



USAID
NGA POPULLI AMERIKAN
OD AMERIČKOG NARODA



Instituti i Kosovës për Drejtësi
Kosovo Law Institute
Kosovski Institut Pravde



Public Procurement Practices: From Budgeting to Contract Implementation



Case examples: Municipalities of Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Deçane, Junik, and Hani i Elezit/Elez Han

October, 2021

Public Procurement Practices: From Budgeting to Contract Implementation



Case examples: Municipalities of Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Deçane, Junik, and Hani i Elezit/Elez Han

Author: Gzim Shala

Monitors: Arbenita Topalli, Arrita Reznici, Qëndrim Arifi

All rights reserved, no part of this publication may be republished or transmitted by any means, electronic, mechanical, photocopying or other, without the prior permission of Kosovo Law Institute.

This report was prepared by Kosovo Law Institute (KLI) and Initiative for Progress (INPO) and supported by USAID through the activity Transparent, Effective and Accountable Municipalities.

The opinions expressed by the author in this report do not necessarily represent the opinions of the United States Agency for International Development (USAID) or the United States Government.

Table of Contents

1. Executive summary	6
2. Methodology	7
3. Key Project Activities.....	10
4. Legal basis in the municipal budget process	11
5.1. The Challenges to Transparency and Citizen Participation in Budget Drafting	19
5. Planning, Contract Management and Procurement in Municipalities	20
6.1. Municipality of Pristina	21
6.2. Municipality of Gjakova/Djakovica.....	25
6.3. Municipality of Peja/Peć.....	27
6.4. Municipality of Rahovec/Orahovac.....	30
6.5. Municipality of Vushtrri/Vučitrn.....	32
6.6. Municipality of Gjilan/Gnjilane.....	34
6.7. Municipality of Deçan/Deçane	37
6.8. Municipality of Junik.....	39
6.9. Municipality of Hani i Elezit/Elez Han.....	42
7. Conclusions	45
8. Recommendations.....	47

1. Executive summary

This report has been drafted as part of the project, “Demand for Transparent and Accountable Municipalities: Monitoring public procurement and empowering citizens to lead positive change”, implemented by Kosovo Law Institute (KLI) and Initiative for Progress (INPO). The aim of the project was monitoring public procurement in nine (9) municipalities: Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Dečane, Junik and Hani i Elezit/Elez Han. This monitoring process has been conducted in four different stages of the public procurement process: 1. Municipal budget planning; 2. Procurement planning; 3. Procurement process; and 4. Contract management. The monitoring process has been conducted by monitors who have been trained beforehand for each stage. The monitoring process took place from August 2020 until April 2021. During the process of monitoring, our monitors have been in continuous contact with the municipal officials. Furthermore, some activities have been carried out in close cooperation with the citizens, in order to increase their participation in decision making and monitoring of the public procurement processes.

For each of the four monitoring phases, specific and detailed reports were prepared, namely:

1. Municipal Budgeting Planning, Fiscal Year 2021: Reports on budget planning process in the Municipalities of: Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Dečane, Junik and Hani i Elezit/Elez Han;

2. Monitoring the Procurement Planning Process in Municipalities of: Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Dečane, Junik and Hani i Elezit/Elez Han; and

3. Procurement Process Analysis and Contract Management: Activity monitoring analysis in Municipalities of: Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Dečane, Junik and Hani i Elezit/Elez Han.

All the above-mentioned reports were sent for comments to the municipal officials in the drafting stage. The comments that were backed by evidence, were addressed in the monitoring reports. An annex to the report was included with other comments and our reasons why they were not included in the main content of the report.

This report is a summary of the main findings from the three precursory reports. As for details on these findings, presented in this report, the readers are encouraged to refer to the three aforementioned reports, published in: <https://kli-ks.org> and <http://inpo-ks.org>.

During the drafting of the Mid-term Budget Framework, written and electronic communication as a method of obligatory public consultation was not implemented by any of the nine (9) municipalities under monitoring, while the obligation to publish the draft documents, notification for public consultations, and publication on the official webpage of the municipalities and the public consultation platform of the address for where comments should

be sent were only partly fulfilled by two (2) municipalities. Of the nine (9) municipalities under monitoring, four (4) of them organized public hearings during the drafting of the Mid-term Budget Framework, while this obligation was not fulfilled by five (5) other municipalities.

Regarding budget hearings in the case of drafting the budget by the Mayor's Office, of the nine (9) municipalities under monitoring, four (4) of them did not organize budget hearings, whilst five (5) municipalities did organize public hearings. Some of these municipalities' budget hearings were held virtually, due to the situation created by the COVID-19 pandemic.

The findings show that none of the municipalities under monitoring have the same value of planned activities as the budget capacity that the municipality has at their disposal for those activities. While the Municipality of Vushtrri/Vučitrn has more budget than the total value of activities for work planned, other municipalities planned projects for work without having the budget for its implementation; respectively they have lesser budget at their disposal than they planned with the budget plan.

The findings from our monitoring show that four municipalities (Deçan/Deçane, Gjakova/Djakovica, Pristina, and Junik) announced procurement activities with technical and professional requirements that stray away from the Law on Public Procurement. Moreover, shortening the deadlines for receiving bids was noticed in five procurement activities of four municipalities. Based on the reasons given by these municipalities that had accelerated deadlines, we can conclude that no case was in conformity with the legal requirements and that the shorter deadlines were not related to urgent situations.

In the second part of the report, we review contract management in the nine target municipalities where we monitored two contracts per municipality. Our findings on monitoring contract management show that: the municipality of Deçan/Deçane, and the Ministry of Culture, Youth and Sports (MCYS) as a donor of one of the projects did not execute the payments to the economic operator according to the terms of the contract and the pace of the work performed. Regarding the security of valid execution, KLI and INPO found that the Municipality of Pristina and the Municipality of Junik were not able to comply with legal provisions in this regard. They each had signed a contract without security of valid execution and contrary with the requirements of the tender dossier.

2. Methodology

This project is implemented through a specific methodology, designed for the purposes of this project. The main aim of this methodology was an impartial and transparent monitoring process. Furthermore, citizens inclusion in the monitoring process has been one of the most important stipulations of this methodology. Below, you'll find a brief description of the methodology for each phase:

I. Budget Planning

The municipal budget planning process has been followed through the public hearings monitoring, requests for access to public documents and through analyzing the

approved budget. Because of the situation created by the COVID-19 pandemic, the only sessions monitored are those of the online format, whereas the sessions conducted in-person were monitored through the requests made for access to public documents. Apart from monitoring the Municipal Budget, Fiscal Year 2021, within the projects' framework, we have also monitored the drafting process of the Medium-Term Expenditure (MTE).

During the monitoring of this process, the project focused on:

1. The discrepancies between the budget planning and the legal requirements;
2. The participation of key municipal officials (the Mayor and the Chairman of the Assembly of Kosovo) in budget hearings;
3. Citizens' participation and gender representation in these hearings;
4. Handing the municipal budget to the municipal assembly within the assigned deadline;
5. Publishing the budget drafts for review before its approval; and
6. Including citizens' requests in the approved budget.

2. Procurement Planning

The monitoring of the procurement planning was implemented through the request for access to public documents, as well as by interviewing and communicating with the procurement officials and other departments involved in such processes. To ensure a transparent and impartial monitoring process, within the framework of the project the *first (5) supplying contracts* selected for each municipality. The procurement planning was monitored for year 2020.

During the monitoring of this process, the project has focused on:

1. The compatibility of the procurement plan with the municipal budget;
2. The compatibility of the procurement plan with the legal requirements;
3. Respecting the timeframe on delivering the procurement plan to the Central Procurement Agency;
4. For the five (5) selected contracts, the compliance of the planned quantities, units and values foreseen in the tendering process;
5. The compatibility of long-term contracts (one to three years) in the Medium-Term Expenditure;
6. If the number of capital projects in the procurement plan is the same with those of the municipal budget for the pertaining year; and
7. If municipalities conduct market research, what are the methods that they use.

3. Procurement Process

During the monitoring of tendering process in each municipality, two tenders were selected, one of a higher value and one of a medium value based on:

- The value of the contract;
- Number of complaints;
- Risk;
- Procedure; and
- Its importance for the community.

The contracts selected for procurement process monitoring are activities initiated during 2019-2020.

The monitoring of this process is implemented through the request for access to public documents. This process was monitored in three phases:

1. Before the tendering process, monitoring questions such as:
 - a. Have the project and municipal budget been coordinated?
 - b. Is it included in the procurement plan?
 - c. Has the Proof of Funds been declared?
 - d. Are the conditions and criteria for the bid evaluation clearly defined?
2. During the tendering process, monitoring questions such as:
 - a. Were the members of the bid evaluation commission qualified for bid assessment?
 - b. Did these members have sufficient instructions, from the procurement office on the procurement procedures that must be upheld?
 - c. Was there any request for review, in any case, on the occasion of the contract award notice?
 - d. Was there any request of the tenderer to change or modify tender file criteria?
 - e. Did the municipality change or modify the tender file in case of any mistakes?
 - f. How many economic operators were declared irresponsible?
 - g. Was any of the operators cheaper than the irresponsible winner? If so, were there compelling reasons?
 - h. Has the correct procurement procedure been applied?
 - i. Analysis of the technical specifications;
 - j. The monitoring and highlighting the complaints by the economic operators that participate in the process; and
 - k. Any eventual deflection from the legal deadlines.
3. After the contract award notice, monitoring questions such as:
 - a. Were there any complaints to the Procurement Review Body (PRB)?
 - b. What did the PRB decide on the complaint? and
 - c. Did the institution uphold the decision given by PRB?

4. Contract Management

The contract management is monitored through the selection of two contracts for each municipality, one contract of a higher value and a medium value contract. The contracts were selected based on:

- Value of the contract;
- Number of complaints;
- Risk;
- Procedure; and
- Its importance to the community.

The contracts selected for this phase of the monitoring process are activities initiated during 2018-2020.

The monitoring process is conducted through the requests for access to public records, as well as the citizens' inclusion in the monitoring process. For this reason, nine (9) monitoring bodies have been created, and citizens from the affected neighborhoods of the project have been interviewed in connection with its implementation.

The monitoring has been conducted focusing on these specifics:

- a) Has the contract manager been appointed?
- b) Does the manager have the time and proper qualifications to oversee the contract implementation?
- c) Is there a conflict of interest for the contract managers?
- d) Has the contract management plan been drafted?
- e) Are there any other mechanisms, apart from the project manager, that oversee the quality of the contract implementation?
- f) Were the legal requirements for contract management fulfilled?
- g) Did the technical aspects of the contract management finish correctly?
- h) Were the payments to the economic operators finalized in time?
- i) Are the payments made in compliance with the level of the finalized contract?
- j) Were the eventual penalties for the contracting companies properly applied?
- k) Was there any annex tied to the contract?
- l) Did the project finish in time?
- m) Did the project finish as planned, and did it fulfill the proposed objectives?

3. Key Project Activities

The project, "Demand for Transparent and Accountable Municipalities: Monitoring public procurement and empowering citizens to lead positive change," apart from the public procurement processes, aimed to raise citizens' awareness and inclusion in the public procurement process. Furthermore, the project has implemented activities in terms of supporting municipal bodies, in executing certain activities also, raising the communication level between municipal bodies, citizens, civil society institutions and municipal councils.

