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MONITORING OF MUNICIPAL EXPENDITURES THROUGH PUBLIC PROCUREMENT

FOR THE MUNICIPALITIES OF PRIZREN, SUHAREKË/SUVA REKA, FERIZAJ/
UROŠEVAC, LIPJAN/LIPLJANE, PODUJEVË/PODUJEVO AND ISTOG/ISTOK

January 2021

TRANSPARENCY AND
ANTI-CORRUPTION

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This publication was produced by the Kosova Democratic Institute - Transparency International Kosovo and supported by USAID through the activity 'Transparent, Effective and Accountable Municipalities (USAID TEAM)'. The views and opinions expressed herein are those of the author and do not necessarily reflect the views of the US Agency for International Development (USAID) or the Government of the United States of America.

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LIST OF ACRONYMS:

CA	CONTRACTING AUTHORITY	EO	ECONOMIC OPERATOR
CPA	CENTRAL PROCUREMENT AGENCY	OECD	ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
GRB	GENDER RESPONSIVE BUDGET	NGO	NON-GOVERNMENTAL ORGANIZATION
TD	TENDER DOSSIER	CSOs	CIVIL SOCIETY ORGANIZATIONS
EV	EKOVIZIONI	PRB	PROCUREMENT REVIEW BODY
INTOSAI	INTERNATIONAL ORGANIZATION OF SUPREME AUDIT INSTITUTIONS)	AP	ACTION PLAN
ISDY	INSTITUTE FOR SUSTAINABILITY AND DEVELOPMENT OF YOUTH	ROGPP	RULES AND OPERATIONAL GUIDELINES FOR PUBLIC PROCUREMENT
ISO	INTERNATIONAL ORGANIZATION FOR STANDARDIZATION	SV	SYRI I VIZIONIT
ISSAI	INTERNATIONAL STANDARDS OF SUPREME AUDIT INSTITUTIONS	TI	TRANSPARENCY INTERNATIONAL
AC	AUDIT COMMITTEE	YAHR	YOUTH ASSOCIATION FOR HUMAN RIGHTS
MTBF	KMEDIUM-TERM BUDGET FRAMEWORK	NAO	NATIONAL AUDIT OFFICE
KDI	KOSOVA DEMOCRATIC INSTITUTE		
MA	MUNICIPAL ASSEMBLY		
PPRC	PUBLIC PROCUREMENT REGULATORY COMMISSION		
LMFPP	LAW ON PUBLIC FINANCIAL MANAGEMENT AND ACCOUNTABILITY		
LPP	THE LAW ON PUBLIC PROCUREMENT		
A/R	ACCOUNTS RECEIVABLE		
MoF	MINISTRY OF FINANCES		
IAU	INTERNAL AUDIT UNIT		
BO	BUDGET ORGANIZATION		





INTRODUCTION

Public administration in Kosovo continues to fail before its citizens, providing inferior services, favouring certain businesses and neglecting the quality of investments, all through the procurement processes. The infamous problem of corruption is well known in Kosovo, with its deep roots in every public institution. Although there has been continued commitment in recent years to improve public money expenditure procedures, and reports indicate an increase in the level of transparency at both local and central levels, citizens barely see any progress in their living standard.

For years in the row, great efforts have been made by both the Government and the international community to improve public expenditure processes, but monitoring reports of civil society and the media indicate that these efforts did not bring the expected improvements.

With the aim at analysing the causes of these systematic issues, and to see if these failures were as a result of malicious and corrupt intentions, or as a result of legal deficiencies and institutional negligence, KDI had developed a testing methodology which was applied in six municipalities, that of Ferizaj/Uroševac, Istog/Istok, Lipjan/Lipljane, Podujevë/Podujevo, Prizren and Suharekë/Suva Reka, and which for a period of 27 months (July 2018 - September 2020) had closely monitored the key processes in the design and implementation of municipal expenditures. This monitoring included first stages of identifying the needs of the citizens of these municipalities, their inclusion in municipal budgets, drafting and implementing procurement planning, procurement development processes and issues identified by the auditor and the extent of their implementation in practice, or what is contributing for not being implemented.

As an integral part of the implementation of this project, the Democratic Institute of Kosovo (KDI) established a consortium of four local level CSOs with the aim to implement all activities envisaged in the scope of work in six Kosovo municipalities. Four local CSO partners include: Syri i Vizionit, covering the municipality of Istog/Istok, Youth Association for Human Rights (YAHR), covering municipalities of Lipjan/Lipljane and Ferizaj/Uroševac, Ekovizioni, covering the municipality of Podujevë/Podujevo, and the Institute for Sustainability and Development of Youth (ISDY) covering municipalities of Prizren and Suharekë/Suva Reka.

This report presents findings of these researches and analysis both in practical terms, as well as in the legal weaknesses. It also gives concrete recommendations which require immediate attention by the Government of Kosovo.





KEY FINDINGS

- The six monitored municipalities had shown a continuous and unlimited willingness to cooperate during the period of their monitoring.
- The executives of the six municipalities are quite committed to complying with the legal requirements for deadlines regarding the development and approval of the draft budget and the Medium-term Budget Framework. However, the participation of citizens, especially of women, in public hearings continues to be extremely low. Moreover, the language used during these hearings is extremely technical, and there is a lack of constant communication between the municipality and the citizens, which has resulted in an increase of the latter's distrust towards the institutions.
- Monitoring of public hearings on budgeting has shown that compared to the available budget, municipalities are open enough to accept and address citizens' priorities. The research has shown that 26% of citizens' priorities have been included in the 2019 budget, and another 18% in the Medium-term Budget Framework 2019-2021. Also, the analysis has shown that even in 2020, 25% of citizens' priorities have been included in municipal budgets. However, the cost of these priorities remains a challenge, as research has shown that over 45% of them are related to investments in road infrastructure and construction of water supply and sewerage networks, which have a high investment cost.
- Analysis of procurement plans reveals discrepancies between budgeted and planned values.
- Discrepancy of planned values was also noticed between procurement planning and tenders published by municipalities. This discrepancy increases even more, to about 77% of the planned quantities versus the tendered ones. While from the analyzed sample, over 18% of the announced tenders were not in the final procurement planning of the municipalities at all.
- While the municipality of Ferizaj/Uroševac had taken into account the recommendations from the monitoring of procurement planning for 2019, and planned expenditures for anniversaries and holidays, the municipality of Istog/Istok in 2020 has not made such plans. Also, the recommendations for avoiding the division of the same requests were accepted by both the municipality of Ferizaj/ Uroševac and that of Lipjan/Lipljane.
- During the analysis of the selected tenders it was noticed that municipalities failed to ensure that companies aiming at public procurement were not convicted of criminal offenses as required by law. This is because municipalities had requested only evidence that the companies were not in the process of bankruptcy but not that they were under investigation or convicted of criminal offenses.
- Lack of standards in drafting criteria by category had resulted in tenders that were favorable criteria in the case of tender for supply of gravel in the municipality of Prizren, or endangering the quality of work in the case of the municipality of Podujevë/Podujevo, where no technical capacity or any mobilization plan was required.
- The lack of standards had resulted in problems in security service contracts as well. In the absence of proper instructions from the PPRC regarding tenders for services, respectively how to address in the tender dossier obligations under the Law on Labor, as well as administrative, logistical costs and profit, the Municipality of Ferizaj/ Uroševac had received a bid of € 224 for each worker to be paid in the amount of € 270 gross, without defining what this amount would cover, while the Municipality of Lipjan/ Lipljane had accepted a bid that covered only workers' salaries and did not meet any obligations under the Law on Labor, as well as associated costs (indirect) of the respective service.
- In the absence of market research, including legal provisions on reference prices, the Municipality of Istog/Istok had paid about 84% more expensive than the second cheapest price of the Municipality of Podujevë/Podujevo for the "Supply, transport and construction of buffer layer with crushed limestone 0-31.5 mm, t = 10cm" and about 67% more expensive for the "Supply, transport and construction of buffer layer with crushed limestone 0-60mm, t = 20cm".
- While the lack of market research in the municipality of Ferizaj/Uroševac caused that the price for some of the contracted works for paving roads in the village of Tërn to have much lower prices than in other municipalities. This resulted in poor road works. During the visit to the village of Tërn, it was noticed that some of the paved streets in



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2017 lacked embankments or were indistinguishable and the paved roads started to degrade.

- Social Audit in the municipality of Suharekë/Suva Reka raised concerns about the implementation of the contract for road maintenance, according to which, the contractor had to wash the roads at least once a week, respectively four times a month, which according to residents it did not happen. As the invoices are only in units versus the description of the requirements in the bills of quantities of price, and do not define the roads, it was impossible to analyze whether the municipality had paid for the road washing, and for which roads they were.
- According to the general conditions of the contracts “(Article 8.2), the Contractor must respect and act in accordance with all laws and regulations in force in the Republic of Kosovo, and will ensure that his staff, their relatives, and local workers also respect and act in accordance with these laws and regulations”. The research found that in none of the monitored contracts there no professional inspections conducted by the urban planning departments, labor inspectors or other experts in the respective fields. Moreover, given that there are 20,774 legal acts in the Official Gazette of the Republic of Kosovo, the research did not find any list of legal provisions that the contractor must adhere to according to the general terms of the contract.
- The analysis identified contradictions between the Law on Public Procurement and the secondary legislation in the same field, which had caused the municipalities not to respect the legal deadlines for appeals against municipal decisions.
- Legal contradictions were also identified in the Rules and Operational Guidelines for Public Procurement regarding duties and responsibilities of the respective departments in the contract management process, specifically with the responsibilities of the Procurement Department.
- The following analysis had found that although according to ROGPP, PPRC should also engage in ex-post monitoring, from annual reports and description of responsibilities of the Monitoring Department at this institution, the focus remains only on monitoring tendering procedures before signing the contract.
- The analysis of the current legislation found that there were no adequate mechanisms for quality assurance of public procurement. Current legislation did not envisage regulation of contract management and potential risks during the procurement process, including all phases,

which create space for poor quality of supplies and works and loss of public money.

- The analysis shows that current legislation does not regulate one of the main stages of procurement closure and release from obligations of the contracting parties.
- Due to budget shortfalls, five out of seven monitored work contracts did not adhere to the dynamic plans, as Contracting Authorities had postponed requests to commence the works until funds could be provided to pay the bills.
- Auditor reports continue to reveal issues that recur from year to year in the financial statements of municipalities. In 2018, 33 recurring cases were identified, while in 2019, this number not only did decrease, but it reached to 50 recurring cases.
- Common causes that are affecting the low implementation of the Auditor General's recommendations are: lack of complete property records, poor planning of own source revenues, updating of the Law on Local Self-Government and central level laws and agreements of central level (such as collective agreements), lack of centralized systems for the management of municipal documentation, delays in handling cases by the Procurement Review Body resulting in delays in the implementation of the budget for capital investments, lack of legal provisions to address in more detail abnormally low prices, which are affecting the implementation of public contracts, such as cost and market analysis, and not only on the basis of a confirmation from the Economic Operator that it can perform the contract with the bid prices frequent changes of management staff, lack of human capacity, lack of political will and lack of legal and institutional infrastructure to strengthen the implementation of the auditor's recommendations.
- The analysis also reveals concerns with the disproportionate allocation of human resources between municipalities. While in the municipality of Prizren a procurement officer has to conduct about 38 procurement activities, according to the final planning, in the municipality of Lipjan/Lipljane, this number drops to 11 of them. The excessive workload of procurement officers makes it impossible to engage properly in the development of activities, with a special emphasis on market research and administration of procedure. The research also found that in all cases, the contract manager was in charge for supervising the implementation of 3-5 active contracts of different categories, which makes it even more difficult to focus on the implementation of all contract terms and conditions.

