

Transparency and Accountability in Public Procurement

**REPORT ON PUBLIC PROCUREMENT
PROCEDURES IN THE MINISTRY OF HEALTH**



July 2013

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British Embassy
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ABBREVIATIONS

| | |
|-------|---|
| CA | Contracting Authority |
| PPA | Public Procurement Agency |
| CPA | Central Procurement Agency |
| ABR | Agency for Business Registration in Kosovo |
| EU | European Union |
| TD | Tender Dossier |
| FG | Focus Group |
| AG | Advisory Group |
| KIPA | Kosovo Institute for Public Administration |
| ISO | International Standards of Organization |
| KDI | Kosova Democratic Institute |
| PPRC | Public Procurement Regulatory Commission |
| PPL | Public Procurement Law |
| MAFRD | Ministry of Agriculture, Forestry and Rural Development |
| MI | Ministry of Infrastructure |
| MH | Ministry of Health |
| MTI | Ministry of Trade and Industry |
| EO | Economic Operator |
| PRB | Procurement Review Body |
| TAPP | Transparency and Accountability in Public Procurement |
| TI | Transparency International |
| TIK | Transparency International Kosova |
| AI | Administrative Instruction |
| PO | Procurement Official |
| OAG | Office of the Auditor General |

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EXECUTIVE SUMMARY

The Ministry of Health (MH) faces a lack of funds to provide appropriate and quality services to citizens. To add to problems, its current budget is not being managed properly. The findings of this report indicate that the budget is not being spent efficiently, which would enable the Ministry, even with the limited funds they have, to provide better services to citizens. It is clear that budget constraints limit quality services, but improper management of the available funds, especially in the tenders analyzed is a problem that should be addressed immediately by the Ministry.

This report shows that MH executes very poor planning for spending needs of different medical institutions. Poor budget planning is mostly due to a lack of digital database of patient records. Keeping patient records only physically, does not guarantee reliable measurement of data which are used for planning the supply and demand of drugs. In many instances, the criteria and specifications of certain economic operators were predetermined and in certain cases, the winner of contracts is known before the winner of the opening bid is announced.

Regarding the poor management in the MH, speak also the great number of investigations, prosecutions and other legal measures taken on this ministry. Although the investigation and judicial efficiency is another topic in itself, it is a disturbing fact how many affairs and scandals have emerged from this ministry. Despite many charges, only a limited number of officials have received fines or prison terms for these offenses.

Lack of prior market research; puts the Ministry at risk of price fixing, agreements and manipulation by businesses, which can damage the

budget. The current plan for drugs, quantities and types, generally reflects the needs of businesses and not patients. In many contracts, these shortcomings are illustrated in the implementation phase and the large number of fines imposed to businesses by this institution.

On the other hand, there is still a lack of public and state oversight of procurement processes in the MH. The Public Procurement Regulatory Commission (PPRC) currently is not performing its role in the supervision of the procurement contracts in this Ministry. The reasons may be different and often objective, but all this makes the public procurement system in MH to be fragile and vulnerable to corruptive affairs. According to the Public Procurement Law¹, the PPRC has the authority and the responsibility to observe, monitor and supervise the activities of all public procurement contracts. The fact that the latest report done by PPRC is that of 2010 (currently September 2013), is further proof of lack of supervision. According to this report, there is a general reluctance of PPRC to monitor ministries with large budgets. Previous PPRC reports confirm this, as they mostly monitored institutions with small budgets.

The main problems in the public procurement system at the MH start at the beginning of the procurement procedures when setting the contract criteria and other requirements. The subject of this phenomenon is the compilation of the list of “essential drugs”. Businesses complain that at the stage of planning the list of essential drugs, there is strong lobbying among stakeholders and as a result, the Ministry purchases many drugs

¹ Assembly of the Republic of Kosovo. Law No. 04/L-042, Public Procurement Regulatory Commission, Article 88

that do not correspond to the real needs of medical institutions, and in many cases, even with higher prices than those available in the market.

If we only analyze the essential list of drugs for which the Ministry spends approximately 21 million Euros, we can easily see that this list represents the special interests of certain groups and not the interests of patients. Pharmacists claim that there are plenty of drugs on the essential list which are not essential at all, moreover, their quality can also be questioned.

The purchase of poor quality drugs, have forced many doctors who are aware of the poor quality, to recommend to their patients to turn to private pharmacies to buy other drugs. Because of poor and inefficient planning, a large quantity of drugs had to be destroyed years ago. In 2011 the tender for disposal of expired medicines were announced where 200 tons of expired medicines were expected to be destroyed. Even for this particular tender, the Office of the General Auditor (OGA) concluded that there is a discrepancy between the amount of planned and the amount of realized drugs for disposal.

The Internal control and audit in the ministry is also not very effective and has plenty of room for improvement. The internal audit structures have failed to provide the management with reasonable assurance regarding the effective operations of internal controls. This is confirmed by the Auditor General in the annual audit report².

² Office of Auditor General. 2012. Annual Audit Report for the Ministry of Health.

For more: <http://oag->

[rks.org/repository/docs/RaportiAuditimit_MSH_2012_Shqip_718214.pdf](http://oag-rks.org/repository/docs/RaportiAuditimit_MSH_2012_Shqip_718214.pdf)

In one of the previous reports, KDI raised the issue of the inclusion of Palonosetron product in the list of cytostatics (cytostatics are a family of drugs used to treat cancer) with prices multiple times higher than previous drugs which were considerably cheaper. Regarding this problem, the relevant institutions have not undertaken anything to investigate the matter. However, MH has requested from the OAG to undertake an audit and investigation of the case. Also on the essential list, there are drugs which were categorized as antiemetic instead of cytostatic. Apart from that, the sale of drugs from the essential list to private pharmacies is not addressed by inspectors or the law enforcement. This problem has now been transformed into an ongoing phenomenon because there are suspicions that expensive drugs are sold directly from medical warehouses.

INTRODUCTION

Public procurement is most vulnerable to fraud and corruption in Kosovo. To identify and combat this negative phenomenon, attention and dedication from relevant institutions and civil society is required. The will of the citizens and businesses, is regarded as the best mechanism established in democratic societies, to monitor and influence the efficiency of public institutions, especially in terms of budget spending. Business cooperation with civil society and the media (in order to advance the implementation of public procurement legislation), would create new circumstances and security, in spending tax-payer money.

Examination of tendering processes and the implementation of legislation (regulating public procurement, pointing out irregularities and advocating for action against misuse) is regarded as one of the key elements that will affect the construction of a more competitive environment, where businesses are free and equal to compete in the open market.

Presented in this report are details of the tendering processes and the level of implementation of legislation in this area. The report aims to identify the problems and irregularities in public procurement at the Ministry of Health, for which advocacy activities will be carried out to improve the situation.

Regarding the findings of the report, recommendations are made to relevant institutions to take the necessary measures, which would result in a higher level of service to citizens.

METHODOLOGY

The research methodology used in this report includes an examination of three sort/ types of tenders for the supply of drugs to the Ministry of Health. The first lot includes a number of tenders, which are completed on, or before the deadline set and which have passed all stages of control. The methodology includes an examination of public procurement contracts from the demand for supplies and up to the last stage, and the audit of these projects. This is done to measure how well the current public procurement mechanisms are working. From these selected tenders, more emphasis is placed on tenders for which complaints have been filed with the Public Procurement Review Body.

