

TRANSPARENCY INDEX IN PUBLIC PROCUREMENT

FOR THE GOVERNMENT CABINET

MARCH 2015



TRANSPARENCY INDEX IN PUBLIC PROCUREMENT

FOR THE GOVERNMENT CABINET

MARCH 2015



COPYRIGHT © 2016. Kosova Democratic Institute (KDI).

Kosova Democratic Institute reserves all rights to this report and no part of this publication is subject to reproduction or retransmission in any mechanical or electronic form, including photocopying or storing in retrieval system of materials without the publisher's prior authorization in writing. The publication may be reproduced or transmitted only for non-commercial purposes. Whosoever intends to use excerpts or documents from this publication is obliged to clearly attribute the source wherever and whenever the excerpts or materials are reproduced.

Should you have any comments, criticism or suggestions, you are kindly requested to contact the publisher through any of the following means:

Street Address: Street Bajram Kelmendi, no. 45,
10000, Prishtina, Kosovo.
Tel.: +381 (0)38 248 038
E-mail: info@kdi-kosova.org
Web: www.kdi-kosova.org

Publication of this report is made possible with the support of the British Embassy in Pristina. The opinions, findings and recommendations expressed herein are those of KDI and do not necessarily reflect the views of donor.

CONTENT

INTRODUCTION	7
METHODOLOGY	8
ACCESS TO PUBLIC DOCUMENTS	10
BUDGET TRANSPARENCY	13
TRANSPARENCY IN PROCUREMENT	15
TRANSPARENCY OF AUCTIONS.....	18
CONCLUSION.....	20

INTRODUCTION

Transparency may be defined as access to timely information that is easily understandable, and protects the integrity of the process and the interests of all stakeholders involved. However, after many legal amendments and institutional promises, spending public funds through public procurement in Kosovo remain largely closed to the public and therefore not accessible by the civil society, media and the public itself. According to reports published by government authorities for 2014¹, out of a total of 1,589 million Euros ² of the general government budget, 445.2 million Euros ³ were spent through procurement procedures. This amounts to 28 per cent of the total budget. Public procurement represents an opportunity to make a difference or to exercise an influence on a certain level in the community or wider circle, and not only on the purchase of goods or services, but also on the management of such contracts, legal compliance, fair treatment, transparency and accountability. Every Euro that was saved during the public procurement process may be used to improve the current conditions in the country or to help those in need.

According to Cobus de Swardt, Manager Director of Transparency International: “When the products that citizens ultimately pay for are dangerous, inappropriate or costly there will be an inevitable loss of public confidence and trust in governments.” The OECD estimates that corruption at institutional level absorbs about 20-25 per cent of government procurement budget, and 57 percent of bribery cases, followed by the OECD Anti-Bribery Convention in-

volving bribes received through public contracts. ⁴

Information should be made available pro-actively, comprised of data from earlier decisions up to recent audits. Assessment of needs, budgets, contract notices, contract award notices, procurement planning, auctions, etc., should be published pro-actively, and in early stages for public to be informed on where and how their tax money is being spent.

The expenditure of public funds through public procurement in Kosovo remains largely closed to the public and therefore not accessible or supervised by the civil society, media and the public itself. Therefore Kosova Democratic Institute (KDI)/Transparency International Kosova (TIK) was hired to develop this Transparency Index in Public Procurement.

Measuring transparency at the central level is a more complicated process because it entails many different resources dedicated to government transparency, such as the Public Procurement Regulatory Commission, Treasury and various ministries, depending on respective responsibilities. The goal of this Index is to put pressure on institutions to provide a greater transparency and a more open governance within their bodies, without requiring the ordinary citizens to carry a ‘navigation map’ on where to access the documents of interest. Access to information on public expenditure through public procurement will allow public get a better sense on spending their tax money. At the same time a greater transparency prevents irregularities, mismanagement and corruption in these institutions.