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DURING THIS PERIOD, KDI AND IMPLEMENTING PARTNERS HAD DEVELOPED A SERIES OF ACTIVITIES AS FOLLOWS:

<p>ANALYSIS OF OVER 60 LAWS, REGULATIONS AND ADMINISTRATIVE GUIDELINES GOVERNING PUBLIC PROCUREMENT, PUBLIC FINANCIAL MANAGEMENT, MUNICIPAL FINANCIAL MANAGEMENT, LOCAL GOVERNMENT AND AUDITING;</p>	<p>ANALYSIS OF THE 6 BUDGETS FOR 2018</p>	<p>ANALYSIS OF 6 PROCUREMENT PLANS FOR 2020;</p>	<p>10 INTERVIEWS WITH ECONOMIC OPERATORS PERFORMING CONTRACTS;</p>
<p>OVER 40 INTERVIEWS AND MEETINGS WITH THE MUNICIPAL LEADERSHIP SUCH AS MAYORS AND DIRECTORS OF THE FINANCE DEPARTMENT, HEAD OF THE PROCUREMENT OFFICE, CONTRACT MANAGER;</p>	<p>ANALYSIS OF 6 MEDIUM-TERM BUDGET FRAMEWORK FOR 2019-2021;</p>	<p>ANALYSIS OF 220 DECISIONS OF THE PRB FOR THE SIX MUNICIPALITIES FOR THE PERIOD 2018-2019;</p>	<p>10 INTERVIEWS WITH CONTRACT MANAGER;</p>
<p>MONITORING OF 19 BUDGET HEARINGS IN SIX MUNICIPALITIES;</p>	<p>ANALYSIS OF 30 AUDITOR REPORTS FOR THE PERIOD 2015 - 2019 FOR SIX MUNICIPALITIES;</p>	<p>ANALIZA E 220 VENDIMEVE TË OSHP PËR GJASHTË KOMUNAT PËR PËRUDHËN 2018-2019;</p>	<p>CONSULTATIONS WITH CSOS, JOURNALISTS AND MEDIA ARTICLES;</p>
<p>MONITORING OF 46 PUBLIC PARTICIPATION SURVEYS;</p>	<p>ANALYSIS OF THE FIRST 60 TENDERS FOR SUPPLIES ANNOUNCED IN 2019 (FIRST 10 TENDERS FOR EACH MUNICIPALITY PART OF THE ANALYSIS)</p>	<p>ANALYSIS OF 12 TENDER DOSSIERS;</p>	<p>CONSULTATION OF OVER 10 REPORTS OF CIVIL SOCIETY AND OVERSIGHT INSTITUTIONS REGARDING THE PERFORMANCE OF MUNICIPALITIES IN THE DEVELOPMENT OF PUBLIC PROCUREMENT.</p>
<p>ANALYSIS OF PROCUREMENT PLANS FOR 2019 FOR SIX MUNICIPALITIES;</p>	<p>MONITORING OF 17 MEETINGS FOR DRAFTING PROCUREMENT PLANNING IN SIX MUNICIPALITIES;</p>	<p>ANALYSIS OF 12 EVALUATION REPORTS AND RELEVANT DOCUMENTS INCLUDING NOTICES OF DECISIONS OF CONTRACTING AUTHORITIES;</p>	<p>6 WORKING MEETINGS WITH REPRESENTATIVES OF MUNICIPALITIES TO ANALYZE THE SOURCE OF PROBLEMS RELATED TO THE IMPLEMENTATION OF THE AUDITOR'S RECOMMENDATIONS</p>
<p>ANALYSIS OF THE 6 APPROVED BUDGETS FOR 2020;</p>	<p>FOLLOW-UP OF 194 CONTRACT NOTICES ANNOUNCED BY MUNICIPALITIES IN THE PERIOD JANUARY - JUNE 2019;</p>	<p>ANALYSIS OF 68 BIDS IN RESPONSE TO 12 CONTRACT NOTICES</p>	<p>10 INFORMATION MEETINGS AND</p>
<p>ANALYSIS OF THE 6 APPROVED BUDGETS FOR 2019;</p>		<p>6 MEETINGS WITH PROCUREMENT OFFICERS IN SIX MUNICIPALITIES;</p>	<p>10 SOCIAL AUDITS WITH RESIDENTS/BENEFICIARIES OF WORKS AND SERVICES FROM 10 MONITORED CONTRACTS.</p>



To analyze the budget process, KDI and implementing partners have monitored the legal compliance of this process. Legal requirements related to budget planning are explained in detail in the Budget Circular issued by the MoF, which provides instructions on how to prepare the Medium-term Budget Framework and deadlines for each activity. KDI has also analyzed public participation, analyzing all meetings organized by municipalities with citizens. From these meetings KDI has obtained priorities of the citizens, to further compare how they are being planned by the Municipalities. In addition, KDI has analyzed Gender Responsive Budgeting and Municipal Investment Participation.

With the aim at analyzing procurement planning process, compared to the needs of Municipalities and approved budgets for 2019, KDI had analyzed first 10 tenders for supplies, announced by the municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljane, Podujevë/Podujevo and Istog/Istok in 2019. KDI also looked at whether municipalities have complied with the legislation applicable to this process, and measured the transparency of the publication of these plans.

To analyze the tendering phase, KDI and implementing partners, through a series of consultations with the media, civil society, complaints to the PRB, and for the purpose of comparison among themselves, had selected 12 tenders announced by the municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljan, Podujevë/Podujevo and Istog/Istok between January - June 2019.

In order to analyze the contract management phase, KDI had continued to analyze the pre-selected tenders, which had end-up with the award of contracts. In addition to analyzing the documents, KDI with the implementing partners organized 10 social audits in the field, to prove the completion of works and their quality in municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljane, Podujevë/Podujevo and Istog/Istok.

While, in order to analyze the institutional performance in municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljane, Podujevë/Podujevo and Istog/Istok, KDI and implementing partners analyzed the qualitative and quantitative data, outlined in the audit reports of the financial statements of the National Audit Office for 2017 and 2018. In addition, to analyze the root causes in implementing auditor's recommendations, KDI in cooperation with municipalities, applied the methodology of 5 Why's, and analyzed the legal framework regarding individual and institutional accountability in terms of non-compliance with these recommendations.

In addition, as this project focuses on two main activities (training of local CSOs and oversight of municipalities in budget planning) KDI undertook several actions towards capacity development of local civil society organizations, in order to strengthen the local supervision of municipalities. In order to achieve this, KDI provided in-depth training to consortium members on public procurement, budgeting and auditing of public institutions, as well as ongoing training throughout the monitoring process. In addition, in order to more accurately reflect the field monitoring, and provide comparative information, KDI had developed special forms for monitoring budget hearings and procurement planning, while modelling structures for reporting auditor analysis reports, municipal budget development process, procurement planning process, tendering process, and contract management process.





PROCESS ANALYSIS



PROPER BUDGETING FOR PROCUREMENT AT THE SERVICE OF CITIZENS

The process of drafting institutional budgets is regulated by the Law on Public Financial Management and Accountability⁴. In order to simplify this process, the Ministry of Finance annually publishes the Budget Circular, which summarizes the legal obligations during the drafting of the budget for the following year and the medium-term budgetary framework for the next three years. In addition to the activities provided by law, this circular also presents the legal deadlines for their implementation. The Budget Circular⁵ provides for nine mandatory phases during the budget drafting process, beginning with the issuance of the Circular, public participation, and deadlines for approval by the executive, the Municipal Assembly, and the Assembly of Kosovo⁶.

1. OBSERVING THE LEGAL DEADLINES

Analysis of budget drafting processes in the six selected municipalities has shown that there is compliance in terms of deadlines for approving budgets (for 2019 and 2020) and medium-term expenditure frameworks (for 2019 – 2021 and 2020 – 2022). However there is a lack of clear understanding of public participation obligations. Public participation is envisaged as a key activity during the drafting of these plans, in order for the public expenditures to be as close as possible to the needs of citizens. This participation of citizens is foreseen at two levels, the executive and the municipal assemblies. This involvement of citizens is achieved through the organization of public hearings, from both levels, before the approval of the budget plan and the MTBF. While all executives had organized public hearings with citizens in three of the six monitored municipalities, the municipal assemblies had not done so.

DESCRIPTION	PRIZREN	SUHAREKË/ SUVA REKA	FERIZAJ/ UROŠEVAC	LIPJAN/LIP- LJANE	PODUJEVË/ PODUJEVO	ISTOG/ ISTOK
Public hearings organized by the Executive						
Public hearings organized by the Municipal Assembly						

TABLE 1 – Legal compliance for citizen involvement in the budget drafting process

⁴ Law no. 03/L-048 on Public Financial Management and Accountability

⁵ Ministry of Finance - Reports and Publications - Budget Circulars; available at: <https://mf.rks-gov.net/page.aspx?id=1.31>

⁶ Municipal budget development process in Kosovo 2019, p. 13; KDI, 2020; available at: <http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf>





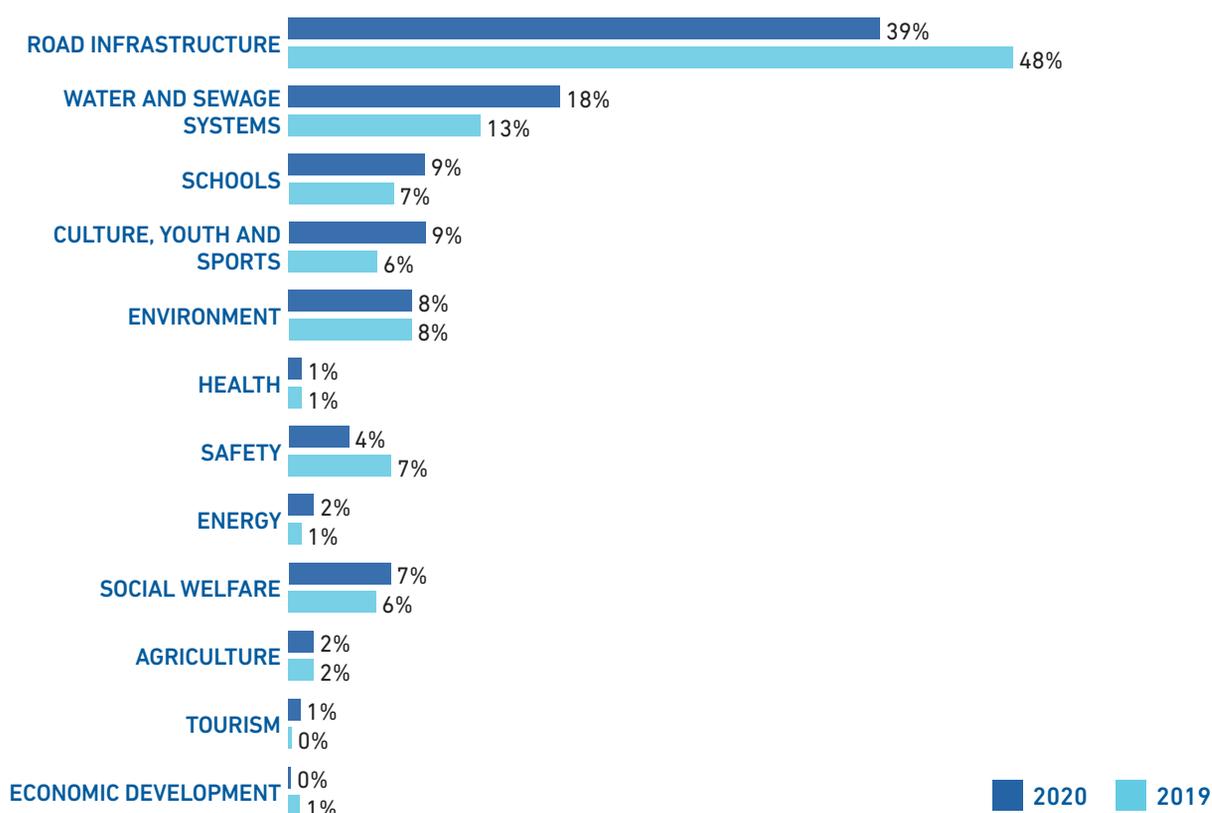
2. PARTICIPATION OF CITIZENS IN THE PROCESS OF MUNICIPAL BUDGET DRAFTING

Furthermore, legal requirement is to hold public hearing by both levels of government. The analysis shows that in all six municipalities, this requirement was exceeded by the municipal executive. These municipalities in total organized 46 public hearings in 2018⁷, however, public participation in this process was extremely low. Only 0.26% of citizens of these

municipalities participated in the public budget hearings, while of these participants, only 5.39% were women⁸.