The second type includes tenders, which are in the implementation phase of the contract. For the second type of tenders, we interviewed representatives of businesses and contracting authorities regarding the execution of some of the current outstanding contracts. Included in the examination, are also health institutions which were part of the research in order to get estimates for the quality of supplies being offered.

The third types are for tenders which are in last stages, that of publication of contract notices and where winning companies were not selected. This is done in order to verify the wining contracts. However, this dimension in this report is deficient, because the Ministry of Health does not allow access to monitor the committee for evaluation of bids.

The research methodology used in this report to monitor public procurement is one of the practices, which are widely used by

supervisory organizations such as Transparency International branches in different countries³.

The main advantage of this methodology is the fact that it is comprehensive and it does not bypass any stage of the procurement process. Special importance is given to cooperation with businesses that are in a contractual relationship with the Ministry of Health

Documents that are used during the examination of tenders were: tender evaluation reports, contract award notices, contract notices, bid files, companies' offers, public contracts, decisions of the PPRB, expertise reports, economic operator complaints etc. However, in most cases there was restriction of access to these documents in various forms by the Ministry of Health.

³ Transparency International. (2006). Handbook for Curbing Corruption in Public Procurement. Berlin: Lisa Prevenslik, Kenneth Kostyo. For more: http://www.transparency.org/whatwedo/pub/handbook_for_curbing_corruption_in_public_procurement

TRANSPARENCY IN THE MINISTRY OF HEALTH

One of the best indicators of the level of management in an institution and possible misuse of public funds is the level of transparency, which shows how accountable is a particular institution.

While last year the MH was the best example of cooperation on monitoring of public procurement, this year things have changed. The MH did not continue to be transparent this year, where it even has created bureaucratic procedures, which greatly hamper access to information and documents. Some of these obstacles are the following:

- The research team, via a written letter, has requested from the MH to enable access to the observation of two committees that reviewed bids for the tender for the supply of essential medicines and the tender for the supply of material for Invasive Cardiology. The Ministry of Health has ignored this request, not returning any response. For the same issues we have contacted Minister Agani himself, where we repeated our concerns, but even this letter was ignored;
- MH did not respond to a request for access to public documents dated April 23, 2013, requesting documents related to two previous tenders;
- MH has formed a special committee headed by the public relations officer to review all access to public documents requests. This illegal committee, delays decisions to provide access to documents, and in this form, even for the documents offered, it has passed the legal time limits.

- All documents that have come out of the MH, were required to be signed by the Permanent Secretary, the signature which we had to wait for several days;
- A number of documents officially requested by KDI were not provided. Although some of these documents exist in electronic form, the MH only allowed us to view them in the MH offices; we also did not have access to businesses' bid offers.
- We were not given access to relevant documents for the supply of "citostatic" drugs for the 2010 tender;
- We did not receive the evaluation and contract reports for tenders "material supply invasive cardiology, 2010" for lots 3 and 5, as we did not have access to contracts for these two lots.

Based on all the facts mentioned above, the MH ought to change its relation to organizations that monitor public procurement, because last year, the documents were provided according to legal time limits, and very often, even faster than the seven (7) days as is the legal maximum. The fact that the ministry was reluctant to give us access to particular documents raises suspicions that something was intended to be kept secret from the research team.

A considerable number of documents should be provided in a non-formal way, for which even some MH official agree that the senior management has caused many unnecessary problems to access public documents.

Regarding these concerns, KDI convened a press conference, in which we denounced the violation of the Law on Access to Public Documents

and Public Procurement Law, which hinder access to public official documents.

Not allowing the scrutiny of bid evaluation committees has been a major problem regarding transparency of the ministry. The public relations official at MH stated that the law does not permit monitoring bid evaluation committees; this is not correct however because previously, many civil society organizations have monitored several committees in this ministry and this has never been problematic for them. Moreover, we were previously invited several times by other institutions to monitor certain tender evaluations. Observation of these processes is prohibited only for economic operators.

Finally, it is worth mentioning that the Procurement and Pharmacy departments in this ministry have been open to consultation in almost all cases where KDI had to obtain information about certain problems that are identified in the monitoring phase.

TENDER EXAMINATIONS

Tender for Supply with Citostatics

This report analyzes the tender for the cytostatic family of drugs, a group of drugs used for patients who suffer from cancer. This disease, except that it is very common in our country, it is also recognized as one of the diseases quite often costly and unaffordable for Kosovo standards. For proper treatment of this disease by public health institutions, we have observed that there are many obstacles, starting from the lack of evidence of the exact number of patients, the lack of a national strategy and plan for the treatment of these patients, and a lack

on fulfilling the needs of these patients and the high cost of treating these diseases. So far the MH has never published protocols that deal with cases of cancer diseases⁴, and in this form, one cannot have an accurate estimate for the cost of treating a patient for each type of cancer. People familiar with this problem, recommend the adoption of “European Protocols” and simultaneous monitoring of implementation of these protocols to ensure that patients are being treated in properly and provide therapy to maximum effect.

The concerned tender with procurement number 206/012/044/11 was realized in an open tender procedure. This tender was processed at the end of 2012, and was agreed upon a framework contract for 24 months, making it effective for the period 2013-2014. Analysis of this tender includes the total eight lots (lot 3, 5, 15, 25, 39, 40, 42 and 43). All these lots have to do with various cancer treating medications.

Our assessment is that in the context of public procurement and the supply of drugs to the MH, this tender is very sensitive due to the large portion of the budget being spent on it. Applying efficient policies regarding this issue will result in lower prices for the purchase of drugs, budget savings and better supply of drugs to medical institutions. Possible mismanagement of this process will hurt most patients.

Although there is no reliable evidence of the number of patients who suffer from cancer, looking at the amount of drugs purchased by the Ministry of Health, we can clearly see that this disease is quite prevalent in our country and there is no doubt that these types of drugs are extremely important and must be purchased by MH. The decision of

⁴ Written plan of treatment and specific procedures to be followed by the team who treats diseases

MH to buy these drugs which by price and manufacturers appear to be first class, it is a fact that should be welcomed. MH, just with this tender, through framework contracts, will spend approximately 5,630,356.00 Euros.

One of the more disturbing elements that we found in these tenders, is the lack of the attention paid to drugs which are patented⁵, this is because the Ministry of Health does not have a list in which procurement officials could know which products must be tendered in the open procedure and which in negotiating procedure. This could be considered as a very big mistake, as the information can be obtained easily if the contracting authority is interested.

Another problem accompanying the supply of these drugs are the high prices, which in most cases are proprietary, or protected by other manufacturers for at least 10 years. These products are not chemical but biological and their development by competitors takes time and considerable financial means. According to a general account of *cytostatics*, after patents expire, the price usually declines about 75-80% and in some cases even more.⁶ For current *cytostatics* analyzed in this report, patents will expire in a near future and their price should drop, increasing the competition among businesses that will represent different manufacturers.

⁵ The exclusive right of a manufacturer that has invented something to use, produce and sell a product for a specific number of years.

⁶ A Health-System Pharmacist's Guide to Biosimilars: Regulatory, Scientific, and Practical Considerations

The Ministry of Health should have a specific policy for these drugs, since most of the budget is allocated to purchasing them. Worrysome is the fact that this disease is increasing which inevitably will increase the demand for these drugs, creating the need for new policies to enable the growing need for supply with *cytostatic*. The MH should identify its needs by keeping an accurate record of patients, types of cancer that are present and plan to purchase new drugs based on the information they gather, enabling this ministry to make a better estimate of demand and supply.