1 2014 publications were used for comparative purposes, since 2015 publications are being processed by the relevant institutions

2 <https://mf.rks-gov.net/sq-al/Buxheti/Buxheti-i-Republikes-se-Kosoves/Buxheti-qendrore>

3 <https://krpp.rks-gov.net/krpp/PageFiles/File/Raportet%20Vjetore/2014/Raportit%20Vjetor%202014%20Shqip%20KRPP.pdf>

4 <http://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm>



METHODOLOGY

Kosova Democratic Institute (KDI), as subsidiary of Transparency International (TI) for Kosovo, has developed a methodology to measure transparency in public procurement for all central and local institutions. This methodology was first implemented in 2014 when transparency was first measured in Government Cabinet in various pillars. This Transparency Index comprises all institutions of the Government Cabinet, including Ministries and the Prime Minister's Office. The Index is based on four (4) main pillars and 16 different indicators as follows:

PILLAR OF ACCESS TO PUBLIC DOCUMENTS WILL MEASURE:

- 1 Number of requests for access to public documents;
- 2 Number of denied requests for access to public documents;
- 3 Number of requests for access to public documents in the field of public procurement;;
- 4 Number of denied requests for access to public documents in the field of public procurement;

PILLAR OF BUDGET TRANSPARENCY WILL MEASURE:

- 5 Publication of the 2015 budget documents on the website;
- 6 Publication of the 2015 procurement plan on the website;
- 7 Audit reports on the website;
- 8 Financial reports on the website.

PILLAR OF PROCUREMENT WILL MEASURE;

- 9 Number of tenders published on the website of the institution (contract notices);
- 10 Number of tenders published on the PPRC website;
- 11 Number of winners published on the website (contract award notices);
- 12 Number of winners published on the PPRC website;





ACCESS TO PUBLIC DOCUMENTS

One of the four pillars measured in the Transparency Index is access to public documents. The purpose of measuring this indicator was not only to see the level of respecting the Law on Access to Public Documents, but also to see how much citizens, civil society organizations or media use this mechanism to seek accountability from government institutions.

Main focus is on requests for access to public documents in the field of public procurement. According to information provided by the Government Cabinet following the request from KDI, all institutions have received 310 requests for access to public documents. Out of these requests, 81 were related to public procurement. Institutions with the highest number of requests for access to public documents, according to our information, are: the Ministry of Finance with 43 requests, PMO with 39, and the Ministry of the Kosovo Security Force with 37 requests.

Out of a total 20 institutions of Government Cabinet, three (3) have not responded to requests for access to public documents: Ministry of Environment and Spatial Planning, Ministry of Foreign Affairs and Ministry for Communities and Return.

Out of 20 contacted Ministries of the Kosovo Government, including the Prime Minister's Office (PMO), 17 have responded with information on their activities on implementing the Law on Access to Public Documents.

The main issue with information on access to public documents is the fact that information cannot be verified and compared with independent sources,

because the sole source is government institutions. However they present a good basis for analysis.

In this regard, three (3) Ministries listed below have not responded to the question on the number of requests they received on access to public documents in 2015.

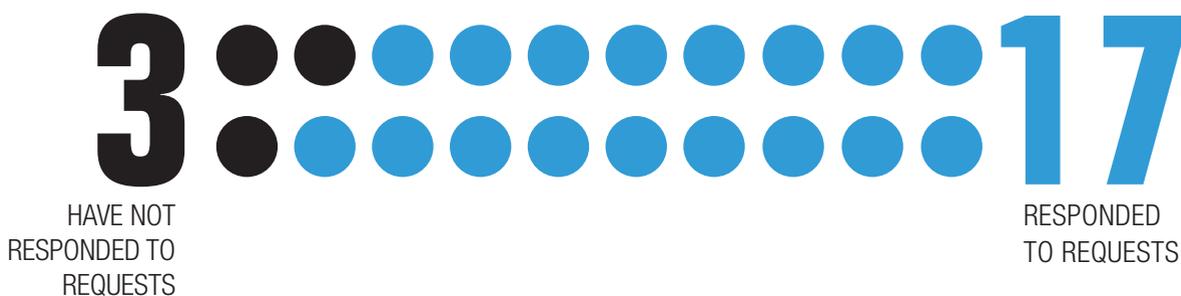
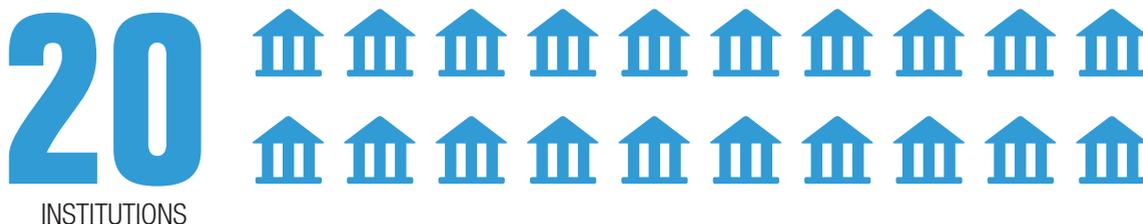
Responses from 17 government ministries show an increasing number of requests compared to last year, with a total of 310 requests or 29.7 per cent increase compared to 239 requests for access to official documents filed last year. In addition, the number of requests on public procurement documents has increased for 17 or 26.5 per cent.