In its framework, this project has:



4. Legal basis in the municipal budget process

The drafting and approval of the Medium-Term Expenditure precedes the municipal budget drafting process. With regards to the Mid-term Budget Framework for 2021, the Ministry of Finance and Transfers, through the circular released on May 15, 2020, obligated municipalities to prepare and approve this document by June 30, 2020.

The process of drafting and approving the municipal budget is regulated by Law no.03/L-048 on Public Financial Management and Accountability, also has five (5) amendments.. According to this law, the process of drafting the municipal budget for the next year must begin no later than July 1st of the previous year. This procedure is initiated by the Chief Financial Officer,

whom initially must send a budget circuit to all municipal departments with guidelines defined by law and must request, receive, and review the budget request of all the municipal departments. After this, the Chief Financial Officer must prepare a budget proposal for the next year and send the same to the Mayor of the municipality.

The legal framework guarantees the rights of citizens to be included in the drafting process of both the Medium-Term Expenditure and the Municipal Budget.

The Ministry of Local Government Administration approved the Administrative Instruction No.06/2018 on Minimum Standards of Public Consultation in Municipalities.

Pursuant to article 6 of this administrative instruction, *“1. The Municipality shall be obliged to provide public consultation for all the local policy documents as follows: ... 1.2 Municipal draft budget for the following year, as well as budget revision; 1.3. Mid-term Budget Framework for 3 coming years”*.

Article 10 of this administrative instruction defines the form and techniques of public consultations. Paragraph 1 of this article stipulates that there is a total of 13 form and techniques of public consultations, while paragraph 32 of the same highlights that *“Written and electronic consultation, publication on the municipal website and on the Public Consultation Platform of the Government, as well as at least one public consultative meeting with the interested parties, shall be mandatory in the public consultation process”*.

With regards to holding public consultations, article 13 of this administrative instruction stipulates that *“Prior to the approval of the draft proposal, the proposing body shall take a decision to open the public consultation process”*. In the concrete case, public consultation on Mid-term-Budget Framework and budget proposal according to the provisions of their administrative instruction must be done by the respective Mayor’s Office prior to proceeding with the budget proposal to the Municipal Assembly of the respective municipality. After the completion of public consultations on the Mid-term Budget Framework, the respective Mayor’s Office is obligated to publish a report on the results of the public consultation process. Article 5.5 of the Administrative Instruction (MLGA) No.06/2018 on the Minimal Standards of Public Consultation in Municipalities stipulates that *“The municipality shall be obliged to announce the results of the public consultation process, to publish a list of all the proposals provided by the citizens, and to provide the necessary explanations regarding the reasons for rejecting the requests of citizens or other interested groups”*.

After the respective Mayor of a municipality proceeds to the budget proposal for the respective year in the Municipal Assembly, the Municipal Assembly is obliged to hold public hearings with the citizens, before approving the municipal budget proposal.

The obligation of municipal assemblies to hold budget hearings prior to the adoption of the budget for the next year is regulated by legal provisions. In this case, Law No.03/L-048 on Public Financial Management and Accountability stipulates that *“Upon receipt of the proposed budget, the Municipal Assembly shall hold public hearings in accordance with the applicable*

municipal normative acts”. In this manner, the provisions in force oblige municipal institutions to, in the process of drafting and adopting the municipal budget for the respective year, do so in consultation with the citizens. Cooperation must be reached via public consultations, so that the municipal budget presents real priorities and the needs of the citizens of a designated municipality. In this area, Administrative Instruction (MLGA) No. 03/2020 on the Transparency in Municipalities, article 6 governs and obligates municipalities to operate with financial transparency, whilst the municipalities of the republic of Kosovo have adopted regulations that refer to and aim to increase transparency. Citizens Inclusion and Participation in Municipal Budgeting

During the monitoring process, KLI and INPOs’ findings show that all the municipalities approved the Medium-Term Expenditure and the Annual Budget.

Pertaining to citizen involvement, in the drafting of these two (2) documents, the minimal standards of public consultation in terms of drafting the Medium-Term Expenditure direct the municipalities to uphold at least three (3) types of public consultations:

1. Written and electronic consultations;
2. Publication on the official site of the municipality and the Government’s Platform for Public Consultations; and
3. At least one public consultation meeting with the interested parties.

In this direction, in terms of Medium-Term Expenditure and the Annual Budget, KLI and INPO have monitored the implementation of these duties from nine (9) of the municipalities, as shown below.

On the written and electronic consultation, as one of the required forms of public consultation, KLI and INPO found that during the drafting of MTE, such forms of public consultations have not been applied by any of the municipalities under monitoring. However, pertaining to the drafting of the municipal annual budget, KLI finds that this mandatory form was held by Vushtrri/Vučitrn Municipality, whereas it was not held by neither of the other eight (8) municipalities under monitoring.

On the requirement of publishing the notice for public consultations and the municipal Medium-Term Expenditure draft, KLI and INPOs’ findings show that this requirement was not entirely fulfilled by any of the municipalities under monitoring. However, this requirement was partially fulfilled by Peja/Peć and Rahovec/Orahovac Municipality. This kind of non-enforcement of public consultations also stands on cases of municipal budget drafting. KLI and INPO show that from all of the municipalities under monitoring, only the Municipality of Hani i Elezit/Elez Han fulfilled the requirements during the public consultation phase.

During the drafting of the Medium-Term Expenditure, KLI and INPO show that four (4) of the nine (9) municipalities under monitoring applied the requirements for holding public meetings. Such a duty was implemented by Peja/Peć, Rahovec/Orahovac, Junik and Hani i

Elezit/Elez Han Municipalities, which, during the drafting of the Medium-Term Expenditure, held one (1) public meeting.

Whereas in terms of municipal budget drafting, during the monitoring process, KLI and INPO found that five (5) of the nine (9) municipalities under monitoring held public hearings, whereas four (4) other municipalities did not do so. Budget hearings during the drafting process of the municipal budget were organized by the Municipality of Pristina, Gjakova/Djakovica, Peja/Peć, Rahovec/Orahovac and Hani i Elezit/Elez Han. Because of the situation created by the COVID-19 pandemic, Municipalities of Pristina and Gjakova/Djakovica held their budgeting hearings virtually.

As for the number of the budgeting hearings during the annual budget drafting phase, Rahovec/Orahovac Municipality organized a total of 15 budgeting hearings, Peja/Peć organized nine (9), Gjakova/Djakovica organized six (6), Pristina organized six (6) and Hani i Elezit/Elez Han organized one (1).

During the monitoring process, KLI and INPO observed the level of citizens participation in these budgeting hearings, a level which remains low. It should be noted that a case for observation was the gender inclusion in these budgeting hearings.

On budgeting hearings organized for drafting the municipal Medium-Term Expenditure, KLI and INPO found that in the budgeting hearings held, in four (4) municipalities a total of 69 citizens participated, 58 of whom were men and 11 of whom were women.

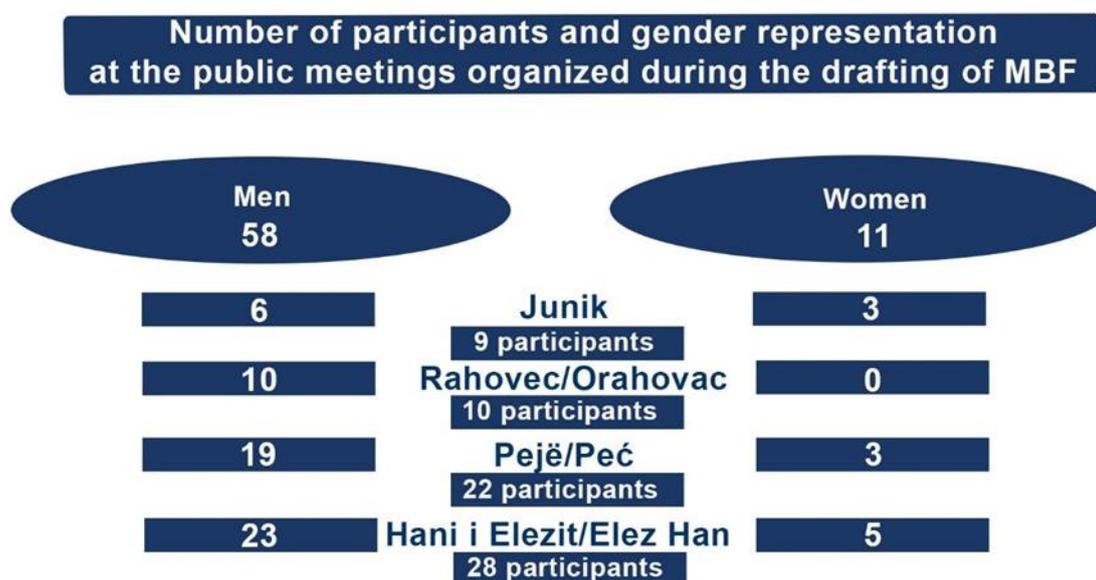


Table 1: The number of participants and gender representation in public meetings organized during the drafting of the Medium-Term Expenditure.

As far as budgeting hearings are concerned, during the drafting of the municipal budget, KLI and INPO found that in the budgeting hearings organized by five (5) of the municipalities under

monitoring, the total number of participants was **498 people, of whom 428 were men and 70 of whom were women**. The highest number of participants recorded was in budget hearings in Peja/Peć Municipality, and the lowest was in Pristina Municipality, where the number of participants was lower than the number of the budgeting hearing, and some hearings had no participants whatsoever.

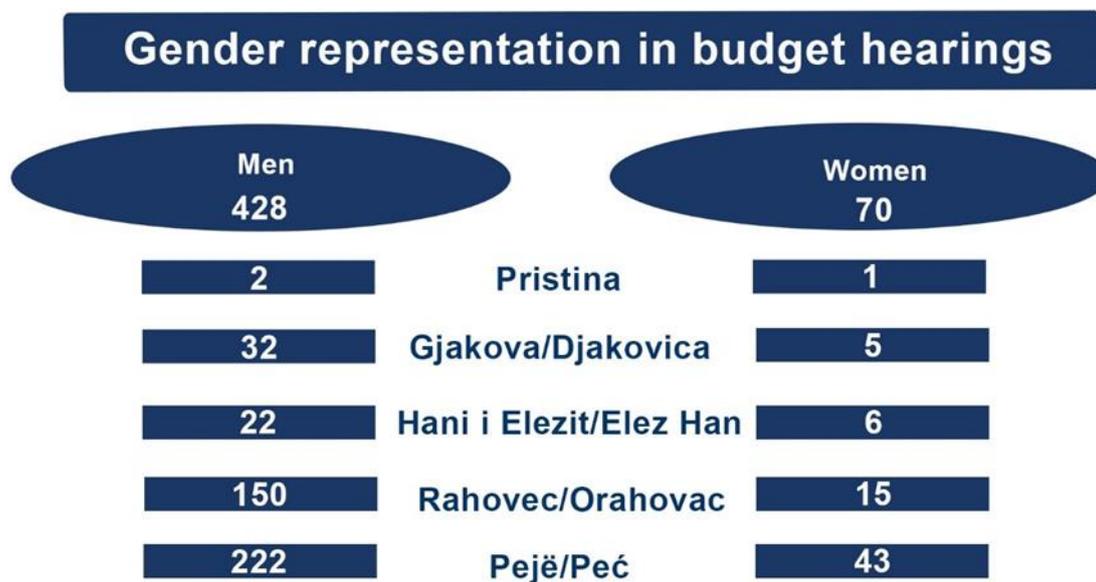


Table 2: Gender representation in budget hearings

KLI and INPO have monitored the municipalities' implementation in publishing the final reports after the conclusion of the public consultation processes. KLI and INPO show that none of the municipalities under monitoring entirely fulfilled their requirements, both in the case of Medium-Term Expenditure and the municipal budget. As far as the Medium-Term Expenditure is concerned, out of the nine (9) municipalities under monitoring, only Rahovec/Orahovac Municipality has partially fulfilled such requirements, whereas concerning the municipal budgeting, this requirement was fulfilled partially by Gjakova/Djakovica Municipality.

