



**USAID**  
NGA POPULLI AMERIKAN  
OD AMERIČKOG NARODA



Instituti i Kosovës për Drejtës  
Kosovo Law Institute  
Kosovski Institut Pravde



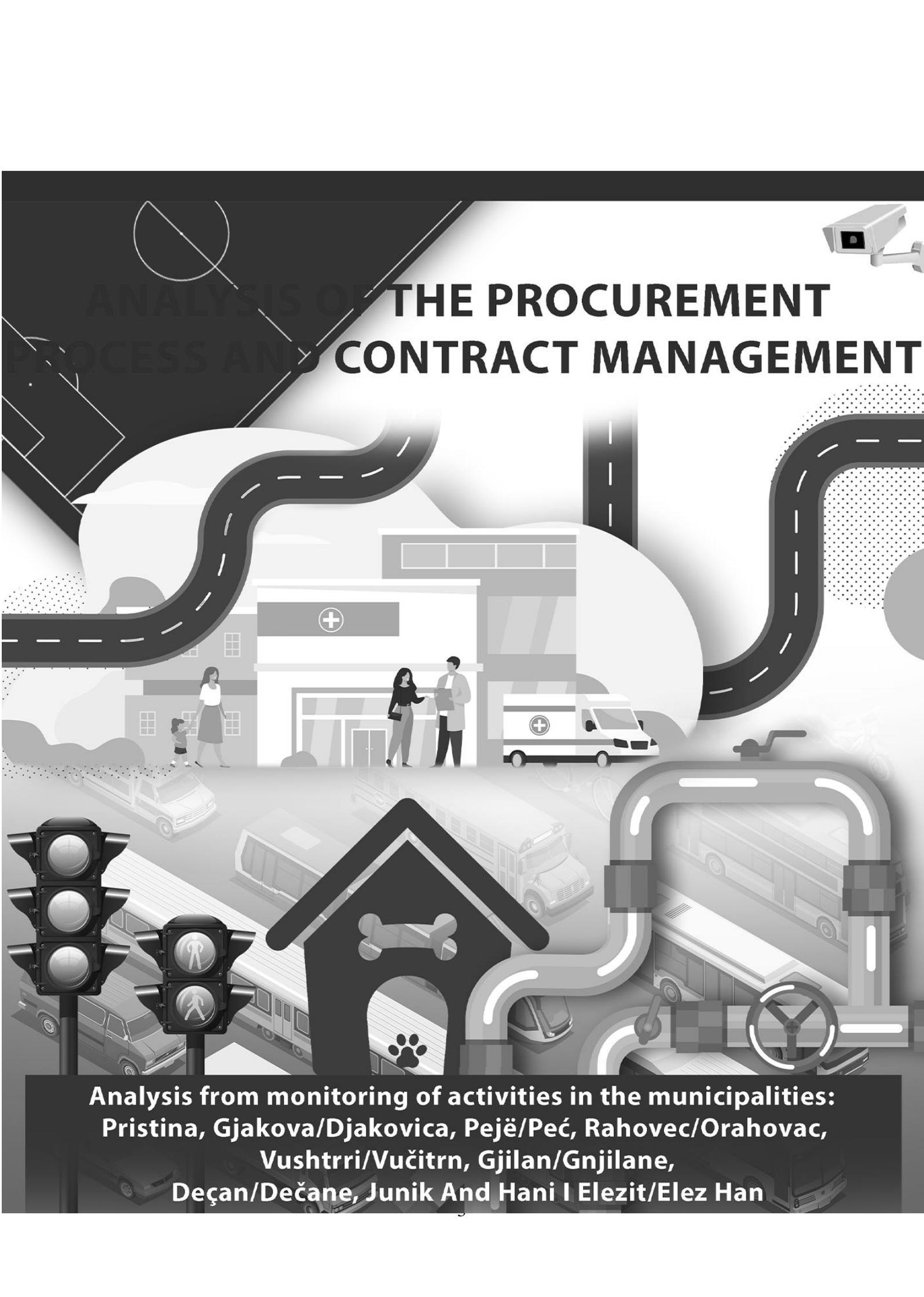
# ANALYSIS OF THE PROCUREMENT PROCESS AND CONTRACT MANAGEMENT



**Analysis from monitoring of activities in the municipalities:  
Pristina, Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac,  
Vushtrri/Vučitrn, Gjilan/Gnjilane,  
Deçan/Deçane, Junik And Hani I Elezit/Elez Han**

