

TRANSPARENCY INDEX IN PUBLIC PROCUREMENT

FOR MUNICIPALITIES OF KOSOVO

FEBRUARY 2016



TRANSPARENCY AND
ANTI-CORRUPTION





TRANSPARENCY INDEX IN PUBLIC PROCUREMENT

FOR MUNICIPALITIES OF KOSOVO

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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 remains largely closed to the public and therefore not accessible by the civil society, media and the public itself. According to reports published by the government authorities for 2014¹, out of a total of 1,589 million Euros² of the general government budget, 445.2 million Euros³ were spent through procurement procedures. This amounts to 28% 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 a 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 Con-

vention involving bribes received through public contracts⁴.

In principle, transparent and accountable procurement cycle means that winning companies are the ones providing the best product, best price and have the best plan in order to achieve the best result.

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.

Spending public funds through public procurement in Kosovo remains largely closed to the public and therefore not accessible or supervised by 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. The goal of this Index is to put pressure on institutions to provide a greater transparency and a more open governance. Access to information on public expenditure through public procurement will allow the public get a better sense on spending their tax money. At the same time 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 municipalities in various pillars. This Transparency Index includes all municipalities in Kosovo. The Index is based on four (4) main pillars and 17 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 Public hearings on their websites and their number;
- 9 Financial reports on the website.

PILLAR OF PROCUREMENT WILL MEASURE;

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



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TRANSPARENCY IN AUCTIONS:

- 14 Notices for public auction advertisement on the website;
- 15 Notices for public auction advertisement on the PPRC website;
- 16 Notice of the auction winners on the website;
- 17 Notice of the auction winners on the PPRC website;

As part of this monitoring, KDI will continuously measure the level of disclosure of documents which relate to transparency in public procurement. Data were collected in December 2015. Four municipalities in Kosovo located in the northern part of the country have no functional websites.

During the analysis of 2014 ⁵ KDI has also measured the trend of complaints filed to the PRB. At the onset of functioning of institutions, low number of complaints filed to PRB resulted on high level of corruption in institutions. Economic operators were threatened not to file complaints. However, findings of the last measurement made in 2014 have shown that the correlation is not applicable. For this reason, this indicator has been removed from the measurements for 2015. However, municipalities located in the northern part of Kosovo face the same trends as other municipalities in the beginning of their operation and there is a shortage of complaints to the PRB by the economic operators competing for contracts in these municipalities.

⁵ <http://kdi-kosova.org/publikime/42-2014-12-09-indeksi-i-transparencies-ne-prokurimin-publik-ne-komuna-alb.pdf>

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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 of municipal institutions.

Main focus is on requests for access to public documents in the field of public procurement; According to information provided by municipalities following the request from KDI, all municipalities have received 699 requests for access to public documents. Out of these requests, 169 were related to public procurement. Municipalities with the highest number of requests for access to public documents, according to our information, are: Prishtina with 160, Prizren with 97 and Gjilan/Gnjilane with 53.

Out of a total 38 municipalities in Kosovo, three have not responded to requests for access to public documents: Three northern municipalities: Zvecan, Zubin Potok and Leposavic are not accessible. However Northern Mitrovica responded for the first time to a request for access to public documents, which may be deemed a positive step.

Out of 35 contacted municipalities, 26 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 municipalities. However they present a good basis for analysis.

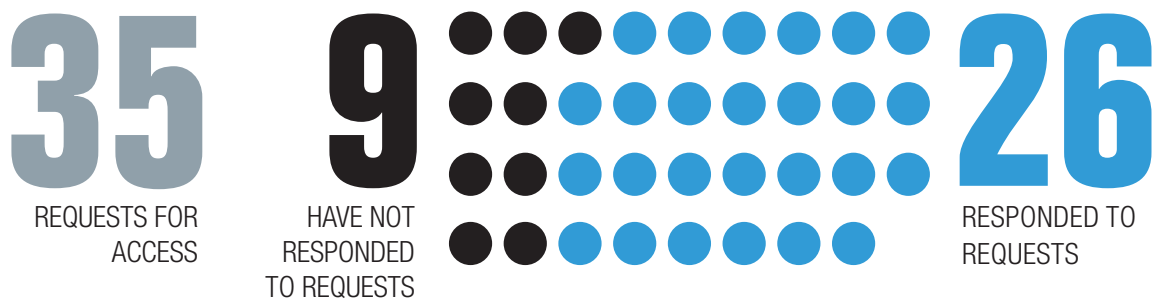
In this regard, there are nine (9) municipalities listed below that have not responded after the request on the number of requests they received on access to public documents in 2015.