In order to analyse the participatory trends and those of the inclusion of citizens' priorities in the respective budgets, 31 public hearings organized by the municipalities during 2019 for the 2020 budget were also monitored⁹. Public participation during 2019 was low, with only 0.25% of the citizens of these municipalities. While from the public hearings for the 2020 budget, 390 priorities of the citizens had emerged.

By the nature of priorities, they were approximate between the two years 2018-2019, where the main priority continues to be investment in road infrastructure.



GRAFI 1 - Citizens' priorities by percentage

⁷ [Municipal budget development process in Kosovo 2019, p. 15; KDI, 2020; available at: http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf](http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf)

⁸ [Municipal budget development process in Kosovo 2019, p. 16; KDI, 2020; available at: http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf](http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf)

⁹ [Priorities of the citizens of the municipalities of Prizren, Suharekë/Suva Reka, Ferizaj, Lipjan/Lipljane, Podujevë/Podujevo and Istog for 2020, KDI 2020; available at: http://kdi-kosova.org/publikimet/](http://kdi-kosova.org/publikimet/)





Nevertheless, low participation of citizens in public hearings may not correspond to the real needs of citizens in general. Also, low participation indicates that citizens do not have ownership over decision-making in municipal budget planning and spending.

Also the inclusion of citizens' priorities in the respective budgets remained similar with 26% in 2019, and 25% in the 2020 budget¹⁰.

Municipalities that continue to have the highest inclusion of priorities in the respective budgets are those of Prizren (85% in 2019, and 52% in 2020), Suhareka/Suva Reka (67% in 2019, and 44% in 2020) and Istog/Istok (43% in 2019, and 62% in 2020). However, these municipalities also had the lowest number of priorities arising from public hearings.

DESCRIPTION	PRIZREN	SUHAREKË/ SUVA REKA	FERIZAJ/ UROŠEVAC	LIPJAN/ LIP- LJANE	PODUJEVË/ PODUJEVO	ISTOG/ IS- TOK
2019	44	16	145	66	85	34
2018	26	15	16	83	75	23

TABLE 2 – Number of citizens priorities

A close percentage was also in the inclusion of citizens' priorities in the Medium-term Budget Framework.

DESCRIPTION	PRIZREN	SUHAREKË/ SUVA REKA	FERIZAJ/ UROŠEVAC	LIPJAN/ LIP- LJANE	PODUJEVË/ PODUJEVO	ISTOG/ ISTOK	INCLUSION AVERAGE
2019 - 2021	52%	44%	14.5%	11%	20%	62%	34%
2018 - 2020	85%	67%	9%	11%	9%	43%	37%

TABLE 3 – Inclusion of citizens' priorities in percentage in the Medium-term Budget Framework

The analysis had revealed the following three problems related to the inclusion of priorities in the Medium-term Budget Framework (1) Priorities related to high cost investments, (2) Increasing the number of priorities in municipalities of Ferizaj/Uroševac and Podujevë/Podujevo, as well as liabilities inherited from contracts of previous years, with an emphasis on the municipalities of Prizren and Ferizaj/Uroševac.

In addition, the focus of this analysis was low participation of citizens in public hearings. Although the municipalities had announced budget hearings on municipal announcement boards,

through local radio and TV broadcasters, and social media, the methods they used failed to announce, mobilize, and ensure participation in this crucial process for the benefit of the citizens themselves. During the analysis it was noticed that announcements published by the municipalities contained a very official/financial language, and was not attractive or explanatory for the citizens. Moreover, the analysis reveals the lack of trust of citizens in the governing leadership, as well as inadequate planning regarding the schedules of holding public hearings. The analysis shows that in all municipalities there is a lack of proper communication between the government and citizens,

¹⁰ Ibid



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where the municipalities in no case had published information about the priorities of citizens included in the budget and the reasons for not including other priorities¹¹.

through public procurement were in line with the priorities of citizens, KDI had selected 12 tenders for monitoring, which were analysed at different stages of development. The following tables illustrate the budget allocations for these tenders, according to the Law on Budget for 2019¹².

To analyse in more detail whether municipal expenditures

PRIZREN						
#	Description	Procurement No.	2019	2020	2021	KAB 2019-2021
1	Supply of gravel for unpaved roads	622-19-1256-1-1-1	250,000.00	200,000.00	200,000.00	650,000.00
2	Asphalting of Pac-Qafe Gjonaj-Babaj Bokes road	622-18-8161-5-2-1	80,000.00	-	-	80,000.00
TOTAL			330,000.00	200,000.00	200,000.00	730,000.00

TABLE 4 – Budget allocated for monitored tenders in the municipality of Prizren, and projections of the Medium-term Budget Framework 2019 -2021

While the tender for supply of gravel for unpaved roads was part of the annual planning by the Directorate of Urbanism and Spatial Planning, the request for asphalting the road Pac-Qafe Gjonaj-Babaj Bokes did not stem from the public hearing held in the same village, Gjonaj. The residents of

this village had asked the municipality to pave the roads and alleys within the village and solve the school problem¹³.

SUHAREKA/SUVA REKA						
#	Description	Procurement No.	2019	2020	2021	KAB 2019-2021
1	Construction of local roads in the village of Bllace	624-19-802-5-2-1	73,000.00	80,000.00	90,000.00	243,000.00
2	Maintenance and cleaning of the city in the Municipality of Suharekë/Suva Reka	624-19-240-2-1-1	145,000.00	150,000.00	150,000.00	445,000.00
TOTAL			73,000.00	80,000.00	90,000.00	243,000.00

TABLE 5 – Budget allocated for monitored tenders in the municipality of Suharekë/Suva Reka, and projections of the Medium-term Budget Framework 2019 -2021

¹¹ [Municipal budget development process in Kosovo 2019, KDI 2020; available at: http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf](http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raporti-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf)

¹² [LAW NO. 06 / L -133 ON BUDGET ALLOCATIONS FOR THE BUDGET OF THE REPUBLIC OF KOSOVO FOR 2019; available at: https://mf.rks-gov.net/desk/inc/media/4CEFBA4C-4397-4901-AB93-2AA37F43A9F7.pdf](https://mf.rks-gov.net/desk/inc/media/4CEFBA4C-4397-4901-AB93-2AA37F43A9F7.pdf)

¹³ [Priorities of the Citizens of Prizren 2019, KDI - ISDY; http://kdi-kosova.org/wp-content/uploads/2019/12/Prioritetet-e-qytetar%C3%ABve-t%C3%AB-Prizrenit.pdf](http://kdi-kosova.org/wp-content/uploads/2019/12/Prioritetet-e-qytetar%C3%ABve-t%C3%AB-Prizrenit.pdf)

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LIPJAN/LIPLJAN						
#	Description	Nr. I prokurimit	2019	2020	2021	KAB 2019-2021
1	Asphalting of the road Gadime e Epërme - Gllavicë in the Municipality of Lipjan/Lipljane	613-19-1259-5-2-1	59,000.00	-	-	59,000.00
2	Physical security of the municipal institutions buildings, administration buildings, Centre for Social Work, city archive, house of culture and house of communities in the Municipality of Lipjan/Lipljane	613-18-9147-2-1-1	-	-	-	-
TOTAL			59,000.00	-	-	59,000.00

TABLE 7 – Budget allocated for monitored tenders in the municipality of Lipjan/Lipljane, and projections of the Medium-term Budget Framework 2019 -2021

Also in the municipality of Lipjan/Lipljane the physical security services of municipal buildings were included in the budget for goods and services, as it is a continuous service under the administrative plan of the municipality, whereas

the project for asphalting of the road Gadime e Epërme – Gllavicë, was a request of the citizens of this municipality during the public hearing held in the same village²².

PODUJEVË/PODUJEVO						
#	Description	Nr. I prokurimit	2019	2020	2021	KAB 2019-2021
1	Asphalting of some roads in the village of Shajkofc	615-19-611-5-2-1	-	85,000.00	85,000.00	170,000.00
2	Asphalting of some roads in the village of Batllava		60,000.00	50,000.00	100,000.00	210,000.00
3	Construction of greenhouses for farmers in the Municipality of Podujevë/Podujevo	615-19-942-5-2-1	-	-	-	-
TOTAL			60,000.00	135,000.00	185,000.00	380,000.00

TABLE 8 – Budget allocated for monitored tenders in the municipality of Podujevë/Podujevo, and projections of the Medium-term Budget Framework 2019 -2021

²² [Priorities of citizens of Lipjan/Lipljan 2019, KDI - YAHR; available at: http://kdi-kosova.org/wp-content/uploads/2019/12/Prioritetet-e-qytetar%C3%ABve-t%C3%AB-Lipjanit.pdf](http://kdi-kosova.org/wp-content/uploads/2019/12/Prioritetet-e-qytetar%C3%ABve-t%C3%AB-Lipjanit.pdf)

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The asphaltting of streets in Shajkofc emerged as a request of the citizens during the public hearing held in Luzhan²³, but the asphaltting of the streets in Batllava was not part of these demands. Furthermore, in the 2019 budget, the municipality did not allocate a budget for the asphaltting of streets in Shajkofc, but only in Batllava, while it had foreseen that the

works in Batllava would continue in 2020 and 2021, when it was planned to invest in the village Shajkovc. Although the investments in greenhouses were part of the plan of the Department of Agriculture of this municipality, the municipality did not allocate a budget for their construction in 2019.

ISTOG/ISTOK						
#	Description	Procurement No.	2019	2020	2021	KAB 2019-2021
1	Construction of the road "Hul Huli" Istog/Istok i Poshtem	633-19-2063-5-2-1	40,000.00	-	-	40,000.00
2	Maintenance of local roads of the IV order in the Municipality of Istog/Istok	633-19-451-1-2-1	15,000.00	25,000.00	35,000.00	75,000.00
TOTAL			55,000.00	25,000.00	35,000.00	115,000.00

TABLE 9 – Budget allocated for monitored tenders in the municipality of Istog/Istok, and projections of the Medium-term Budget Framework 2019 -2021

Investments in the construction of Hul-Huli road was a request of the citizens of Istog/Istok during the budget hearing held at the Municipal Assembly of Prizren²⁴, while the maintenance of unpaved roads in Istog/Istok was part of the work plan of the Department of Urbanism. Both these

requests were part of the 2019 budget of the municipality of Istog/Istok²⁵.

THE ANALYSIS SHOWS THAT IN ALL SIX MUNICIPALITIES,

this requirement was exceeded by the municipal executive. These municipalities in total organized 46 public hearings in 2018, however, public participation in this process was extremely low. Only 0.26% of citizens of these municipalities participated in the public budget hearings, while of these participants, only 5.39% were women.