**October, 2021**





# THE PROCUREMENT CONTRACT MANAGEMENT

**Analysis from monitoring of activities in the municipalities:  
Pristina, Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac,  
Vushtrri/Vučitrn, Gjilan/Gnjilane,  
Deçan/Deçane, Junik And Hani I Elezit/Elez Han**

Authors: Arrita Reznqi and Qëndrim Arifi

Monitors: Arbenita Topalli, Arrita Reznqi, Gzim Shala, Qëndrim Arifi

No part of this material may be printed, copied, multiplied in any electronic or printed form, or in any other form of multiplication without the consent of the Kosovo Law Institute and the Initiative for Progress.

The content of this publication is the exclusive responsibility of the Kosovo Law Institute (KLI) and the Initiative for Progress (INPO), with the support of the United States Agency for International Development (USAID) through the Transparent, Effective and Accountable Municipalities (TEAM) program.

The authors' views in this report do not necessarily reflect the views of USAID or the U.S. government.

## CONTENT

List of abbreviations .....	7
Executive summary.....	8
About the project.....	10
Methodology.....	11
<b>PART I The Procurement Process .....</b>	<b>14</b>
1. The Procurement Process Phase .....	15
1.1. The procurement activities under monitoring.....	15
2. Inclusion of monitored activities in the procurement plan .....	16
3. Statement of Needs and Determination of Available Funds .....	18
4. Qualifications of the members of the evaluation commission.....	19
5. Clarification requests by economic operators for the tender dossier and contracting authority corrections in the published notices.....	21
6. Implementation of the proper type of procurement procedure by municipalities.....	23
7. Technical and professional requests .....	24
7.1. Municipality of Pristina .....	24
7.1.1. Activity "Physical Security for municipal facilities of Pristina".....	24
7.1.2. Activity "Construction of a shelter for stray dogs and their treatment".....	25
7.2. Municipality of Gjakova/Djakovica .....	25
7.2.1. Activity "Construction of kindergartens in the Municipality of Gjakova/Djakovica" .....	25
7.3. Municipality of Junik .....	26
7.3.1. Activity "Construction of Junik- Gjeravica road" .....	26
7.4. Municipality of Deçan/Deçane .....	27
7.4.1. Activity: "Road construction in Bjeshkën e Strellcit - Deçan/Deçane" .....	27
7.4.2. Activity "Supply with e- kiosk".....	27
8. Tender Insurance .....	28
9. Deviation from legal deadlines .....	31
9.1. Application of expedited deadlines .....	31
10. Proclamation of irresponsible economic operators.....	33
11. Requests for reconsideration by economic operators.....	35
12. Appeals to the PRB and the final decision.....	37

13.	Other findings from the process of monitoring procurement activities in the nine municipality under monitoring.....	39
14.	Main findings from the procurement process .....	42
15.	Recommendations regarding the procurement process.....	43
	<b>PART 2 Contract Management .....</b>	<b>45</b>
1.	Contract management .....	46
	<b>ANEX I. Monitored activities for management.....</b>	<b>46</b>
2.	Qualifications of contract managers and the sufficient time to deal with management.....	48
3.	Economic Operators Payments on time and in accordance with the level of work.....	49
4.	Validity of Insurance Execution.....	50
5.	Findings during site visits and interviews with citizens.....	52
5.1.	Municipality of Deçan/Deçane .....	52
5.2.	Municipality of Gjakova/Djakovica .....	53
5.3.	Municipality of Gjilan/Gnjilane.....	55
5.4.	Municipality of Hani I Elezit/Elez Han.....	56
5.5.	Municipality of Junik .....	57
5.6.	Municipality of Pejë/Peć.....	59
5.7.	Municipality of Pristina .....	59
5.8.	Municipality of Rahovec/Orahovac .....	61
5.9.	Municipality of Vushtrri/Vučitrn.....	62
6.	Interviews with members of Local Councils.....	63
7.	Other findings .....	65
8.	Access Restriction to Public Documents .....	67
9.	Findings during monitoring of contract management .....	68
10.	Contract management recommendations.....	70
	<b>ANNEX I – Municipality comments not included in the report.....</b>	<b>72</b>