Slightly more than half of the municipalities that responded to the request for access did not do so within the deadline stipulated in Article 7 of Law no. 03/L-215 on access to public documents.





THE NUMBER OF REQUESTS FOR ACCESS SENT BY KDI TO MUNICIPALITIES AND RESPONSE TO SUCH REQUESTS



LIST OF MUNICIPALITIES THAT HAVE NOT RESPONDED

- | | | |
|--|----------------------------------|--------------------------------|
| 1 DRENAS/GLOGOVAC | 4 KAÇANIK/KACANIK | 7 PARTES/PARTESH |
| 2 FUSHË KOSOVË/
KOSOVO POLJE | 5 KLLOKOT/KLOKOT | 8 RANILLUG/RANILUG |
| 3 JUNIK | 6 NOVO BRDO/
NOVOBËRDË | 9 SHTRPCE /
SHTËRPCË |



BUDGET TRANSPARENCY

One of the most important sub-areas of public administration is the budget. Through the budget, governments allocate resources to programs and services for the 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 municipalities which necessarily relates to public procurement considering that most of 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 document on the website
- 2 Procurement plan on the website;
- 3 Audit reports on the website
- 4 Number of public hearings in 2015
- 5 Number of financial expenditure reports during January-December 2015

PUBLICATION OF THE BUDGET DOCUMENT ON THE WEBSITE

Budget document is the most important document of municipalities not only for public procurement but for overall transparency. In this pillar we found concerning information. In the period of January to December 2015, 50% of municipalities did not have their municipal budget documents published on their websites. Out of 38 municipalities, only 19 had published budget doc-

uments, which shows an increase in the transparency of only 5% compared to the previous year. Publication of budget document helps citizens see how the budget composed of their tax money is being spent. Budget document shows citizens if their street, neighborhood or their community will be part of the plans of their elected officials. Citizens through transparency in the budget can easily be informed about any investment that would be made in their municipality. It will also help the entrepreneurs to participate in public procurement processes.

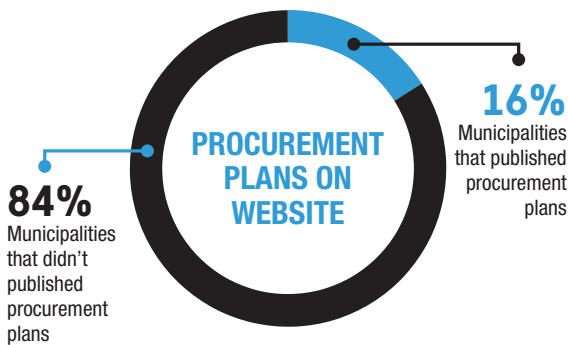


PROCUREMENT PLANNING ON THE WEBSITE

The procurement plan is a result of procurement planning, 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 the 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.



Procurement planning 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 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. However, out of 38 municipalities surveyed, six municipalities were proactive and publish procurement plans in the form of prior notification, or with relegated prices.



Compared to the transparency index for 2014, 2015 marked an increase of 16% because in the previous year there was no procurement plan published in municipal websites.

AUDIT REPORTS ON THE WEBSITE

Publication of the audit report for 2015 is another important indicator, because this form provides the public with information on how public funds are managed by municipalities. Compared with last year's index, this indicator increased for 3%, from 18% 2014 to 21% in 2015. However, most of them still do not publish audit reports on their websites.

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

Absence of such reports from the websites of municipalities presents difficulty for citizens to finding them, thus depriving citizens access to sufficient information on the reports of the Auditor General and above all on how tax money is spent by relevant municipalities. If these municipalities do not publish their audit reports on their official website, they may at least provide a link to such report.



NUMBER OF PUBLIC HEARINGS IN 2015

Municipalities have been very active with regard to public hearings. 26 municipalities that responded to the request for access to public documents had organized 125 public hearings, of which the municipalities of Prizren and Obilic have been the most active with 10 public hearings. The following table shows the most active six municipalities.