23 13 June 2019

24 [Priorities of citizens of Istog 2019, KDI – Syri i Vizionit](http://kdi-kosova.org/wp-content/uploads/2019/12/Prioritetet-e-gytetar%C3%ABve-t%C3%AB-Istog.pdf); available at: <http://kdi-kosova.org/wp-content/uploads/2019/12/Prioritetet-e-gytetar%C3%ABve-t%C3%AB-Istog.pdf>

25 [Law no. 06/l -133 on budget allocations for the budget of the Republic of Kosovo for 2019](https://mf.rks-gov.net/desk/inc/media/4CEF-BA4C-4397-4901-AB93-2AA37F43A9F7.pdf); available at: <https://mf.rks-gov.net/desk/inc/media/4CEF-BA4C-4397-4901-AB93-2AA37F43A9F7.pdf>

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3. GENDER RESPONSIVE BUDGETING

The analysis raises concerns about the requirements of the 2019/01 Budget Circular on Gender Responsive Budgeting. In 2018, the municipalities of Prizren, Ferizaj/Uroševac and Podujevë/Podujevo did not prepare the GRB section in advance, which happened only after civil society raised concerns during the monitoring²⁶. The analysis of this part of the municipal budget for 2018 had found that the average number of women employees in these municipalities was 45%, however, this percentage varies at the senior leadership level. Municipalities with the largest number of women employed in senior (leadership) positions were municipalities of Podujevë/Podujevo (29%), followed by municipalities of Lipjan/Lipljane (28%) and Ferizaj/Uroševac (27%), while municipalities with the lowest percentage of women employed in senior (leadership) positions was Suharekë/Suva Reka with only 1 person, or 5% of employed²⁷, which is in contradiction with the purpose of the Law on Gender Equality, which “guarantees, protects and promotes gender equality as a fundamental value to the democratic development of society”²⁸.

4. MUNICIPAL MEDIUM-TERM PLANS

The analysis of the ongoing municipal budget drafting process shows that municipalities had planned approximately 3.5% growth during 2019-2021. The main focus, in line with the priorities of the citizens, was on capital investments where all municipalities have projected an increase of approximately 8.5% during the years 2020-2021. In line with Kosovo's development policies²⁹, municipalities of Lipjan/Lipljane and Suharekë/Suva Reka had foreseen a 20% increase in subsidies for 2020, while the municipality of Istog/Istok is the only one that had foreseen a 16% increase in municipal expenditures for 2021.

5. 5. BUDGET TRANSPARENCY IN MUNICIPALITIES

Finally, the analysis of the budgeting process in municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljane, Podujevë/Podujevo and Istog/Istok found that the budget and medium-term budget framework, as approved documents, are accessible on the websites of the municipalities, however, in the absence of technical instructions for the uploads to the websites, these documents can be found in various locations as in the finance module or in the decisions of municipal assemblies. The lack of such a guideline has also affected the non-standardization of document titles and publication formats, where the document can be found in converted PDF Adobe Acrobat, scanned PDF, or as MS Document in Word.

26 [Municipal budget development process in Kosovo 2019, p. 23; KDI, 2020; available at: http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raport-i-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf](http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raport-i-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf)

27 [Municipal budget development process in Kosovo 2019, p. 60-61; KDI, 2020; available at: http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raport-i-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf](http://kdi-kosova.org/wp-content/uploads/2020/02/93-Raport-i-Municipal-Budget-Development-Process-in-Kosovo-ALB-01.pdf)

28 Law No.05 / L-020 (2015) on Gender Equality, Article 1

29 Strategy for Local Economic Development 2019-2023



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2. VALUE OF PLANNED PROCUREMENT

In addition, the coalition has analyzed the value of planned

procurements for six municipalities, for the period 2018 - 2020. Municipality with the largest number of planned procurements for the period 2018-2020 was that of Prizren, both in terms of number and the value of procurements.

YEAR	PRIZREN €	SUHAREKË/ SUVA REKA €	FERIZAJ/ UROŠEVAC €	LIPJAN/LIP- LJANE €	PODUJEVË/ PODUJEVO €	ISTOG/ ISTOK €
2018	17,385,671.00	5,766,766.00	3,974,854.47	2,962,039.52	6,841,377.96	3,194,807.00
2019	13,599,968.00	5,261,315.00	5,090,080.00	3,509,824.00	6,111,307.00	3,214,230.00
2020	13,622,200.00	5,586,911.00	16,897,233.00	5,841,017.42	6,482,589.00	2,439,500.00
Planned procurements 2018-2020	44,607,839.00	16,614,992.00	25,962,167.47	12,312,880.94	19,435,273.96	8,848,537.00

TABLE 11 – Estimated procurement values for the period 2018 - 2020

The analysis of procurement planning reveals a good phenomenon in the municipality of Ferizaj/Uroševac, which in 2018 had inherited over € 40 million of debt from the previous government. The analysis of procurement planning found that the leadership of this municipality harmonized the procurement planning for 2019 by planning only 16% of the investment budget, in order to mitigate the liabilities inherited from previous years, which constitute 18% of the budget for this category. The municipality of Prizren also had problems with debts inherited from the previous government. However, the new leadership did not stop the rush of investments, risking the fulfilment of obligations through legal procedures and method of execution.

The implementation of procurement planning according to the deadlines provided in this plan for two consecutive years was influenced by delays in the approval of the law on budget allocations (2019 and 2020). These delays in approving the Law on Budget had caused delays in initiating planned procurement procedures by the six monitored municipalities.

In order to analyze the fulfilment of procurement plans, the coalition selected a sample of the first ten tenders announced by municipalities for supplies during 2019.

This analysis showed that there was a discrepancy between planned and tendered values from the six monitored municipalities³⁷

37 [Municipal procurement planning development process in Kosovo 2019](http://kdi-kosova.org/wp-content/uploads/2020/02/02-Procesi-i-zhvillimit-t%C3%AB-planifikimit-t%C3%AB-prokurimit-komunal-n%C3%AB-Kosov%C3%AB-ALB-04.pdf), p. 18 - 24, KDI 2019; available at: <http://kdi-kosova.org/wp-content/uploads/2020/02/02-Procesi-i-zhvillimit-t%C3%AB-planifikimit-t%C3%AB-prokurimit-komunal-n%C3%AB-Kosov%C3%AB-ALB-04.pdf>

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YEAR	PRIZREN €	SUHAREKË/ SUVA REKA €	FERIZAJ/ UROŠEVAC €	LIPJAN/LIP- LJANE €	PODUJEVË/ PODUJEVO €	ISTOG/ ISTOK €
Value by procurement planning	488,733.00	513,000.00	423,381.00	285,000.00	253,300.00	502,730.00
Value by announced tenders	2,173,533.00	459,450.00	430,832.00	339,893.00	328,500.00	462,730.00
Difference in %	344.72%	-10.43%	1.76%	19.26%	29.69%	-7.96%

TABLE 12 – Illustration of the total values of the first 10 tenders for supplies announced by municipalities in 2019 compared to the values planned for the same year

We notice the biggest difference in the municipality of Prizren. This difference is attributed to the tender for supply of gravel, where according to the procurement planning, the municipality had planned to spend € 250 thousand, while it had announced a tender for supply in the amount of € 1.5 million. While in the municipality of Podujevë/Podujevo the difference of close to 30% was caused by the announcement of the tender for the purchase of honeybees for beekeepers, a procurement that was not part of the final planning.

During the analysis of these first ten tenders for supplies, announced by each of the monitored municipalities (60 tenders in total), it was also noticed that about 77% of the tendered values and quantities do not match with those planned. Also, about 18% of tenders were not in the final planning of municipalities

During the analysis of the procurement plans for 2019, it was noticed that municipalities of Ferizaj/Uroševac and Istog/Istok had not made procurement plans for anniversaries during 2019. Municipality of Ferizaj/Uroševac had not made any plans for the celebration of the end of the year holidays. As in the case of Ferizaj/Uroševac and Lipjan/Lipljane, divisions of requirements of the same nature were noticed.

In the procurement planning for 2020, the municipality of Ferizaj/Uroševac included the planning of anniversaries and holidays and no division of requirements was identified. But, this was not the situation with the municipality of Istog/Istok, which even in 2020 had not planned to mark anniversaries and holidays. Improvement was also noticed in the municipality of Lipjan/Lipljane, as no similar requirements were identified.

Given the fact that part of this analysis were 12 tenders announced by the municipalities during 2019, the coalition

had also analyzed the compliance of these procurements against the procurement plans and approved municipal budgets. The following table illustrates the comparison between planning and budgeting for the 12 tenders:

The analysis of this process has shown that the six municipalities, part of this research of planning for the years 2019, stood quite well in meeting the legal deadlines¹ for approval and publication of reports.

¹ Rules and Operational Guideline for Public Procurement, Article 5.7 "Within 15 days after the announcement of the approval of the budget for the fiscal year, each CA, which is a public authority or public enterprise, will prepare, will publish on the website of the respective Contracting Authority and will submit the same to the Central Procurement Agency, hereinafter "CPA" Final Procurement Planning. CAs use the electronic platform to submit the final procurement planning to the CPA, which is automatically published on the electronic platform in the menu of Notices - Procurement Plans"

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#	Municipality	Description	Procurement No.	Budget 2019	Procurement planning 2019
1	Prizren	Supply of gravel for unpaved roads	622-19-1256-1-1-1	250,000.00	250,000.00
2	Prizren	Asphalting of Pac-Qafe Gjonaj-Babaj Bokes road	622-18-8161-5-2-1	80,000.00	-
3	Suharekë/ Suva Reka	Construction of local roads in the village of Bllace	624-19-802-5-2-1	73,000.00	73,000.00
4	Suharekë/ Suva Reka	Maintenance and cleaning of the city in the Municipality of Suharekë/Suva Reka	624-19-240-2-1-1	145,000.00	145,000.00
5	Ferizaj/ Uroševac	Asphalting of streets in Bablak and the remaining streets in the villages of Tern and Prelez	656-19-4884-5-2-5	70,000.00	20,000.00
6	Ferizaj/ Uroševac	Physical security of the Municipality building and other buildings operating within the Municipality of Ferizaj/Uroševac	656-18-6854-2-1-1	Përfshirë në buxhetin për mallra dhe shërbime	-
7	Lipjan/Lipljane	Asphalting of the road Gadime e Epërme - Gllavicë in the Municipality of Lipjan/Lipljane	613-19-1259-5-2-1	59,000.00	59,000.00
8	Lipjan/Lipljane	Physical security of the municipal institutions buildings, administration buildings, Centre for Social Work, city archive, house of culture and house of communities in the Municipality of Lipjan/Lipljane	613-18-9147-2-1-1	Included in the budget for goods and services	-
9	Istog/Istok	Construction of the road "Hul Huli" Istog/Istok i Poshtem	633-19-2063-5-2-1	40,000.00	40,000.00
10	Istog/Istok	Maintenance of local roads of the IV order in the Municipality of Istog/Istok	633-19-451-1-2-1	15,000.00	45,000.00
11	Podujevë/ Podujevo	Asphalting of some roads in the village of Shajkofc	615-19-611-5-2-1	-	60,000.00
	Podujevë/ Podujevo	Asphalting of some roads in the village of Batllava		60,000.00	60,000.00
12	Podujevë/ Podujevo	Construction of greenhouses for farmers in the Municipality of Podujevë/Podujevo	615-19-942-5-2-1	-	136,350.00

TABLE 13 – Illustration of the comparison of planned values of 12 tenders monitored during 2019 against the Law on Budget Allocations in the Republic of Kosovo for 2019

From the table above we notice that municipalities of Lipjan/Lipljane and Ferizaj/Uroševac in their procurement planning did not include the security services of municipal buildings, and the municipality of Prizren did not include in the procurement planning the project for asphaltting the road Pac-Qafe Gjonaj-Babaj Bokes. Following, the table indicate that the municipality of Podujevë/Podujevo had announced two tenders which were not part of the Law on Budget for 2019. While the asphaltting of roads in the village Shajkofc was foreseen in MTBF 2019-2021, and funds were planned for 2020-2021, the project for construction of greenhouses for farmers in the municipality of Podujevë/Podujevo was not part of the approved budget or Medium-term Budget Framework.