## List of abbreviations

CA	Contracting Authority
CAO	Chief Administrative Officer
CMP	Contract Management Plan
CPA	Central Procurement Agency
EO	Economic Operator
INPO	Initiative for Progress
KLI	Kosovo Law Institute
LPP	Law on Public Procurement
MCYS	Ministry of Culture, Youth and Sport
MFMC	Main Family Medicine Centers
PRB	Procurement Review Body
ROGPP	Rules and Operational Guidelines on Public Procurement
SCC	Special Conditions of Contract

## Executive summary

The Kosovo Law Institute (KLI) and Initiative for Progress (INPO), within the project “*Demand for Transparent and Accountable Municipalities: Monitoring Public Procurement and Empowering Citizens to Bring Positive Change*” monitored two procurement processes and implementation of two contracts in each of the nine target municipalities (Pristina, Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Deçane, Junik, and Hani i Elezit/Elez Han).

In the procurement process phase, KLI and INPO selected two procurement activities for each of the nine municipalities under monitoring. The selection of these activities was made based on several criteria, including contract value, number of complaints, the risk, the procedure, and the importance it had for the community. One of the two contracts was of ‘high value’, while the other one was a contract of ‘medium value’.

In the first phase of the procurement process, KLI and INPO reviewed to what extent the procurement procedures were included in the procurement plan. Our monitoring shows that seven of the nine municipalities monitored (Pristina, Pejë/Peć, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Deçane, Junik and Hani i Elezit/Elez Han), at least one of the procurement procedures were not included in the procurement plan, whereas one of their two procurement activities monitored in five municipalities (Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac, Junik and Hani i Elezit/Elez Han) had foreseen a lower value in the procurement plan for the procurement activity than the estimated value in the initiation phase of that activity.

Three cases in two different municipalities (Junik and Hani i Elezit/Elez Han) had commissions with members with unqualified members for bid evaluations were identified.

Also, KLI and INPO monitored and evaluated whether the contracting authorities had followed and implemented the proper procedures in each of these activities. KLI and INPO found that the proper procedure was not implemented by the Municipality of Pristina for the activity “Physical security for municipal facilities of Pristina,” which used the negotiated procedure without publishing a contract notice thus restricting free competition (an important principle in the procurement procedure). In this case, the perception is that the reason for using this procedure is for the fact that the first procedure for this activity initiated in 2019 was pending with the PRB and the Municipality of Pristina had no other recourse. However, KLI and INPO consider that due to omissions from the Municipality of Pristina, this procedure has remained without an epilogue for nearly two years.

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 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.

In monitoring whether contracts are implemented in accordance with the terms of the contract and preliminary measures, we found that two municipalities (Gjakova/Djakovica and Gjilan/Gnjilane) failed to implement contracts in accordance with the terms of the contract. Two other municipalities (Hani i Elezit/Elez Han and Pristina) did not plan their contracts well, which then raised the need for changes in different positions of the contracts. During site visits, it was noted that the Municipality of Junik allowed the execution of payments without certain tasks and without the work being performed in compliance with the preliminary measures for the activity "Construction of the Center for Culture, Tourism and Agribusiness," thus, accepting changes to preliminary measures contrary to the provisions of law.

The Municipality of Vushtrri/Vučitrn, for the work of the contract "Repairing local roads in the city". Due to delays of the Central Procurement Agency for joint supplies, the Municipality of Pristina went ahead on its own with procurement procedures on the contract "Supply with croissant for students in grades 1-5". Even so, the municipality did not ensure to leave a clause that this contract would be suspended when the CPA signs the contract for joint supplies. Thus, the municipality risks being sued for non-fulfillment of the contract by the economic operator with which it had signed a contract.

During the fieldwork, it was, also, noted that municipalities generally do not consult citizens in municipal projects, and the vast majority of surveyed citizens have no knowledge of the cost and duration of the contract. There is also a lack of proper cooperation between municipalities and members of the Local Council, indicating that certain projects are not planned and implemented to fit the needs of citizens.