MUNICIPALITY	NO. OF PUBLIC HEARINGS IN 2015
PEJË/PEC	16
LIPJAN/LIPJANE	15
PRIZREN	10
OBILIQ/OBILIC	10
PRISHTINË/PRISTINA	9
MITROVICË/MITROVICA	9
VUSHTRRI/VUCITRN	9
SHTIME/ŠTIMLJE	8

NUMBER OF FINANCIAL EXPENDITURE REPORTS DURING JANUARY-DECEMBER 2015

Compared with 2014, we see increasing awareness on the part of municipalities on the disclosure of financial expenditure reports. 43 quarterly, semi-annual or annual reports were published in 21 municipal website.

Municipality	No. Of financial expenditure reports during January-December 2015
Deçan/Decan	0
Dragash/Dragaš	0
Drenas/Glogovac	0
Ferizaj/Uroševac	0
Fushë kosovë/Kosovo polje	0
Gjakovë/Djakovica	1
Gjilan/Gnjilane	1
Graçanicë/Gracanica	1
Hani i elezit/Elezhan	4
Istog/Istok	3
Junik	0
Kaçanik/Kacanik	3
Kamenicë/Kamenica	1
Klinë/Klina	1
Kllokot/Klokot	0
Lipjan/Lipjane	3
Malishevë / Malisevo	4
Mamushë/Mamusa	0
Mitrovicë/Mitrovica	1
Mitrovica North	0
Novo brdo/Novobërdë	3
Obiliq/Obilic	0
Partes/Partesh	0
Pejë/Pec	3
Podujevë/Podujevo	3
Prishtinë/Pristina	3
Prizren	0
Rahovec/Orahovac	4
Ranillug/Ranilug	1
Shtërpcë/Strpce	0
Shtime/Štimlje	2
Skenderaj/Srbica	1
Suhareka/Suva reka	1
Viti/Vitina	1
Vushtrri/Vucitrn	4
Leposavic	0
Zubin potok / Zubin potok	0
Zvecan	0
Total	48



TRANSPARENCY IN PROCUREMENT

TRANSPARENCY IN TENDERING

This pillar measures the transparency of municipalities in public procurement. Four indicators were compared to find the difference in notices published on websites of municipalities and notices these institutions have published on the PPRC website. Given that the website of PPRC serves largely to businesses and in general to economic operators, we wanted to see how these municipalities publish tender notices on their websites, with the aim of informing citizens. According to Law No. 04/L-042 on Public Procurement, which was in force during the evaluation period, and according to secondary legislation (A01 Regulation on Public Procurement and A02 Operational Guidelines for Public Procurement) all contract notices over €10,000 and all contract award notices over €1,000 shall be published on the PPRC website. However, publication of all reports on their websites, regardless the values, shows a good practice of the institution in terms of openness and goodwill towards citizens.

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

- 1 Number of contract notices published on the website of municipalities from January to December 2015
- 2 Number of contract notices published on the website PPRC
- 3 The number of contract award notices published on the municipality website from January to December 2015
- 4 The number of contract award notices published on the PPRC website from January to December 2015

CONTRACT NOTICES

Number of tenders published on the websites of municipalities usually differs a lot from the number of tenders on the PPRC website. This difference is present because tenders are not published on the PPRC website following tender values provided by the law, which constitutes violation of this law, thus contracting authorities may be penalized for their actions or omissions. Notices published on the PPRC website are often incomplete and deficient, especially as they rely on the goodwill of municipalities, and the only comparative mean available to PPRC are annual procurement reports, which allow comparison between the report and previous notices for the period under evaluation. On the other hand, looking from legal requirements' point of view rather than being pro-active, the majority of Municipalities failed to publish public procurement



announcements on their websites or did not update them for a very long time.

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



Out of 2.204 tender notices published on the PPRC website, only 1.087 of them are published on the websites of municipalities or only 49% of tenders are published on the websites of the respective institutions.

Comparing these values with the Transparency Index in Public Procurement for the municipalities in 2014 when the level of transparency was 31%, a slight improvement of transparency is noticeable in 2005 with 49%, or an increase of 18%.