When it comes to expensive innovative drugs, which have long term patents, the MH should negotiate with producers to try and bargain the price down. In many cases, manufacturers consider and understand the needs of poor countries and often reduce the price, or even donate significant amount of drugs. In order to reflect a more fair public procurement process of these products and increase transparency, we provide below more details for the eight (8) most important products / expensive drugs this year:

- a. Lot 3 - deals with *Bevacizumab* medicine - this drug is used to treat various types of cancers, such as bowel, breast, lung and certain types of brain cancer. The unit price of the drug is 309 Euros, while the total value of this Lot is 1,112,400 Euros. The only business which is simultaneously winning bids is Meditech, which supplies to medical institutions drugs manufactured by Genetech USA, a global network owned by Swiss company Roche. This medicinal product is patented, and as a result, there cannot be more than one bidder. *Bevacuzumab* patent is valid until 2019 in Europe and 2022 in United States of America. In situations when patented drugs are purchased, the

Ministry should not apply the open tender procedure, because the bidding is pointless when only one bidder dictates the price. MH ought to negotiate the price with the manufacturing company to offer more favorable terms, in certain cases can even get the drugs as a donation.

The main problem lies in the fact that the MH has no information for patented products, for which \ competition cannot be expected. The ministry lacks a basic market research and knowledge about the drugs they buy. When technical specifications are drawn up by the Office of Procurement, they must be well informed on the patents also.

Patented drugs are usually more expensive, because the company which holds the patent is protected for a period of 10, 15 or even 20 years. Usually these drugs become cheaper only when the patent expiration is getting closer. The drug in question has an active license for the next six years, so it would be a good idea for the ministry to sign a long-term contract, up to three years, as much as the Public Procurement Law allows. The ministry could also negotiate directly with the manufacturer for more favorable conditions, and avoid a costly open tendering process.

- b. Lot 5 - deals with *Capecitabine* - a chemotherapeutic drug used to treat breast and bowel cancer. The price per unit is 2:33 Euros, while the total amount of is 349,500 Euros. For this Lot there were two offers from twobusinesses: Meditech and Agani. The company Agani was disqualified because it did not meet the technical criteria /and the skills specified by the contracting authority. According to the report of the evaluation committee,

the company Agani was declared irresponsible because it did not have the Certificate for Pharmaceutical Products (CPP) even though the price Agani offered was 0.78 Euro, which means the total contract would have been 117,000 Euros, with a difference of 232.500 Euros.

This drug is also patented by Roche Company, and cannot have more than one responsive bidder. The drug which Agani Company has offered, cannot receive a license in Europe or USA because it is still under patent protection.

The patent for this drug expires at the end of 2013, and this fact best justifies the price of this drug. However, because the patents expire at the end of 2013, the contract with this company should no longer be valid because after the patent expires this coming December, the price of this drug ought to drop significantly, thus the MH should seek another offer to not lock itself in the contract with patented drug prices.

Agani Company has already offered the drug made by an Indian manufacturer, which in fact has applied for a European license but must wait until the expiration of the current patent which Roche holds. The Agani Company however has attempted to bid for the contract even though the license for this drug is not yet approved.⁷

- c. Lot 15 - Erythropoetin Beta – is a drug used to treat anemia. The unit price of the drug is 165 Euros, while the total value of the

⁷ Personal Interview with Ekrem Maliqi: Director of Procurement at the Ministry of Health on 05.06.2013

contract is 198,000 Euros. The only economic operator bidding and winning the contract is Meditech. Regarding this particular tender, there is reasonable suspicion to believe that the tender criteria were fixed in favor of the company Meditech, especially to specification of "Beta". The businesses confirm that, if the MH requested in its tender criteria the drug with only the name "Erythropoetin" without *Beta* (whose difference is in the form of how it is applied), the number of businesses that would compete would have been greater, and as a result the price would be lower for at least 50%. The MH would have saved approximately 100,000 Euros and would meet the needs of other essential drugs list⁸.

- d. Lot 25 - of this tender has to do with "*Ibandronate*" a drug used for prevention and treatment of osteoporosis. The unit price of this drug is 125 Euros, while the total value of the contract is 225,000.00 Euros. The winner of this tender has been the Alvogen Company. Out of the six (6) bids received, four (4) were found irresponsible to fulfill all requirements set in the tender dossier, including: formal and administrative requirements, eligibility requirements and professional eligibility, claims about economic and financial situation, the technical and / or professional skills. Whereas, two of the six companies failed to meet the criteria. These two businesses were also disqualified because they lacked the Marketing

⁸ Personal Interview with Skender Kutlovci: Owner of Medical Group company on 14.07.2013

Authorization Certificate for Kosovo. While, the responsible companies have a significant price difference in their offerings. Alvogen, the winning company made an offer with a price of 225,000 Euros, while Meditech had made an offer with a price of 297,000 Euros, MEDIMAX 337.140 Euros, and 286.200 Euros for Exclusive Gjilan. As it can be seen, for this tender, the winner was selected because of the lowest bid.

- e. Lot 39 - *Rituximab* (100 mg) - this drug is used for treatment of cancers of the white blood cells, leukemia's and lymphomas. The unit price for 100 mg of the drug is 230 Euros, while the total value of the contract is 230,000 Euros. For this drug, only one economic operator who has applied for the patent ownership is the winning company (Meditech Company). Name of the drug can also be found as *MabThera Rituximab*. This drug is also patented by the manufacturer Genetech. This drug is patented only until the end of 2013 for Europe and will continue to hold a patent until 2018 in America. In the market for this drug are expected to enter many other manufacturers which are awaiting patent expiration. The main concern here is that the MH, for this drug has signed a contract for a period greater than the validity of the patent.
- f. Lot 40 - This lot is about the same drug as above in lot 39, but with a greater dose of 500 mg. Unit price for this dose is 1,145 Euros, while the total value of the contract is 801,500 Euros. Also for this contract, the only bidder and winner is Meditech.
- g. Lot 42 – *Temozolamide*- is used for treating brain cancer types. This drug costs 50.86 Euros per unit, while the total amount of

this contract is 233.956 Euros. Competing businesses in this tender were: Agani, Madekos, and Lirimed, who are considered responsible in terms of administrative expediency, professionalism, and technical aspects. Madekos Company was awarded the contract of 233, 956 Euros; the remaining companies offered the same drug for a significantly higher price, Liri-med; 628,682 Euros and Agani 569,480 Euros.

- h. Lot 43 – Trastuzumab - prevents the recurrence of breast cancer. Price per unit cost for the drug is 1,550 Euros and the total value of the contract is 2, 480,000 Euros. Again, the only economic operator that offers this drug is Meditech, which was also awarded the contract. The trade name for this medicine is *Herceptina*, the most expensive drug bought by MH. This drug is under patent protection by manufacturing company Roche, protected in Europe until 2015, and in America until 2019. Ongoing problem of patent violations remain mostly manufacturers from India, which produce drugs in violation of the rules for patents, as a result India offers much lower prices. Price for Herceptin in India has declined by 30%, after violating the patents, for which Roche has responded with price cuts in this country⁹.

The value of these drugs that were distributed by the MH for this tender for the first half of 2013, amounted to 1,709,620 Euros, if this trend continues, the value of these contracts will incur further growth which can reach approximately 7 million Euros.