3. INSTITUTIONAL CAPACITIES FOR A PROPER PLANNING

In general, during the monitoring it was noticed a good cooperation between municipal departments, where the procurement offices worked with the respective directorates during the drafting of the procurement planning, except in the municipality of Prizren, where such cooperation was not proven.

The analyses indicate concerns with the disproportionate allocation of human resources between municipalities. While in the municipality of Prizren a procurement officer has to conduct about 38 procurement activities according to the final planning, in the municipality of Lipjan/Lipljane, this number drops to 11 of them. The overload of procurement officers makes it impossible to properly engage in conducting the activities, with a special emphasis on market research and administration of procedures. The average activity per procurement officer is 25 activities per year, which is above the world average of 14 - 19 activities per officer³⁸.

A shortcoming was noticed in all monitored municipalities, respectively procurement offices, in which case none of them had made a risk analysis, and a plan for their management.

The analyses indicate concerns with the disproportionate allocation of human resources between municipalities. While in the municipality of Prizren a procurement officer has to conduct about 38 procurement activities according to the final planning, in the municipality of Lipjan/Lipljane, this number drops to 11 of them.

38 [Municipal procurement planning development process in Kosovo 2019](http://kdi-kosova.org/wp-content/uploads/2020/02/02-Procesi-i-zhvillimit-t%C3%AB-planifikimit-t%C3%AB-prokurimit-komunal-n%C3%AB-Kosov%C3%AB-ALB-04.pdf), p. 26 - 28, KDI 2019; available at: <http://kdi-kosova.org/wp-content/uploads/2020/02/02-Procesi-i-zhvillimit-t%C3%AB-planifikimit-t%C3%AB-prokurimit-komunal-n%C3%AB-Kosov%C3%AB-ALB-04.pdf>



OPEN AND FAIR TENDERING

1. IMPLEMENTATION OF LEGISLATION

With the aim at analyzing the tendering process in municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljan, Podujevë/Podujevo and Istog/Istok, the coalition selected two tenders announced by each of the above municipalities. The analysis found that while municipalities are willing to adhere to the rules and guidelines issued by the Public Procurement Regulatory Commission, these rules, although amended with good intentions, are in conflict with the law on Public Procurement. In order to expedite the procedures for signing the contract and to avoid multiple publication of the Contract Award Notice in case of complaints, the PPRC had amended the secondary legislation so that the deadline for appeals starts from the date of publication of the decision of the contracting authority. However, this is contrary to Article 108/A, which defines that this deadline shall start from the date of publication of the Contract Award Notice. As a result, municipalities complied with the PPRC guidelines violating the provisions set out in the Law on Public Procurement³⁹.

Furthermore, the analysis found that the Rules and Operational Guidelines of Public Procurement do not provide sufficient guidance in terms of meeting Article 65 of the PPL, according to which bidders had to submit two certificates, which are issued by two different courts, and deal with two different situations as well. In the absence of these guidelines⁴⁰, companies had provided only evidence on bankruptcy claims⁴¹, not evidence that the economic operator, any of its executives, managers or directors during the past ten years had been found guilty by a competent court of committing a civil or criminal offense, including practices of corruption, money laundering, bribery, advantages or similar activities. This practice has proven to be harmful, where civil society in cooperation with the media found that a municipality had awarded a contract to the economic operator convicted by the competent court in the indictment filed by the municipality itself⁴².

The analysis found that while municipalities are willing to adhere to the rules and guidelines issued by the Public Procurement Regulatory Commission, these rules, although amended with good intentions, are in conflict with the law on Public Procurement.

39 Procurement monitoring report for the municipalities of Prizren, Suhareka/Suva Reka, Ferizaj, Lipjan/Lipljan, Podujeva/Podujevo and Istog, p 8, KDI 2020; available at: <http://kdi-kosova.org/wp-content/uploads/2020/08/Raporti-i-monitorimit-te-prokurimit-ALB-FINAL.pdf>

40 Article 65. Admissibility of Candidates or Bidders, Paragraph 3 evidence not convicted of criminal offenses (Responsibility of the Basic Court, Department for Serious Crimes), and Paragraph 4 for bankruptcy (Basic Court in Prishtina, Department of Economic Affairs).

41 Issued by the Basic Court in Prishtina, Economic Department

42 Illegal tender of the municipality of Obiliq, July 2019; available at: <http://preportr.cohu.org/sq/hulumtime/Tenderi-i-kunderligjshem-i-Komunes-se-Obiliqit-289>



2. COMPLIANCE WITH PROCUREMENT PLANNING

In order to see whether municipalities adhere to procurement planning, this research also analyzed projected tender values in addition to values from final planning.

#	Municipality	Description	No. of procurement	Budget 2019	Projected value 2019	Projected value in tendering
1	Prizren	Supply of gravel for unpaved roads	622-19-1256-1-1-1	250,000.00	250,000.00	1,500,000.00
2	Prizren	Paving the road Pac-Qafe Gjonaj-Babaj Bokes	622-18-8161-5-2-1	80,000.00	-	250,000.00
3	Suharekë/ Suva Reka	Construction of local roads in the village of Bllace	624-19-802-5-2-1	73,000.00	73,000.00	73,000.00
4	Suharekë/ Suva Reka	Maintenance and cleaning of the city in the Municipality of Suharekë/Suva Reka	624-19-240-2-1-1	145,000.00	145,000.00	145,000.00
5	Ferizaj/ Uroševac	Paving of streets in Bablak and the remaining streets in the village of Tern and Prelez	656-19-4884-5-2-5	70,000.00	20,000.00	20,000.00
6	Ferizaj/ Uroševac	Physical security of the Municipality building and other buildings operating within the Municipality of Ferizaj/Uroševac	656-18-6854-2-1-1	Included in the budget for goods and services	-	200,000.00
7	Lipjan/ Lipljane	Paving the road Gadime e Eperme - Gllavica in the Municipality of Lipjan/Lipljane	613-19-1259-5-2-1	59,000.00	59,000.00	59,000.00
8	Lipjan/ Lipljane	Physical security of the municipal institutions buildings, administration buildings, Center for Social Work, city archive, house of culture and house of communities in the Municipality of Lipjan/Lipljane	613-18-9147-2-1-1	Included in the budget for goods and services	-	200,000.00
9	Istog/ Istok	Construction of the street "Hul Huli" in Istog/Istok i Poshtem	633-19-2063-5-2-1	40,000.00	40,000.00	40,000.00
10	Istog/ Istok	Maintenance of local roads under category IV in the Municipality of Istog/Istok	633-19-451-1-2-1	15,000.00	45,000.00	65,000.00
11	Podujevë/ Podujevo	Paving of some roads in the village of Shajkofc	615-19-611-5-2-1	-	60,000.00	141,956.57
	Podujevë	Paving of some roads in the village of Batllava		60,000.00	60,000.00	
12	Podujevë/ Podujevo	Construction of greenhouses for farmers in the Municipality of Podujevë/Podujevo	615-19-942-5-2-1	-	136,350.00	162,396.32

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Based on the table above, we notice that in over 58% of tenders, the projected value of the contract does not match with the procurement planning submitted by the monitored municipalities to the CPA. Moreover, municipalities have had issues with proper procurement planning, and the lack of market research and need resulted with a contract value of which was 30.86% lower than the estimated value, while some streets were not included in the contract, and consequently annex contracts had to be drafted, while in the tender for supply of gravel to the Municipality of Prizren the budgeted value for this service was € 250,000.00, however in the procurement planning, the municipality increased this value to € 1.5 million, under which was also issued the notification for a framework contract with a duration of 36 months.

3. TENDER CRITERIA

One of the purposes of selecting similar tenders in municipalities was to be able to make a comparison between the criteria used by municipalities and the bids received. The research reveals concerns about the lack of standardization of requirements for procurement categories. In the absence of proper guidance from the PPRC regarding tenders for services, respectively, how to address the obligations in the Bill of Quantities of the Tender Dossier under the Law on Labor, as well as administrative costs, logistics and profit, municipality of Ferizaj/Uroševac accepted a bid that would cost the municipality € 224 for every employee who would be paid € 270 gross, without defining what elements of the contract would be covered by this amount, while the municipality of Lipjan/Lipljane accepted a bid that covered only the salaries of the employees and did not meet any obligation under the Law on Labor as well as associated (indirect) costs of the relevant service. In addition, municipality of Lipjan/Lipljane made arithmetic errors in calculating the necessary staff for the tendered hours, with a noted difference of 360 hours less in the latter, consequently, the municipality would be at risk of either the services not being completed, or the contracted company would have to take on liabilities not covered by the contract value. In the absence of standardized requirements for defining separate categories of public procurement activity, municipality of Podujevë/Podujevo in the tender for paving the roads in Shajkofc and Batllavë, Sfeqël and Ballofc, and Livadicë, Lladofc and Surkish of the municipality of Podujevë/Podujevo did not define the required motor pool capacity for the implementation of the contract, risking that

the contract would be awarded to companies that did not have sufficient capacity, respectively risking both the quality and the envisaged duration of the works⁴³.

Further, comparing the tender of the municipality of Prizren and similar tenders in the municipalities of Prishtina, Ferizaj/Uroševac and Gjilan/Gnjilane, municipality had included criteria in the tender dossier that were not consistent with the criteria of the aforementioned municipalities. These criteria were: (1) a large number of employees (at least 20 employees of different profiles necessary for contract implementation) taking into account hiring of seasonal workers for construction works, (2) two-wheel graders of medium tonnage, and (3) one large tonnage cylinder of over 10 tons.

The following table shows financial risks caused by the lack of harmonization of requirements by procurement category:

One of the purposes of selecting similar tenders in municipalities was to be able to make a comparison between the criteria used by municipalities and the bids received. The research reveals concerns about the lack of standardization of requirements for procurement categories.

43 [Procurement monitoring report for the municipalities of Prizren, Suhareke, Ferizaj, Lipjan/Lipljan, Podujeve, and Istog, p. 9, KDI 2020; available at: http://kdi-kosova.org/wp-content/uploads/2020/08/Raporti-i-monitorimit-te-prokurimit-ALB-FINAL.pdf](http://kdi-kosova.org/wp-content/uploads/2020/08/Raporti-i-monitorimit-te-prokurimit-ALB-FINAL.pdf)

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#	Municipality	Description	No. of procurement	Projected value of the tender	Contract value	Difference	%
1	Prizren	Gravel supply for unpaved roads ⁴⁴	622-19-1256-1-1-1	1,500,000.00	0	-	-
2	Prizren	Paving the road Pac-Qafe Gjonaj-Babaj Bokes	622-18-8161-5-2-1	250,000.00	217,133.24	(32,866.76)	-13%
3	Suharekë/ Suva Reka	Construction of local roads in the Bllace village	624-19-802-5-2-1	73,000.00	59,351.00	(13,649.00)	-19%
4	Suharekë/ Suva Reka	Maintenance and cleaning of the city in the Municipality of Suhareka/Suva Reka	624-19-240-2-1-1	145,000.00	136,295.01	(8,704.99)	-6%
5	Ferizaj/ Uroševac	Pavement of streets in Bablak and remaining streets in the village of Tern and Prelez	656-19-4884-5-2-5	20,000.00	17,533.25	(2,466.75)	-12%
6	Ferizaj/ Uroševac	Security of the Municipal building and other buildings operating within the Municipality of Ferizaj/Uroševac	656-18-6854-2-1-1	200,000.00	403,204.56	203,204.56	102%
7	Lipjan/ Lipljane	Paving the road Gadime e Epërme – Gllavicë in the Municipality of Lipjan/Lipljane	613-19-1259-5-2-1	59,000.00	53,893.31	(5,106.69)	9%
8	Lipjan/ Lipljane	Security of the municipal institutions buildings, administration buildings, Center for Social Work, city archive, house of culture and house of communities in the Municipality of Lipjan/Lipljane	613-18-9147-2-1-1	200,000.00	Vetem LOT 2 - 25,847.04	-	-
9	Istog/Istok	Construction of the road "Hul Huli" Istog/Istok i Poshtëm	633-19-2063-5-2-1	40,000.00	40,000.00	-	0%
10	Istog/Istok	Maintenance of local roads of the IV order in the Municipality of Istog/Istok	633-19-451-1-2-1	65,000.00	48,010.00	(16,990.00)	-26%
11	Podujevë/ Podujevo	Pavement of some roads in the village of Shajkofc	615-19-611-5-2-1	141,956.57	136,626.38	(5,330.19)	-4%
	Podujevë/ Podujevo	Pavement of some roads in the village of Batllavë					
12	Podujevë/ Podujevo	Construction of greenhouses for the farmers of the Municipality of Podujevë/Podujevo	615-19-942-5-2-1	162,396.32	132,826.70	(29,569.62)	-18%