Government institutions (other than those who have not responded) have all responded within the legal deadline stipulated in Article 7 of Law no. 03/L-215 on Access to Public Documents. During the measurement made in the past year, half of the provided answers were overdue.





NUMBER OF ACCESS REQUESTS SENT BY KDI TO INSTITUTIONS OF GOVERNMENT CABINET AND RESPONSE TO SUCH REQUESTS



LIST OF MINISTRIES THAT HAVE NOT RESPONDED

- 1 MINISTRY OF ENVIRONMENTAL AND SPATIAL PLANNING
- 2 MINISTRY OF FOREIGN AFFAIRS
- 3 MINISTRY OF COMMUNITIES AND RETURNS





BUDGET TRANSPARENCY

One of the most important sub-areas of public administration is the budget. Through the budget, the government allocates resources to programs and services for welfare of its citizens, thus this is one of the most important actions at central and local level, on the basis of which very important decisions are taken.

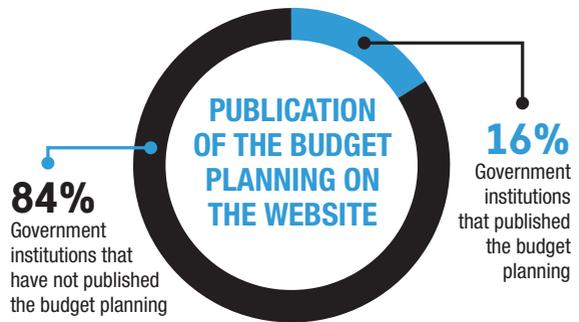
In this pillar, KDI measured budget transparency of government institutions which necessarily relates to public procurement considering that most of the budget planning entails procurement of capital investments and goods or services.

To compare budget transparency, KDI has used the following indicators:

- 1 Publication of the budget on the website;
- 2 Procurement plan on the website;
- 3 Audit reports on the website;
- 4 Number of financial expenditure reports during January-December 2015

PUBLICATION OF THE BUDGET PLANNING ON THE WEBSITE

Budget planning is the most important document of these institutions not only for public procurement but for the overall transparency. Information for this pillar is truly concerning. In January to December 2015 period, only 16 per cent of government institutions have published annual budgets on their websites. Out of 20 institutions, only three (3) published their budget, showing a low level of transparency.



PROCUREMENT PLAN ON THE WEBSITE

The procurement plan is a result of procurement planning process, which is a process of making decisions about what products should be procured or which services should be contracted in order to fulfill official duties in service to citizens, who ultimately pay for such services through the taxation system. Procurement planning process establishes procurement methods and expectations for the fulfillment of these requirements.

The procurement plan is important because it lists all expected requirements to be procured during a period of time, sets the time limit for completing procurements, and provides forecasts on the value of procurement. In addition to providing the possibility of consolidating procurement of similar items or items of common interest, the plan provides an opportunity to entrepreneurs to make necessary plans and preparations for access to public procurement, and to have their bids more competitive. Under previous legislation, which was in force during the evaluation period, publication of procurement



planning was banned under the pretext that publication of the forecasted values of procurement would result in losing market value, and that economic operators would bid prices close to the budget values provided.