According to Law No. 03/L-048 on Public Financial Management and Accountability, the Mayor is required to deliver the proposed budget for the following year to the Chairman of the Municipal Assembly by September 1 of the same year. However, this deadline has not been implemented by any of the municipalities. The reason being that those six (6) days before the deadline, more specifically on August 26, 2020, the Ministry of Finance had addressed all the municipal mayors, with the request of not proceeding with the Municipality's Proposed Budget for year 2021. This request was justified by the fact that since the beginning of 2020, because of the country's dealing with the COVID-19 pandemic, there was a drop in revenues for the year 2020. However, during the month of September, with minor differences, all municipalities have accomplished to process the budget in the Municipal Assembly.

All Municipal Assemblies, of municipalities under monitoring, organized budgeting hearings during the review of the budget drafting phase. Of the nine (9) municipalities under monitoring, eight (8) of them have organized hearings in cooperation with KLI and INPO. In the project's framework, KLI and INPO, in cooperation with the municipalities, organized budgeting hearings in all of the municipalities under monitoring except for Hani i Elezit/Elez Han Municipality. The Municipal Assembly of Hani i Elezit/Elez Han Municipality had organized budgeting hearing without the support of KLI and INPO. Because of the situation caused by the COVID-19 pandemic, KLI and INPO organized budgeting hearings in a virtual manner, through the "Zoom" platform. With the purpose of raising transparency and maximizing inclusion, both KLI and INPO, in cooperation with the municipalities, have broadcasted live on KLI and INPOs' official sites, on the social network "Facebook." The following of these budgeting hearings through the "Facebook" social network varied from 2.400 to 13.000 views. Combined, viewership of all budgeting hearings reached 63.000 views.

After the budgeting hearings, all the municipalities under monitoring received approval of their annual budgets before the deadline, excluding Pristina Municipality which approved the yearly budget on October 2, 2020.

Also, all the municipalities have published the approved yearly budget, except for the Junik Municipality.

During the budget monitoring process, KLI and INPO collected all the budgeting requests and, after the draft budget publishing, identified the level of citizens' requests included in the approved budget.

For the Medium-Term Expenditure, citizens requests were identified only in Hani i Elezit/Hani i Elezit/Elez Han and Junik Municipality. In Hani i Elezit/Elez Han Municipality, a total of eight (8) requests were identified, one (1) of which were included in the approved Medium-Term Expenditure, two (2) were not included, whereas five (5) could not be identified in municipality's Medium-Term Expenditure. In Junik Municipality were identified four (4) requests, one (1) of which was included and one (1) has not been able to be identified.

The table below, shows detailed data on the number of citizens requests, and their involvement in the municipal budget.

Inclusion of citizens' requests in the approved budget					
Municipality	No. of budgetary requests	Included	Partially included	Not included	Could not be identified
Hani i Elezit/Elez Han	26	3	0	10	13
Gjakova/Djakovica	41	27	0	12	2

Rahovec/Orahovac	226	88	0	39	99
Gjilan/Gnjilane	14	2	0	5	7
Vushtrri/Vučitrn	263	3	0	55	205
Pristina	15	3	1	7	4
Peja/Peć	213	3	0	93	117
Deçan/Deçane	10	1	1	5	3
Junik	8	0	0	4	4

Table 3: Inclusion of citizens' requests in the approved budget.

KLI and INPO analyzed the balance of municipal projects for citizens and administration:

The balance of municipal projects for citizens and administration			
Municipality	Projects for citizens	Projects for the administration	The projects budget percentage for citizens in relation to the total budget for capital investments
Pristina	98 (28,082,837€)	6 (510,000€)	94.23%
Deçan/Deçane	26 (2,356,703€)	1 (150,000€)	94.02%
Rahovec/Orahovac	80 (4,263,979€)	3 (23,000€)	99.46%
Gjakova/Djakovica jakovë	84 (7,677,302€)	2 (125,000€)	98.40%
Hani i Elezit/Elez Han	24 (440,127€)	0	100%
Gjilan/Gnjilane	26 (5,951,743€)	2	94.97%

		(315,000€)	
Peja/Peć,	37 (7,732,226€)	4 (265,000€)	96.69%
Vushtrri/Vučitrn	55 (4,029,154€)	3 (30,000€)	99.26%
Junik	6 (79,305€)	1 (80,000€)	49.78%

Table 4: The balance of municipal projects for citizens and administration.

In the table below, KLI presented the data of the projects in the approved budget, that mirrors the balance between the new and ongoing projects:

New project balance/ the continuation of the municipal projects			
Municipality	New project	Continuation from the previous year	Percentage of new projects
Pristina	58	46	55.77%
Peja/Peć	8	34	19.05%
Gjakova/Djakovica	41	45	47.67%
Gjilan/Gnjilane,	1	27	3.57%
Vushtrri/Vučitrn	32	26	55.17%
Rahovec/Orahovac	16	67	19.28%
Deçan/Deçane	11	16	40.74%
Junik	1	6	14.29%
Hani i Elezit/Elez Han	10	14	41.67%
Total	178	280	38.86%

Table 5: New project balance and the continuation of the municipal projects

5.1. The Challenges to Transparency and Citizen Participation in Budget Drafting

With respect to public hearings as a way of public consultation for budget drafting, as per the abovementioned data, a challenging aspect remains the low level of citizen participation. It appears that the public's insufficient information over their rights, opportunities and importance of participation are the main reasons for the low participation in these budget hearings. KLI and INPO note that this insufficiency should be addressed in an institutional and strategic manner to inform the public of their rights, opportunities and importance in participating in budgeting processes. The public's low participation in such public hearings lowers the required effect to turn this form of public consultation into a permanent form: a discussion with a small group of citizens.

In addition to other challenges, because of the COVID-19 pandemic, some municipalities held budget hearings in a virtual manner, which, because of the technical difficulties for access, contributed to low public participation. Furthermore, KLI and INPO during the monitoring in nine (9) municipalities have evidenced three (3) budgeting hearings in which no citizen participated. The low number of citizens in such budgeting hearings is recorded precisely in the capital. The number of budgeting hearings in this municipality is higher than the total number of citizens who participated in these budget hearings.

On the other side, in Hani i Elezit/Elez Han Municipality, a municipality smaller than Pristina, has a relatively higher number of participants in budget hearings. In the only organized budget hearing by this municipality, 28 citizens participated. As such, Hani i Elezit/Elez Han Municipality represents a progress in relation to other municipalities, more so as it is a smaller municipality, and its participants number is higher. Based on the monitored budgeting from previous years by INPO, it is continually shown that the budgeting hearings of Hani i Elezit/Elez Han were the most successful. In this municipality, we see two (2) main reasons that affect the increase of participants. Primarily, in comparison with ea. Pristina Municipality, the community in this municipality is homogeneous; on the other side, the citizens of Hani i Elezit/Elez Han Municipality have built a rapport and mutual respect with the municipality, more specifically with the mayor who has shown his dedication over the years in this direction.

The findings by KLI and INPO show the fact that budget hearings as the most important part of public consultations in budget drafting, is not being used enough and properly. This lack of coverage of public hearings loses the meaning of this organization, as it is presented more as a meeting with a certain group of citizens than as a consultation with all citizens, the interests of whom should be reflected in the approved budget.

KLI and INPO consider that all municipalities and other central institutions must appeal to its citizens in informing them of their rights and opportunities to participate in this form of public hearings by emphasizing the importance of such participations. Furthermore, citizens' requests deliver the message that citizens may also partake actively in decision making.

5. Planning, Contract Management and Procurement in Municipalities

In addition to budgeting processes, KLI and INPO have monitored the process of procurement planning, contract management and procurement in nine (9) municipalities.

Regarding the procurement planning, according to Law No.04/L-042 on Public Procurement¹, at least 30 days before the beginning of every fiscal year, each contracting authority should prepare a preliminary procurement plan. A public authority or a public enterprise must hand in written form, details of all the supplies, work services that the contracting authority plans to procure during the fiscal year in question, to the Chief Administrative Officer of the Contracting Authority.

The final planning, which is monitored by KLI/INPO on the basis of the same law, requires that fifteen (15) days after the promulgation of the legislation on appropriations for the fiscal year, every contracting authority shall, a public authority or enterprise must hand to the Central Procurement Agency (CPA) a final planning in writing identifying details of all supplies, services works that the contracting authority. Furthermore, the Law requires that procurement plan for supply contracts be detailed.

The legal requirement that the procurement plan be sent to the CPA within 15 days after the promulgation of the legislation on appropriations for a fiscal year has been implemented by all of the municipalities under monitoring, except for Rahovec/Orahovac Municipality, which sent the Plan on March 6, 2020, 13 days before the promulgation of the legislation on Appropriations for the Budget for Year 2020. From the monitoring process, we can see if municipalities' procurement plans fulfill the legal requirements, none of the municipalities fulfill the procurement plan according to the Law on Public Procurement, Rules and Operational Guidelines on Public Procurement and B01 Form².

The shortcomings are most visible in the supply activities, where the units for these activities are not filled by the municipalities, or the municipalities that did, they were shown to have used incorrect data. Except for Peja/Peć, Pristina and Vushtrri/Vučitrn Municipalities, which have not set any data on the quantity or units, other municipalities have tried to fill in these requirements; however, during the research, it was shown that the data is incorrect and mainly a template.

During the monitoring process, KLI and INPO found that seven (7) of the municipalities under monitoring (Pristina, Peja/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn Gjilan/Gnjilane, Deçan/Deçane, Junik and Hani i Elezit/Elez Han) for one of the two monitored activities, was not foreseen in the procurement plan for the respective year, whereas five (5) of the nine (9)

¹ Article 8, paragraph 1.

² See, Article 8, paragraph 2 të LPP <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2772> and Article 5 of ROGPP https://e-prokurimi.rks.gov.net/HOME/Documents/Legislation/SecondaryLegislation/shq/A01_Rregullat%20dhe%20Udhezuesi%20Operativ%20per%20Prokurimin%20Publik.pdf and B01 Form <https://e-prokurimi.rks.gov.net/HOME/ClanakItemNeë.aspx?id=233>.

municipalities under monitoring (Gjakova/Djakovica Peja/Peć, Rahovec/Orahovac Junik and Hani i Elezit/Elez Han), one of the two monitored activities have been included in the procurement plan for the pertaining year, foreseeing a lower value compared to the predicted value in the initial phase of the activity.

Pertaining to the procurement plan, KLI and INPO found that in three (3) cases from two different Municipalities (Junik and Hani i Elezit/Elez Han) identified bid evaluation commissions, members of which did not have the right qualifications.