⁴⁴ Tender with procurement no. is in court proceedings before the Basic Court of Prizren due to suspicions raised about the criteria of the tender dossier

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Furthermore, from the above table concerns are raised regarding the value of contracts awarded by the municipality of Istog/Istok. While the contracted value for the maintenance of roads class IV in the municipality of Istog/Istok is 26% lower than the projected value, the contract for the construction of the Hul-Huli road was awarded at the exact same value as the projected contract value, even though this contract was developed by open bid procedure, and three serious bids were received for its award. Furthermore, this contract was awarded for the position price of € 16.60, which was about 66% cheaper than the second serious bid with the cheapest price.

The research also indicates that in the municipality of Suharekë/Suva Reka, the contract for maintenance and cleaning of roads for nearly a decade has been implemented by the regional company "Ekoregjioni". After discussions with economic operators who had downloaded the tender dossier but had not applied, the price of these services is too low to invest in the machinery needed to implement the contract, so there is no interest to participate in tendering.

In an absence of proper guidance from the PPRC regarding tenders for services, respectively, how to address the obligations in the Bill of Quantities of the Tender Dossier under the labour law, as well as administrative costs, logistics and profit, the Municipality of Ferizaj/Uroševac accepted a bid that would cost the municipality €224 for every worker who would be paid a gross amount of €270, without defining what elements of the contract would be covered by this amount, while the Municipality of Lipjan/Lipljane accepted a bid that covered only the salaries of the workers and did not meet any obligation under the Law on Labour as well as associated (indirect) costs of the service in question.

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CONTRACT MANAGEMENT FOR A SUCCESSFUL IMPLEMENTATION

1. LEGAL REGULATION

Management of public contracts is still one of the most problematic activities in public procurement. According to the Purchasing and Procurement Center⁴⁵, the contract management process is the interaction between seller and purchaser, which ascertains that both parties fulfil their respective obligations in

any procurement agreement. The purpose of this process is to meet operational, functional and business objectives required by the contract, and to ensure a profitable interaction for the parties to the contract. According to the Chartered Institute for Procurement and Supply⁴⁶, the contract management undergoes through a cycle of 12 activities:



45 Purchasing and Procurement Center; available at: <https://www.purchasing-procurement-center.com/>

46 Chartered Institute for Procurement and Supply; available at: <https://www.cips.org/Documents/images/Theme%20Pages/cycle-contract.pdf>



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Whereas some of the key tools in the contract management are:

- Risk identification, analyses and management;
- Quality management;
- Key Performance Indicators (KPI);
- Effective communication that includes development of professional capacities;
- Supplier Relationship Management (SRM);
- Contract development, mobilization and implementation.

The analysis has found that the management of contracts is only superficially regulated by the Law on Public Procurement, while contractual obligations are regulated by the Law on Obligation Relationships. From the above cycle of an effective contract management, although contract management has been identified as step 8 in public procurement administration.

The Procurement Office is limited only in maintaining communications in the event of disputes, damage to goods, excessive or defective deliveries, performance failures or other relevant complications, stores all communications and relevant evidence received, and tracks contractor failures, who have failed to meet their contractual obligations whenever informed by the Project Manager regarding appropriate compensations, liquidation of damages and arrangement of contract annulment⁴⁷. While signing the contract, except for the responsibility for amending or terminating the contract, all responsibilities shall be transferred to the project manager, who must act in line with the contract management plan using the legal format under the Law on Public Procurement in Kosovo⁴⁸.

The Regulation, through the same Article, stipulates that whenever the Project Manager has troubles or difficulties with the terms and conditions of the contract, they shall be discussed and resolved with the procurement department, even though Article 11 of the same Regulation does not provide such an obligation for procurement officers.

Further, in the same Article (61), paragraph 61.14 obliges the Project Manager to report to the procurement department *“(b) any amendment to the terms of the contract, either before or during the implementation period, which would had influenced the evaluation and ranking of tenders and the se-*

lection of the economic operator”, contradicts paragraph 61.6, according to which the responsibility for any amendment or termination of the contract shall remain under the competence of the procurement department.

Furthermore, this Article also provides for the responsibilities of the PPRC in ex-post monitoring of public contracts, however, the function of this department still remains the monitoring of the ex-ante (pre-tendering and tendering) phase of procurement⁴⁹.

The Law also provides for the roles of institutional actors in contract management, however, there are no legal provisions which address some of the key instruments for a successful contract such as: risk analysis and management, quality management instruments, key performance indicators (KPI), effective communication between actors, supplier relationship management (SRM), as well as mechanisms for ensuring the implementation of the terms and conditions of the contract.

Furthermore, the analysis has found that the current legislation does not regulate one of the main stages of procurement closure and release from obligations the contracting parties.

The coalition had analysed the implementation of 11 contracts that had resulted from the 12 tenders selected for monitoring⁵⁰. From the analysis of contract documentation and discussions with project managers, it has been noted that the above mentioned instruments are not applicable in practice as well, leaving most of the management burden to the Project Manager. Furthermore, the general terms of all 11 contracts provided that *“(Article 8.2) the Contractor shall comply with and act in accordance with all laws and regulations in force in the Republic of Kosovo and shall ensure that his staff, their relatives, and his local workers also comply and act in accordance with these laws and regulations”*. The research found that in none of the monitored contracts were there professional inspections by urban planning departments, labour inspectors or other experts in the respective fields.

Furthermore, given that there are 20,774 legal acts⁵¹, in the Official Gazette of the Republic of Kosovo, the research could not find any list of legal provisions that the contractor must adhere to according to the general terms of the contract.

47 Rules and Operational Guideline for the Public Procurement, Article 11. Functions of the Procurement Department/Units

48 Rules and Operational Guideline for the Public Procurement, Article 61. Contract Management

49 Annual PPRC Report 2019, p. 50; available at: https://e-prokurimi.rks-gov.net/HOME/Reports/2019/alb/Raporti%20vjetor%202019_KRPP_PDF.pdf

50 Prizren: 622-18-8161-5-2-1; Suharekë/Suva Reka: 624-19-802-5-2-1 and 624-19-240-2-1-1; Ferizaj/Uroševac: 656-19-4884-5-2-5 and 656-18-6854-2-1-1; Lipjan/Lipljane: 613-19-1259-5-2-1 and 613-18-9147-2-1-1; Istog/Istok: 633-19-2063-5-2-1 and 633-19-451-1-2-1; Podujevë/Podujevo: 615-19-611-5-2-1 and 615-19-942-5-2-1

51 Official Gazette of the Republic of Kosovo; Statistics (accessed on 10/22/2020)

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Further research had found that in all cases, the contract manager was in charge of overseeing the implementation of 3-5 active contracts of different categories, which makes it even more difficult to focus on the implementation of all contract terms and conditions.

in the village of Gjonaj. The manner of drafting the descriptions of Bill of Quantity caused that the contracted prices from the MA Prizren are not comparable to those of other municipalities, as the description of units includes both material and machinery for the performance of those works.

2. ROAD CONSTRUCTION CONTRACTS

The contract of the municipality of Prizren, signed on 24 December 2018, in the amount of € 217,113.24⁵² was relating the construction of road infrastructure of 686.50 meters

However, in other municipalities there were some elements of the Bill of Quantity in the contract that could be compared between them. The following table illustrates these comparisons:

	Ferizaj/ Uroševac ⁵³	Lipjan/Lip- ljane ⁵⁴	Suharekë/ Suva Reka ⁵⁵	Podujevë/ Podujevo ⁵⁶	Istog/Istok ⁵⁷
Description	Annex contract for the asphaltting of some streets in Tern	Asphaltting of the road Gadime e Epërme – Gllavicë in the Municipality of Lipjan/Lipljane	Construction of local roads in the village of Bllace	Asphaltting of some roads in Shajkofc and Batllavë	Construction of the road "Hul Huli" Istog/Istok i Poshtëm
Road length	550 m	1,027.80 m	1,070 m	2,690.04 m	730 m
Contract value	17,533.25 €	53,893.31 €	59,351.00€	136,626.38€	40,000.00€
Supply, transport and construction of the buffer layer of crushed limestone 0-60mm, t=20cm	-	7.00€	-	6.00€	10.0€
Supply, transport and construction of the buffer layer of crushed limestone 0-31.5 mm, t=10cm	3.00€	6.00€	6.00€	7.00€	11.00€
Supply, transport and construction of the asphalt layer 0-16mm, thickness t=7cm	5.80€	-	-	6.00€	4.00€
Construction of embankments with incoherent material (quarry waste material), b = 2x0.75rn'	3.00€/m3	8.00 € /m3	6.00€ / m3	5.00€/m3	4.00€/m3

52 622-18-8161-5-2-1

53 656-19-4884-5-2-5

54 613-19-1259-5-2-1

55 624-19-802-5-2-1

56 615-19-611-5-2-1

57 633-19-2063-5-2-1

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During the analysis of the prices contracted by the municipalities for road constructions, it was noticed that the municipality of Istog/Istok had paid about 84% more compared to the second cheapest price of the municipality of Podujevë/Podujevo for the "Supply, transport and work of the tampon layer of broken limestone 0-31.5 mm, t=10cm" and around 67% more for the "Supply, transport and work of the tampon layer of broken limestone 0-60mm, t=20cm".

Moreover, the prices of the municipality of Ferizaj/Uroševac in the construction of embankments were 25% lower than the other lowest price of the municipality of Istog/Istok and about 50% cheaper than the second cheapest price of the municipality of Podujevë/Podujevo for the "Supply, transport and work of the tampon layer of broken limestone 0-31.5 mm, t=10cm". During the visit to the village of Tern, it was noted that in some of the alleys paved 2017, there were no embankments or they were indistinguishable and the paved roads had started to degrade.

3. CONTRACT FOR THE SECURITY SERVICES OF MUNICIPAL BUILDINGS

When comparing the contracts of the municipality of Ferizaj/Uroševac and of Lipjan/Lipljane for the security of municipal buildings, a very large difference in the contracted prices was noted. While the municipality of Ferizaj/Uroševac pays €494.12/month⁵⁸ për punëtor, komuna e Lipjanit në kontratën e dhenë për LOT 2 të tenderit të analizuar⁵⁹ pays €358.99/month per employee, or about 38% cheaper. During the analysis of the tender requirements and contract conditions was noted that in the absence of instructions on drafting the criteria/requirements for service contracts, while the municipality of Ferizaj/Uroševac had mentioned all ongoing obligations such as supply of uniforms by season, fulfilment of obligations from the labour law, supervision, etc., the municipality of Lipjan/Lipljane had not defined any of these requirements in its contract. On 21 and 22 May 2020, in the framework of the social audit, the coalition had conducted two visits to the stationing points of workers contracted in these services. During the discussions, they had stated that the companies were fulfilling their obligations correctly and on due time.