This report recommends that municipalities draft technical and professional requirements in accordance with the provisions of the LPP, to avoid shortening of legal deadlines without having tangible reasons or without having emergency situations, as well as to avoid using procedures which violate free market principles.

Municipalities should ensure that the procurement activities are well planned; contract management is adequate and does not violate contractual terms; prevent poor quality work;

payments are made only upon completion of the work; and that the contracting authorities receive the service or supply in accordance in line with the paid monetary value.

Municipalities are advised to increase cooperation with Local Councils and citizens in consultation, so that municipal projects respond to the real needs of the communities where the contracts are implemented.

## About the project

Through the “*Demand for Transparent and Accountable Municipalities: Monitoring public procurement and empowering citizens to bring about positive change*” project, KLI and INPO aim to address the complex issues that the current public procurement in Kosovo is facing at the municipal level as well as improve objectivity, transparency, and accountability in the municipalities of Kosovo. This was done through monitoring public procurement processes in municipalities, while ensuring the active participation of citizens in the process, focusing on nine selected municipalities: Vushtrri/Vučitrn, Gjakova/Djakovica, Pejë/Peć, Pristina, Gjilan/Gnjilane, Junik, Deçan/Dečane, Hani i Elezit/Elez Han, and Rahovec/Orahovac.

In order to prevent irregularities and corruption during the procurement phase, Kosovo must address a number of issues such as: . municipalities’ weak capacity in administration regarding public procurement processes, insufficient monitoring, contract implementation, and weak asset systems, which are all vulnerable to corruption in the case of public procurement.

This can be achieved through a team of experts, resources, and extensive experience in the field, which was done throughout the activities in this project. These include carrying out an effective monitoring process in all the selected municipalities; strengthening active citizenship through awareness-raising activities, ;direct involvement of citizens in monitoring contracts; addressing all findings and recommendations to central level institutions; empowering law graduates to lead positive change; promoting good practices of procurement processes; and finally by increasing discussions, participation, and cooperation between the citizens institutions, and CSOs.

The active role of citizens and civil society organizations is crucial to ensuring more transparent, effective, and accountable institutions. The more citizens and CSOs become aware and empowered about the role they play in monitoring institutions and reducing corruption, the more sustainable the results will be. Therefore, KLI and INPO carefully observed the active participation of citizens in monitoring contracts, budget sessions, and more.

Two other reports have been drafted within the framework of this project, which address (1) the municipal budget planning process and (2) the procurement planning process,

respectively. This is the third report on this project. There will also be a final report, which will include key findings from the three preliminary reports.

Aiming to raise awareness regarding issues related to budget planning and procurement processes we have also included media products such as informative videos, TV shows, and infographics. The key objective of these media products has been to increase citizen participation in budget planning and monitoring of procurement processes.

It is worth mentioning, the support of municipal assemblies in the nine municipalities, which organized public hearings with citizens through the Zoom platform, and were broadcasted on Facebook pages of the project-implementing organizations.

In addition, the project has included nine informal meetings between municipal officials, civil society organizations, media, Local Councils, and citizens, to discuss current budget planning and address recommendations and opportunities for mutual cooperation in the next year as well as build a budget that responds to the needs of citizens. This was done in order to improve communication and cooperation between: the citizens, municipal bodies, civil society organizations, media, and Local Councils.

This project was realized in partnership between the Kosovo Law Institute (KLI) and the Initiative for Progress (INPO), both organizations with extensive experience in monitoring public procurement.

INPO is an organization trained by USAID through its program for Transparent, Effective, and Accountable Municipalities. KLI on the other hand has extensive experience in monitoring and identifying cases of abuse and discrimination in public procurement activities, and an expertise in the judicial and prosecutorial system from a robust system of monitoring and research activities.

## **Methodology**

With the aim of compiling a comprehensive and practical report, KLI and INPO initially carried out a series of activities, starting from conducting a process of monitoring procurement procedures in four different stages of development. Next, KLI and INPO considered the active participation of citizens in the monitoring process, through virtual and direct forms, the development of awareness and advocacy activities, as well as addressing the findings and recommendations of the monitoring process to central level institutions.

In drafting this report, KLI and INPO monitored two procurement activities and analyzed two contract management activities for each of the nine municipalities. The data regarding each of these are presented separately in two separate parts of the report.