KLI and INPO found that municipalities, in general, do not consult with its citizens on certain projects, and the majority of the surveyed citizens do not have the knowledge on the cost or duration of the contract. It was also noted that, in certain projects, a proper collaboration between municipalities and Local Council members was lacking.

KLI and INPO found that Pristina Municipality in the “*Pastry Supply for Students of Grade 1-5,*” despite the existence of performance security which was a condition set in the Tender File, the same agreed to sign the contract without a performance security condition. Whereas Deçan/Deçane Municipality for the “*Summer and Winter Road Maintenance in Deçan/Deçane Municipality*” has not been able to execute payments to the Economic Operator in accordance with the contract conditions and the level of services performed.

KLI and INPO findings for each municipality pertaining to procurement planning and contract management, are presented in this report.

6.1. Municipality of Pristina

Procurement planning

Pristina Municipality for the year 2020, planned a total of 205 activities, 88 of which were for work purposes, 66 for supply purposes, 43 for service and 8 for design competition purposes. This municipality sent the procurement planning to the CPA on April 2nd 2020, within the legal deadline.

The procurement planning of Pristina Municipality fulfilled the B01 Form criteria, in respect to work and services contracts, however, it did not fulfill the criteria for supply contracts.

Regarding the applicability of the procurement plan, KLI and INPO found that Pristina Municipality was not able to conduct a reasonable plan for supply activities, as is required by the Law on Procurement Plan³. The municipality did not plan for units and quantities in the procurement plan, however in the tendering phase it is evident that there were set units and quantities, for the monitored contracts.

³ Article 8, paragraph 1, subparagraphi 1.1 , Law No. 04/L-042 on Public Procurement, <https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=2772>

KLI and INPO found that Pristina Municipality did not draft the procurement plan within its budgeting capacities. The difference between the plans predicted value and the budget value for year 2021 is 2,984,538.71 €.

For employment activities, KLI and INPO found that of the 88 planned activities, Pristina Municipality was off budget for five (5) activities with a total value of 1,280,000.00€.

The findings also show that, of the first five work activities with the duration of one to three years, one of the said activities is not included in the Medium-Term Expenditure, the Medium-Term Expenditure was upheld for other projects, more specifically, for two activities an identical value is noted, whereas the two other activities in the MTE, planned a value of 30 thousand, respectively 50 thousand more euros.

For market evaluation, Pristina Municipality stated that this is done through the requesting unit.

The procurement process

Pertaining to procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contracts predicted value
1	Physical security for Pristina Municipality facilities	616-20-3394-2-1-5	232,368
2	Building the stray dog shelter and their treatment	616-19-8855-5-2-1	150,000

According to the findings, of the two (2) of the monitored activities in Pristina Municipality, one is included in the procurement plan. Also, for these two (2) activities, Pristina Municipality prepared the Proof of Funds, whereas the members of the evaluation commissions in these two (2) activities had the necessary qualifications. For these two (2) activities, no announcements were made for the corrections of the published notices, and no requests for clarifications from the Economic Operators. In these two (2) activities, none of the bidders were declared irresponsible, and there was no request for review or complaint in the PRB by the Economic Operators.

For the project “*Physical security for Pristina Municipality facilities,*” KLI and INPO, found the Pristina Municipality did not implement the right procurement procedure by using the negotiated procedure without publishing the contracts notice. In doing so, limiting the free competition, as one of the important principals of the procurement procedure.

The municipality gave its reason on that: “The contracting authority announces the negotiated procedure until the end of the new activity to ensure facilities, after the activity that is being carried out is in the appeal phase in the OSHP.”⁴ For this procurement activity, a procedure that minimizes competition in public procurement was used, also the municipality was not interested that the Economic Operators fulfill some of the requests that would influence the service quality even though this is not required by law.

For the “Building the stray dog shelter and treating them” procurement activity, Pristina Municipality, based on their professional and technical capacities, required that the Economic Operator bidders have “basis on asphalt production, in ownership or agreement on asphalt supply.” During the analysis, of the work required to be finalized, during the implementation of this project, and after the analyzing price, we note that the Economic Operator is not obliged to pave the asphalt and such a request is unreasonable. Inserting unreasonable and irrelevant requests are in contradiction with the provisions of the LPP and ROGPP.

Pristina Municipality, for the “Physical security for Pristina Municipality facilities.” used the negotiated procedure without publishing a contract notice and, in spite of this, was not able to deduct a cent. This tells us that the predicted value of the contract remained the same even after the negotiations.

In terms of tender security, KLI and INPO found that this was not required, for the contract “Physical security for Pristina Municipality facilities.”

Contract management

For contract management, KLI and INPO have selected two (2) contracts to monitor:

Title: Pastry supply for students grades 1-5	Title: Park construction in Arbëria neighborhood
Procurement number: 616-19-9113-1-1-1	Procurement Number: 616-18-2602-5-1-1
Contract Value: 247,752.00€	Contract Value: 362,878.72€

According to the findings, Pristina Municipality hired a manager that meets the required qualifications for one of the contracts, whereas for the other contract the Municipality did not appoint a manager, because the contract implementation did not start.

Pristina Municipality, in the contract “Park construction in Arbëria neighborhood” did not have a valid performance security, because the contract officially expired on December 13, 2019, and the performance security by December 27, 2019. Article 30.6 of ROGPP requires that “the

⁴ The reason given by Pristina Municipality.

performance security remain valid for a period of thirty (30) days after the completion of the contract.”

Pristina Municipality, for the contract “*Pastry supply for students grade 1-5,*”⁵ in spite of the performance security as a condition of the tender file, the same accepted the performance security in contrary to the law; specifically, it did not have a valid security. The contract was signed on February 25, 2020, the performance security was issued on February 27, 2020, this performance security will be valid from May 25, 2020 to December 26, 2020.

Pertaining to the ROGPP when the performance security is required, the same becomes a precondition for signing the contract, the performance security must exist by the time the contract is signed. In this case, Pristina Municipality in acting against the law, signed a contract without having such a security.⁶

The work contract which was monitored and for which field visits were conducted was “*Park construction in Arbëria neighborhood.*” From the field visits, we see that the contract was not entirely fulfilled, respectively certain positions were not fulfilled according to the contract.⁷ In fact, some pre-measure positions have not been implemented at all, and some of them only partially, while there are positions that have been worked on more than the pre-measure forecast.

From 362,878.72€ of what the value of the contract was, the value of the work done until the end of the project was 352,522.95€, or 10,355.77€ less than the value of the contract.

Also, we note that after the project was finalized there were interventions, more specifically, certain parts of the project were cut to open channels for laying decorative tree irrigation pipes throughout the park. According to the contract manager, this intervention was made by the Park Directory, and the intervention was made after the finalization of the project in which the tree watering was not expected. Also, the toilettes dedicated for visitor’s needs were closed and demolished.

All these findings prove the Pristina Municipality’s ill planning, firstly, in that many contract positions were not implemented. According to the contract manager, there was no need for many of the contract positions, which proves ill planning. Second, after all the work done as a consequence for the unplanned watering, it was required to intervene on the finished project, to install irrigation pipes, and damaged certain places in the parks project in this

⁵ See contract and tender file, https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=796765.

⁶ See ROGPP, Article 30, paragraph 2, <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret/shq/A01%20Rregullat%20dhe%20Udh%C3%ABzuesi%20Operativ%20p%C3%ABr%20Prokurimin%20Publik.pdf>.

⁷ See contract, https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=325970. The unfinished positions according to the pre-measure are: 1.1, 1.5, 1.7, 1.10, 1.11, 1.12, 1.13, 1.14, 3.2, 3.3, 3.4, 3.5, 4.3, 5.7, 6.9, 6.17, 7.2, 7.3, 8.1, 8.2, 11.20, the set positions are higher than the pre-measure 7.5, whereas positions that aren’t set according to the pre-measures 2.2, 2.3, 2.7, 2.8, 2.9, 9.7, 10.6, 11.18, 11.19, 11.26, 11.28, 11.29 dhe 11.31.

neighborhood. The citizens declared that they were mostly satisfied with this project and the same was a project of priority, but also declared that they were not advised and not informed of the cost and duration of the project.

6.2. Municipality of Gjakova/Djakovica

Procurement planning

Gjakova/Djakovica Municipality for year 2020 planned a total of 123 activities, 53 of which for employment, 43 for supply and 27 for services. This Municipality has sent the procurement planning in the CPA within the legal deadline, on March 26, 2020.

The procurement planning of Gjakova/Djakovica Municipality fulfilled the B01 Form criteria on employment and services contracts, whereas it partially fulfilled the criteria on supply contracts.

On the applicability of the procurement plan, KLI and INPO found that for the supply contracts, only one activity has provided quantities, the measuring unit, is provided in only two activities, where during the tendering phase, the quantities and the measuring units do not match.

For the “*Tools and equipment supply for firefighting*” activity, a great excess of the predicted value is noted, in fact the predicted value during the tendering phase is much smaller than planned. All of these are indicators that the Municipality did not conduct the procurement planning according to the legal requirements.

KLI and INPO found that Gjakova/Djakovica Municipality did not draft the procurement planning for work activities based on its budget capacities. The difference between the value provided in the plan and that in the budget for year 2021 is 2,952.082€.

Also, for the work activities, KLI and INPO found that of the 53 work activities, Gjakova/Djakovica Municipality had planned, four (4) of them could not be identified in the budget.

According to KLI and INPOs findings, five (5) of the first work activities for the duration of one to three years that the Gjakova/Djakovica Municipality initiated, were foreseen in the MTE. During the tendering phase, the provided value is within the MTE’s predictions, specifically it did not exceed the MTE. Except, for the “*Road construction-asphalting in Ramoc village,*” the contract notice was 19,931.98€ higher than the predicted value in the MTE, whereas the activity “*Park construction and mitigation,*” started with 200,000.00€, whereas in the MTE for the year 2020 and 2021, the municipality had available only 100,000.00€, for the year 2022 has 250,000.00€, 450,000.00€ in total.

Pertaining to the market value, Gjakova/Djakovica Municipality stated that this is done through the requesting unit.

The procurement process

KLI and INPO selected two (2) activities for monitoring for the procurement process:

	Activity	Procurement number	The contracts predicted value
1	Digitalizing-multifunctional pillars, smart city and two-year contract-cameras	632-19-4733-1-1-1	180,000
2	Building kindergartens in Gjakova/Djakovica Municipality	632-20-4633-5-2-1	197,578

For the procurement process, two (2) of the monitored activities in Gjakova/Djakovica Municipality are included in the procurement plan; however, the activity “*Building kindergartens in Gjakova/Djakovica Municipality*,” was predicted for a lower value. Also, for these two (2) activities, Gjakova/Djakovica Municipality prepared the Proof of Funds declaration for the necessary qualifications for members of evaluation committees, for these two (2) activities the municipality did not offer access to conduct an evaluation.

The “*Digitalizing-multifunctional pillars, smart city and two-year contract-cameras*” activity had a form for correcting the published notice and the request for clarifications by the Economic Operator.

Whereas the other activity, “*Building kindergartens in Gjakova/Djakovica Municipality*,” had no announcements on the correction of the published notices, and also had no clarification request by the Economic Operators.

For the “*Digitalizing-multifunctional pillars, smart city and two-year contract-cameras*,” activity, of the four (4) bidding economic operators, three (3) were declared irresponsible, there was a request for review and a complaint to the OSHP by the Economic Operator.