When comparing the contracts of the municipality of Ferizaj/Uroševac and of Lipjan/Lipljan for the security of municipal buildings, a very large difference in the contracted prices was noted. While the municipality of Ferizaj/Uroševac pays €494.12/month per employee, the municipality of Lipjan/Lipljan in the contract awarded for LOT 2 of the analyzed tender pays €358.99/month per employee, or about 38% cheaper.

58 656-18-6854-2-1-1

59 613-18-9147-2-1-1

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From the table above we notice that only two contracts were implemented before the deadline provided by the dynamic plan, while in other contracts there were delays from 20 to 100 in implementation of contracts. According to the dec-

larations of municipalities, in most of them this had happened as a result of insufficient financial means to process the payments, in which case the municipalities had delayed the orders for starting the works.

SERVICES:

#	Municipality	Description	Procurement no.	Contract duration
1	Suharekë/ Suva Reka	Maintenance and cleaning of the city in the Municipality of Suharekë/Suva Reka	624-19-240-2-1-1	365 days
2	Ferizaj/ Uroševac	Security of the Municipality building and other buildings operating within the Municipality of Ferizaj/Uroševac	656-18-6854-2-1-1	24 months
3	Lipjan/Lip- ljane	Security of the municipal institutions buildings, administration buildings, Centre for Social Work, city archive, house of culture and house of communities in the Municipality of Lipjan/Lipljane	613-18-9147-2-1-1	36 months
4	Istog/Istok	Maintenance of the class IV local roads in the Municipality of Istog/Istok	633-19-451-1-2-1	24 months

With regard to service contracts, they continued to be implemented regularly and no irregularities were observed regarding their payments.

as regards other contracts, they had no remarks. Anyhow, the main remark was that they did not have information on where to find the contract documents and did not see sufficient municipal workers during the implementation of works.

5. SOCIAL AUDIT

During May - June 2020, the coalition organized 10 Social Audits in order to audit the works performed by the municipality in their community. While the residents had remarks only in the case of the road maintenance contract in the municipality of Suharekë/Suva Reka, according to which the contractor must wash the local roads once a week, which according to the residents, is not happening, and the complaints of the residents of the village of Tern state that the alleys paved in 2017-2018 have started to degrade, however,

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WHAT DO AUDIT REPORTS READ AND HOW ARE THEY ADDRESSED BY MUNICIPALITIES?

Kosovo municipalities are institutions with their own competencies, which are given by the Constitution of Kosovo. They are chaired by the Mayor and the Municipal Assembly, whose mandate stems from the municipal elections held every 4 years. Municipalities as Budget Organizations (BOs) manage their own budget generated by own source revenues, government grants and donations. The Mayor should present strategies, budgets, reports and legal acts to Assembly members in the Municipal Assembly for discussion and approval. Moreover, the legal acts of the municipalities are reviewed by the Ministry of Local Government Administration, which is obliged to ensure that the delegated competencies are executed in accordance with the rules, criteria and standards set by the central government.

The work of the Auditor General and the National Audit Office is supported by the laws on ensuring the good management of public money referred to under the “Legal regulation of the status of the Auditor General”. According to the Law on Public Financial Management and Accountability (LPFMA) and the Law on the Auditor General and the National Audit Office (NAO), after the completion of audits, all budget institutions, within a period of 30 days, must submit an action plan for addressing the recommendations of the Auditor General, after the publication of the audit report. All audit reports, including those for municipalities, shall be presented to the Assembly of Kosovo⁶⁰. The Committee for Oversight of Public Finances, within the Assembly of Kosovo, is responsible for reviewing all audited reports, regularity and performance of financial expenses, as part of the oversight of public finances, public agencies, public enterprises, and public institutions financed from the budget of the Republic of Kosovo. In the case of

municipalities, the final audit reports are also submitted to the Municipal Assemblies.

Referring to the Auditor General's reports for these 6 municipalities for the period 2015 - 2018, the NGO coalition found that about 33 matters related to financial management are being repeated from year to year. Matters constantly highlighted are those related to the planning and management of own source revenues, problems in financial reporting, problems in property management, payments through enforcement agents which are ultimately reflected as misclassifications of expenditures in the financial reports/statements, as well as employment through a special service agreement in the municipalities. The following table shows the same or similar issues for specific procurement activities identified from the external auditor's samples for the six municipalities covered:

60 Law No. 05/L-055 on the Auditor General and the National Audit Office, Article 23 Auditor Reports (<https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=12517>)



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Prizren	Suharekë/Suva Reka	Ferizaj/Uroševac	Lipjan/Lipljane	Podujevë/ Podujevo	Istog/Istok
Budget execution	Budget execution	Budget execution	Budget execution	Budget execution	Budget execution
Procurement planning		Procurement planning		Procurement planning	Procurement planning
Tendering procedures	Tendering procedures		Tendering procedures	Tendering procedures	Tendering procedures
Contract Management and Capital Investment		Contract Management and Capital Investment	Contract Management and Capital Investment	Contract Management and Capital Investment	
Payments and fulfilment of obligations		Payments and fulfilment of obligations	Payments and fulfilment of obligations	Payments and fulfilment of obligations	Payments and fulfilment of obligations

Other recurring issues from year to year are the low implementation of the NAO recommendations for the previous year, the functioning of Internal Audit and weaknesses in managerial controls and risk management.

In order to identify the causes of the systematic repetition of these findings, the coalition of organizations, in cooperation with the representatives of the municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljane, Podujevë/Podujevo and Istog/Istok, had conducted a joint analysis of the source of the problem. According to this analysis, the common causes affecting the low implementation of the Auditor General's recommendations are:

- 1 Lack of complete records of properties (including their proper categorization in the cadastral register), as well as occupied properties, have a direct impact on the execution of municipal revenues, financial reports and property management in the municipality. To this problem is added the limited number of human resources to complete the physical verification of all properties in the municipality.
- 2 Not good planning of own source revenues.
- 3 Update of the Law on Local Self Government and central level laws as well as central level agreements (such as collective contracts). Concerns about non-harmonization of laws were also raised in the annual performance report of the National Audit Office of April 2020;

- 4 Lack of centralized systems for the management of municipal documentation, which had resulted in delays in processing invoices received from municipalities;
- 5 Delays in handling cases by the Procurement Review Body resulting in delays in the budget execution for capital investments;
- 6 Lack of legal provisions to deal in more detail with abnormally low prices, which are affecting the performance of public contracts, such as cost and market analysis, and not only based on the Economic Operator's confirmation that it can execute the contract with the offered prices;
- 7 Frequent change of management staff, lack of human capacity which has a direct impact on each of the issues recurring in the analysed municipalities.

According to the Auditor's reports for 2019, the situation in the monitored municipalities does not reflect to have been improved from previous years. The Auditor had identified 51 issues that had been raised before, and which had not been addressed by the municipalities. The following table illustrates the number of issues identified by the auditor by financial activity:

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Municipality	Annual financial statements	Procurement	Property tax	Salary and wage	Goods and services	Capital investment	common issues (Goods and Services, and Capital Investments	Internal Auditor	Property management	Outstanding liabilities	Receivables	Personnel files	Payment from Treasury	Total
Ferizaj/Uroševac ⁶¹		1	3		3	2	3	1	1					14
Lipjan/Lipljane ⁶²	1					1					1			3
Prizren ⁶³	1	1			1	2			1	1	4	1	1	13
Suharekë/Suva Reka ⁶⁴	1				1	1			1	1	1			6
Podujevë/Podujevo ⁶⁵	0			1					1	1	1			4
Istog/Istok ⁶⁶	1		1	1		2	2		1	1	1			10
Total	4	2	4	2	5	8	5	1	5	4	8	1	1	50

In addition, during the audit of the financial statements of 2019, in the sample selected by the NAO were two tenders selected for monitoring. In the contract for the construction of Hul Huli road in the municipality of Istog/Istok, which had resulted in an annex contract to fulfil the unplanned works, when comparing the winning bid with the bids of other Operators estimated as responsible during the procurement process, the Auditor had noticed that in the implementation of the contract the winning EO was more expensive than the other unsuccessful bidder for €3,592⁶⁷.

While during the audit of the contract awarded by the municipality of Podujevë/Podujevo for the construction of roads in Shajkofc and Batllava, the auditor found that the municipality had awarded a contract in the absence of the executive project⁶⁸. While other contracts were not part of the audit sample for 2019⁶⁹.

In addition to obstacles caused by central level decisions or laws and the lack of harmonization of the law on local self-government, the Auditor's reports also indicate a lack of willingness of municipalities to address the issues identified

61 [Audit Report on Financial Statement of the Municipality of Ferizaj 2019](http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit_K_Ferizaj-2019-Shqip.pdf); available at: http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit_K_Ferizaj-2019-Shqip.pdf

62 [Audit Report on Financial Statement of the Municipality of Lipjan/Lipljan 2019](http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit_K_Lipjanit-2019-Shqip-1.pdf); http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit_K_Lipjanit-2019-Shqip-1.pdf

63 [Audit Report on Financial Statement of the Municipality of Prizren 2019](http://www.zka-rks.org/wp-content/uploads/2020/08/Raporti-i-auditimit_K_Prizrenit-2019-Shqip.pdf); http://www.zka-rks.org/wp-content/uploads/2020/08/Raporti-i-auditimit_K_Prizrenit-2019-Shqip.pdf

64 [Audit Report on Financial Statement of the Municipality of Suhareka/Suva Reka 2019](http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit_K_Suharekes-2019-Shqip.pdf); available at: http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit_K_Suharekes-2019-Shqip.pdf

65 [Audit Report on Financial Statement of the Municipality of Podujeva/Podujevo 2019](http://www.zka-rks.org/wp-content/uploads/2020/06/Raporti-i-auditimit_K_Podujev%C3%ABs-2019-Shqip.pdf); available at: http://www.zka-rks.org/wp-content/uploads/2020/06/Raporti-i-auditimit_K_Podujev%C3%ABs-2019-Shqip.pdf

66 [Audit Report on Financial Statement of the Municipality of Istog 2019](http://www.zka-rks.org/wp-content/uploads/2020/08/Raporti-i-auditimit_K_Istogut-2019-Shqip.pdf); available at: http://www.zka-rks.org/wp-content/uploads/2020/08/Raporti-i-auditimit_K_Istogut-2019-Shqip.pdf

67 [Audit Report on Financial Statement of the Municipality of Istog 2019](http://www.zka-rks.org/wp-content/uploads/2020/08/Raporti-i-auditimit_K_Istogut-2019-Shqip.pdf), Issue A4; available at: http://www.zka-rks.org/wp-content/uploads/2020/08/Raporti-i-auditimit_K_Istogut-2019-Shqip.pdf

68 [Audit Report on Financial Statement of the Municipality of Podujeva/Podujevo 2019](http://www.zka-rks.org/wp-content/uploads/2020/06/Raporti-i-auditimit_K_Podujev%C3%ABs-2019-Shqip.pdf), Issue A3; available at: http://www.zka-rks.org/wp-content/uploads/2020/06/Raporti-i-auditimit_K_Podujev%C3%ABs-2019-Shqip.pdf

69 Confirmation to NAO, dated 16-10-2020

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by the Auditor. Kosovo has several laws, regulations and administrative instructions that address the audit and oversight of public finances. However, the absent element is the legislation that provides concrete measures to increase accountability, and sanctions in case of non-implementation of these laws. Anyhow,

not all the Auditor's findings are eligible to be investigated by the prosecution office, i.e., it is necessary to install mechanisms that ensure the implementation of recommendations, such as punitive measures, sanctions or even administrative measures.