Based on the table below, municipalities of Drenas/Glogovac, Gjakova/Djakovica, Kacanik and Novo Brdo/Novobërdë were pro-active in publishing contract notices, even at a rate over 100% as a result of publication of notices quotation and low value purchases, which are not required to be published on the PPRC website by the Law 04/L-042 on Public Procurement. When comparing contract notices publications, it results that six most transparent municipalities in these two indicators are:

CONTRACT AWARD NOTICES

Regarding contract award notices, 2.944 tender notices were published on the website of PPRC and only 1.008 were published on the websites of the municipalities, namely only 34% of contract winners were published on the websites of the respective municipalities.

Comparing these values with the Transparency Index in Public Procurement for the municipalities in 2014 when level of transparency was 20%, a slight improvement of transparency is noticeable in 2005 with 34%, or increase of 14%.

Law no. 04/L-042 on Public Procurement, respectively Operational Guidelines for Public Procurement A02 of PPRC, requires that all contract award notices (tender winners) within two (2) days are published on the PPRC website for all values except small value purchases (€

#	Municipality	Number of tenders published on the website of municipality - january-december 2015	No. Of tenders published on the website of PPRC for 2015	%
1	Drenas/Glogovac	120	83	145%
2	Gjakovë/Djakovica	132	102	129%
3	Kaçanik/Kacanik	48	40	120%
4	Novo Brdo/Novobërdë	22	19	116%
5	Prishtinë/Pristina	323	326	99%
6	Istog/Istok	71	82	87%

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0.01-1,000.00). In the case of municipalities of Gjakova/Djakovica and Kaçanik/Kacanik, publications on the websites of municipalities exceed 100% of required publications, compared to the PPRC website, as a result of duplication and lack of publication of some contract awards through quotation procedures,

resulting from misunderstanding of rules for publication of contract notices and contract award notices.

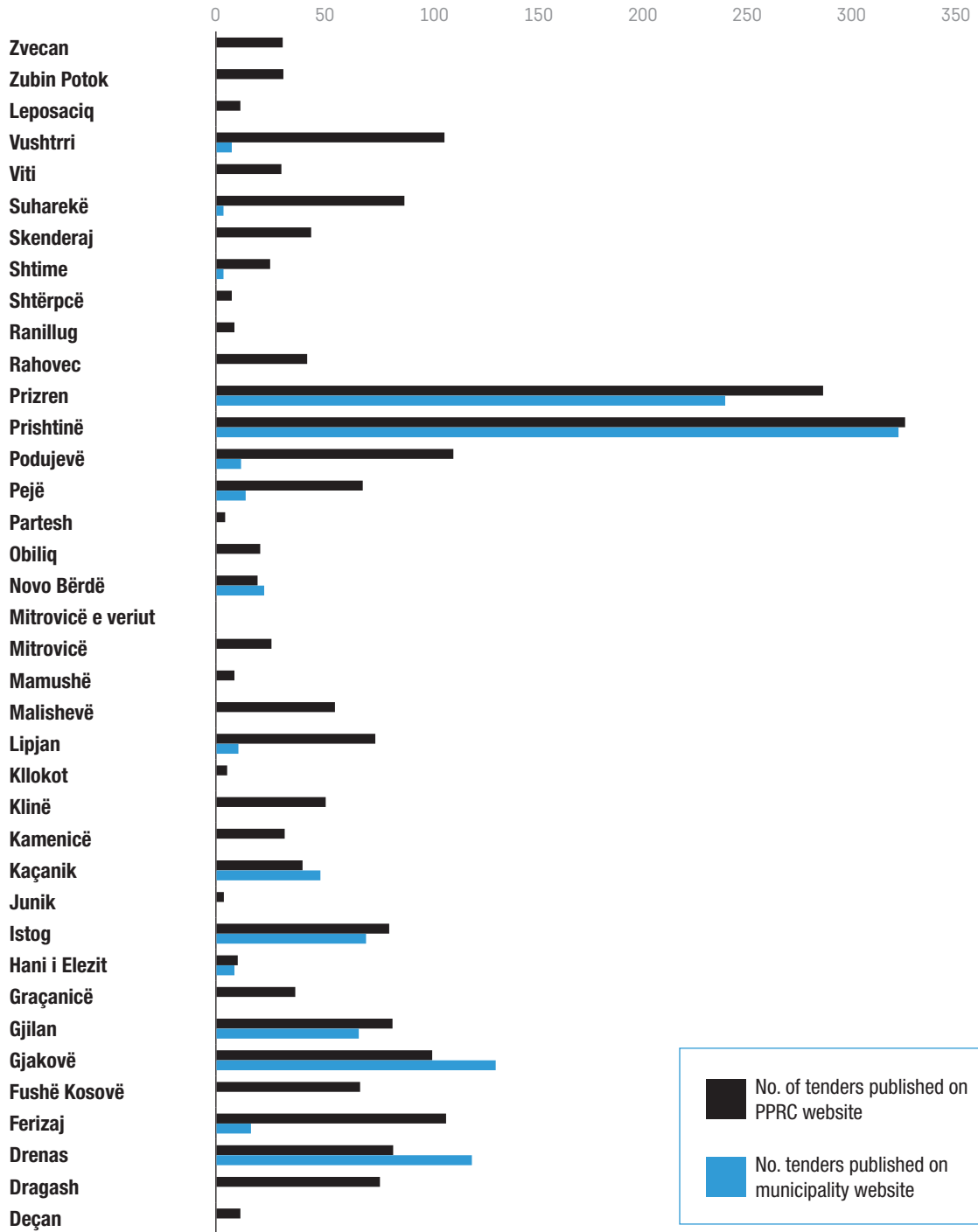
When comparing contract notices publications, it results that six most transparent municipalities in publishing contract award notices are:

#	Municipality	No. Of tender winners on the website of municipality - january-december 2015	No. Of tender winners on the website of PPRC - january-december 2015	%
1	Gjakovë/Djakovica	96	64	150%
2	Kaçanik/Kacanik	59	57	104%
3	Prishtinë/Pristina	284	288	99%
4	Drenas/Glogovac	129	131	98%
5	Istog/Istok	87	94	93%
6	Gjilan/Gnjilane	76	94	81%

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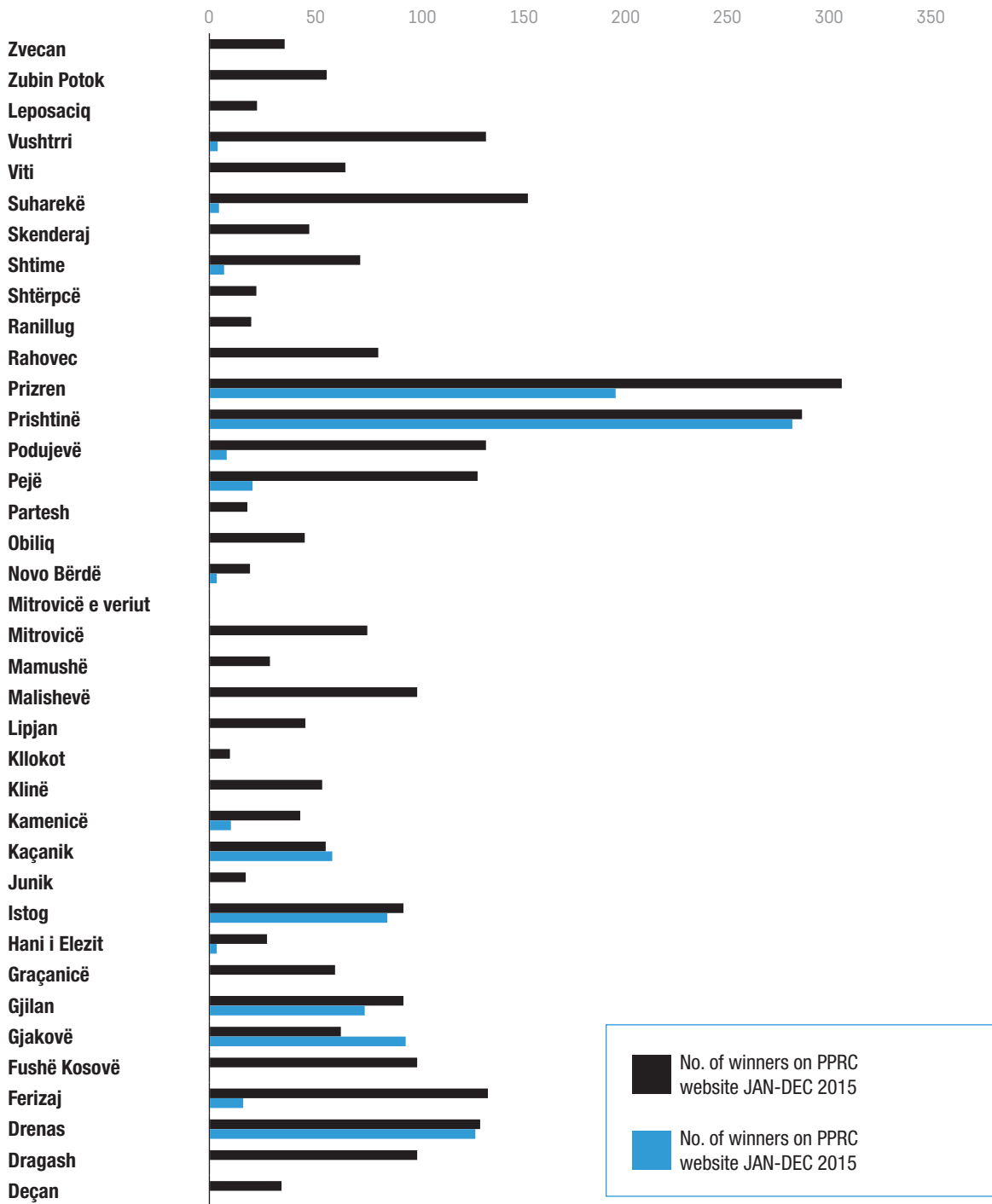
PUBLICATION OF TENDERS BY MUNICIPALITY



