and rules for abnormally low tenders, were not properly followed. According to procurement regulations, the request for reconsideration must be addressed within a period of five days. However, MIET issued a decision to reject the request as inadmissible based on the complaints of the filing party, after the legal deadlines for reviewing the request had passed. MIET argued that the examination and evaluation of the tenders were in compliance with the applicable legislation and that the winning economic operator met the criteria set out in the Tender Dossier and the Contract Notice.<sup>9</sup>

According to the analyzed payment reports, the payments for this contract have been fully completed, and the contract for the “Construction of Infrastructure in Industrial Park 2 – General Park in Drenas” has already been signed.

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<sup>9</sup> Regulation No. 001/2022 on Public Procurement, Article 60.1, item b.

# Ministry of Environment, Spatial Planning, and Infrastructure

## Lot 2 Re-tender – Construction of 11 Houses in North Kosovo<sup>10</sup>

On August 15, 2023, the Ministry of Environment, Spatial Planning, and Infrastructure (MESPI) published the Contract Notice for the construction and renovation of houses in North Kosovo, divided into two lots: Lot 2 Re-tender – Construction of 11 Houses in North Kosovo, and Lot 3 Re-tender – Renovation of 4 Houses in North Kosovo, with an estimated value of the project at €853,000.00. Additionally, the request from MESPI for the project's implementation was approved by the Government of the Republic of Kosovo one month after the initiation of the tendering process.<sup>11</sup>

Based on the analysis of the Tender Dossier, MESPI did not specify the mandatory technical specifications for this works-type tender in Annex 1 of the Tender Dossier. Instead, this was done only through the Price List, which lacks detailed specifications for each product as required by Article 28 of LPP.<sup>12</sup> Furthermore, as the contracting authority running this procurement procedure, MESPI shortened the deadline for bid submission to 15 days, in violation of the applicable legislation, whereas the standard period for large value work contracts is 40 days.

After the examination and evaluation of the bids, the contracting authority on September 12, 2023, published the decision notice, recommending the only bidder, the consortium of LimitProject Sh.P.K. & RoArchitecture Sh.P.K. and Rinesa Sh.P.K., for the contract for Lot 2, with a contract value of €649,432.66, which is 99.91% of the estimated contract value.

■ **TABLA 3.** Economic Operator bidding in this tender and the bid value

No.	Name of Economic Operator	Total Bid Value for Lot II
1.	GEO LimitProject Sh.P.K. & RoArchitecture Sh.P.K. and Rinesa Sh.P.K.	€649,432.66

For Lot 2, on September 21, 2023, MESPI signed a contract with the consortium consisting of LimitProject Sh.P.K., RoArchitecture Sh.P.K., and Rinesa Sh.P.K., with a 12-month duration. The contract specifies clear details regarding the works and specific deadlines for the completion of the contract. However, even before fulfilling the conditions of the base contract, an annex contract (change order) was signed for the full implementation of the project. After analyzing the price list, the change order mainly relates to initial works, such as preparatory works, demolition,

<sup>10</sup> Procurement Number: 210-23-8588-5-1-1.

<sup>11</sup> Decision No. 162/2023 of the Government of the Republic of Kosovo, of September 27, 2023.

<sup>12</sup> Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 28.

cleaning, bricklaying, and concrete works.<sup>13</sup> According to public procurement regulations, an additional work contract may be signed in cases where work was not included or performed in the original contract, but due to unforeseen reasons, it has become necessary to execute the contract.

Furthermore, four months after the change order, a new procurement procedure was initiated for the same issue, using the same criteria for awarding the contract as in the first tender.

**TABLE 4.** Contracts of GEO LimitProject Sh.P.K. & RoArchitecture Sh.P.K. and Rinesa Sh.P.K. for the Construction of Houses in North Kosovo

No.	Contract Title	Contract Value	Contract Duration
1.	Re-tender for the Construction and Renovation of Houses in North Kosovo	€649,432.66	12 months
2.	Additional Works – LOT 2 Re-tender for the Construction of 11 Houses in North Kosovo	€63,725.72	60 days
3.	Unforeseen Works for the project Re-tender for the Construction and Renovation of Houses in North Kosovo Lot 2	€128,007.54	182 days

The lack of a detailed needs analysis has led to the allocation of funds being based only on a general overview, without fully addressing the specific requirements and priorities for the project’s implementation. According to the Statement of Needs and Availability of Funds, the committed amount for this project is €650,000. MESPI, as the contracting authority, has signed three parallel contracts for the full implementation of the project with the same economic operator, for a total value of €841,165.92.

<sup>13</sup> Procurement Activity Number 210-24-4524-5-2-5.

# Ministry of Infrastructure

## Addressing High-Risk Road Sections to Improve Road Safety (Elimination of Black Spots) in the National, Regional, and Connecting Road Network<sup>14</sup>

On April 26, 2024, the Ministry of Infrastructure (MI) launched a tender for addressing high-risk locations in the road infrastructure (black spots)—road segments with the highest number of fatal accidents, severe injuries, and frequent collisions. The primary objective of this project, with an estimated contract value of €1,500,000.00, is to eliminate these black spots by improving road geometry, vertical and horizontal signaling, and lighting.

On June 10, 2024, MI published its contract award decision, recommending the consortium “TSR Sh.P.K. & IDK Konstruksion Sh.P.K.” as the winning bidder. This decision was contested by two other participants in the procurement process, “El Bau” and “Intrast Sh.P.K.” MI rejected the complaints, deeming the claims to be unfounded. However, MI’s two decisions to deny requests for reconsideration violated Article 108/A of LPP, which stipulates that rejections must be justified. In this case, MI combined addressing all the claims from the economic operators into a single response, rejecting them entirely with generalized reasoning, failing to provide specific arguments for the raised concerns. Contracting authorities are obligated to respond to each economic operator individually with a written decision addressing each grievance, in compliance with the law, ensuring proper responses are provided to complainants and all interested parties.

Following the rejection of reconsideration requests, the economic operators submitted complaints to the PRB, which canceled the contract award decision,<sup>15</sup> and remanded the case for re-evaluation. This decision was made to the MI’s Evaluation Commission having:

- Recommended a Non-Compliant Operator: The contract was recommended to an economic operator who had failed to sign the Traffic Management Plan, a requirement explicitly stated in the Tender Dossier.
- Failed to address abnormal low pricing: The economic operator was recommended without seeking clarifications regarding abnormally low prices offered for certain line items (4.17, 4.18, 4.20) compared to market rates. Additionally, the operator proposed abnormally high prices for other line items (2.1, 2.2, 2.5, 3.1, 3.2, 3.6, 3.10, 3.11, and 5.1), which were not questioned during the evaluation process.