⁹ Fiercepharma, Roche dropping Herceptin price in India by 30%

To purchase these drugs, MH used an open procurement procedure. Although the open procedure method allows any businesses to bid, in this tender, competition is significantly lacking, making this tender what the procurement rules call “single source bidding”

Shortcomings in Planning the Purchase of Cytostatic Drugs

Lack of accurate records of the number of patients with cancer is one of the biggest obstacles in planning the purchase of these drugs. Without an accurate record, the amount of drugs being purchased does not reflect the needs of patients. Oncologists confirm that cancer patient records are not accurate. This is because the registration and records for patients are still kept manually and calculation could not be done correctly. This happens due to the lack of a software system which is necessary and not so costly, as to be impossible to implement. In fact, more costly than the system for registering patients may be the misuse of *cytostatic* drugs. Moreover, Oncologists confirm the lack of screening programs - screening Regulation¹⁰, which could enable doctors to detect and act in the early stages of the disease, which is very important for patients but also for the MH's budget in the future. However, even though more than half of MH's budget for drugs is intended for patients with cancer therapy, experts in the field say that the treatment of this disease on therapy alone is bad practice, because there are other forms of treatment, like radiology and surgery. Despite several attempts made to use these two forms of treatment for this disease, they are hampered by the lack of a serious approach by the

¹⁰ Screening (examining) for cancer, means looking for cancer symptoms in early stages where chances for treatment are greater.

MH. Surgical and radiological treatment of patients in Kosovo is directed mainly to neighboring countries and further afield. That's because the radiology equipment at hospitals is more often at fault and has not been able to find a contracting company that will do the servicing of appliances¹¹.

Given that the form of cancer treatment with therapy is more expensive, the need for addressing the issue of planning for this tender was inevitable. From research and monitoring of the tendering process, we noted that the figures for *cytostatic* needs are a hot topic of debate between hospitals and the Ministry of Health, because the latter requires institutions consistently to reduce demand for *cytostatic*. On the other hand, there is the discrepancy between the statements of the Ministry and hospital officials regarding the patients' needs for *cytostatic*. While the Ministry has stated that that patient needs are meet by 70-75%, hospital officials say that only 31% of patients are provided with *cytostatic* therapy for free¹².

In the overall analysis of this tender, the main question is what evidence does MH use when determining the demand for specific drugs? First problem that emerges in this tender is the suspicion in planning the purchase quantity of *cytostatic*, for which without appropriate evidence, cannot be regarded as fair and accurate.

¹¹ Personal Interview with Xhavit Bicaj, Radiology professor and President of Patients with Cancer Association, on 13.06.2013

¹² Tribuna Newspaper. (12 July 2013) Alarming Report on Supply with Drugs, Report of Hospital pharmacy director at QKUK, Enkeljeda Gjonbalaj

If we rely on previous purchases of MH for these kinds of drugs, we can see that there is a big discrepancy between the last three budgets. The following table explains the difference between budgets for the year 2011-2012 and from early 2013 to 2014.

| Product Name | Doze | Quantity | 2013 - 2014 (00 Euro) | Winning Company | First 6 months of 2013 (already spent) (00 Euro) | 2012 (00 Euro) | 2011 (00 Euro) |
|--------------------------|----------------|----------|-----------------------|-----------------|--|----------------|----------------|
| BEVACIZUMAB | 25 mg/ml, 4 ml | 3600 | 1,112,400 | Mediatech | 296,640 | N/A | N/A |
| CAPECITABINE | 500 mg | 150000 | 349,500 | Mediatech | 120,943 | 341,220 | 387,092 |
| ERTHROPOETIN BETA | 30000 IU | 1200 | 198,000 | Mediatech | 64,185 | 212,265 | 116,550 |
| IBANDRONATE | 6 mg | 1800 | 225,000 | Alvogen | 64,185 | 293,735 | 229,620 |
| RITUXIMAB | 100 mg | 1000 | 225,000 | Mediatech | 46,000 | 194,910 | 397,861 |
| RITUXIMAB | 500 mg | 7000 | 801,500 | Mediatech | 274,800 | 496,752 | 150,253 |
| TEMOZOLAMIDE | 500 mg | 4600 | 233,956 | Madecos | 19,326 | 58,026 | 1,566,932 |
| TRASTUZUMAB | 440 mg | 1600 | 2,480,000 | Mediatech | 763,226 | 2,344,067 | |
| Total | | | 5,630,356 | | 1,709,620 | 3,940,975 | 2,848,308 |

From the table above, we can see very large differences between the amounts consumed / purchased in the last three years, which best highlights the distinction made in planning over the years.

From this table, we can also see a very big difference between budgets for three years, which reflect the amount of money spent for these drugs. In this table, the quantity and price are two elements that can be contested. The dispute over the price and quantity can be made for the past and present, because the number of patients is difficult to grow or to decline so drastically for a short period of time.

People familiar with this matter; confirm that Kosovo cannot treat patients without good evidence, strategy and a national plan for patients suffering from cancer, which it lacks today. Without the existence of these documents, any quantity order of these drugs will remain questionable. Also, the lack of treatment protocols for patients with cancer raises serious questions when buying expensive drugs, which although take a big slice from the MH budget, more often than not, they are missing at medical institutions. The existence of such evidence could certainly assist the MH to have a better orientation that could later be reflected in planning and proper management of public budgets.

Tender for Supply with Material for Invasive Cardiology

Amount: €393,388.00

The invasive cardiology service is one of the projects with the longest history of efforts to improve it. Various problems have followed the MH regarding this project. One of the issues coupled with problems, is the supply of consumable material for cardiology. The tender was announced in late 2009, and continued with the selection procedure until early 2010.

The project was never operational with full capacity despite investments. Even the consumable material was not all spent. Some businesses interviewed, reveal that certain interests have sent groups of patients to private hospitals, which are reimbursed from the Ministry of Health.

Regarding this tender, the Ministry of Health has not provided all the tender documents, being limited to contract with Medical Group (lots 1, 2 and 4) and three assessment reports. But the complaints in the PPRB,

note that two competitors in this tender, Kosovo Med (winner of Lot 5) and Medical Group have made complaints to the PPRB.

Kosovo Med Company has appealed the decision claiming that the criteria have been adapted to the economic operator Medical Group. However, the appeal was dismissed by the PPRB, claiming that, the economic operator should have complained before the contract award notice¹³. PPRB has not taken measures to stop this process, although allegations were raised for customizing the criteria for a specific business. Of the five total lots, in three of them, only one company has applied.

Of the five lots of this tender, the report analyzed only 3 (lots 1, 2 and 4), due to the lack of necessary documents which the MH did not provide to us, conform with the law on access to public documents. The tender was won by Med Kosovo, for the total price of €393,388.00. As for Lot 5, there is no notice to which business it was award it to.¹⁴

In three corresponding lots, only Medical Group Company offered a bid. The Committee for Bid Evaluation has requested the revocation of an article of the Law which regulates how many offers must be submitted before a bid is taken into consideration. The revocations of this article would allow the bid to go through with only one company participating. Same procedures were continued for two other lots, where the only bidder was Medical Group. In this case, there was no

¹³ Public Procurement Review Body Decision, Number 21/10. It can be found here: http://oshp.rks-gov.net/repository/docs/vendimet/2010/vend_kosovamed_02_2010.pdf

¹⁴ Contract Award Notice. Supply with Material for Invasive Cardiology and Pacemaker, 27.01.2012

framework contract, but an agreement for the supply of material for invasive cardiology. This contract has specified a strict number of goods or drugs that will be purchased by the contracting authority. Of course, the price was predetermined in total, unlike frame contracts, where the total contract is not known until its conclusion. The Report of the Office of General Auditor did not have any findings associated with this contract, including fiscal years 2009 to 2012.