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PUBLICATION OF WINNERS BY MUNICIPALITY



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 municipalities and notices these institutions have published on the PPRC website.

- 6 The number of asset sale notices published on the municipality website from January to December 2015
- 7 The number of asset sale notices published on the PPRC website
- 8 The number of contract award notices published on the municipality website from January to December 2015
- 9 The number of contract award notices published on the PPRC website from January to December 2015

Information collected from the websites of municipalities and the PPRC show that the number of publications of auction notices and contract award notices is not great. It is worrying that municipal transparency in these indicators is extremely low. Because publication

of auctions on the PPRC website is a legal obligation, in 2015 77 auction notices were published on the PPRC website, and only 8 were published on the websites of municipalities, meaning that transparency in auction notices is only 10%.



Compared to publications made in 2014, we noticed in 2015 an increase of 48% of notices on the PPRC website, but on the other hand noticed reduced municipal transparency of 42%.

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



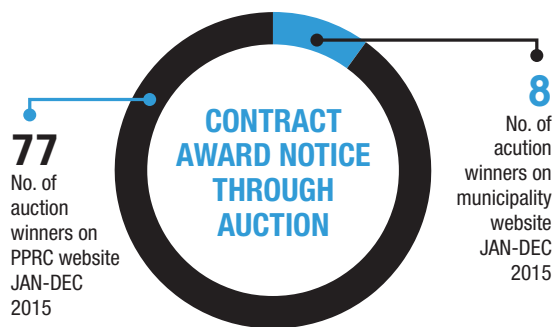
#	Municipality	No. of notices on the municipality website - January-December 2015	No. of notices on the PPRC website - January-December 2015	%
1	Novo Brdo/Novobërdë	5	6	83%
2	Istog/Istok	1	2	50%
3	Viti/Vitina	2	7	29%

CONTRACT AWARD NOTICES

Almost the same situation prevailed with the publication for contract award notices through auctions, where the level of municipal transparency is 11% compared to the publications on the PPRC website.

Compared to publications made in 2014, there was no remarkable variation regarding transparency on asset sales notices on the PPRC website in 2015, but on the other hand there is an increase of 50% regarding publications on the PPRC website.

The only three municipalities that have shown transparency in the process of publication of auction sales notice are as follows:



#	Municipality	No. of auction winners on the website of municipality - January-December 2015	No. of winners on the website of PPRC - January-December 2015	%
1	Viti/Vitina	2	2	100%
2	Novo Brdo/Novobërdë	2	3	67%
3	Istog/Istok	1	2	50%



CONCLUSIONS

GENERAL

A positive trend is noticed with regard to an increased transparency of public procurement documents published by municipalities. There is still a lack of a clear planning and consultation framework with citizens and publication of expenditures by municipalities in Kosovo.

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

Many municipalities did not meet the legal requirement of holding meetings with citizens thus denying them the right to be informed on projects and plans of the municipality in which they live and contribute as taxpayers.

Readily available information prepared by municipalities, 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 municipalities. Such information provides an easy way to enrich the content of websites of these municipalities without spending much time and other resources.