For the “*Building kindergartens in Gjakova/Djakovica Municipality*,” there was only one (1) bidder, and no request for review or complaint in the PRB by the economic operators.

For the tender security, the same was not valid pertaining to required time limit, in both activities, and also with the required value in the tender file by the contracting authority.

Contract management

For contract management, KLI and INPO selected two (2) contracts for monitoring:

Title: Low construction project drafting	Title: Road construction and mitigation with concrete blocks
Procurement number: 632-20-3904-2-1-1	Procurement number: 632-20-1533-5-1-1
Contract value: 180 000,00€ (predicted value), price per 0.66€	The contract value: 626,653.15€

According to the findings, Gjakova/Djakovica Municipality for two (2) contracts appointed managers that have the required qualifications.

The contract for which field visits were conducted in Gjakova/Djakovica Municipality is titled “Road construction and mitigation with concrete blocks.” During this visit, parts of the project that had to do with pavement construction and mitigation on “Sylejman Lleshi” street and the construction of the square “Ilir Soba” in Gjakova/Djakovica. What was evident from these visits is that in these two locations, there were missing watersheds, even though they were included in the premeasures, and more specifically, the project had planned for a total of twenty-five (25) watersheds.⁸ This remark not including, in general, other work was done in accordance with the premeasures and terms of contract.

The citizens declared that they were mostly satisfied with this project and that the same is a project of priority; however, they did state that they were not informed or advised on the cost and duration of the project. Half of the citizens interviewed stated that they were satisfied with this project, and they did state that this project was a priority. Also, all the interviewed citizens stated that they were never consulted in advance and for this project and none of them knew the cost and duration of the contract.

For the activity “Building kindergartens in Gjakova/Djakovica Municipality,” KLI and INPO note that, the criteria could have been the cause that for this activity only one Economic Operator would appear. This after the requests on the technical and professional capacities required, from Gjakova/Djakovica Municipality could be considered as too high by the other economic operators, for which only one economic operator did bid, and also won the contract.

6.3. Municipality of Peja/Peć

The procurement planning

Peja/Peć Municipality, for year 2020, had planned a total of 115 activities. Of these 74 were for work, 26 for supply, 13 for services and two (2) for design competitions. This municipality sent the procurement planning to the CPA on April 1, 2020, within the legal deadline.

⁸ For more, see contract and e-procurement premeasure, https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=972029.

This municipality's procurement planning has fulfilled the B01 Form criteria, pertaining to the work and service contracts, it did not fulfill the criteria on supply contracts.

On the applicability of the procurement plan, KLI and INPO found that for the supply contracts, none of the five (5) monitored activities set the units and quantities for the planned activities, and that the municipalities are obliged to draft the procurement plan in detail for the next supplies. During the tendering phase, some unknown or inexistent measuring units are noted, such as: rolls, packaging, bundle.

KLI and INPO found that on work activities, this municipality did not conduct the procurement planning based on its budgeting capacities. The difference between the predicted value and the budget for year 2021 is 134,595.90 €.

Also, for the work activities, KLI and INPO found that of the 74 work activities that Peja/Peć Municipality had planned, two (2) of them could not be identified in the budget. The value of the activities that could not be identified in the budget is 20,000.00€.

According to KLI and INPOs findings, five (5) of the first work activities with the duration of one to year years that were initiated by Peja/Peć Municipality could be identified in MTE 2020-2022. Pertaining to the predicted values, we note that none was close to the predicted value.

Peja/Peć Municipality stated that the market assessment was done through the requiring unit.

The procurement process

For the procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contracts predicted value
1	Football field construction in Baran, Peja/Peć Municipality	635-20-3448-5-1-1	521,012
2	The purchase and installation of the elevator in MFMC	635-20-4525-1-2-1	38,000

For the procurement process, according to KLI and INPO the “*Football field construction in Baran, Peja/Peć Municipality*,” was not included in the procurement plan, whereas the activity “*The purchase and installation of the elevator in MFMC*” was included in the procurement plan, however, for a lower value.

For these two activities, Peja/Peć Municipality prepared the Proof of Funds, and the evaluation committee members, for these two (2) activities had the necessary qualifications. For these two (2) activities there were no requests for clarifications from the economic operators, for the activity “*Football field construction in Baran, Peja/Peć Municipality*,” the contracting authority published corrections in the prior notices. Out of these two (2) activities, for the “*Football*

field construction in Baran, Peja/Peć Municipality,” four (4) of these economic operators were announced irresponsible, for the other activity there was only one (1) bidder. Regarding the other activity there was one (1) request for review.

For the tender security, the same was valid in terms of the deadline, for both activities, also in accordance, with the required value in the tender file, by the contracting authority.

Contract management

KLI and INPO, for contract management, have selected two (2) contracts to monitor:

Title: Consumable material supply for MFMC central pharmacy	Title: Road construction in Rugova “Drelaj-Leqinat”
Procurement number: 635-20-3528-1-2-1	Procurement number: 635-20-2895-5-1-1
Contract Value: 26,988.00€	Contract value: 548,958.18€

For contract management, Peja/Peć Municipality appointed managers that met the required qualifications in both contracts.

The contract in which field visits were conducted, in Peja/Peć Municipality was the contract titled “Road construction in Rugova “Drelaj-Leqinat.”

Based on the field visits, it was evident that nothing was done, the road meant to be built was covered in snow and the contract was signed on the end of October, specifically five months earlier.

On the question meant for the contract manager, as to why anything wasn’t done, the answer was that the work had not started due to the atmospheric conditions, and according to the manager, only the preparatory work had been done. Based on the citizens’ answers, we note that even though the citizens view this as a project of priority, most of them were not satisfied with the project. Most of them were not advised in advance for this project, one (1) out of the three (3) interviewed citizens were not aware of the cost and duration of the contract. The citizens were asked on the complaints for this project, and all of the three (3) interviewed citizens, had complaints, which had to do with not starting the implementation of the project, one stated that he had addressed the complaint to the contract manager.

6.4. Municipality of Rahovec/Orahovac

The procurement planning

Rahovec/Orahovac Municipality for year 2020 had planned a total of 47 activities, 26 of which for work, 10 for supply and 11 for services. This municipality sent the procurement planning to the CPA outside the legal deadline, this planning was sent to the CPA on March 6th 2020, or on March 26th 2020.

Rahovec/Orahovac Municipality's procurement plan has fulfilled the B01 Form criteria pertaining to the work and services contracts, whereas it partially fulfilled the criteria for the supply contracts.

On the implementation of the procurement plan, Rahovec/Orahovac Municipality, out of the five (5) monitored activities, one was not included in the procurement plan, this was the "*Flags, poles, wreaths and flower bouquets supply for memorial services*" activity, in the value of 8,170.00€.

Also, we note that in the procurement plan on the part where the unit should have been placed, they used the template "complete" only to fill the column and the measuring unit "1,00." In exception to the "*Medical equipment supply for laboratories for MFMCs' needs*" all the other monitored activities do not match the tendering phase.

KLI and INPO found that this municipality, on work activities, did not draft the procurement planning based on its budget capacities. The difference between the plan's predicted value and the one in the budget for year 2021 is 70,000€.

As far as work activities go, KLI and INPO found that of the 26 work activities, the Rahovec/Orahovac Municipality has planned, three (3) of them could not be identified in the budget. The value of which is 70,000.00€.

Rahovec/Orahovac Municipality voted on the MTE 2020-2022; however, it did not state the spending details for capital projects for the 3-year period, same as Gjilan/Gnjilane Municipality. They do however present general figures for the spending, on this category.⁹ Work activities that this municipality initiated, for the period of one to year years, are: "*Illegal building demolition and the confiscation of goods*," "*The infrastructure construction for cultural activities in Dejna*," "*Emergency interventions in infrastructure in Rahovec/Orahovac Municipality*," "*Horizontal and vertical road signaling of in Rahovec/Orahovac Municipality*," "*MFC construction in Apterushë*." The predicted total value for these activities is 511,565.38€. For the aforementioned reasons, the comparison to the MTE was impossible.

Pertaining to the market evaluation, Rahovec/Orahovac Municipality stated that this was done through the requesting unit.

⁹ MTE 2020-2022, Rahovec/Orahovac Municipality <https://kk.rks-gov.net/rahovec/ep-content/uploads/sites/23/2020/04/KAB-2020-2022.pdf>

The procurement process

For the procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contract's predicted value
1	Services for the realization of the infrastructure vitalization for the functioning of the project - home beds	623-20-904-2-1-1	420,396
2	Construction of new traffic lights	623-20-3817-5-2-1	55,430

Pertaining to this process, the two monitored activities in this municipality were involved in the procurement plan, but for a lower value. Whereas for these two activities, Rahovec/Orahovac Municipality prepared the Proof of Funds, and the evaluation committee members for these two (2) activities had the necessary qualifications.

There were no corrections from the contracting authorities for these activities, whereas for the activity, "Services for the realization of the infrastructure vitalization for the functioning of the project - home beds," there was a request for clarification from the Economic Operator. On the "Services for the realization of the infrastructure vitalization for the functioning of the project - home beds," none of the bidders were declared irresponsible; on the "Construction of the new traffic lights," however, two (2) out of the three (3) bidding Economic Operators were declared irresponsible. For the first activity, there was no request for review; on the other activity there were two such requests. None of the Economic Operators filed a complaint to the PRB.

For the tender security, the same was valid pertaining to the deadline required for the two activities, and with the value requested in the tender file by the contracting authority.

Contract management

Pertaining to contract management, KLI and INPO have selected two (2) contracts to monitor:

Title: X-ray film supply for the needs of MFMC	Title: Treatment of fecal sewage (septic tanks) in Rahovec/Orahovac Municipality
Procurement number: 623-20-2682-1-2-1	Procurement number: 623-19-6628-5-1-1
Contract value: 29,000.00€	Contract value: 438,668.29€

According to the findings, in both contracts Rahovec/Orahovac Municipality appointed managers that fulfilled the required qualifications.

In Rahovec/Orahovac Municipality, field visits were conducted for “*Treatment of fecal sewage (septic tanks) in Rahovec/Orahovac Municipality.*” From the field monitoring, more specifically, the visits conducted in Pataqan i Ulët, Fortesë/Bellacërkë villages, also in Rahovec/Orahovac, KLI and INPO observed that in “Fortesë” village, the work was finalized in two different locations. Whereas in “Pataqan i Ulët” village, the work was just beginning, only the preparatory work was done, such as space clearing and providing the necessary sewers for those parts, their installment was in process.

We should recall that it is a three (3) year project, so most of the work was still in progress. In general, the citizens were mostly satisfied with this project, which was of priority according to them. Pertaining to the consultations on this project, only two (2) declared that they were not consulted, while three (3) citizens did not know the duration and value of the contract.

6.5. Municipality of Vushtrri/Vučitrn

The procurement planning

For year 2020, Vushtrri/Vučitrn Municipality had planned a total of 68 activities, 14 of which for work, 35 activities for supply and 19 for services. This municipality sent the procurement planning to the CPA on April 3, 2020, within the legal deadline.

Vushtrri/Vučitrn Municipality’s procurement planning fulfilled the B01 Form criteria on work and services contracts; it did not, however, fulfill the criteria on supply contracts.