Just like last year, none of the 20 evaluated institutions has published procurement plan in the above notification form, with or without price information.

AUDIT REPORTS ON THE WEBSITE

Publication of the audit report in 2015 is another important indicator, because this form provides the public with information on how public funds are managed by government institutions. During this year, according to information produced by KDI, no government institution has published the auditor's report on their official website. The same figure was recorded in the report of 2015, so there has been no improvement in awareness and publication of these reports.

It should be noted that audit reports for all government institutions are available on the website of the Auditor General of Kosovo. However, they must provide citizens with additional information mechanisms about such reports which target government institutions.

Absence of such reports from the websites of government institutions in Kosovo presents difficulties for citizens to finding them, thus depriving citizens' access to sufficient information on the reports of the Auditor General and above all on how public funds are spent by relevant ministries. If these institutions do not publish their report on their official website, they may at least provide a link to such report.

NUMBER OF FINANCIAL EXPENDITURE REPORTS DURING JANUARY-DECEMBER 2015

Just like last year, out of 19 Ministries and PMO, we again found that only five (5) of them published financial expenditure reports for 2015. The other institutions have not published financial reports for 2015.

KOSOVO GOVERNMENT INSTITUTIONS		NO. OF FINANCIAL EXPENDITURE REPORTS DURING JANUARY-DECEMBER 2015
1	PRIME MINISTER'S OFFICE	0
2	MINISTRY OF PUBLIC ADMINISTRATION	1
3	MINISTRY OF LOCAL GOVERNMENT ADMINISTRATION	1
4	MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY	0
5	MINISTRY OF AGRICULTURE, FORESTRY & RURAL DEVELOPMENT	0
6	MINISTRY OF DIASPORA	1
7	MINISTRY OF JUSTICE	52
8	MINISTRY OF FINANCE	3
9	MINISTRY OF ECONOMIC DEVELOPMENT	0
10	MINISTRY OF EUROPEAN INTEGRATION	0
11	MINISTRY OF CULTURE, YOUTH AND SPORTS	0
12	MINISTRY OF ENVIRONMENTAL AND SPATIAL PLANNING	0
13	MINISTRY OF LABOUR AND SOCIAL WELFARE	0
14	MINISTRY OF INTERNAL AFFAIRS	0
15	MINISTRY OF FOREIGN AFFAIRS	0
16	MINISTRY OF HEALTH	0
17	MINISTRY OF INFRASTRUCTURE	0
18	MINISTRY OF TRADE AND INDUSTRY	0
19	MINISTRY OF COMMUNITIES AND RETURNS	0
20	MINISTRY FOR KOSOVO SECURITY FORCES	0
Total		58



under evaluation. In general, government institutions have published notices on their websites, with few exceptions, where some publish only certain notices.

The publication of notices on websites of institutions is important for local businesses and citizens who perhaps would have a more accurate idea on what government institutions are investing in, at what price and using which economic operators.



Out of 547 tender notices published on the PPRC website, only 75 of them are published on the websites of the Government Cabinet or only 28 per cent of tenders are published on the websites of the respective institutions.

Comparing these values with the Transparency Index in Public Procurement for the Government Cabinet in 2014 when only 11 per cent of tenders were published, a slight improvement of transparency is noticed in 2005 with 28 per cent of tenders published, or increase of 16 per cent. On the other hand number of tender notices published in the PPRC last year was 653, while in 2015, 106 less tenders were published. One reason for a low number of published tenders may be that CPA initiates application process for centralized procurement.