For this report, we selected high-value and medium-value contracts for each of the nine respective municipalities. Selection of these contracts was made based on several criteria, such as the value of the contract, number of complaints, risk, procedure, and its importance for the community.

All these selected activities were analyzed throughout all phases, starting with the pre-bidding procedure phase, then during it, as well as after the procedure took place.

In each of these phases, KLI and INPO monitors conducted a qualitative analysis of relevant documents provided through requests for access to public documents, the electronic platform for public procurement, as well as the website for each respective municipality. At the same time, KLI and INPO monitors, conducted conversations with the involved municipal officials in certain procurement activities so that this report was as accurately implemented as possible.

On the other hand, in terms of monitoring contract management for each municipality, we analyzed the management of two contracts as they were implemented. Regarding contract management, all documents belonging to the management part were monitored, including the contract management plan, contract manager reports, qualifications of contract managers, invoices of economic operators, payments made by the contracting authorities, and the validity of the security of contract execution, in addition to other documents.

An important part of contract management is the site visit, since monitoring contract management is not limited to document research. In order to monitor the practical implementation of the contract it also requires fieldwork. For the purpose of this research, KLI and INPO conducted a site visit in each municipality.

We maintained access to the field in two respects; first, a visit was made to the site with a monitoring body consisting of a member of a Local Council and two citizens where the work progress and performance in accordance with the terms of the contract and pre-measurement were observed. Secondly, surveys were conducted involving one Local Council member and six citizens.

The monitoring body was composed of a municipal councilor of that area where the contract was being implemented, as well as two citizens who were potential beneficiaries of that same contract. Regarding the surveys, the respondents were: a member of the Local Council where the contract is implemented and six citizens living in that area.. Respondents were asked how satisfied they were with the implementation of the contract, whether the project was a priority for their neighborhood, whether they were advised in advance, if they knew the cost and duration of the contract, and if they had or have had any complaints regarding the implementation of the contract in question.

All findings from the KLI and INPO monitoring process are presented in the first part of this report. The second part outlines the findings on the contract management process. The

report was distributed to officials in all nine monitored municipalities, who had the opportunity to submit their comments regarding the content and findings of this report. Comments submitted by municipal officials have been fully addressed by KLI and INPO and included throughout this report.

# **PART I**

## **The Procurement Process**

## I. The Procurement Process Phase

### I.1. The procurement activities under monitoring

of the monitored activities included two phases:(1) = the procurement process/monitoring phase from the initiation of the contract to its signing, and (2) the second phase monitoring of contract management, from the signing of the contract to its implementation..

The procurement process phase includes two activities selected by KLI and INPO for all nine municipalities. The activities were selected based on several criteria, including contract value, number of complaints, risk, procedure, and the importance it had for the community. The following table presents all monitored activities by KLI and INPO during this phase.

Selected Activities for monitoring			
Municipality	Selected Activity		Procurement number
PRISTINA	1	Physical security for municipal facilities of Pristina	616-20-3394-2-1-5
	2	Construction of a shelter for stray dogs and their treatment	616-19-8855-5-2-1
GJAKOVA /DJAKOVICA	1	Digitalization - multifunction columns, smart city and cameras - two-year contract	632-19-4733-1-1-1
	2	Construction of kindergartens in the Municipality of Gjakova/Djakovica	632-20-4633-5-2-1
PEJË/PEĆ	1	Construction of a football field in Baran Municipality of Peja/Peć	635-20-3448-5-1-1
	2	Purchase and installation of the elevator in MFMC	635-20-4525-1-2-1
RAHOVEC /ORAHOVAC	1	Services for implementation of vitalization of infrastructure for project functionalization – home beds	623-20-904-2-1-1
	2	Installation of new traffic lights	623-20-3817-5-2-1
VUSHTRRI /VUČITRN	1	Equipment supply to support businesses according to LOT1 and LOT2	644-19-6312-1-1-1
	2	Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn	644-20-2597-5-2-1