Although both the LPP and secondary legislation prohibit the automatic exclusion<sup>16</sup> of abnormally low bids, the MI should have applied the inter-partes procedure with the economic operator by requesting explanations for the prices offered.

After the cancellation of the contract award, the MI issued a decision to cancel the procurement activity, as the re-evaluation commission concluded that all bids were non-compliant. In the Tender Dossier, MI required an electrical engineer with three (3) years of professional experience post-graduation. This had to be proven through a CV, a notarized diploma, an employment contract with the bidder (notarized copy), and references for previous

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<sup>14</sup> Procurement Number: 205-24-4174-5-1-1.

<sup>15</sup> PRB Decision No. 2024/0587.

<sup>16</sup> Regulation No. 01/ 2022 on Public Procurement. Article 41.

work. The economic operator eliminated on this item of the Tender Dossier, “El Bau Sh.P.K.,” had submitted an employment contract with electrical engineer V.J., which had expired on December 31, 2023.

In accordance with the LPP<sup>17</sup>, contracting authorities are permitted to request the completion or clarification of submitted documentation, adhering to the principles of equality and transparency. This includes cases where the submitted documents are inaccurate or incomplete, allowing economic operators to provide additional information to meet tender requirements. In this particular case, the eliminated economic operator had submitted an expired employment contract for the engineer. However, in their appeal, they provided a new and valid contract, which had been signed and notarized<sup>18</sup> before the tender opening. The notarized contract submitted by the appealing economic operator, signed after the expiration of the previous contract but prior to the initiation of the tender, meets the requirements of the LPP, specifically Article 72, which allows for clarification of documents. The documents provided by the appealing operator, including the notarized contract and proof from the Kosovo Tax Administration (ATK) payroll records, objectively verify the existence of an employment relationship prior to the tender opening. Therefore, the MI could and should have requested and accepted additional clarifications to confirm compliance with the conditions set forth in the Tender Dossier.

Another element of the Tender Dossier, which the MI assessed as unmet, was the requirement for a list of completed contracts/projects in the fields of road asphalt paving, construction, reconstruction, and signaling, within a three-year period, with a total value of no less than €2,000,000. Despite the fact that the economic operator “El Bau Sh.P.K.” submitted a list and proof of projects executed with a total value of €6,763,551.56, the MI rejected the bid, claiming that it did not meet the requirements and that the total value of projects in the fields of asphalt paving, construction, and reconstruction did not exceed €1,685,223.95. However, from an analysis of the submitted bid, the operator provided final inspection acceptance reports and references for contracts executed in the required fields with a total value of €2,094,585.81, which meets the contracting authority’s stated requirements.

## Renovation of the N.SH. Mekanizmi Building to Accommodate MESPI Staff<sup>19</sup>

In September 2024, the Ministry of Infrastructure published the Tender Dossier and the Contract Notice for the project titled “Renovation of the N.SH. Building Mekanizmi to Accommodate MESPI Staff.” This procurement activity, which was not included in the final procurement forecast, had an estimated value of €900,000.00 and a contract duration of 60 days from the date of signing.

Only one bidder participated in this procurement activity, conducted under the open procedure, and was awarded the contract. This could be attributed to the CA reducing the legal bidding deadlines without justification, which limited interested EOs to only 13 days for bid preparation. For high-value tenders,<sup>20</sup> the standard bidding period is 40 days. However, when special rules for shortening deadlines are applied, the bidding period is set at 15 days.<sup>21</sup>

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17 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 72.

18 Notarial Act LRP. No.1105/2024, of February 1, 2024.

19 Procurement Number: 205-24-10028-5-1-1.

20 Guideline No. 001/2023 for Public Procurement, Classification of Public Contracts by Value, accessible at [https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/SecondaryLegislation/eng/A02%20GUIDELINE%20No.%20001\\_2023%20FOR%20PUBLIC%20PROCUREMENT.pdf](https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/SecondaryLegislation/eng/A02%20GUIDELINE%20No.%20001_2023%20FOR%20PUBLIC%20PROCUREMENT.pdf)

21 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 46.2.



■ **TABLE 5.** Sole bidder and winner in this procurement procedure

No.	Name of Economic Operator	Bid value
1.	GEO Krapo Com Shp.K & Home Electronics	€876,829.89

Another factor that may have contributed to the lack of competing economic operators in this tender are the favorable or discriminatory criteria outlined in the sections on professional suitability and technical and professional capacity. In the Tender Dossier and Contract Notice, the MI specified a significant number of ISO certifications. Upon review and analysis, two of these certifications were found to be invalid.

**ISO/IEC 27001:2013 & SA 8000:2014 have been revised and replaced by ISO/IEC 27001:2022.<sup>22</sup>**

In addition to the invalid ISOs, several other ISO certifications were required, including: (i) ISO 9001:2015 – Quality Management System in the field of construction; (ii) ISO 14001:2015 – Environmental Management System in the field of construction; (iii) ISO 45001:2018 – Occupational Health and Safety Management System in the field of construction. However, the majority of professional staff criteria referenced the electrical engineering field. While these certifications are closely tied to managing processes and ensuring quality and safety in construction, they are not directly applicable to the electrical technology field, which is more specialized.

It is clear that the purpose of determining technical and professional criteria is to ensure quality during the contracting and implementation phases. However, under no circumstances should such criteria be used to restrict free competition among economic operators. Public procurement rules clearly state that CAs must not carry out any aspect of a procurement activity in a way that reduces or eliminates competition among economic operators or that discriminates in favor of or against one or more economic operators.<sup>23</sup>

For the renovation of the N.SH. Mekanizmi building, specifically for demolitions and cleanups under line item 2.0 of the Bill of Quantities, the winning EO presented different prices for the same work to be performed.

22 ISO/IEC 27001:2022, Information security, cybersecurity and privacy protection — Information security management systems — Requirements, <https://www.iso.org/standard/27001>

23 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 7.