Tender for Hemodialysis

Amount: 1,850,000 Euros

One of the rare tenders which only has a negotiation procedure without publication of tender offer, is Hemodialysis. This tender is made in this form because consumables for hemodialysis should be purchased from a firm that has produced the equipment for Hemodialysis. The value of this tender is 1,850,000 Euro and Meditech was contracted for this tender.¹⁵

The tender has 11 lots which were declared open procedure, except Lot 12 is required to be complementary, i.e. hemodialysis consumables with the manufacturer of the device, Fresenius Medical Care company.

The tender is “one bidder only” and use of the material from this supplier is a necessity for health institutions. The consumable items that are in this tender are:

¹⁵ Contract Award Notice for supply with consumable material for Hemodialysis, 14.04.2010

Bicarbonate 650 g dry packing, suitable for appliances Frecenius-Bibag 4008. quantity;

Arterio-venous line for all 4008 Frecenius apparatus for adults;

Digestion and cleaning of equipment Frecenius Citrosteril 4008;

Digestion apparatus for disinfection Frecenius Puristeril 4008;

Filters for water purification apparatus Siasafe plus Frecenius 4008;

Acid dry preparation with specific content for dialysis preparation, granomix Granudial AF 10.

The practice when tenders are ‘one bidder only’ is necessary though not the most favorable because the contracting authority, in this case the Ministry of Health, could negotiate the contract directly with the manufacturer, and in this way the price could potentially be lower.

In cases where contracts are one bidder, or one supplier only, and is known which manufacturer or company will bid, the practice of negotiating contracts is a good example. However MH must ensure in advance if they really need consumable materials that must definitely be compatible with the available equipment to eliminate arbitrary application forms to these kind of contracts. This can eliminate competition and raise the price, however, the general procedure of contract negotiation with manufacturers who have patents on certain products or technical constraint is a good opportunity to take advantage of the price, compared with the open tender procedure where only one bidder exists.

The reasons for signing a contract in this form, MH officials justify it because they inherited equipment from UNMIK mission, provided by

Frecenius Company. The Ministry of Health said that the company is a leader in this market and its quality is unquestionable. They say that Frecenius or the distributor for Kosovo, Meditech has performed in accordance with the contract and had no complaints about Hemodialysis¹⁶.

Even Meditech Company said that their partner is a very serious company which has also provided a large number of donations to Kosovo health institutions, specifically by building hemodialysis treatment departments and offering their equipment and other consumable materials for free. They say that in comparison with other hospital services, Hemodialysis in Kosovo compares to European standards, and maintenance of the equipment by the medical staff and Maintenance Company, is in accordance with the appropriate standards of control.

This field is sensitive and cannot be tested between different bidders/manufacturer because every possible mistake can cost a life to a patient. However the Distributor Company for Kosovo, Meditech has said that this contract has problems when it comes to importing equipment for Hemodialysis, because the Customs treat the equipments as “Aircraft Filters” thus requiring the payment of regular customs¹⁷. This has prompted the company to bond many such filters, pending a solution to this problem.

¹⁶ Personal Interview with Procurement Director at the Ministry of Health on 14.05.2013

¹⁷ Personal Interview with Agron Sadikun, Manager of Meditech Company on 10.05.2013

Preliminary quantities for these products are as follows:

| Nr | Description | Quantity |
|----|----------------------------|---------------|
| 1 | BIBAG 650 gram | 97,400 pieces |
| 2 | DISASAFE PLUS | 566 pieces |
| 3 | CITROSTERIL 5L | 1850 pieces |
| 4 | PURISTERIL 2.5L | 800 pieces |
| 5 | GRANUDIAL AF10, AF12, AF71 | 530 pieces |
| 6 | AV SET FOR ADULTS | 97,400 pieces |

Since this offer was negotiated without an open procedure and therefore had no complaints in the PPRB, the Auditor General's office does not have any findings regarding this tender. There are findings only regarding the open tender procedure, stating that on file of “Supply of drugs and consumable material for Hemodialysis Lot 15 in the amount of €177.018,” we observed that the business that had the lowest bid of € 51.042 was eliminated, arguing that it did not have the original authorization from the manufacturer to participate in the tender¹⁸. We have observed that such a document existed, and the same document was used by the evaluation committee for other lots.

The contract was signed on 12.04.2010, and it is quite general and with numerous grammatical errors. Such instances can make a contract

¹⁸ Office of Auditor General. 2012. Annual Audit Report for the Ministry of Health.

For more: <http://oag->

[rks.org/repository/docs/RaportiAuditimit_MSH_2012_Shqip_718214.pdf](http://oag-rks.org/repository/docs/RaportiAuditimit_MSH_2012_Shqip_718214.pdf)

chaotic in case an interpretation by a judicial institution or intermediary is needed.

There was no information on conflicts of interest among officials who negotiated the contract, which in this case were procurement officers. For this contract, it cannot be said that the criteria was fixed because adjustment is mandatory because of the device.

The tender for supply with infusions

Amount: 986 400 Euros.

The Ministry of Health, under the provision of supplying medicines and essential material, on August 6, 2012, issued a tender for the supply with infusions. This project, with an approximate value of 1 million Euros, has been appealed by Exclusive LLC company of Gjilan, on three lots (lots 1, 3 and 5) of the tender. The price for three tenders was:

- Lot 1: €544,000
- Lot 3: €219 600
- Lot 5: €222,800

Total for all three tenders: €986,400

Exclusive company claims to have been much cheaper than the other company that was awarded the contract. This cannot be verified by looking at the evaluation reports, because price offers from eliminated businesses, are not listed. The company representative said to have offered a price of 0.41 Euros for all the three lots.

Exclusive company was eliminated from this tender because it did not have an import license. The company already had in its warehouses,

enough supplies to deliver to health institutions. The company had about 1 million infusion units, with “Red Banners” (banners which identify drugs that must be sold only to the Ministry of Health and to private pharmacies). Despite the appeal to the PPRB dated 09.14.2012, the PPRB did not take into account the operator's complaint and it has supported the decision of the contracting authority to award the contract to Liri-Med, which also had a cheaper offer.

Another disturbing fact, according to the interview with Burim Shkodra, director of Exclusive Company in Gjilan, is the fact that the company, after not being able to contract this tender, had asked to replace the banners, so that the same drugs can be sold in the private market, however the Kosovo Agency for Medicinal Products (KAMP) has never responded to the company's request thus the company determines that it would not be able sell the products. All products would have to be disposed. The Exclusive Company has taken the matter to court, but thus far it has no information regarding the case, as it is being prolonged by the Supreme Court¹⁹.

Overall, for this tender there was an increased interest from companies because three lots had ten offers for each lot, it was enough competition to make it a very competitive tender. But many companies were excluded as non-responsive, six (6), respectively; only four (4) operators were selected as responsible for lot (3). Two (2) businesses were eliminated because they requested more than 30 days for delivery; one (1) business was eliminated for lack of GMP (General Management Practices) and CPP (Certificate of Pharmaceutical Products) one

¹⁹ Interview with Burim Shkodra, Exclusive Company owner in Gjilan on 18.06.2013

because it lacked an import permit, and one was eliminated for reasons the research teams could verify.