On the procurement plans applicability, KLI and INPO found that out of the five (5) tested activities, two (2) of them were conducted outside of the planning, respectively they could not be identified in the procurement plan. This has to do with the “*Food and hygiene package supply to help families in need*” and “*Fruit and vegetables supply*” projects, the total value of which reaches 50,140.50€.

Vushtrri/Vučitrn Municipality would spend 50,000.00€, without a prior planning. Of the three activities that the municipality initiated which were included in the procurement planning, the “*Supply and installation of greenhouses with an area of 50m²*” was not of the same value, or even similar to the procurement plan. The municipality planned the cost of this activity to be 80,000.00€, while the procedures started with the predicted value of 108,996.50€. Also, it is noted that the municipality did not determine the quantities and units in the procurement plan, whereas in the tendering phase we note the different units and quantities that are not presented in the procurement plan. All of these findings state that Vushtrri/Vučitrn Municipality did not draft a plan in accordance with the actual needs and legal requirements.

KLI and INPO found that for work activities, this municipality did not draft the procurement planning based on its budgeting capacities. The difference between the plans predicted value and that of the budget for year 2021 is 259,014.70€.

For the work activities, KLI and INPO found that 14 planned activities were not based on the budget.

According to KLI and INPO findings, out of the five (5) first work activities with the duration of 1-3 years, one of them was not included in the MTE. In two of the first activities, we note an excess of the predicted value, the tendering procedures started on a higher value than the one provided in the MTE, whereas for the other two activities it was the opposite.

For the market evaluation, Vushtrri/Vuçitrn Municipality stated that this was done according to the same or former procurements.

The procurement process

For the procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contracts predicted value
1	Equipment supply to support businesses according to LOT1 and LOT2	644-19-6312-1-1-1	132,726
2	Reconstructing the Adem Jashari square in Vushtrri/Vuçitrn	644-20-2597-5-2-1	425,711

According to the findings “*Reconstructing the Adem Jashari square in Vushtrri/Vuçitrn*,” was not included in the procurement plan, while the other activity “*Equipment supply to support businesses according to LOT1 and LOT2*” was included in the procurement plan. For both activities, Vushtrri/Vuçitrn Municipality prepared the Proof of Funds. It should be noted that for these two (2) activities, the municipality did not offer access on the members evaluation commissions qualifications.

On these two (2) activities, there were no requests for clarifications by the economic operators. The contracting authority published a correction on the prior notices for the “*Reconstructing the Adem Jashari square in Vushtrri/Vuçitrn*” activity. On the activity “*Equipment supply to support businesses according to LOT1 and LOT2*,” out of two (2) bidders, one (1) Economic Operator was declared irresponsible, while the other activity had only one bidder. None of the economic operators had complaints or requests for review to the PRB, for this municipality.

Pertaining to tender security, for both activities “*Equipment supply to support businesses according to LOT1 and LOT2*” and “*Reconstructing the Adem Jashari square in Vushtrri/Vuçitrn*,” the

same was valid for the required deadline, also consistent with the requested value in the tender file, by the contracting authority.

Contract management

For contract management, KLI and INPO selected two (2) contracts to monitor:

Title: The expansion of the water supply network	Title: Local roads asphaltting in the city
Procurement number: 644-19-4463-5-1-1	Procurement number: 644-19-1843-5-1-1
Contract value: 1,800,000.00€ (predicted value), price per unit 72.4	Contracts value: 581.357,85

For contract management, Vushtrri/Vučitrn Municipality appointed managers who fulfill the required qualifications.

For the “Local roads asphaltting in the city” field visits were conducted on two of the main roads, “Faruk Beqiri” and “Nexhip e Ferrat Draga” roads. From the visits, where the work had been done, we note there was not the right quality, because the road that was just paved had potholes and parts that were not repaired. It should also be noted that the sidewalk was too high and inconvenient for people with special needs.

Based on the answers of the interviewed citizens, five (5) out of the six (6) had complaints on the delays in work performances, low quality of work and difficulty of access for people with special needs. As additional comments, citizens appealed to the managers not to take on work that do not offer access to people with special needs, and asked for more surveillance in order for the work to have more quality. None of the interviewed citizens were not consulted on this project and none knew the cost and duration of the contract.

6.6. Municipality of Gjilan/Gnjilane

The procurement planning

Gjilan/Gnjilane Municipality for year 2020 had planned a total of 58 activities, 16 of which for work, 29 for supply, 12 for services and one (1) design competition. This municipality sent the procurement planning to the CPA on April 2, 2020, within the legal deadline.

The procurement planning of Gjilan/Gnjilane Municipality fulfilled the B01 Form criteria for the work and services contracts, and it partially fulfilled the criteria on supply contracts.

On the applicability of the procurement plan, KLI and INPO found that Gjilan/Gnjilane Municipality conducted the procurement procedures for a supply activity which was not in

the plan, this for the activity “Supply of corn kernels” for the value of 20,000.00€. Also, on the activity “Clothing supply for the employees of Gjilan/Gnjilane Municipality,” there was a difference on the predicted value in the plan and the one during the start of the activity.

In this municipality, we also note the usage of the template “complete” as a measuring unit, and the same was not applicable at all during the tendering phases. This proves that the municipality for the units and quantities, placed in the plan, were not real, but were completed formally. Also, Gjilan/Gnjilane Municipality used some units that aren’t known as measuring units, such as: bags and sets.

KLI and INPO found that this municipality, for the work activities did not draft the procurement planning based on its budgeting capacities. The difference between the predicted value in the plan and that in the budget for year 2021 is 2,307,998.18€.

As far as work activities go, KLI and INPO found that of the 16 activities, nine (9) of the whose value reaches 5,064,157.00 euros, could not be identified in the budget.

KLI and INPOs findings show that, Gjilan/Gnjilane Municipality approved the MTE 2020-2022, however, the work activities were unidentifiable, in this document, more specifically the work projects and their financing over the three-year period as planned in the MTE were not presented. Consequently, the perseverance of this important document was impossible to be made.

Gjilan/Gnjilane Municipality declared that the market evaluation was done through the requesting unit.

The procurement process

For the procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contracts predicted value
1	Feasibility study - improving the energy efficiency of public lighting in Gjilan/Gnjilane Municipality	651-20-507-2-2-2	20,000
2	The construction of the new bus station	651-20-2311-5-1-1	760,278

Pertaining to the procurement process, the activity “Feasibility study - improving the energy efficiency of public lighting in Gjilan/Gnjilane Municipality,” was included in the procurement plan, whereas the other activity “The construction of the new bus station,” was not included in the procurement plan of Gjilan/Gnjilane Municipality.

For these two activities, Gjilan/Gnjilane Municipality prepared the Proof of Funds, and the members of these evaluation committees, for these (2) activities had the necessary

qualifications. On the activity “*Feasibility study - improving the energy efficiency of public lighting in Gjilan/Gnjilane Municipality*,” there were no requests for review from the economic operators and no corrections from the contracting authority. On the other side, for the “*The construction of the new bus station*” there was a request for review, and also corrections from the contracting authority’s side.

For the first activity, there was only one bidder, on the “*The construction of the new bus station*” activity, out of 16 bidders, 15 economic operators were declared irresponsible. For the first activity there were no requests for review, whereas the other activity had four (4) such requests. To the PRB, six (6) complaints were made.

The tender security, for the first activity was not required. For “*The construction of the new bus station*” activity, the same was valid, pertaining to required deadline, and in concordance with the required value in the tender file by the contracting authority.

Contract management

For contract management, KLI and INPO selected two (2) contracts to monitor:

Title: Supply of hygienic and sanitary material	Title: Green market construction
Procurement number: 651-19-6067-1-1-1	Procurement number: 651-18-5108-5-1-1
Contract value: 201,600.00€	Contract value: 871,173.42€

According to the findings, Gjilan/Gnjilane Municipality appointed one (1) manager who fulfills the required qualifications, however, in the other contract “*Green market construction*,” they didn’t offer access to the tender documents, and neither did they offer the information on who the manager was.

For the contract “*Green market construction*,” field visits were conducted in Gjilan/Gnjilane Municipality. During the visits to the place where the project was being implemented, we noted only a partial implementation of the contract and a halt in the construction. The finalized work was the preparatory work, such as gravel work, masonry and roof works in part, but waterproofing, plastering, leveling and coating of floors and walls, carpentry and facade works have not been completed yet. Based on the contract, the work had to be finalized by 2019, however, the contrary is noted during the visit, the contract was not implemented. From the interviews we conclude that the citizens were not satisfied with this project even though from their perspective it was necessary. Only two (2) out of the six (6) citizens that were surveyed, were satisfied with this project, only two of them knew the cost and duration of the contract. From the Gjilan/Gnjilane Municipality four of the six surveyed citizens were consulted.

6.7. Municipality of Deçan/Deçane

The procurement planning

Deçan/Deçane Municipality for year 2020 planned a total of 30 activities, ten (10) of which for work, eleven (11) for supply, eight (8) for services and one (1) design competition. This municipality sent the procurement planning to the CPA on April 3, 2020, within the legal deadline.

Deçan/Deçane Municipality's procurement planning fulfilled the B01 Form criteria for work and services contracts, it partially fulfilled the criteria pertaining to supply contracts.

On the procurements plans applicability, KLI and INPO found that the predicted value for the supply activities is in compliance with the procurement plan. Pertaining to the quantity and unit values on all of the tested activities, we note a big difference on what was planned and which measuring units and quantities are shown in the tendering phase. Deçan/Deçane Municipality, in none of its activities presented, are the same with the quantities and units in the procurement plan. The municipality failed to plan reasonable details for supply activities.

KLI and INPO found that this municipality for the work activities did not draft the procurement planning based on its budget capacities. The difference between the predicted value in the plan and the one in the budget for year 2020 is 560,500 €.

For the work activities, KLI and INPO found that the three (3) activities, the value of which is 160.000€, could not be identified in the budget.

KLI and INPOs findings show that, Deçan/Deçane Municipality by November 19th 2020 initiated only three work activities for the duration of 1-3 years, for the total value of 544,700.00€. By analyzing the MTE of Deçan/Deçane Municipality, we note that, none of the said activities appears in the MTE.

Pertaining to the market evaluation, Deçan/Deçane Municipality stated that this is done through the requiring unit.

The procurement process

For the procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contracts predicted value
I	Road construction in Strellec- Deçan Mountains	631-19-3836-5-1-1	3,222,959

2	E-kiosk supply	631-19-5026-1-2-1	15,000
----------	----------------	-------------------	--------

The “E-kiosk supply” activity process was included in the procurement plan, whereas the other activity “Road construction in Strelc- Deçan Mountains,” was not included in Deçan/Deçane Municipality’s procurement plan. Deçan/Deçane Municipality prepared the Proof of Funds for both of these activities, and the members of these evaluation committees had the required qualifications. For the “E-kiosk supply” activity there were no requests for clarifications from the economic operators and no corrections from the contracting authorities. The “Road construction in Strelc- Deçan Mountains” did not have requests for clarifications and no corrections from the contracting authority.

The second activity had only one bidder. On the activity “Road construction in Strelc- Deçan Mountains,” seven (7) out of eight (8) economic operators were declared irresponsible. This activity did not have a request for review whereas the other activity had four (4) such requests. To the PRB three complaints were filed.

Pertaining to the tender security, for the two activities in this municipality, the legal deadline requested is effective and consistent to the value in the tender file.