**TABLE 6.** Winning EO's Bid on Item 2.0 in the Bill of Quantities

No.	Item	Unit	Quantity	Unit	Price
1.	Controlled dismantling and removal of the existing district heating pipe network, including the district heating system and accompanying equipment	m <sup>2</sup>	1,333.00	0.50	665.50
2.	Controlled dismantling and removal of the existing water supply and sewage network, including preventive conservation of supply and disposal lines	m <sup>2</sup>	1,333.00	1,20	1,559.60
3.	Controlled dismantling and removal of the final flooring layer, including underlayers down to the leveling screed of the mezzanine	m <sup>2</sup>	882.00	8.00	7,056.00
4.	Controlled dismantling and removal of non-structural interior walls or parts made from solid or lightweight materials	m <sup>2</sup>	247.00	15.00	3,705.00
5.	Controlled dismantling and removal of existing window panels, including glass and solid profiles	m <sup>2</sup>	107.00	20.00	2,140.00
6.	Controlled dismantling and removal of existing walls made of solid materials	m <sup>3</sup>	109.00	35.00	3,815.00

As shown in the table above, the winning EO set significantly different prices for similar work in the renovation project, ranging from €0.50/m<sup>2</sup> to €35.00/m<sup>2</sup>. Such pricing creates uncertainty and raises concerns about transparency and sustainable planning. Extremely low prices may indicate the potential use of substandard materials, while excessively high prices could lead to the misuse of funds, undermining the project's sustainability and proper implementation.

# Ministry of Internal Affairs

## Supply, Installation, and Commissioning of New Elevators in Government Buildings<sup>24</sup>

On February 28, 2024, the Ministry of Internal Affairs (MIA) initiated a tender for the installation of seven (7) new elevators in various public institutions, including the Tax Administration of Kosovo (TAK), the Ministry of Culture, Youth, and Sports (MCYS), the Ministry of Education, Science, Technology, and Innovation (MESTI), and the Kosovo State Archives Agency (KSAA). The estimated value for this contract was €259,240.00.

Two economic operators submitted bids for this procurement activity. The MIA recommended the bidder Ejona Sh.P.K. for the contract, which submitted an offer of €179,744.44.

■ TABLE 7. Economic Operators Participating in this Tender

No.	Name of Economic Operator	Total Bid Value
1.	Uplift L.L.C	€248,805.00
2.	Ejona Sh.P.K.	€179,744.44

Following the publication of the notice on the contracting authority's decision, the MIA also published the contract award notice. On June 5, 2024, a draft contract was uploaded to the electronic system. However, on July 17, 2024, the MIA published a notice for the cancellation of the procurement activity. In the justification for the cancellation, it was stated that "a provision of the LPP requires the cancellation of the procurement activity." Additionally, it was noted that the conditions under paragraph 2 of Article 26 of the LPP were not met.

According to the MIA, the Chief Administrative Officer (CAO) and the Minister did not sign the contract because irregularities and omissions were identified during the analysis conducted by the requesting unit, the procurement division, and the recommended operator for the contract. Based on this analysis, the MIA concluded the following:

- Authorization from the manufacturer was neither requested nor presented;
- As proof of warranty (required for 12 months in the Tender Dossier), the operator presented only its own statement;
- The catalog of the elevators was neither requested nor presented.

<sup>24</sup> Procurement Number: 214-24-1625-1-1-1.

By issuing this decision and justification, the MIA violated the LPP and the Public Procurement Regulation, which explicitly requires the contracting authority to prepare a draft contract and sign it within 30 calendar days after the expiration of the deadline for submitting and reviewing complaints.<sup>25</sup>

The current legislation allows for the cancellation of a procurement procedure in cases where a violation of the law has occurred or is likely to occur during the procurement process and cannot be prevented by amending the legal conditions of the procurement. Additionally, the procedure may be canceled if the bids contain prices that exceed the allocated budget.<sup>26</sup>

Based on the analysis of the Tender Dossier, the MIA did not specify how the proof of warranty should be provided, meaning that the economic operator's statement satisfies this criterion. Furthermore, the Tender Dossier did not require any form of authorization or catalog from the manufacturer. Therefore, the oversights and lack of attention during the drafting of tender criteria do not constitute legal grounds for canceling the tendering procedure, especially when these shortcomings are not reflected in the contract notice or the Tender Dossier itself. The LPP clearly states that the contracting authority cannot disqualify or exclude bidders based on requirements or criteria that were not clearly and explicitly determined beforehand. In this case, the cancellation of the procurement activity by the MIA, citing the lack of catalogs, manufacturer authorization, and the format of the warranty proof, constitutes a violation of the principles of transparency and fairness. The reasons provided by the MIA for canceling the procedure were based on requirements that were not specified in the tender documents. This action not only contradicts the provisions of the LPP but also raises questions about the quality of tender preparation and the interpretation of legal provisions.

## Disinfection and Pest Control Services for Government Buildings – Re-tender<sup>27</sup>

On November 4, 2024, the Ministry of Internal Affairs (MIA) announced the signing of a contract for Disinfection and Pest Control (DPC) Services for Government Buildings with the economic operator Doctor Exterminator DDD Sh.P.K. The contract, valued at €313,482.10, was awarded following an open procedure.

This contract follows the cancellation of the initial procurement activity (Disinfection and Pest Control Services for Government Buildings),<sup>28</sup> after the PRB reviewed a complaint submitted by Doctor Exterminator DDD Sh.P.K. The PRB affirmed that the criteria regarding technical and/or professional capacity were discriminatory and restricted free competition among economic operators.<sup>29</sup>

However, in the re-tendering of this procurement activity, the MIA established the same contract award criteria that the PRB previously deemed discriminatory. This decision contradicts the PRB's recommendations and violates Article 105, paragraphs 2.10 and 2.11 of the LPP. The law obliges contracting authorities to rectify identified violations and/or prevent further harm to the complainant or other interested parties. Furthermore, they are required to remove any requirements or criteria included in the notice, invitation, tender dossier, or other documents that could lead to such violations.

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25 Regulation on Public Procurement. Article 42, paragraph 4.

26 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 62.