<b>GJILAN/ GNJILANE</b>	1	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	651-20-507-2-2-2
	2	Construction of the new bus station	651-20-2311-5-1-1
<b>DEÇAN/ DEÇANE</b>	1	Road construction in Bjeshkën e Strelcit - Deçan/Deçane	631-19-3836-5-1-1
	2	Supply with e – kiosk	631-19-5026-1-2-1
<b>JUNIK</b>	1	Construction of Junik-Gjeravica road	636-19-5225-5-1-1
	2	Placing surveillance camera systems in public places	636-19-3827-1-2-1
<b>HANI I ELEZIT / ELEZ HAN</b>	1	Supply with transportation vans for hemodialysis-Retendering 2	659-19-8887-1-2-1
	2	Construction of protective walls	659-20-3347-5-2-1

**Table I. Selected Activities for monitoring**

## 2. Inclusion of monitored activities in the procurement plan

KLI and INPO analyzed and identified whether each of the activities of the respective municipality was involved in the procurement plan. The following table illustrates those findings.

<b>Monitored activities inclusion in the procurement plan</b>		
<b>Municipality</b>	<b>Activity 1</b>	<b>Activity 2</b>
<b>PRISTINA</b>	Physical security for municipal facilities of Pristina	Construction of a shelter for stray dogs and their treatment
	No	Yes
<b>GJAKOVA/ DJAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year contract	Construction of kindergartens in the Municipality of Gjakova/Djakovica
	Yes	Yes  In lower value
	Construction of a football field in Baran Municipality of Peja/Peć	Purchase and installation of the elevator in MFMC

<b>PEJË/PEĆ</b>	No	Yes In lower value
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds	Installation of new traffic lights
	Yes In lower value	Yes In lower value
<b>VUSHTRRI/ VUČITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2	Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn
	Yes	No
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	Construction of the new bus station
	Yes	No
<b>DEÇAN/ DEČANE</b>	Road construction in Bjeshkën e Strellcit - Deçan/Deçane	Supply with e – kiosk
	No	Yes
<b>JUNIK</b>	Construction of Junik- Gjeravica road	Placing Surveillance Camera Systems In Public Places
	No	Yes In lower value
<b>HANI I ELEZIT /ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2	Construction of protective walls
	No	Yes In lower value

**Table 2. Inclusion of monitored activities in the procurement plan**

Seven of the municipalities under monitoring, namely Pristina, Pejë/Peć, Vushtrri/Vučitrn, Gjilan/Gnjilane, Deçan/Deçane, Junik and Hani i Elezit/Elez Han, did not include at least one of the two selected activities in the procurement plan for the respective year.

On the other hand, five municipalities – Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac, Junik and Hani i Elezit/Elez Han – included these activities in their procurement plan for the respective year, but in the procurement plan they foresaw a lower estimated value compared to the foreseen value of the activity in the initiation phase.

### 3. Statement of Needs and Determination of Available Funds

Through officially sent requests for access to public documents to the nine respective municipalities, KLI and INPO sought to acquire statements of available funds for each of the monitored activities. The following table shows whether the municipalities had prepared this document.

Statement of Needs and Determination of Available Funds		
Municipality	Activity 1	Activity 2
<b>PRISTINA</b>	Physical Security for municipal facilities of Pristina	Construction of a shelter for stray dogs and their treatment
	Yes	Yes
<b>GJAKOVA/ DIAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year contract	Construction of kindergartens in the Municipality of Gjakova/Djakovica
	Yes	Yes
<b>PEJË/PEĆ</b>	Construction of a football field in Baran Municipality of Peja/Peć	Purchase and installation of the elevator in MFMC
	Yes	Yes
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds	Installation of new traffic lights
	Yes	Yes
<b>VUSHTRRI/ VUČITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2	Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn
	Yes	Yes
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	Construction of the new bus station
	Yes	Yes
<b>DEÇAN/ DEČANE</b>	Road construction in Bjeshkën e Strellcit - Deçan/Deçane	Supply with e – kiosk
	Yes	Yes
<b>JUNIK</b>	Construction of Junik- Gjeravica road	Placing Surveillance Camera Systems In Public Places

	Yes	Yes
<b>HANI ELEZIT /ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2	Construction of protective walls
	Yes	Yes

**Table 3. Statement of Needs and Determination of Available Funds**

This is an explicit requirement under the Law on Public Procurement in the Republic of Kosovo, which stipulates that “[b]efore a contracting authority may initiate any procurement activity the contracting authority’s CAO shall ensure that a formal needs assessment is conducted with respect thereto and that the results of such assessment are formally recorded in writing and maintained in the contracting authority’s records.”<sup>1</sup>

For each of the monitored activities in all nine municipalities, KLI and INPO found that the Statement of Needs and Determination of Available Funds was prepared in accordance with all the legal requirements.