Based on the table below, more transparent Ministries in these two indicators are:

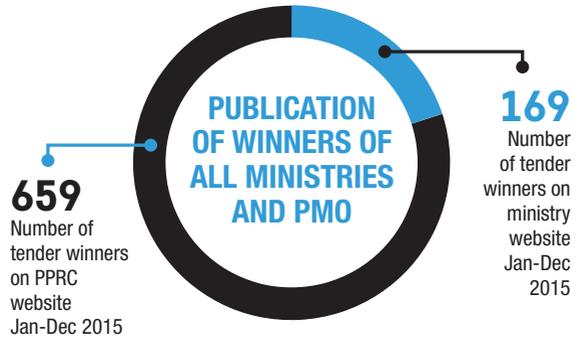
#	GOVERNMENT INSTITUTIONS	NUMBER OF TENDERS PUBLISHED ON THE WEBSITE OF GOVERNMENT INSTITUTIONS - JANUARY-DECEMBER 2015	NO. OF TENDERS PUBLISHED ON THE WEBSITE OF PPRC FOR 2015	%
1	Ministry of Finance	41	41	100%
2	Ministry of Public Administration	15	21	71%
3	Ministry of Labor and Social Welfare	40	83	48%
4	Ministry for Kosovo Security Forces	14	34	41%
5	Ministry of Justice	2	5	40%
6	Ministry of European Integration	4	19	21%
7	Ministry of Local Government Administration	71	71	87%



CONTRACT AWARD NOTICES

Regarding contract award notices, 659 tender notices were published on the website of PPRC and only 169 were published on the websites of the Government Cabinet, namely only 21 per cent of contract winners were published on the websites of the respective institutions.

By comparing these values with the Transparency Index in Public Procurement for Government Institutions for 2015, improved level of transparency in noticed with an increase of 102 reports compared to total 63 in 2014, respectively increase of transparency for 13 per cent for 2015, when accounting the total number of publications.



When comparing contract notice publications, it results that six most transparent government institutions in publishing contract award notices are:

#	KOSOVO GOVERNMENT INSTITUTIONS	NO. OF TENDER WINNERS ON THE WEBSITE OF KOSOVO GOVERNMENT INSTITUTIONS - JANUARY-DECEMBER 2015	NO. OF TENDER WINNERS ON THE WEBSITE OF PPRC - JANUARY-DECEMBER 2015	%
1	Ministry of Finance	28	28	100%
2	Ministry of Public Administration	69	69	100%
3	Ministry for Kosovo Security Forces	49	56	88%
4	Ministry of Local Government Administration	12	21	57%
5	Ministry of Labor and Social Welfare	10	20	50%
6	Ministry of Justice	1	16	6%



TRANSPARENCY OF AUCTIONS

NOTICE OF SALE OF ASSETS

In comparison with the number of public procurements, the number of auctions is much smaller and items sold through auctions are not of great value, yet we wanted to measure the publication of notices for these auctions.

Four indicators were compared to see the difference in notices published on websites of respective Government Institutions and notices these institutions have published on the PPRC website.

- 1 The number of contract award notices published on the website of the Government Institutions from January to December 2015
- 2 The number of asset sale notices published on the PPRC website
- 3 The number of contract award notices published on the website of the government institutions from January to December 2015
- 4 The number of contract award notices published on the PPRC website from January to December 2015

Information collected from the websites of government institutions and the PPRC show that the number of publications of auction notices and contract award notices is not great. It is worrying that government transparency in these indicators is extremely low. Because publication of auctions on the PPRC website is a legal obligation, in 2015 five (5) auction notices were published on the PPRC website, and only four (4) were published on the websites of Government Institutions.



The only two ministries that have shown transparency in the process of publication of auctions notice are as follows:

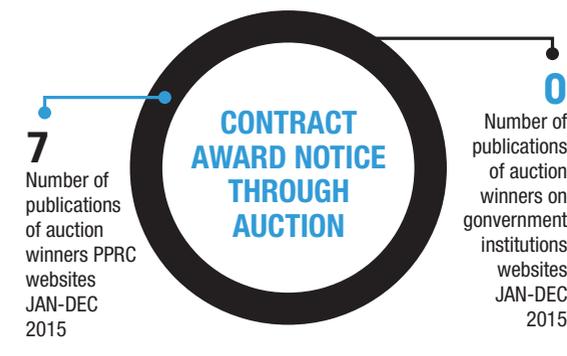




#	KOSOVO GOVERNMENT INSTITUTIONS	NO. OF NOTICES ON THE WEBSITE OF KOSOVO GOVERNMENT INSTITUTIONS - JANUARY-DECEMBER 2015	NO. OF NOTICES ON THE PPRC WEBSITE - JANUARY-DECEMBER 2015
1	Ministry of Finance	3	0
2	Ministry of Agriculture, Forestry & Rural Development	1	0

CONTRACT AWARD NOTICES

Almost the same situation prevailed with the publication for contract award notices through auctions, where the level of government transparency is 0 per cent compared to the publications on the PPRC website.