27 Procurement Number: 214-23-13757-2-1-1.

28 Procurement Activity Number: 214-23-6093-2-1-1.

29 PRB Decision Number: 529/23.

For the technical and professional capacity criteria, the economic operator Doctor Exterminator DDD Sh.P.K., submitted a request for reconsideration to the MIA as the first level of appeal, seeking amendments to the criteria set in the Tender Dossier and Contract Notice. On January 15, 2024, the contracting authority rejected the request for reconsideration as unfounded, providing a series of arguments asserting that the established criteria did not compromise the integrity of the procurement process and were not discriminatory or preferential toward any economic operator.

Subsequently, the MIA, as the contracting authority, maintained several requirements that, after the rejection of the reconsideration request, were appealed to the PRB for the second time. Specifically, under technical and professional capacity, the contracting authority required the presence of an Agronomist, Veterinarian, or Ecologist (as per MAFRD)<sup>30</sup> and a Veterinary Technician. These criteria were restrictive and discriminatory in this tender since, according to MAFRD, companies applying for licenses to provide DPC services must possess qualifications in: Faculty of Agriculture – Majors: General Studies; Plant Production, Plant Protection, and Veterinary Studies; Faculty of Medicine – Major: Epidemiology; Faculty of Biology – Major: Ecology.<sup>31</sup>

The PRB upheld the complaint filed by the economic operator, Doctor Exterminator DDD Sh.P.K., regarding the technical and professional capacity criteria. The PRB determined that the contracting authority's requirements—that an economic operator must have an Agronomist, Veterinarian, or Ecologist (as per MAFRD)<sup>32</sup> and a Veterinary Technician—were restrictive criteria. It concluded that MAFRD holds the responsibility for determining the professions required for licensing companies to provide DPC services. Furthermore, the review panel noted that improving the Tender Dossier would create greater opportunities for participation among economic operators in this procurement activity.<sup>33</sup> The applicable public procurement law, specifically Article 51, paragraph 3, clearly stipulates that all selection criteria must be relevant and proportional to the subject matter of the concerned contract.

Therefore, since the contract award criteria were not drafted in accordance with the subject matter of the concerned contract and did not ensure fair access for all interested economic operators, the PRB decided that the Tender Dossier for this procurement activity should be amended based on the findings of two expert review reports. The MIA published the Standard Template for Correcting Errors in Published Notices on April 17, 2024, which was 14 days after PRB's decision.

Following the improvement of the criteria related to technical and professional capacities, three economic operators participated in this procurement activity.

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30 The Ministry of Agriculture, Forestry, and Rural Development (MAFRD) is responsible for establishing the requirements and staff qualifications needed to license companies for disinfection and pest control services.

31 Response provided by the Ministry of Agriculture, Forestry, and Rural Development, on November 29, 2024.

32 The Ministry of Agriculture, Forestry, and Rural Development (MAFRD) is responsible for setting the requirements and staff qualifications necessary to license companies providing disinfection and pest control services.

33 PRB Decision Number: 66/24.

**TABLE 8.** Economic Operators Participating in this Tender

No.	Name of Economic Operator	Total Bid Value
1.	Doctor Exterminator DDD Sh.P.K	€313,482.10
2.	GEO Besim A. Zenjullahu B.I & Tresor Home L.L.C	€225,416.10
3.	GEO NRG Sh.P.K & Dezinfekta NRG Sh.P.K	€198,391.70

The bids for this tender were opened on May 7, 2024, while the notification of the decision by the contracting authority, recommending Doctor Exterminator DDD Sh.P.K., for the contract, was published on June 21, 2024, which is 45 days after the legally prescribed deadline. This delay violated public procurement rules, which stipulate that the process of examining, evaluating, and comparing tenders, as well as issuing the award notice, must be completed within the shortest possible time and no later than 30 days from the opening of bids. Only in complex cases can this period be extended by an additional 20 days.<sup>34</sup>

Following the award notice of June 21, 2024, the dissatisfied bidder, GEO Besim A. Zenjullahu B.I. & Tresor Home L.L.C., submitted a complaint to the PRB on June 8, 2024. The review panel partially upheld the GEO's complaint while allowing the contracting authority's decision to remain in effect.<sup>35</sup>

The contract signing notice, published on November 4, 2024, came 10 months after the initiation of the procurement process. This delay is in violation of the LPP, which obliges contracting authorities to ensure an efficient, transparent, and fair use of public funds and resources. If the procedure had been conducted in line with PRB's recommendations, time could have been saved, contributing to a more efficient process and more rational use of public funds. Such efficiency would have ensured faster and more effective contract implementation, avoiding delays caused by the criteria set in the Tender Dossier and Contract Notice.

<sup>34</sup> Regulation on Public Procurement, Article 40, paragraph 3.

<sup>35</sup> PRB Decision Number: 605/24.

# Municipality of Gjakovë / Đakovica

## Construction of Road X<sup>36</sup>

On January 30, 2023, the Municipality of Gjakovë / Đakovica published an indicative notice for the Construction of Road X as part of the main project for the northern ring road (Road X) and the roundabout expansion of the Piskotë-Skivjan Road in Gjakovë / Đakovica. The contract had an estimated value of €4,357,000.00, and the contract notice was published on April 17, 2023.

For this procurement activity, the Municipality of Gjakovë / Đakovica applied the criterion of awarding the contract based on the most economically advantageous tender. However, the Tender Dossier and Contract Notice included an extensive number of criteria that were excessive and disproportionate to the subject matter of this tender.

In response to the high and disproportionate criteria related to technical and/or professional capacities, the economic operator PE-VLA-KU SH.P.K. submitted a request for reconsideration to the contracting authority. This was done with the aim of ensuring the integrity of the procurement process by providing equal opportunities for all economic operators to bid. The Municipality of Gjakovë / Đakovica approved the reconsideration request as justified and, through the B54 Standard Template for Correcting Errors of May 9, 2024, adjusted the criteria initially set. However, such an action by the Municipality of Gjakovë / Đakovica violates the Public Procurement Regulation, specifically Article 27.7, which explicitly states that when the most economically advantageous tender criterion is used, the contract award criteria cannot be changed through a correction form. The only permissible correction is to cancel the procurement procedure and reinitiate the tendering process.<sup>37</sup>

This tender has been accompanied by a series of legal and procedural irregularities, which have hindered its finalization with a contract. The primary cause of this delay lies in the unlawful decisions made by the contracting authority, against which seven requests for reconsideration were submitted. These requests were rejected as unfounded by the contracting authority. Additionally, six complaints were filed with the PRB, resulting in delays and inefficiencies in managing the procurement procedure.