CONCLUSION

Kosovo during the recent years has invested a lot in capacity building and transparency in terms of public expenditures, especially through public procurement procedures.

However, this report indicates that problems continue to be present. While most of the documents are now accessible through various platforms such as e-Procurement, the Ministry of Finance, the National Audit Office, etc., these documents and the numerous visits and meetings with various actors in the public procurement process indicate that this sector encounters many challenges.

The analysis shows that the six monitored municipalities face systematic challenges in developing the budget plan for the following fiscal year. The participation of citizens, especially women in public hearings continues to be extremely low, the language used during these hearings is extremely technical, and there is a lack of constant communication between the municipality and citizens, which has resulted in increased distrust of the latter to institutions.

Monitoring of public hearings on budget drafting has shown that compared to the available budget, municipalities are sufficiently open to acknowledge and address citizens' priorities. However, the cost of such priorities remains a challenge, as over 45% of them are related to investments in road infrastructure and construction of water supply and sewerage networks, which have a high investment cost.

During the analysis of procurement planning, it was noted

that the delays in the approval of the law on budget appropriations had also resulted in delays in the processing of procurement plans for two consecutive years. While municipalities had prepared procurement plans according to the foreseen deadlines for the approval of the Law on Budget, i.e. no later than 31 December of the current year, due to the above-mentioned delays, four of six municipalities have not reviewed their planning after the budget was approved. The following analysis also reveals discrepancies between budgeted and planned values. However, a greater discrepancy was observed between the values from the procurement planning versus the values provided in the planned tender dossiers. These differences were both in value and in quantities of procurement. During the analysis of these first ten tenders for supplies, announced by each of the monitored municipalities (60 tenders in total), it was also noticed that about 77% of the tendered values and quantities do not match with those planned. Moreover, about 18% of tenders were not included in the final planning of municipalities. The analysis also shows that both of these municipalities did not include in the procurement planning for 2019 requests for procurement of security services for municipal buildings. In addition, while the municipality of Ferizaj/Uroševac did base on the recommendations from the monitoring of procurement planning for 2019, and had planned expenditures for anniversaries and holidays, the municipality of Istog/Istok in 2020 had not drafted such plans. Also, the recommendations for avoiding the separation of the same requests were accepted by both the municipality of Ferizaj/Uroševac and of Lipjan/Lipljane.





Subsequently, this analysis had found contradictions between the public procurement law and the secondary legislation in the same field, which resulted in non-compliance of municipalities with the legal deadlines for filing complaints against municipal decisions. Municipalities also failed to ensure that companies targeting public procurement were clear of criminal record as required by law. This is because the municipalities had requested only evidence that the concerned companies were not in the process of bankruptcy, but had not requested the evidence of being clear of criminal record.

Lack of standards for drafting the criteria by category had resulted in tenders with favorable criteria in the case of the tender for gravel supply in the municipality of Prizren, or risking the quality of work in the case of the municipality of Podujevë/Podujevo, where neither technical capacity was required nor a mobilization plan. Also, this lack of standards had resulted in problems in contracts for security services. In an absence of proper guidance from the PPRC regarding tenders for services, respectively, how to address the obligations in the Bill of Quantities of the Tender Dossier under the labour law, as well as administrative costs, logistics and profit, the Municipality of Ferizaj/Uroševac accepted a bid that would cost the municipality €224 for every worker who would be paid a gross amount of €270, without defining what elements of the contract would be covered by this amount, while the Municipality of Lipjan/Lipljane accepted a bid that covered only the salaries of the workers and did not meet any obligation under the Law on Labour as well as associated (indirect) costs of the service in question.

The analysis reveals concerns with the disproportionate allocation of human resources between municipalities. While in the municipality of Prizren, a procurement officer has to conduct about 38 procurement activities according to the final planning, in the municipality of Lipjan/Lipljane, this number drops to 11. The overload of procurement officers makes it impossible to engage properly in the development of activities, with a special emphasis on market research and procedure administration. A shortcoming was noticed in all monitored municipalities, respectively procurement offices, in which case none of them had conducted a risk analysis and a plan for their management..

Legal contradictions were also encountered in the legal provisions regarding the management of contracts in terms of the responsibilities of the Procurement Department. According to the ROGPP, upon signing the contract, besides the responsibility to amend or terminate the contract, all other responsibilities are transferred to the Project Manager, who shall act in compliance with the contract management plan, using the legal format under the Law on Public Procurement in Kosovo, however, in the same Article, the Regulation provides that whenever the Project Manager has troubles or difficulties with the terms and conditions of the contract, they shall be discussed and resolved with the procurement department, even though Article 11 of the same Regulation does not provide such an obligation for procurement officers. Further, in the same Article (61), paragraph 61.14 obliges the Project Manager to report to the procurement department “(b) any amendment to the terms of the contract, either before or during the implementation period, which would had influenced the evaluation and ranking of tenders and the selection of the economic operator”, contradicts paragraph 61.6, according to which the responsibility for any amendment or termination of the contract shall remain under the competence of the procurement department. Furthermore, this Article also provides for the responsibilities of the PPRC in ex-post monitoring of public contracts, however, the function of this department still remains the monitoring of the ex-ante (pre-tendering and tendering) phase of procurement.

The Law also provides for the roles of institutional actors in contract management, however, there are no legal provisions which address some of the key instruments for a successful contract such as: risk analysis and management, quality management instruments, key performance indicators (KPI), effective communication between actors, supplier relationship management (SRM), as well as mechanisms for ensuring the implementation of the terms and conditions of the contract.

According to the general terms of contracts, namely Article 8.2 stipulates that “the Contractor shall comply with and act in accordance with all laws and regulations in force in the Republic of Kosovo and shall ensure that his staff,



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their relatives, and his local workers also comply and act in accordance with these laws and regulations". The research found that in none of the monitored contracts were there professional inspections by urban planning departments, labor inspectors or other experts in the respective fields. Furthermore, given that there are 20,774 legal acts in the Official Gazette of the Republic of Kosovo, the research did not find any list of legal provisions that the contractor must adhere to according to the general terms of the contract.

During the analysis of the prices contracted by the municipalities for road constructions, it was noticed that the municipality of Istog/Istok had paid more than other municipalities for the first two products. Moreover, the prices of the municipality of Ferizaj/Uroševac in the construction of the sidewalks were 25% lower than the other lowest price of the municipality of Istog/Istok. During the visit to the village of Tern, it was noticed that in some of the alleys paved in 2017, there were no sidewalks, or they were indistinguishable. During the analysis of the monitored dynamic contract plans, it was noticed that only two of the seven employment contracts were executed within the dynamic plan. According to the statements of the municipalities, in most of them this had happened as a result of sufficient financial means to process the payments, in which case the municipalities had delayed the orders for starting the works. However, these problems were not found in the service contracts, which continued to be implemented on a regular basis.

During the social audits held in May and June 2020, residents had remarks only in the case of the road maintenance contract in the municipality of Suharekë/Suva Reka, according to which the contractor must wash the local roads once a week, which according to the residents, is not happening, and the complaints of the residents of the village of Tern state that the alleys paved in 2017-2018 have started to degrade, however, as regards other contracts, they had no remarks. Anyhow, the main remark was that they did not have information on where to find the contract documents and did not see sufficient municipal workers during the implementation of works.

Auditor reports continue to reveal issues that recur from year to year in the financial statements of municipalities. In 2018, 33 recurring cases were identified, while in 2019, this number not only did not decrease, but had reached 51. In order to identify the causes of the systematic repetition of these findings, the coalition of organizations, in cooperation with the representatives of the municipalities of Prizren, Suharekë/Suva Reka, Ferizaj/Uroševac, Lipjan/Lipljane, Podujevë/Podujevo and Istog/Istok, had conducted a joint analysis of the source of the problem. According to this analysis, the common causes affecting the low implementation of the Auditor General's recommendations are, lack of complete property records, poor planning of own source revenues, updating of the Law on Local Self Government and central level laws as well as central level agreements (such as collective contracts), lack of centralized systems for managing municipal documentation, delays in handling cases by the Procurement Review Body resulting in delays in the execution of the budget for capital investments, lack of legal provisions to deal in more detail abnormally low prices that are affecting the implementation of public contracts such as cost and market analysis, and not only being based on the Economic Operator's confirmation that it can execute the contract with the offered prices, frequent change of management staff, lack of human capacity, lack of political will and lack of legal and institutional infrastructure to strengthen the implementation of the Auditor's recommendations.

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RECOMMENDATIONS

- 1 The Public Procurement Regulatory Commission should review the secondary legislation in order to avoid contradictions between the Law on Public Procurement and the secondary legislation. In order to improve secondary legislation, it is recommended to separate the Rules from the Operating Guidelines.
- 2 It is recommended that the Operational Guidelines be divided by procurement development phase, respectively:
 - Operational Guidelines for the pre-tendering phase
 - Operational Guidelines for the tendering phase
 - Operational Guidelines for the evaluation and contract award phase
 - Operational Guidelines for the phase after the award of the contract until the conclusion of the obligations
- 3 PPRC should replace the job description in ROGPP with the establishment of Standard Operating Procedures, to provide detailed instructions on how to perform tasks so that each team member understands their role and responsibilities and can perform tasks accurately.
- 4 PPRC should establish the necessary mechanisms and instruments for monitoring the procurements after awarding the contract.
- 5 The Government of Kosovo in cooperation with the Public Procurement Regulatory Commission and the Ministry of Finance should engage in updating the Law on Public Procurement to address legal deficiencies related to the contract management cycle, which are directly related to the fulfilment of Article 1-Purpose of Law on Public Procurement. These changes should at least address the legal implications of the following instruments:
 - I. Risk identification, analysis and management;
 - II. Quality management;
 - III. Key Performance Indicators (KPIs);
 - IV. Effective communication that involves the professional skills development;
 - V. Supplier Relationship Management (SRM);
 - VI. Development, mobilization and implementation of the contract.
- 6 The Ministry of Finance together with the Public Procurement Regulatory Commission should engage in the creation of instruments to normalize the prices paid by public institutions for the same services.
- 7 PPRC should engage in the creation of instruments which ensure quality and impartiality in drafting criteria which are used during public procurement tendering.
- 8 The Government of Kosovo should initiate the creation of



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a list of all obligations from 20,774 legal acts (according to the Official Gazette of the Republic of Kosovo), which must be fulfilled when executing a public contract. Such a list should become an integral part of the General Conditions of the contract. Such list should be constantly managed and updated according to amendments to current laws and new legal acts.

- 9 The Ministry of Local Government Administration should be engaged in updating the Law on Local Self Government in line with the legal amendments of the central level.
- 10 The Ministry of Finance should review all collective agreements and legal amendments at the central level which have budgetary implications at the local level and update municipal budget appropriations in line with the obligations imposed by the central level. The Ministry of Finance should consider the implications at the local level during any initiative for future central level agreements before concluding such agreements.
- 11 The Assembly of Kosovo should engage in establishing mechanisms that oversee and take action regarding the failure to implement the Auditor's recommendations.
- 12 Mayors should engage in establishing oversight mecha-

nisms and taking accountable actions against omissions identified by the National Audit Office, Internal Audit Unit and towards reporting of violations by external monitoring actors.

- 13 The Ministry of Local Government Administration, in cooperation with the Association of Kosovo Municipalities, should engage in the establishment of communication instruments between municipalities and citizens, in order to inform and involve citizens in government processes.
- 14 The Ministry of Local Government Administration, in cooperation with the Association of Kosovo Municipalities, should engage in the establishment of guidelines and standards for holding public hearings. Two successful examples that can be used as a basis are the Participatory Budgeting Project.

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KDI is a Non-Governmental Organization (NGO) engaged to support democracy development by involving citizens in public policy-making and strengthening civil society sector, with the aim to impact the increase of transparency and accountability by public institutions.

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