Contract management

For contract management, KLI and INPO selected two (2) contracts to monitor:

Title: Summer/Winter road maintenance in Deçan/Deçane Municipality	Title: Youth Center Construction in Deçan/Deçane
Procurement number: 631-20-1999-2-1-1	Procurement number: 631-19-6725-5-1-1
Contract value: 1,933,111.00€	Contract value: 452,456.90€

The findings show that Deçan/Deçane Municipality appointed managers who fulfill the required qualifications.

The contract “Youth Center Construction in Deçan/Deçane” for which field visits were conducted in Deçan/Decane Municipality, we note an inconsistency between the work that has been done and the payments made, specifically the invoices issued by the economic operators. On this topic, the contacted economic operator stated that they took advantage of the pandemic, the lowering of prices for the building materials and the work was done at a faster pace, than predicted in the plan.

Another finding is that this center is further from the city center, and the access to this center is quite difficult. The citizens of Deçan/Deçane Municipality stated that they were satisfied with this project as it is of priority, however we learn that the citizens were not advised on this project and were not aware on its duration and cost.

6.8. Municipality of Junik

The procurement planning

Junik Municipality for year 2020 planned a total of 44 activities, 12 of which for work, 17 for supply, 14 for services and one (1) design competition. This municipality sent the procurement planning to the CPA on April 2, 2020, within the legal deadline.

The Junik Municipality's procurement planning, fulfilled the B01 Form criteria for the work and services contracts, whereas for the supply contracts it partially fulfilled the criteria.

On the procurement plans applicability, KLI and INPO found that two (2) out of the five (5) tested activities in Junik Municipality, the units and quantities were not the same, they were not the same as planned on the procurement plan. The two (2) mentioned activities differ in the planning and tendering phase. On this municipality's procurement plan, instead of the quantity we note the use of the template "1," the number lets us know that the quantity is 1, this is struck down by the fact that on the "*Wood supply for schools of Junik Municipality*" activity, the quantity in the plan is "1," however during the tendering phase the quantity is "340 m'." and so, we conclude that the "1" template was used only to fill the columns. The "*Air-conditioning supply for the MFMC building*" which the Junik Municipality initiated, was not foreseen in the procurement plan.

Pertaining to the work activities for Junik Municipality, KLI and INPO found that this municipality did not draft the procurement planning based on its budgeting capacities. The difference between the predicted value in the plan and that of the budget for year 2021 is 499,460€.

On the work activities, KLI and INPO found that of the 17 activities, seven (7) of them, of which the value reaches 347,500.00€, could not be identified in the budget.

Pertaining to the work activities for the duration of one to three years, KLI and INPO found that in the Junik Municipality on the "*Local roads repair*" would have the financing of a total of 70,000.00€ in the MTE, specifically 30,000.00€ and 20,000.00€ for year 2021 and 2022. KLI and INPO data show, that the initial value of the activity was 10.000.00€ higher than the predictions done in the MTE of Junik Municipality.

For the market evaluation, Junik Municipality stated that this was done based on the prior or same procurements.

The procurement process

For the procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contracts predicted value
1	Road construction in Junik-Gjericë	636-19-5225-5-1-1	4,856,000
2	Security camera installment in public spaces	636-19-3827-1-2-1	60,000

According to the findings, the “*Road construction in Junik-Gjericë*” activity, was not included in the procurement plan, meanwhile, the other activity, “*Security camera installment in public spaces,*” was included but for a lower value. For both of these activities, Junik Municipality prepared the Proof of Funds, pertaining to necessary qualifications for the members of the evaluation committees in these two (2) activities, the members of the “*Security camera installment in public spaces*” activity had the necessary qualifications, the evaluation committee members of the other activity however did not

Two (2) of these activities did not have corrections of the published notices, the activity “*Security camera installment in public spaces,*” had a request for clarification by the economic operator. In both these two (2) activities, the bidders were declared irresponsible. The first activity “*Road construction in Junik-Gjericë,*” out of the three initial bidders, all were declared irresponsible. However, by conducting constant reevaluations as a consequence of the decisions made by the PRB, this contracting authority which had declared all the bidders irresponsible, after the other complaints, the economic operator “Joos&Krasniqi-bazë sh.p.k.,” won the contract. The Consortium of Economic Operators, “Arfa Group SH.P.K & Euroasphalt,” as interest-free operators (backlisted by the PRB), whereas “Lika Trade Sh.p.k” was deemed administratively irresponsible.

The activity “*Security camera installment in public spaces,*” four (4) of the five (5) bidders were declared irresponsible. Each of these activities had requests for review, “*Road construction in Junik-Gjericë,*” had three (3) such requests, the “*Security camera installment in public spaces*” activity, had one (1) request for review. Pertaining to the complaints in the PRB the activity “*Road construction in Junik-Gjericë,*” had six (6) such complaints, this institution for the activity “*Security camera installment in public spaces*” had one (1) complaint.

Pertaining to tender security, KLI and INPO find that this was not required in the “*Security camera installment in public spaces,*” for the other activity however this was valid on the required deadline, and in accordance with the required value in the tender file.

Contract management

Pertaining to contract management, KLI and INPO selected two (2) contracts for monitoring:

Title: Bus Transportation for students from Agim Ramadani Rd.- school and vice versa	Title: Building the Center for Culture, Tourism and Agribusiness
Procurement number: 636-20-1189-2-2-1	Procurement number: 636-19-5776-5-1-1
Contract value: 35,769.60€	Contract value: 777,777.77€

On contract management, Junik Municipality appointed managers that fulfill the required qualifications.

After analyzing the security of the execution, findings show that Junik Municipality on “*Building the Center for Culture, Tourism and Agribusiness*” activity, accepted the tender security for a period shorter than the minimum required by law, specifically, the security of the execution is only valid for twenty-seven (27) days after the termination of contract. The contract is expected to end by November 3, 2020, whereas the security of the execution by November 30, 2022, only twenty-seven (27) days and not thirty (30) as it is required by Law.

Field visits were conducted in Junik Municipality for the contract titled “*Building the Center for Culture, Tourism and Agribusiness.*” During this field visits we evidenced numerous violations that are in contradiction to the pre-measures and payments made. These conclusions can be found bellow:

1. According to the premeasure, the positions 1.2 “Material supply and temporary fence installment to visually cover the workshop site. The fence should be made of metal and covered with sheet of tin. The height of the fence must be 3m.” Conclusion: This position cost 7,620.00€, and according to what we saw in the field, the fence was constructed by wood and not metal, also the height of the fence is 2m and not 3m as was required.
2. The position 1.3. “Developing the signage table where the information should include: Project, investor and contractor. The price should include signage tables with the warning “construction site.” The informing table must have a 200x300cm dimension, the warning table must be of a 50x80cm dimension and must be placed in the fence of the workshop.” Conclusion: Each of these tables has cost the municipality by 10,000.00€, in total 20,000.00€, and none of their specs are according to the pre-measure, the real market price of these signs ranges from 100-150€.
3. Position 1.4 “The supply and placement of the temporary assembly facility must contain: an office for different consultations and two bathrooms. The office must have a dimension of 3x4m.” Conclusion: The office is not in a place of workshop even though the same cost 5,000.00€.
4. Position 10.1: “The supply, transportation and installment of one-way windows from oak wood with a complete mechanism, a hinge and handle for opening and closing, with normal and hopper openings.” Conclusion: For these windows the municipality

paid a price of 9,600.00€, from the field inspection it is noted that the windows aren't made of wood, but (PVC) plastic.

Except for the interview conducted with the contract manager through e-mail, the same findings were sent to the municipal bodies for clarifications, while the latter shifted the responsibility to the contract manager. During the phone conversation, the contract manager agreed to all these findings, and stated that these questions were raised before and on time; however these concerns were not addressed. When the same questions were raised by e-mail, the same had justified that the fences were the result of climate conditions, highlighting that they would be replaced according to the pre-measure, whereas for the temporary mounting object and signaling tables it was stated that they were returned to the workplace, as it is foreseen in the pre-measure. Pertaining to the windows, the same stated that the plastic material was used because of its sustainability, however, when the request was made for a document that proves the contracting authority's and the economic operators consent for this kind of change, as is required by Law, the manager stated that such a document does not exist.¹⁰

In general, it was noted that the citizens were not satisfied with this project and were not advised by the municipality for building it. Furthermore, four out of six citizens interviewed thought that Junik Municipality had no need for such a project, because of the many similar projects it already has. The citizens also pointed out that the price of the contract is unreasonable, and according to them the only priority Junik Municipality has, is tied to the road infrastructure. Also, two (2) of the six (6) interviewed citizens appealed for this project to be finalized and not be held up as many other projects have been.

6.9. Municipality of Hani i Elezit/Elez Han

The procurement planning

Hani i Elezit/Elez Han Municipality for year 2020 planned a total of 63 activities, 28 of which for work, 13 for supply and 22 for services. This municipality sent the procurement planning to the CPA on March 27, 2020, within the legal deadline.

Hani i Elezit/Elez Han Municipality's procurement planning fulfilled the B01 Form criteria pertaining to work and services contract, whereas it partially fulfilled the criteria on supply contracts.

On the plan's applicability, KLI and INPO found that the Hani i Elezit/Elez Han Municipality out of the five (5) monitored activities, only two (2) of those appear in the procurement plan, three (3) were conducted without prior planning. Also, Han of Elez Municipality even though

¹⁰ For more, see Article 61.22- 61.26 of ROGPP, <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret/shq/A01%20Rregullat%20dhe%20Udh%C3%ABzuesi%20Operativ%20p%C3%ABr%20Prokurimin%20Publik.pd>

on the formal aspect, the municipality fulfilled the procurement Hani i Elezit/Elez Han plans, after analyzing all five (5) activities it is noted that they used the template “kont” as a measuring unit, whereas for the quantity they used “1.00,” which do not match with the units and quantities during the tendering phase. The two activities initiated which could be identified in the procurement plan, were not of the same predicted value, this proves that Hani i Elezit/Elez Han Municipality couldn’t stand by the planning drafted by the same on supply activities.

KLI and INPO findings show that on work activities, this municipality did not draft the procurement plan based on its budgeting capacities. The difference between the predicted value in the plan and the one in the budget for year 2021 is 22,000€.

On work activities, KLI and INPO found that of the 28 activities, the activity “*The maintenance and repair of buildings,*” could not be found in the budget. For work activities with the duration of 1-3 years, KLI and INPO found that in this municipality only two (2) activities were conducted. Both of these activities were foreseen in municipality’s MTE, however the predicted values are not close.

On the market evaluation, Junik Municipality declared that this was done through field work.

Tendering process

Pertaining to procurement process, KLI and INPO selected two (2) activities to monitor:

	Activity	Procurement number	The contract’s predicted value
1	Minibus supply for hemodialysis – Retendering 2	659-19-8887-1-2-1	25,000
2	Construction of protective walls	659-20-3347-5-2-1	34,800

On the procurement process, the activity “*Construction of protective walls*” was included in the procurement plan, but for a lower value, whereas the other activity “*Minibus supply for hemodialysis – Retendering 2,*” was not included in the municipality’s procurement plan. The municipality prepared the Proof of Funds for both of these activities. It should be noted that neither of the evaluation committee members had the required qualifications. In none of the Hani i Elezit/Elez Han Municipalities’ activities, were there any requests for review from the economic authority and there were no corrections from the contracting authority.