The record of the bid opening was published on May 22, 2023, with six economic operators participating in the tendering process.

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<sup>36</sup> Procurement Number: 632-23-397-5-1-1.

<sup>37</sup> Regulation No. 001/2022 on Public Procurement, article 27.7, [https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/SecondaryLegislation/eng/A01%20Regulation%20No.001\\_2022%20on%20Public%20Procurement.pdf](https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/SecondaryLegislation/eng/A01%20Regulation%20No.001_2022%20on%20Public%20Procurement.pdf).

**TABLE 9.** Bidding Economic Operator in this Tender and their Bid Values

No.	Bidding Economic Operator	Total Bid Value
1.	Shkemi Sh.P.K	€4,514,770.28
2.	GEO Asphalt Group Sh.P.K & Gurëbardhi Sh.P.K & Benita Copmany & Dreoni Sh.P.K	€4,333,333.33
3.	GOE PE-VLA-KU Sh.P.K & Joos & Krasniqi bazë Sh.P.K & Roza Romani B.I	€4,270,543.21
4.	Arfa Group Sh.P.K	€4,442,527.61
5.	Lika Trade Sh.P.K	€4,171,825.00
6.	GEO N.SH.T Viktory Com & Companya Eskavatori Sh.P.K & Marisa Sh.P.K	€4,070,546.33

The notification of the contracting authority’s decision, through which the Municipality of Gjakovë / Đakovica recommended a contract with GOE “PE-LA-KU Sh.P.K & JOOS & KRASNIQI BAZE Sh.P.K & Roza Romani B.I.,” was published on July 24, 2023, or 66 days after the opening of the bids. Contracting authorities are required to publish the notification of their decision within the shortest possible time, and no later than 30 days from the opening of the bids. In exceptional cases, this period may be extended by 20 days.<sup>38</sup>

Upon review, it was determined that the bid of the recommended contractor did not meet the criteria outlined in the Tender Dossier and the Contract Notice. According to public procurement rules, when the “Most Economically Advantageous Tender” criterion is applied, the award must be solely based on the criteria that are clearly specified and pondered as outlined in the Tender Dossier and the Contract Notice.<sup>39</sup> Therefore, the evaluation, examination, and comparison commission should have treated all economic operators fairly and equally, evaluating their bids only in accordance with the criteria determined in advance in the Tender File and the Contract Notice.

The most economically advantageous tender criterion is based on the price-quality ratio, which does not imply that the economic operator who submits the lowest price should automatically be deemed non-responsive, even when their bid is the cheapest. In fact, the LPP does not exclude this option. In this context, GEO Asphalt Group Sh.P.K & Gurëbardhi Sh.P.K. & Benita Copmany & Dreoni Sh.P.K. and GEO N.SH.T. Viktory Com & Companya Eskavatori Sh.P.K. & Marisa Sh.P.K., dissatisfied with the decision of the contracting authority, filed complaints with the PRB. The latter treated their cases as a single case and ruled in favor of the economic operators, recommending a reevaluation of the bids because the contracting authority acted in violation of the provisions of articles 7, 59, 60, and 72 of the LPP.<sup>40</sup>

In the reevaluation of the bids, the Municipality of Gjakovë / Đakovica decided to cancel the procurement activity citing events or objective reasons that were beyond the control of the contracting authority and could not have been anticipated at the time the process was initiated. This included the exchange of emails with the Ministry of

38 Regulation No. 001/22 on Public Procurement, Article 40.3.

39 Regulation No. 001/22 on Public Procurement, Article 40.14.

40 PRB Decisions No. 560/23 and No. 572/23.



Infrastructure (MI), indicating that MI was preparing a conceptual project for the Skivjan - Lugbunar Road, which includes the segment of Road X. However, the public procurement rules clearly provide the circumstances under which the procurement procedure can be canceled.<sup>41</sup> Therefore, the justification provided by the Municipality of Gjakovë / Đakovica is in violation of the LPP. This tender was subsequently appealed again to the PRB, which upheld the appeal and recommended that the matter be remanded for reevaluation, because the reasoning for the cancellation was not supported by factual documents, law, or regulations.<sup>42</sup>

Even in the second reevaluation, the Municipality of Gjakovë / Đakovica decision to cancel the procedure remained unchanged; however, the reasons for the cancellation were revised. According to the contracting authority, none of the economic operators met the requirements of the tender dossier, and the bids exceeded the estimated contract value. From the bids presented in Table 9, it is observed that four out of six economic operators did not exceed the estimated contract value.

This decision was also appealed to the PRB, where the review panel upheld the appeal, affirming that the contracting authority must respect PRB's decisions for a fair and equal evaluation of the bids, as required by the legal provisions. Otherwise, the panel stated that it would request the PPRC to revoke the procurement officer's license in accordance with the applicable legislation.<sup>43</sup>

Despite the fact that in all the appeals that were submitted, the PRB remanded the case for reevaluation to ensure a fair evaluation of the bids, taking into account the responsive economic operators who meet the criteria specified in the Tender Dossier and Contract Notice, the CA failed to adhere to the PRB's decisions and proceeded to cancel the procurement activity. The failure to comply with PRB's decisions, which are binding on the contracting authority, constitutes a violation of legal provisions, specifically a breach of Articles 105, paragraphs 2.10 and 2.11 of the LPP.<sup>44</sup>

Despite the PRB's binding decisions, the Municipality of Gjakovë / Đakovica published a notice on October 4, 2024, regarding the contracting authority's decision to cancel the procurement procedure once again due to the lack of responsive economic operators. An appeal was once again filed with PRB, and as of this report, no final decision has been made.

Regarding this tender, the Public Procurement Regulatory Commission (PPRC) has not taken any action against to the contracting authority. Despite all the procedural and legal violations related to the conduct of the procedures and the non-implementation of the PRB's decisions, the PPRC has not received any request for cancellation of the public procurement license for the official procurement officer from the PRB<sup>45</sup>.

The Municipality of Gjakovë / Đakovica, as the contracting authority, has shown a lack of transparency and fair evaluation of bids, failing to adhere to the criteria for awarding the contract based on the most economically advantageous tender. This failure to comply with legal procedures and PRB's decisions has caused significant delays in the procurement process, raising concerns about discrimination and favoritism towards certain economic operators. This situation has adversely affected the efficiency and cost-effectiveness of the procurement process, as 536 days have passed from the initiation of the procedure to the publication of the contracting authority's decision on October 4, and still, there is no final outcome for this procurement activity.