A large number of companies, namely 60%, were eliminated because they did not meet the criteria, which in some cases are difficult to meet, especially when it comes to delivery conditions, which are extremely short. Two businesses regardless of cheaper offers were eliminated for this reason; they failed to meet the delivery deadline of 30 days.

Exclusive company was eliminated despite that it was cheaper than Liri Med that was awarded the contract, on the grounds that it lacked an import permit, however the company already had in its warehouses considerable amount of infusions but not enough to meet the needs of MH. In this case, the company is impaired because its products (which have an expiry date, and must be disposed when they expire) were neither bought by the state nor allowed to be sold in the private market. In the event that the Supreme Court rules in favor of Exclusive Company, Ministry of Health will have to pay a large fine.

The import license was suspended by KAMP for producer “Zdravljenja” from Serbia until the company proved the authenticity of the CPP for import in Kosovo, and KAMP itself has acknowledged that the quantities imported are legitimate and possess the security label, which can therefore be sold / purchased in Kosovo. An irregularity in this process was the duration of the framework contract. According to the contract notice and the tender dossier, the contract was supposed to last twelve (12) months long. The manufacturer however tried to sign a twenty-four (24) months contract, because the contract award notice stated that the contract will be (24) months long, but this was not permitted by PPRB. It is worth mentioning that the Ministry of Health,

in principle, has 24 month contracts, the contract for infusions is an exception.

In the meantime, the responsible authorities have verified that this company does not have the necessary documentation to import this product in Kosovo. It is disturbing how this company could import and sell products that do not precisely satisfy the legal requirements. Even the rest of its products which sit in the warehouses were imported with the same documents and nobody has been held accountable. This fact reveals the fragility of the control system that currently exists in Kosovo and raises doubts about how many other products present in the market have been imported with fake documents.

1. Tender for Supply of Surgical thread

One of the tenders that were followed with controversy among businesses, media and the Ministry of Health, is the tender for the supply of surgical stitches. After preliminary tender that which had very low quality stitches that would cut easily, a fact confirmed by doctors, MH decided to pay more attention to new the tender for the supply with surgical stitches.

In regular tendering process had applied 19 companies, of which the lowest bid was from Agani Company, but it was eliminated as non-responsive because the bid evaluation committee had concluded that the catalog which the company had presented to the Ministry of Health, did not match the catalog the producer had online. Another problem was the specification in the tender of the word “heavy” which with or without intent, in the tender dossier, it was listed as “Heavy”. Agani Company had sought clarification on this issue, but the only response received

from the MH was, “refer to the tender dossier”. The Procurement Director at MH says that this answer was given because the doctors, who prepared the tender dossier, were not able to give another answer to the question.

Because the elimination was made by the evaluation committee, Agani Company filed a complaint with the PPRB. The latter after reviewing the case had come to the conclusion that the case should be returned in retendering process again, only partially siding with Agani company claims. Another problem in this regard, was the fact that PPRB determined only the word error “heaxy” to be a slip-up in the tender drafting thus obligating MH to put the tender offer back onto the market again²⁰.

For re – tender, four companies applied, Agani Company and “Jonah – Med “applied again. For the second re-tendering process, the bids were opened and prices were made public, “business secret ” was revealed to all participating business.” Jonah - Med " the first time applied with a bid of €191,735.81, in the second bid, it dropped the offer significantly to €172.624.76, while Agani company applied with almost the same price of €172.777.20. The difference for the winning bid was only € 153.

The problem was in the re-tendering process because the Agani Company used the same documents which were accepted as complete and the company was rated as responsible although PPRB had not provided any assessment of whether the company documents are in accordance with the requirements of the tender dossier, in two phases

²⁰ Personal Interview with Zeqir Fetoshi, official at Public Procurement Review Body (PPRB) on 22.05.2013

contracting authority has taken two conflicting decisions on the same documentation. The first time, the company was eliminated as non-responsible, by taking into account the manufacturers online catalog, with allegations that Agani Company added and removed data from the original manufacturers' catalog. In fact, such suspicion is enough for a criminal investigation. Something like this should have been treated as attempted fraud and falsifying documents in order to obtain the contract.

The tender process for this specific contract was not professional because legal procedures were not followed, and there are strong suspicions that the process was tailored to a specific company. All this, taking into account the work of the evaluation committee, the evaluation of PRB which became part of mismanagement and up to the re-tendering process which revealed a decrease in the price from Jonah - Med " for 19,111 €.

The Ministry of Health, considering allegations of forged catalogs, should have requested information from the producer of surgical threads and needles directly or simply verify that the catalog is original. This was not done, and the Ministry simply eliminated the company for some incoherent reasoning. All the confusion stated above, affected the process and finally determined the winner, as the company Agani's bid price was revealed. This is evident from the fact that the first time, 19 companies applied bid, for the second "re-tender" process, only four companies participated.

On the other hand, the PRB could not return the case in the re – tender process because the error did not affect the bid evaluation procedure; instead, the only dispute was the catalog. The PPRB did not reach a conclusion based on the fact submitted (the matter of catalog), either

because they were unable or incapable to verify if the catalog was the same as that of the manufacturer. Armend Agani owner of Agani Company considers that in this particular case, his company has been damaged and was treated unfairly by procurement officials at MH. Faton Çitaku, representative of “Jonah - Med “states that the surgical threads his company offered were cheap and qualitative. The PPRB insists that it made the right decision to repeat the tender offer again, as in this form; problems that were identified in the first tender dossier were eliminated.

2. MH complaints in the last 3 years

According to the 2012 PPRB annual report, only five complaints were filed by businesses, three of them were approved, one was returned for re-evaluation and for one tender, the bid procedures had to start from the beginning again.

Complaints were about: the infusions’ tender (for lots 1, 2, 3, 4, 5, 2), cytostatic supply, (portion 6, 3), the construction of an elevator for the cardiology clinic, acquisition of x-ray equipment for the Family Health Care Center (FHCC), and the appeal for surgical stitches, lot 2.

Judging from the small number of complaints, we notice a reluctance of businesses to file complaints with PPRB, perhaps because businesses do not trust this institution. The reluctance of businesses to complain was also observed during our research, where businesses complained (anonymously) about competition conditions being not free and fair. A recent study conducted by the American Chamber of Commerce in Kosovo , dedicated exclusively to the PPRB, shows that a high percentage of businesses do not pursue complaints with PPRB because

they do not believe this institution, worse, some even fear that because of complaints, they may be punished in the future.

The year 2012, is very different from the two previous years regarding the number of decisions that have resulted from complaints by both businesses and by the contracting authority. Unlike 2010, where 11 decisions were issued, and 2011 with 19 decisions issued. In 2012, only three decisions were issued for this ministry. Complaints submitted by economic operators are different but mainly accuse the contracting authority for violations of the law on public procurement, especially regarding the contract criteria, evaluation and unfair comparison of tenders, technical specifications required in the tender dossier, and other violations of the Law on Public Procurement. Tenders relating to the supply of drugs are common, and the most common dilemma is the issue of marketing authorization, certificate of pharmaceutical products (CPP) document which should be from the European Union, and the businesses' claim that this document should be issued by importing countries.

In 2010, the PPRB received 11 complaints from the review of decisions submitted by economic operators to MH, while complaints filed by MH were about revocation of certain articles. Seven complaints submitted by economic operators were estimated to be unsubstantiated by the PPRB, one completely groundless, while for the three MH complaints, the PPRB ruled in MH's favor.