#### 4. Qualifications of the members of the evaluation commission

The LPP states that “contracting authority shall establish an Evaluation Commission for examination, evaluation and comparison of offers.”<sup>2</sup>

In this regard, KLI and INPO, through requests for access to public documents, requested that in addition to names of commission members, to also forward their professions or positions in the contracting authority, in order to compare those qualifications with the activity in relation to which offers were being evaluated. The following table shows whether these members were qualified to make the above assessment<sup>3</sup>.

Evaluation committee member qualifications		
Municipality	Activity 1	Activity 2
<b>PRISTINA</b>	Physical Security for municipal facilities of Pristina	Construction of a shelter for stray dogs and their treatment
	Yes	Yes
<b>GJAKOVA/ DJAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year	Construction of kindergartens in the Municipality of Gjakova/Djakovica

<sup>1</sup> Law No. 04/L-042 On Public Procurement In Republic Of Kosovo. Article 9, par. 1.

<sup>2</sup> Ibid. article 59, par. 1.

<sup>3</sup> Clarification: In cases where it is noted as “no data”, we have not received any information regarding their qualification from the respective municipality.

	contract	
	No Data	No Data
<b>PEJË/PEĆ</b>	Construction of a football field in Baran Municipality of Peja/Peć	Purchase and installation of the elevator in MFMC
	Yes	Yes
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds	Installation of new traffic lights
	Yes	Yes
<b>VUSHTRRI/ VUÇITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2	Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn
	No Data	No Data
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	Construction of the new bus station
	Yes	Yes
<b>DEÇAN/ DEÇANE</b>	Road construction in Bjeshkën e Strelcit - Deçan/Deçane	Supply with e – kiosk
	Yes	Yes
<b>JUNIK</b>	Construction of Junik- Gjeravica road	Placing Surveillance Camera Systems In Public Places
	No	Yes
<b>HANI I ELEZIT /ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2	Construction of protective walls
	No	No

**Table 4. Evaluation committee member qualifications**

In some cases, the municipalities did not provide the necessary data in order to assess the qualification of the members of the evaluation commission. However, in cases where municipalities provided data on either the profession or the position held by these members, KLI and INPO found that in three cases from two different municipalities, the members of the evaluation commission did not have the appropriate qualifications.

In the Municipality of Junik for example, in the "Junik- Gjeravica road construction" activity, one member of the evaluation commission was an official for

integration while another for gender equality; the third official was the only one whose position qualified him for the project in question, as he was a construction official.

In the Municipality of Hani i Elezit/Elez Han, for the activity “Supply with transportation vans for hemodialysis- Retendering 2,” none of the members in the evaluation commission had a professional background which was a necessary qualification for the activity. One member was a lawyer, one a financial officer, and the other a car park coordinator with a high school education. In the other activity of this municipality, "Construction of protective walls," two of the members of the evaluation commission were lawyers, while the third had a university education in road traffic engineering and transport.

On the other hand, the municipalities of Gjakova/Djakovica and Vushtrri/Vučitrn did not provide the information that would allow an assessment of the qualifications of the evaluation commission members, despite the KLI and INPO request.

## 5. Clarification requests by economic operators for the tender dossier and contracting authority corrections in the published notices

During the monitoring and analysis of the activities, KLI and INPO identified each case in which economic operators submitted requests for clarifications, and similarly identified cases when contracting authorities published forms of correcting errors in the notice. The following table illustrates this situation for each activity of each municipality separately.