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<sup>41</sup> Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 62.

<sup>42</sup> PRB Decision No. 0100/24.

<sup>43</sup> PRB Decision No. 0534/24.

<sup>44</sup> Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 105.

<sup>45</sup> Response provided by Public Procurement Regulatory Commission, on December 12, 2024.

# Municipality of Gjilan / Gnjilane

## Supply of Uniforms for Tenth-Grade Students in Secondary Schools of the Municipality of Gjilan / Gnjilane<sup>46</sup>

In August 2024, the Municipality of Gjilan / Gnjilane opened a procurement activity for the supply of uniforms for tenth-grade students in secondary schools, with an estimated contract value of €54,000.00.

Two (2) economic operators participated in the tender. On October 10, 2024, the Municipality of Gjilan / Gnjilane published the notice of the contracting authority's decision, recommending awarding the contract to the economic operator "Puntex Sh.P.K.," which submitted a bid of €52,416.00. The evaluation commission, however, eliminated the lowest bidder, stating that the samples provided by this operator were not suitable or of the required quality.

■ TABLE 10. Names of Economic Operators Participating in this Tender

No.	Name of Economic Operator	Address	Total Bid Value
1.	Naim Shuki B.I	Wesly Clark Pn. Prizren	€49,980.00
2.	Puntex Sh.P.K	Komuna e Parisit, 52, Prizren	€52,416.00

The evaluation commission, after examining and comparing the tenders, concluded that the samples provided by the economic operator Naim Shuki B.I. were not suitable or of the required quality. According to the evaluation commission, the economic operator Puntex Sh.P.K. met the criteria set in Annex 1, and the samples provided were more suitable and of better quality.

Based on the review of Annex 1 to the Tender Dossier, the Municipality of Gjilan / Gnjilane failed to provide any technical specifications that would describe the required quality, durability, or standards, such as: the primary material the uniforms should be made of (e.g., cotton, polyester), the composition percentage (e.g., 60% cotton, 40% polyester), the material thickness, resistance to washing, specific color according to the Pantone or RAL codes, which are standardized systems used to precisely and universally define colors.

<sup>46</sup> Procurement Number: 651-24-6314-1-2-1.

In the absence of clear and detailed technical specifications, the evaluation commission was unable to make an objective assessment between the samples provided by the economic operators, as there were no established criteria for quality, material, color, and other standards. Therefore, the conclusion that one economic operator offered “more suitable and qualitative” samples is a subjective interpretation by the commission members, lacking objective reasoning as to which element of the submitted samples was not met by the eliminated operator.

It is recommended that tender documents should avoid listing requirements for sample submissions, as this discourages competition and increases the bid prices. The Public Procurement Regulation,<sup>47</sup> explicitly requires that bidders must confirm that the offered products meet the required specifications, which can be verified by attaching test certificates from laboratories. The regulation also stipulates that before the evaluation process, all markings identifying the economic operator must be removed from the submitted samples, and the samples should be coded.

The lack of well-defined criteria not only undermines the integrity and transparency of the process, but also risks leading to subjective and unjustifiable decisions. This was the case here, where one economic operator was eliminated, while another bidder, whose bid was €2,436 more, was recommended for the contract.

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<sup>47</sup> Regulation No. 001-2022 on Public Procurement, Article 37.6

# Municipality of Pejë/ Peć

## Stray Dog Management and Shelter Administration in the Municipality of Pejë/ Peć<sup>48</sup>

In May 2024, the Municipality of Pejë / Peć announced a tender for the management of stray dogs and the administration of the municipal shelter. The aim was to secure an economic operator to handle the capture, treatment, vaccination, and spaying/neutering of over 2,000 stray dogs within the municipality's territory.

The contract notice was published on May 20, with the deadline for submitting bids set for June 10. This provided a 21-day period for submissions, significantly shorter than the standard 40-day deadline for high-value contracts.<sup>49</sup> The Municipality of Pejë/ Peć justified the expedited timeline by explaining that the tender had previously failed, necessitating a swift resolution due to the pressing importance and challenges posed by the stray dog issue in the area.

On June 19, the Municipality of Pejë / Peć announced the winning bidder for the tender: the group of economic operators “Kuqi Farms Sh.P.K., dhe Ambulanca Veterinare”, who submitted a bid of €241,320.00, thereby eliminating the competing group of economic operators, “Veterina Pejë (Turhan Nila B.I) & Haki Bytyçi B.I.” The estimated value of the contract had been set at €270,000.00.

■ TABLE 11. Economic Operators Participating in this Tender

No.	Name of Economic Operator	Total Bid Price
1.	GEO Kuqi Farms Sh.P.K., Ambulanca Veterinare “Drenas”	€241,320.00
2.	GEO N.T.Sh Veterina; Haki Bytyçi B.I	€264,000.00

The Municipality of Pejë / Peć eliminated the group of economic operators “Veterina Pejë & Haki Bytyçi B.I.” based on a request it had submitted to the PRB on April 12, 2024, seeking the disqualification of this operator. However, at the time of elimination, no decision had yet been issued by the PRB.

Eliminating an economic operator solely based on the initiation of a request for disqualification (inclusion on the Blacklist), without a final decision from the PRB, constitutes a violation of the fundamental principles of the LPP. This law, and specifically its Article 7, obliges contracting authorities to treat all economic operators equally, without discrimination, and to ensure fair and open competition.<sup>50</sup> In the absence of a final decision from the PRB, the mere initiation of a request does not provide a legal basis for eliminating an economic operator from

<sup>48</sup> Procurement Number: 635-24-4874-2-1-1.

<sup>49</sup> Official Gazette of the Republic of Kosovo. Law No. 04/042 on Public Procurement, Article 44, paragraph 2.1.

<sup>50</sup> Law on Public Procurement, Article 7, available at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2772>.

the tendering process. This action not only violates the principles of equal treatment and non-discrimination but also undermines competition by restricting the participation of an operator who, legally, has not been denied the right to compete.