CONCLUSION

GENERAL

No positive trend was observed on transparency of documents published by Government Cabinet related to public procurement.

Government Cabinet in Kosovo is missing a clear planning and consultation framework with citizens and for publication of expenditures.

Government Cabinet websites lack consistency and clarity in the presentation of information and documents related to spending of citizens' tax money.

Readily available information prepared by government institutions, such as contract notices and contract award notices, may be easily published on their websites. Also, reports of the Auditor General and budget document prepared by the Treasury constitute readily available information for publication on the websites of the ministries and PMO. Such information provides an easy way to enrich the content of websites of these institutions without spending much time and other resources.

ACCESS TO PUBLIC DOCUMENTS

Although three (3) of 20 institutions of Government Cabinet have not responded at all, generally the level of accountability of institutions versus requests of KDI is satisfactory.

17 responses KDI has received from the government cabinet show that compared to 2014, number of requests submitted to the Government Cabinet has increased for 29.7 per cent. The total number of

requests received in 2014 was 239, while this figure rose to 310 in 2015.

In 2014, 19 Ministries and PMO received 64 requests for access to public documents in public procurement. The number of requests in 2015 was 81, which also marks an increase in number of requests for 26.5 per cent

These two indicators show that the interest of public, journalists and businesses for information from the Government Cabinet on the public procurement process is growing.

BUDGET TRANSPARENCY

The Government Cabinet, compared with last year, did not show improvement in budget transparency regarding the publication of documents related to budget, procurement plan, the auditor's report and expenditure reports.

In this pillar, most transparent government institutions are: Ministry of Justice followed by the Ministry of Finance and Ministry of Local Government Administration.

TRANSPARENCY IN PROCUREMENT

A large number of Government Cabinet institutions do not publish contract notices or contract award notices on their websites. Through these two documents, citizens, media and other stakeholders may see when an





institution announced a tender and who the winners are. Although it is legally required to publish notices on the PPRC website, many citizens find it easier to navigate through the websites of relevant institutions.

Comparing the level of transparency for 2014 which stands at 9 per cent, in the tendering pillar, transparency level in 2015 has increased at 24.8 per cent. The average figure is still far from full transparency, which should be the goal of every accountable leadership; nevertheless this progressive movement deserves acknowledgment.

Most transparent Ministries in terms of transparency in procurement are: Ministry of Finance, Ministry of Public Administration, Ministry of the Kosovo Security Force, Ministry of Labor and Social Welfare, Ministry of Local Government Administration, Ministry of Justice, and Ministry of European Integration.

TRANSPARENCY IN AUCTIONS

Government Cabinet institutions usually sell through auctions the confiscated goods or equipment, which are not used by the institutions. However, this generally remains non-transparent in terms of publications and goodwill by Government Cabinet to inform citizens on their activities. More transparent Ministries in this pillar are the Ministry of Agriculture, Forestry and Rural Development and the Ministry of Finance.



Cataloging in publication – **(CIP)**
National and University Library of Kosovo

342 (496.51)"2016"
347.75 (496.51)"2016"

Indeksi i transparencës në prokurimin publik për kabinetin
qeveritar : mars 2016 / Instituti Demokratik i Kosovës. –
Prishtinë : Instituti Demokratik i Kosovës, 2016. – 24 f. :
ilustr. me ngjyra ; 21 cm.

ISBN 978-9951-8927-3-5

KDI is a Non-Government Organization (NGO) committed to supporting the development of democracy through citizen involvement in public policy-making and empowerment of civil society with a view to enhance transparency and accountability of public institutions. For more information about KDI, please visit www.kdi-kosova.org

With financial support of:



British Embassy
Pristina