Report on Public Procurement Procedures in the Ministry of Health

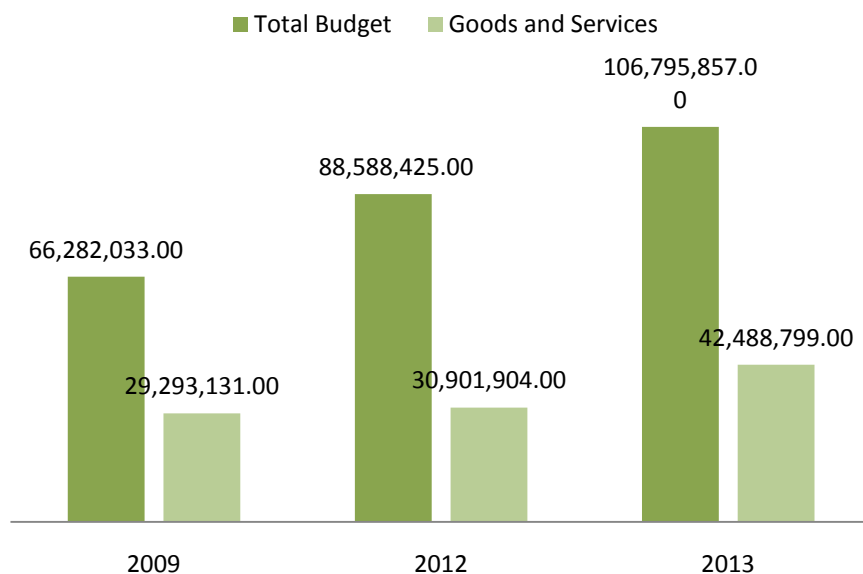
In 2011, 2012, and the first six months of 2013, the PPRB received and ruled on the following complaints:

| 2011 (Total 19 Complaints) | 2012 (Total 3 Complaints) | First six months of 2013 (Total 4 Complaints) |
|---|--|--|
| Eight complaints lodged by businesses but found to be unjustified by the review panel. | Two business complaints deemed baseless, and rejected as inadmissible. | Two Business complaints accepted as sound, one complaint was dismissed as unsubstantiated, the other was ruled in favor of business which filed the complaint. |
| Four business complaints ruled in their favor. | | One complaint ruled in favor of business that filled the complaints. |
| Two orders from PPRB to MH to implement the review panel's decision. | | |
| One application in favor of business. | | |
| One ungrounded application of MH | | |
| Two counter – responses to MH. | | |
| One cancellation decision for MH | | |

3. Ministry Budget - Budget planning - capital expenditures for goods and services

The budget of the Ministry of Health for 2013 was close to 107 million Euros, from which 42, 488.799 Euros were allocated for goods and services, while capital expenditure reached 13,300,000 Euros. Because the budget for the essential list falls into the category of goods and services, to provide a clearer picture, KDI analyzed this budget line.

To better illustrate how much priority is given to the health care in our country, we have examined the MH budgets for 2009, 2012, 2013 and the estimated budget for 2015. The total budget in 2009 was 66,282,033 Euros, where for goods and services 29,293,131 Euros were allocated and 12,500,000 Euros for capital expenditure. In 2012 the budget was 88,588,425 Euros, 30,901.904 Euros for goods and services. The health sector in Kosovo has a poor budget that does not meet the needs of citizens. The budget in 2013, amounted to 106,795,857 Euros, for goods and services, 42,488,799 Euros were allocated, while capital expenditures, totaled 13,300,000 Euros.



From the chart above we can see a slight increase in the budget. Because the total budget has various expenses which do not necessarily reflect the needs of patients, the budget for goods and services is presented separately (red line in the chart above) which increased not as much as the total budget. According to the government's budget plan, the planned budget for MH will continue to remain the same until 2015. This is discouraging because it shows that public health in Kosovo will miss the attention and commitment of the Government in the future, or for at least two years. Being aware of budget constraints and the Government's plans for this sector, the MH should be very committed to develop the necessary capacities and mechanisms to ensure that the budget is used efficiently.

4. Penalties for delays in the delivery of medicines and medical supplies

In the framework of contracts for the supply of medicines and other medical spending, the application of sanctions to businesses that fail to meet contractual deadlines was also foreseen. The deadline for delivering drugs after they have been purchased, is 30 days, while for other spending materials is 45 days.

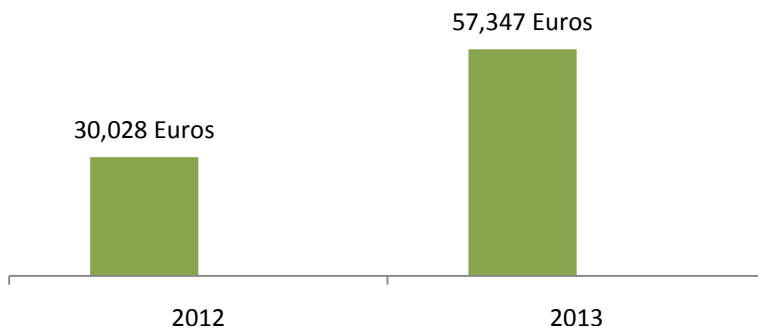
These deadlines are very short and impracticable for many businesses which import products from countries in the region or further afield. Because of import and manufacturer procedures, products purchased by MH usually arrive late, as a result during the first quarter of 2013, fines issued to businesses intensified compared to 2012. This year, from a total of 10 businesses, six were fined for a total amount of 57,347 Euros. While in 2012, 18 businesses were fined for a total of 38,028 Euros. Although the number of businesses sanctioned this year is smaller, a disturbing trend is the increase of fines which almost doubled in 2013.

The increased fines best demonstrate the problem in the supply of essential medicines, where each delay, means drugs will be smuggled to meet the demand. Improper planning of costs and lack of medium and long term plans, and the 30 day deadline for delivery of drugs or materials, puts businesses in difficult situations because more often than not, 30 days is not enough for delivery of drugs. If the MH made better plans, it could order them in advance, giving businesses more room to breathe, and as a result smuggling of drugs could be reduced. Nevertheless, measures should be taken against irresponsible businesses that take advantage of these reforms and often deliver the drugs 80 days after placing the order. There are also loopholes in the law when it

comes to timely delivery of drugs because the law authorizes the contracting authority to only fine businesses by calculating a percentage of the total contract, for businesses, it is easier to just pay the fine sometimes.

Considering the importance of the drugs and medical materials, MH and businesses must show greater responsibility. To do this it is necessary to develop plans to supply drugs and then intensify of sanctions for companies that fail to bring products at a specified time agreed in contracts. Whenever businesses delay the supply of drugs, patients suffer because they most likely purchase smuggled products in the private market without proper quality control, which could cause greater health problems.