The Municipality of Pejë / Peć acted similarly by failing to assess the complaint submitted by the eliminated economic operator, instead referencing its decision dated April 12, 2024. However, this was not a decision but merely a request the municipality had sent to the PRB for the disqualification of the operator. The decision by the Municipality of Pejë/ Peć to reject the complaint of the economic operator “Veterina Pejë & Haki Bytyçi B.I.” based solely on a disqualification request, without a final decision from the PRB, constitutes a clear violation of the legal right to appeal and the principle of equal treatment. The Public Procurement Regulation<sup>51</sup> explicitly states that the approval or rejection of a reconsideration request by the contracting authority must be based on a reasoned decision and must be published in the electronic procurement system. The absence of such a decision not only undermines transparency but also denies the economic operator the right to effectively appeal at the first instance.

In the Tender Dossier, under the technical and/or professional capability requirements, the Municipality of Pejë / Peć specified that economic operators must provide a list of work equipment, including a pickup truck, transport cages, collars, food bags, and chemical restraints for handling aggressive animals. These items were required to be proven through registration booklets and other documents verifying ownership, such as invoices or customs declarations (Single Administrative Document or SAD). However, the economic operator recommended for the contract did not provide evidence as per the contracting authority’s requirements outlined in this section.

Another requirement in the Tender Dossier concerned the shelter facility for the dogs and a specialized veterinary clinic for providing services within the municipality’s territory, at a minimum distance of 15 kilometers. This was to be proven with photographs or proof of ownership documents. In the case of a leased facility, a notarized lease agreement specifically for this project was required.

Based on the photographs submitted by the operator recommended for the contract, it was not demonstrated that the shelter facility was located at the required location, nor was it confirmed that the facility met the technical conditions outlined in the Administrative Instruction on Companion Animal Shelters.<sup>52</sup>

Regarding this tender, on September 6, the PRB approved the request of the economic operator N.T.Sh. Veterina,<sup>53</sup> canceling the decision of the Municipality of Pejë / Peć. The PRB concluded that the municipality had acted in violation of the legal provisions governing public procurement and the requirements outlined in the Tender Dossier. The case was remanded for reevaluation.

On September 25, 2024, during the reevaluation process, the Municipality of Pejë / Peć once again recommended the group of economic operators “Kuqi Farms Sh.P.K., Ambulanca Veterinere Drenas” for the contract. This decision was based on accepting as evidence a survey sketch, through which a surveyor confirmed that a structure intended for stray dogs had been built on the specified parcel. While contracting authorities are permitted to request and obtain missing information or documents during the evaluation process, such documents must objectively provide sufficient evidence reflecting the situation as it existed prior to the publication date of the contract notice. Despite this, the Municipality of Pejë/ Peć accepted the clarification provided by the economic operator, which was prepared after the contract notice was published and does not objectively verify that the facility ex-

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51 Regulation on Public Procurement. Article 63.

52 Administrative Instruction (MAFRD) – No.02/2023 on Technical Conditions and Requirements to be fulfilled by Companion Animal Shelters. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=75171>

53 Decision No. 2024/0606. Available at: <https://shorturl.at/1lwh3>

isted in the required state before the notice date. Moreover, the surveyor's report merely confirms the existence of a structure intended for stray dogs. However, it lacks any explanation or proof that the structure shown in the photographs meets the technical requirements outlined in the Administrative Instruction, such as the required distance from the nearest residential area, fenced space, or signage with shelter information.

Although the Municipality of Pejë/ Peć has emphasized the urgency of addressing the stray dog issue and managing the shelter, the tendering process has yet to result in a valid contract. This delay is due to evaluation errors and incorrect interpretations of the LPP.

## Continuation of sidewalk construction and lighting from the village of Vitomiricë to the village of Novosellë (Road R106)<sup>54</sup>

On May 8, 2024, the Municipality of Pejë/ Peć launched a tender for seven (7) separate projects, divided into lots, with a total value of €800,093.00. These projects were co-funded with DEMOS<sup>55</sup> under the Performance Grant.

Lot 1 of this tender, which involved continuing the construction of the sidewalk and lighting from the village of Vitomiricë to the village of Novosellë (Road R106), had an estimated contract value of €103,418.00. However, it was unsuccessful because none of the six (6) bidders met the criteria set by the contracting authority. The requirements outlined in the Tender Dossier were excessive and unsuitable for the subject matter of the contract, including demands for professional staff and work experience that exceeded the actual needs of the project.

The Tender Dossier included technical and professional requirements stating that economic operators had to hire two qualified engineers with substantial experience and additional qualifications:

- **One engineer with a degree in electrical engineering or a master's in energy-related fields**, with at least five (5) years of post-graduate experience, who must also be certified as an energy auditor by an accredited institution and serve as the project manager.
- **One engineer with a degree in civil engineering or a master's in structural engineering**, also with five (5) years of post-graduate experience, certified in occupational health and safety management, as well as fire protection and emergency intervention.

To demonstrate these qualifications, a large number of documents were required, such as diplomas, certificates, contracts, and decisions for project managers and leaders, all notarized in the presence of the parties involved. This imposed an excessive administrative burden on bidders and limited the tendering process, especially for smaller or newly established operators.

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<sup>54</sup> Procurement Number: 635-24-10760-5-2-1.

<sup>55</sup> Decentralization and Municipal Support Project (DEMOS) funds the Municipal Performance Grant based on Law No. 08/L-103 on the Municipal Performance Management System and the Performance-Based Grant Scheme.

Although the setting of criteria is at the discretion of the contracting authority, the subject matter of the contract and the work to be done did not involve technical complexities that would justify these high demands. The works outlined included:

- Installing temporary vertical signs and ensuring traffic safety during the works.
- Supplying, transporting, and laying gravel fill material.
- Painting road signs for pedestrian and bicycle lanes.
- Installing light poles.

These are routine works for infrastructure projects and do not require a high level of technical complexity. Therefore, setting such high qualification criteria is inappropriate, disproportionate, and restricts competition. Under Article 28 of the Public Procurement Law,<sup>56</sup> the technical specifications and minimum qualification requirements must be relevant and proportionate to the object of the contract.

After the annulment, the Municipality of Pejë/ Peć proceeded with re-tendering, publishing the contract notice on October 14, 2024. However, they shortened the deadline for submitting bids to just nine (9) days, citing that the requesting unit had made this request and emphasizing that the project has a significant impact on infrastructure development. Additionally, the funds for this project were allocated by DEMOS, amounting to €80,000 for 2024.