ACCESS TO PUBLIC DOCUMENTS

Although some municipalities have not disclosed the number of requests received for access to public documents in 2015, compared with 2014, there was a substantial increase in the number of requests submitted to the municipalities. The total number of requests received in 2014 by 34 municipalities was

492, while this figure rose to 699 in 2015, marking an increase of 30%.

In 2014, 34 municipalities received 116 requests for access to public documents in public procurement. The number of requests in 2015 was 169, which also marks an increase in number of requests for 31%.

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

BUDGET TRANSPARENCY

Although in some of the indicators Kosovo municipalities have shown an increase of transparency compared to 2014, in general, municipalities still exert a very low budget transparency. Most municipalities do not publish even basic documents such as budget document or expenditure report for the relevant year. Websites of the municipalities lack the very important documents for the performance of public procurement, such as procurement planning, or the report of the auditor general, or the internal audit report.

Budget planning with citizen participation (through mechanisms such as public hearings) will lead to a more efficient and balanced spending of public money by municipalities. At the same time, publication of budget document on the website would give citizens the opportunity to get acquainted with expenditure plan of the municipality. Finally, expenditure reports, in addition to supporting municipal accountability, may also serve municipalities in promoting their work and expand the electoral base.



In this pillar, the most transparent municipalities were Viti/Vitina, Suhareka/Suva Reka, Prishtina, Rahoveci/Orahovac, Kamenica, Drenasi/Glogovac, Vushtrri/Vucitrn and Shtime/Stimlje.

TRANSPARENCY IN PROCUREMENT

A large number of municipalities do not publish contract notices or contract award notices on their websites. There are 13 municipalities, the level of transparency of which is 0% in both indicators in question. Through these two documents, citizens, media and other stakeholders may see that when an institution announced a tender and who are the winners. Although it is legally required to publish notices on the PPRC website, many citizens find it easier to search information their municipality rather than in central institutions.

Compared to the level of transparency for 2014 concerning tender transparency pillar an overall increase

of 16% was recorded, respectively from the average level of transparency of 25.5% in 2014, to 41.5% for 2015. Although this research shows an increase in transparency in the tendering procedures and awarding contracts, the average remains below 50% away from full transparency that should be the goal of every accountable leadership. Most transparent municipalities in terms of transparency in procurement were Gjakova/Djakovica, Drenas/Glogovac, Kacanik, Prishtina, Istog/Istok and Gjilan/Gnjilane.

TRANSPARENCY OF AUCTIONS

Municipalities usually sell confiscated goods or equipment through auctions, which are not used by them. However, this category generally remains non-transparent in terms of publications and goodwill by municipalities to inform citizens of their activities. Most transparent municipalities in this pillar are those of Novo Brdo/Novobërdë, Viti/Vitina and Istog/Istok.



ANNEX 1.

THE LIST OF QUESTIONS SENT TO ALL MUNICIPALITIES

QUESTION 1: Sa është numri i përgjithshëm i kërkesave për qasje në dokumente publike në Komunën tuaj gjatë periudhës Janar – Dhjetor 2015?

QUESTION 2: Sa është numri i përgjithshëm i kërkesave të refuzuara për qasje në dokumente publike në Komunën tuaj gjatë periudhës Janar – Dhjetor 2015?

QUESTION 3: Sa është numri i kërkesave për qasje në dokumente publike në Komunën tuaj në fushën e prokurimit publik gjatë periudhës Janar – Dhjetor 2015?

QUESTION 4: Sa është numri i kërkesave të refuzuara për qasje në dokumente publike në Komunën tuaj në fushën e prokurimit publik gjatë periudhës Janar – Dhjetor 2014?

QUESTION 5: Sa është numri i dëgjimeve publike të organizuara nga Komuna e juaj në vitin 2015, gjatë procesit të hartimit të Buxhetit për vitin 2015?

QUESTION 6: A publikoni në ueb faqen e juaj të dhëna të tilla si: raport të auditorit, raport të shpenzimeve, njoftim për kontratë dhe njoftim për dhënie të kontratës?

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KDI is a non-governmental organisation (NGO) engaged in supporting development and democracy through inclusion of citizens in making public policies and strengthening civil society sector with the aim to influence in increasing transparency and accountability of public institutions.

For more information about KDI, please visit www.kdi-kosova.org

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