Fines to Businesses



Kosova Democratic Institute

| Operatori Ekonomik (OE) | Data e udhëblerjes | Numri i flatures/ fletedergesa | Afati iliferimit | Data e liferimit | Shuma | Ditët e vonesës | Dënimi |
|-------------------------|--------------------|--------------------------------|------------------|------------------|--------|-----------------|--------|
| OE Nr. 1 | 20.05.2013 | 18101 | 20.06.2013 | 27.06.2013 | 97,350 | 8 | 1947 |
| | 22.04.2013 | 1-1732 | 22.05.2013 | 03.06.2013 | 10,578 | 12 | 317 |
| | 11.02.2013 | 1-977 | 13.03.2013 | 20.03.2013 | 9,140 | 7 | 159 |
| | 11.02.2013 | 3543 | 13.03.2013 | 23.04.2013 | 2,952 | 40 | 292 |
| | 11.02.2013 | 3543 | 13.03.2013 | 21.03.2013 | 79,120 | 8 | 1582 |
| | 11.02.2013 | 3548 | 13.03.2013 | 23.04.2013 | 702 | 40 | 70 |
| | 10.04.2013 | 2051 | 25.05.2013 | 27.05.2013 | 18,749 | 32 | 1499 |
| OE Nr. 2 | 07.03.2013 | 106 | 22.04.2013 | 13.06.2013 | 83,325 | 51 | 10623 |
| | 19.04.2013 | 109 | 19.05.2013 | 14.06.2013 | 46,129 | 25 | 2883 |
| | 07.03.2013 | 81 | 07.04.2013 | 22.04.2013 | 22,168 | 15 | 831 |
| OE Nr. 3 | 28.03.2013 | 29042013 | 28.04.2013 | 29.04.2013 | 14500 | 2 | 72 |
| | 08.02.2013 | 28032013/1 | 08.03.2012 | 28.03.2013 | 2,100 | 20 | 105 |
| | 08.02.2013 | 07052013/1 | 08.03.2013 | 07.05.2013 | 600 | 60 | 90 |
| OE Nr. 4 | 20.03.2013 | 166 | 20.04.2013 | 29.04.2013 | 21,686 | 9 | 487 |
| | 20.02.2013 | 10002 | 20.03.2013 | 08.05.2013 | 4,180 | 48 | 501 |
| | 11.02.2013 | 1001001652 | 13.03.2013 | 04.04.2013 | 4,955 | 23 | 284 |
| | 11.02.2013 | 161 | 13.03.2013 | 12.04.2013 | 27,118 | 29 | 1966 |
| | 11.02.2013 | 155 | 13.03.2013 | 29.03.2013 | 7,152 | 16 | 286 |
| | 20.03.2013 | 178 | 20.04.2013 | 18.06.2013 | 30,693 | 50 | 3836 |
| OE Nr. 5 | 20.02.2013 | 10005 | 20.03.2013 | 02.05.2013 | 3,567 | 43 | 383 |
| | 14.02.2012 | 5104 | 14.03.2013 | 03.06.2013 | 54,911 | 80 | 2196 |
| | 14.02.2012 | 4831 | 14.03.2013 | 16.05.2013 | 20 | 62 | 13725 |
| | 23.04.2013 | 10062 | 23.05.2013 | 31.05.2013 | 16,393 | 8 | 327 |
| | 16.04.2013 | 10063 | 16.05.2013 | 31.05.2013 | 60 | 15 | 2 |
| | 16.04.2013 | 10061 | 16.05.2013 | 31.05.2013 | 16,200 | 15 | 607 |
| | 16.04.2013 | 10060 | 16.05.2013 | 31.05.2013 | 59,400 | 15 | 2227 |
| | 20.02.2013 | 10002 | 20.03.2013 | 02.05.2013 | 720 | 43 | 77 |

Report on Public Procurement Procedures in the Ministry of Health

| | | | | | | | |
|-----------------|------------|-----------------|------------|------------|--------|-------------|--------------|
| | 22.02.2013 | 10004 | 22.03.2013 | 02.05.2013 | 4,800 | 41 | 492 |
| | 20.02.2013 | 10003 | 22.03.2013 | 02.05.2013 | 2400 | 41 | 246 |
| | 20.02.2013 | 10001 | 22.03.2013 | 02.05.2013 | 18,000 | 41 | 1845 |
| | 20.02.2013 | 10006 | 22.03.2013 | 02.05.2013 | 1,305 | 41 | 133 |
| OE Nr. 6 | 04.12.2012 | 12-210-001-429 | 04.02.2013 | 08.02.2012 | 5,046 | 35 | 441 |
| | 04.03.2013 | 132 | 04.04.2013 | 27.05.2013 | 9,194 | 54 | 1241 |
| | 20.02.2013 | 131 | 20.03.2013 | 27.05.2013 | 5,568 | 67 | 932 |
| | 30.04.2013 | 24 | 30.05.2013 | 05.06.2013 | 51,672 | 4 | 516 |
| OE Nr. 7 | 03.05.2013 | 18097 | 03.06.2013 | 11.06.2013 | 1,108 | 8 | 22 |
| OE Nr. 8 | 15.04.2013 | 13-210-001-5284 | 01.06.2013 | 21.06.2013 | 17,688 | 20 | 884 |
| | 15.04.2013 | 13-210-001-5287 | 01.06.2013 | 21.06.2013 | 14,001 | 20 | 700 |
| | 15.04.2013 | 13-210-001-5286 | 01.06.2013 | 21.06.2013 | 18,301 | 20 | 915 |
| | 15.04.2014 | 13-210-001-5285 | 01.06.2013 | 21.06.2013 | 29,477 | 20 | 1472 |
| OE Nr. 9 | 29.04.2013 | 1-398 | 29.05.2013 | 06.06.2013 | 7,658 | 7 | 134 |
| Totali | | | | | | 1195 | 57347 |

RECOMMENDATIONS

1. The Ministry of Health must improve the procurement planning, with particular emphasis on the essential list by creating a registration system and electronic patient records;
2. Inspect the sale of essential drugs list from public pharmacies;
3. Before initiating the procurement procedures, MH should research the market and compare the prices that businesses offer.
4. Products under patent should be purchased directly from the manufacturer when possible or when not possible, they ought to be purchased from local distributors;
5. Create a list of drugs from the essential list which are currently under patent protections, record the duration of patents, so that contracts are not linked to longer term than the term of the patent expiration;
6. Develop and publish protocols for treatment of patients with cancer and monitor the same application, to ensure proper treatment of patients;
7. MH should monitor closely the health institutions which request drugs and other materials to ensure transparency, and to make sure that the institutions requesting certain drugs do not have a conflict of interest with any business that may reduce competition in the tender
8. Circumvent situations of conflict of interest by not allowing certain employees with links to special interest groups or businesses to write down the criteria in tender files.
9. The time for delivery of goods should be extended, but a long-term plan should always be available to order drugs ahead and not be faced with delays.

- 10.* Economic operators which consistently late in delivering goods on time, must be punished with fines and tougher penalties, because t delays hurt the patients afflicted;
- 11.* The black list should be revisited, and irresponsible businesses should be easily added to this list.
- 12.* Companies which are included in the blacklist should not be excluded from participating in bids for too long, the time businesses remain in the black list should depend on the offense they committed and it should not be the same for all offenses.
- 13.* Action must be taken against businesses which bring documents with intent to deceive or mislead the entry for the bid evaluation committee;
- 14.* Avoid cancelling contract notices to ensure the protection of business secrets for companies which bid for contracts.
- 15.* PPRC must monitor the procurement at MH more closely, to ensure that the criteria are not discriminatory and management of contracts is being done properly;
- 16.* MH should allow free and efficient access to official documents in accordance with the terms set forth in the Law on Access to Public Documents;
- 17.* MH must permit civil society organizations to monitor the bid evaluation committee for to ensure that the process is transparent and fair;
- 18.* The commission for evaluating requests for access to public documents must be closed, as the same is illegal and hinders transparency.

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