The shortening of the bid submission deadline to just nine (9) days in this procedure is in violation of the LPP, which stipulates a minimum period of 20 days for public contracts that are not of large value.<sup>57</sup> Even in cases where special rules for shortening deadlines apply, the law requires that this be done only in urgent circumstances that cannot be attributed to the actions or omissions of the contracting authority, and the deadline should not be less than 10 days.<sup>58</sup>

The justification provided by the municipality regarding the importance of the project and the funding from DEMOS does not meet the legal requirements for a special deadline, as there are no urgent circumstances. The shortening of the deadline not only violates the law but also reduces competition, limiting the ability of economic operators to prepare and submit quality bids within the required time. In the re-tendering, only three (3) economic operators submitted bids, with only one deemed to have met the criteria. On November 5, 2024, the Municipality of Pejë/ Peć recommended awarding the contract to the group of economic operators Valdrini sh.p.k, IBRAHIM KURRUMELI B.I., and NISI ING SH.P.K., who submitted a bid of €103,333.30, or 99.9% of the estimated contract value.

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56 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 28.

57 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 44.

58 Official Gazette of the Republic of Kosovo. Law No. 04/L-042 on Public Procurement, Article 45.

# Findings

## MIET

- 1** MIET involved the author of the technical specifications in the evaluation process: Public procurement rules prohibit the inclusion of the authors of technical specifications in the bid evaluation process to avoid conflicts of interest and ensure a fair assessment of bids. By involving the author of the specifications in this process, MIET has hindered the assurance of an impartial and fair procedure, which could result in favoritism and discrimination against economic operators.
- 2** MIET contracted the economic operator at abnormally low prices: MIET had estimated €60,000.00 for this contract, while the winning economic operator submitted a bid of only €18,000.00. Contracting an economic operator with a bid 70% lower than the estimated contract value, without applying the rules for assessing abnormally low bids during evaluation, examination, and comparison, jeopardizes the quality of contract execution.

## MI

- 3** MI unlawfully canceled the procurement procedure: Despite the responsive economic operator, the lack of a fair and accurate assessment of the bids by the contracting authority led to the cancellation of the procedure. This action violates the principles of transparency and equality among economic operators during the procurement process.

## MIA

- 4** MIA failed to comply with the decisions of the PRB despite the legal obligation to implement them: In running the procurement procedure, MIA not only unlawfully shortened deadlines but continued to apply discriminatory/favoring and irrelevant criteria for technical and/or professional capabilities in the procurement process.



## Municipality of Gjakovë/ Đakovica

- 5** The Municipality of Gjakovë/Đakovica failed to apply the rules for the most economically advantageous tender during the procurement procedure, both in conducting the procurement phase and during the evaluation, examination, and comparison of bids. Furthermore, the Municipality of Gjakovë/Đakovica acted unlawfully by recommending the contract to an irresponsible economic operator. After the complaints submitted to the PRB, the Municipality of Gjakovë/Đakovica unlawfully canceled the procurement procedure four times in a row, in violation of legal provisions.

## Municipality of Gjilan / Gnjilane

- 6** The Municipality of Gjilan / Gnjilane failed to establish mandatory technical specifications: The lack of clear and mandatory technical specifications in the Tender Dossier led to subjective evaluations of samples submitted by economic operators, creating opportunities for favoritism towards certain operators and the contracting of the most expensive economic operator.

## Municipality of Pejë/ Peć

- 7** The Municipality of Pejë/ Peć eliminated an economic operator solely based on a disqualification request sent to the PRB, without having a final decision from this body. Despite the importance of contracting the economic operator, the tender process has not yet resulted in the signing of the contract due to errors in bid evaluations and incorrect interpretations of the LPP by the contracting authority.
- 8** The Municipality of Pejë/ Peć failed to contract the economic operator due to high and irrelevant requirements in the Tender Dossier: The establishment of high and irrelevant criteria led to a lack of competition among economic operators, with only three operators submitting bids in this case.

# Recommendations

- 1** Improvement of transparency and accountability: All contracting authorities should enhance transparency and accountability in the procurement process by documenting every phase and decision made throughout the procedure, using the e-procurement platform.
- 2** Determination of mandatory technical specifications: Contracting authorities should ensure that they develop mandatory technical specifications in compliance with Article 28 of the LPP. These specifications should be detailed and suitable for the subject matter of the tender, avoiding any ambiguity that could create opportunities for subjective evaluations. This will help ensure fair and equal competition among economic operators and prevent favoritism towards certain operators, enabling a more transparent and reliable procurement process.
- 3** Determination of clear and proportional criteria in relation to the subject matter of concerned contract: Contracting authorities should ensure that the criteria established in the tender dossiers are clear, reasonable, and directly related to the subject matter of the contract. This will ensure that every economic operator has an equal opportunity to compete and minimize the potential for the application of unnecessary or discriminatory requirements.
- 4** Evaluation and reevaluation of bids by economic operators: Contracting authorities should adhere to the principle of equality during the bid evaluation and reevaluation. This includes ensuring that all procedures are appropriate for identifying incorrect bids based on criteria set out in the Tender Dossier and the Contract Notice. In this way, discrimination against economic operators is also prevented. During this process, contracting authorities should also address concerns regarding abnormally low tenders.
- 5** Review of requests for reconsideration and decision-making thereof: Contracting authorities should establish a clear and transparent mechanism for reviewing requests for reconsideration in procurement processes based on the claims of the economic operator. Reviewing requests for reconsideration within the legal framework and evaluating each claim of economic operators fairly and in detail will minimize the number of complaints submitted to the PRB.  
This situation will contribute to speeding up the procurement procedure, avoiding unnecessary delays, and improving the overall efficiency of procurement processes.
- 6** Cancellation of procurement procedures: Contracting authorities should ensure that the cancellation of procurement procedures occurs only in exceptional and justified cases, in accordance with applicable laws and regulations.
- 7** Implementation of decisions by the Procurement Review Body: Contracting authorities should fully implement decisions made by the PRB in accordance with the applicable legislation. Contracting authorities are obligated to ensure that every decision by PRB is implemented without delay and impartially, to maintain the integrity of the procurement process. Failure to implement PRB decisions leads to delays in completing procurement procedures. Furthermore, non-compliance may result in the request for the revocation of the procurement officer's license by PRB.