Pertaining to “*Minibus supply for hemodialysis – Retendering 2,*” there was only one bidder. For the other activity, out of the three (3) bidding economic operators, none was declared irresponsible. None of these activities had requests for review from the economic operators, and no complaints were filed to the PRB.

The tender security for the first activity was not required. For the “*Construction of protective walls*” activity, the tender security was valid on the required deadline, and also for the predicted value in the tender file.

Contract management

For contract management, KLI and INPO selected two (2) activities to monitor:

Title: Equipping cabinets with teaching materials and laboratory tools	Title: The MFMS of Han Elez renovation
Procurement number: 659-19-5073-1-2-1	Procurement number: 659-20-3823-5-2-1
Contract value: 22,317.40€	Contract value: 19,994.20€

Pertaining to the contract management, Hani i Elezit/Elez Han Municipality in both of these contracts appointed managers who fulfill the necessary qualifications.

The contract “*The MFMS of Han Elez renovation*” for which field visits were conducted, the work finalized were: painting works, masonry works, door and window works, toilet works, ventilation works, lighting works, canteen works, the X-ray room works and other work that includes: hallway seats, monitor, information board, and everything was set in place to provide services to citizens.¹¹

In the hallway of MFMS, ten (10) seats were placed, according to the pre-measure position I.10.1, six (6) seats were intended. For each seat the municipality paid 145€ per piece, and with this change to the pre-measure it is concluded that the municipality paid 580€ more for the additional seats. When asked on this topic, the contracts manager stated that “this position was added on the request of the Directory of Health and this change is within the contacts value,” also what was noted was that the canteen roof, position I.8.9. was not conducted according to the pre-measure, and according to the manager this was unnecessary. All of these findings prove a bad planning on the part of Hani i Elezit/Elez Han Municipality. The citizens stated this project was of priority and were satisfied with this project. However, one (1) citizen who stated that they were consulted for this project, we note that the other citizens were not informed and only half of the interviewed knew the contract’s cost and duration.

¹¹ For more, see contract and e-procurement premeasure https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=1097837.

7. Conclusions

Budgeting process

1. Written and electronic consultation, as a minimal standard of the public consultation process in the case of drafting the draft-budget, is a method that is almost never implemented. While this type of consultation is presented as obligatory, of the nine monitored municipalities, written and electronic consultation was only applied by the Municipality of Vushtrri/Vučitrn, as the only method of public consultation in the case of drafting the municipal draft-budget. Whereas, in the case of drafting the Mid-term Budget Framework, none of the municipalities developed this form of obligatory public consultation.
2. Publication of the notice and draft-budget on the official webpage of the respective municipality and the Public Consultation Platform, as part of the public consultation process, continues to be challenging for the municipalities.
3. Looking to budget hearings during the drafting of the budget proposal by the Mayor's Office of the respective municipalities, of the nine (9) municipalities under monitoring by KLI and INPO, five (5) of them held budget hearings, while four (4) municipalities did not develop this method of public consultations in the case of drafting the municipal budget. Whereas, with regards to public meetings in the case of drafting the Mid-term Budget Framework, KLI and INPO found that four (4) of the nine (9) municipalities under monitoring held one (1) public meeting, while this was not done by five (5) of the other municipalities.
4. Another challenge was that the majority of the municipal budget hearings and public meetings held a disproportionate gender representation of participants, as there was an extraordinarily low number of women participants.
5. The number of citizens' requests included in the municipal budget was very low; of the nine (9) municipalities under monitoring, one municipality did not include any of the citizen's requests in its municipal budget.

Procurement planning

1. None of the municipalities under monitoring drafted their procurement plan pursuant to the requirements set in Law No.04/L042 on Public Procurement and Rules and Operational Guidelines for Public Procurement.
2. Municipalities do not use Form B01 approved by PPRC for procurement planning; as a consequence, the PPRC failed to adapt the same in the electronic platform known as e-procurement.
3. Of the nine municipalities under monitoring, none of the municipalities filled in the procurement plan pursuant to the legal requirements; data on activities relating to supply are not completed and correct.
4. The Municipality of Gjilan/Gnjilane, Hani i Elezit/Elez Han, Junik, Rahovec/Orahovac and Vushtrri/Vučitrn initiated supply activities outside the procurement plan.

5. Of the municipalities under monitoring, only the Municipality of Deçan/Deçane does not have any of the activities initiated for work with a duration of 1-3 years in the Med-Term Budget Framework 2020-2022.
6. From the interviews conducted, it appears that none of the municipalities prepare a detailed market analysis during the planning process when determining the foreseen value of activities.
7. The Municipalities during the market valuation focus on field visits or previous procurements without analyzing them together or without adding an additional factor, which reflects in the changes in the foreseen values during the initiation of activities.

Tendering process

1. In seven of the municipalities under monitoring (Pristina, Pejë/Peć, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Deçane, Junik and Hani i Elezit/Elez Han), one of the two monitored activities was not foreseen in the procurement plan for the respective year.
2. Five of the nine municipalities under monitoring (Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac, Junik and Hani i Elezit/Elez Han) had planned one of the two monitored activities in their procurement plan with a lower value than the value provided in activity initiation phase.
3. In three cases of two different municipalities (Junik and Hani i Elezit/Elez Han), members commissions assessing bids did not have the meet the criteria.
4. Out of the 18 monitored procurement activities, one municipality (Pristina) did not implement the proper procedure in one of its two activities monitored; instead, it implemented the negotiated procedure without publishing a contract notice, thereby preventing competition.
5. Four municipalities (Vushtrri/Vučitrn, Pristina, Hani i Elezit/Elez Han and Deçan/Deçane) shortened deadlines for receiving tenders, contrary to the provisions of article 46 of the LPP. In one case (Junik), the contract notice was made in violation of legal provisions because the municipality did set a 17 days deadline, instead of 20 days, for submission of bids without warning of shortening deadlines.

Contract management

1. The Municipality of Deçan/Deçane did not execute payments to the economic operator in accordance with the terms of the contract and the level of services performed.
2. The Municipality of Junik received security execution for a period shorter than the minimum allowed by law in the contract "Construction of the Center for Culture, Tourism and Agribusiness,"
3. The Municipality of Pristina did not request the extension of the validity of the contract performance insurance in the contract "Construction of the park in the neighborhood

Arbëria,"; as a result, the performance security was not valid for at least 30 days after the end of the contract.

4. The Municipality of Deçan/Deçane, based on the intensity of contract payment for the project "Summer and winter maintenance of roads in the Municipality of Deçan/Deçane," has been unable to complete seasonal road maintenance for 36 months, because the contract limits will be reached faster than anticipated. Consequently, due to mis-planning, the municipality will be forced to initiate new contract proceedings.
5. The Municipality of Gjilan/Gnjilane has not yet managed to complete the contract "Construction of the green market," although the project was slated for completion in 2018 under the original contract.

8. Recommendations

Budgeting process

1. Nine (9) of the municipalities under monitoring should implement the obligation of holding written and electronic consultations in the case of drafting the Mid-term Budget Framework. Also, these municipalities should implement the obligation for publishing the draft Mid-term Budget Framework, notification for public consultation, deadline, and official address for submission of comments to the official website of the municipality and public consultation platform.
2. The Mayor's Office of Pristina, Pejë/Peć, Gjakova/Djakovica, Gjilan/Gnjilane, Rahovec/Orahovac, Deçan/Deçane, Junik, and Hani i Elezit/Elez Han should develop a written and electronic public consultation process in conjunction with the Administrative Instruction (MLGA) No.06/2018 on the Minimal Standards of Public Consultation in Municipalities in the case of drafting the municipal budget for the next year. In relation to implementing this obligation, municipalities must define 1) project proposal, 2) the correct address of where to send the comments, 3) information on the person in charge of accepting the comments and 4) the deadline for submitting comments. In this case, municipalities along with their official webpage must also publish this information on the public consultation platform. The deadline for public consultation should be at least 15 days, a deadline that must be completed no later than August 15th of the respective year, so that from this date and until September 1st of the respective year, the respective Mayor's Office can review the budget request.
3. The Mayor's Office must organize budget hearings in every case. Regardless of the fact that the Administrative Instruction (MLGA) No.06/2018 on the Minimal Standards of Public Consultation in Municipalities says that the Mayor's Office has an obligation to hold at least one (1) budget hearing, KLI and INPO recommend that municipalities must draft a plan for budget hearings so that these hearings include a larger number of citizens and cover all villages, neighborhoods, residencies, and urban areas. This plan must be adapted according to the specifics of a certain municipality that aims for all

citizen inclusion in the budgeting process, to make it easier for citizens to participate in these budget hearings.

4. Municipalities are encouraged to apply other forms of public consultation, not obligatory according to Administrative Instruction (MLGA) No.06/2018 on the Minimal Standards of Public Consultation in Municipalities.

Procurement planning

1. Municipalities should draft a procurement plan pursuant to Law No.04/L-042 on Public Procurement and Rules and Operational Guidelines for Public Procurement. PPRC should ensure that Form B01 is adopted in the e-procurement platform, so that municipalities can fill in their procurement plans according to this form.
2. Municipalities must ensure that their procurement plans contain all the necessary details, especially concerning supply activities, quantities and units must be correct. The municipalities that did not have such information must be careful that, in the future, they provide the data in conformity with the legal requirements. The Municipality of Gjilan/Gnjilane, Hani i Elezit/Elez Han, Rahovec/Orahovac and Vushtrri/Vučitrn, should ensure that initiated activities for supply are planned in the procurement plan.
3. The municipalities must ensure that their planning is covered in the budget. The cost of planned activities for work should be the same in the budget also. It should not be higher as was seen in the Municipality of Deçan/Deçane, Gjakova/Djakovica, Gjilan/Gnjilane, Hani i Elezit/Elez Han, Junik, Pejë/Peć, Pristina and Rahovec/Orahovac, or lower as was the case in the Municipality of Vushtrri/Vučitrn.
4. Municipalities should conduct a detailed market analysis taking into account all the important elements so that the planning of the contract value is correct and reflects the real value.
5. Municipalities during the market analysis must not only focus on field visits or previous contracts; however, they should consider both of them and also to look at the manuals of price references published by the PPRC and any other opportunity that furthers the result of a real plan.

Tendering process

1. Contracting authorities should strictly follow their procurement plans, which they prepare in order to properly implement their budget.
2. Contracting authorities should appoint members with appropriate qualification and in accordance with the nature of the procurement activity for commissions evaluating bids and their qualification.
3. Contracting authorities should implement the appropriate procedures when initiating public procurement and avoid using procedures that prevent competition among economic operators.
4. Contracting authorities should ensure that economic operators provide tender security according to the value required by the tender dossier, and not sign a contract if it does not strictly meet all the requirements of the tender dossier.

Contract management

1. The Municipality of Deçan/Deçane should ensure that it executes payments based on the terms of the contract and level of work performed.
2. The Municipality of Junik should ensure that the security of execution is in accordance with legal requirements, respectively in accordance with the minimum deadlines provided by law.
3. The Municipality of Pristina should ensure that the execution security is based on the requirements of the tender dossier. When this is required by the file, the Municipality of Pristina should not sign a contract without the existence of a valid execution security.
4. The Municipality of Gjilan/Gnjilane should ensure that the contract is completed within the stipulated deadlines and is in accordance with the special conditions of the contract.