Clarification requests from economic operators and contracting authority corrections				
Municipality	Municipality		Municipality	
	Clarification requests from EO	CA corrections in published notices	Clarification requests from EO	CA corrections in published notices
<b>PRISTINA</b>	Physical Security for municipal facilities of Pristina		Construction of a shelter for stray dogs and their treatment	
	N/A	N/A	N/A	N/A
<b>GJAKOVA/ DJAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year contract		Construction of kindergartens in the Municipality of Gjakova/Djakovica	
	Yes	Yes	N/A	N/A
<b>PEJË/PEĆ</b>	Construction of a football field in Baran Municipality of Peja/Peć		Purchase and installation of the elevator in MFMC	
	N/A	Yes	N/A	N/A
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds		Installation of new traffic lights	

	Yes	N/A	N/A	N/A
<b>VUSHTRRI/ VUČITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2		Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn	
	N/A	N/A	N/A	Yes
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane		Construction of the new bus station	
	N/A	N/A	Yes	Yes
<b>DEÇAN/ DEČANE</b>	Road construction in Bjeshkën e Strelcit - Deçan/Deçane		Supply with e – kiosk	
	N/A	Yes	N/A	N/A
<b>JUNIK</b>	Construction of Junik- Gjeravica road		Placing Surveillance Camera Systems In Public Places	
	N/A	N/A	Yes	N/A
<b>HANI I ELEZIT /ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2		Construction of protective walls	
	N/A	N/A	N/A	N/A

**Table 5: Clarification requests from economic operators and contracting authorities corrections**

KLI and INPO found that , five out of the nine monitored municipalities,in at least one case, had corrected previously published notices.

Gjakova/Djakovica for the activity "Digitalization - multifunction columns, smart city and cameras - two-year contract," and Deçan/Deçane for the activity "Road construction in Bjeshkën e Strelcit - Deçan/Deçane," published a correction form in the initially published notice.Vushtrri/Vučitrn, for the activity "Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn," published two correction forms.

Pejë/Peć, for the activity “Construction of a football field in Baran Municipality of Peja/Peć,” and Gjilan/Gnjilane for the activity “Construction of the new bus station,” changed their forms at least three times, and published corrections in each of these cases.

On the other hand, the economic operators submitted clarification requests for the tender dossier in four cases from all monitored activities. In these cases, KLI and INPO found that economic operators had submitted requests for clarifications in Gjakova/Djakovica regarding the activity "Digitalization - multifunction columns, smart city and cameras - two-year contract," in Rahovec/Orahovac for “Services for implementation of vitalization of infrastructure for project functionalization – home beds," in Junik for the activity "Placing

Surveillance Camera Systems In Public Places," as well as in Gjilan/Gnjilane regarding the activity "Construction of the new bus station."

In the Municipality of Gjilan/Gnjilane, for the activity "Construction of the new bus station," the economic operators requested clarifications on technical requirements for ISO Standards, (where it was required that economic operators be certified with the following certificates: "ISO 9001:2015, ISO 39001:2012, ISO 14001:2015, OHSAS18001:2007 - ISO IEC 27001:2013, UNI EN ISO 3834-2200, Proof 5-The certificate must be original or a notarized copy of the original.") In this case, the contracting authority responded that "since this activity has great value, the Contracting Authority has foreseen that bidding economic operators be serious and not encounter problems during the execution of the contract. Therefore, please refer to the tender dossier published on: 25.06.2020." After this response, the contracting authority changed the tender dossier, but the changes were minimal and not to the extent that would affect the requirements of the dossier as stated in Article 69 of the LPP.

These requirements have continued to remain high and this is evident by the fact that out of 16 bidders, 14 of them were eliminated because they were not able to meet the high requirements of the tender dossier. This activity was followed by numerous complaints from economic operators, where the PRB requested that the issue be re-evaluated, while the municipality of Gjilan/Gnjilane contrary to the legal requirements of Article 44 of the ROGPP not only did it not implement the decision of the PRB, but it canceled this activity, risking the municipality to present as a defendant in Court due to such unreasonable decision.

## **6. Implementation of the proper type of procurement procedure by municipalities**

KLI and INPO monitored the accompanying documents of each activity mentioned in this report. Initially we analyzed whether the appropriate procedure was followed and implemented by the contracting authority for each of these activities..

From the 18 monitored activities, KLI and INPO found that one municipality did not implement the proper procedure.

The Municipality of Pristina, for the activity "Physical security for municipal facilities of Pristina," used the negotiated procedure without publishing a contract notice. Regarding this the municipality gave the reason that: "Contracting authority announces negotiated procedure until the completion of the new activity for security of facilities, since the activity that is being conducted in the procedure is in the complaining phase in the PRB."<sup>4</sup>

---

<sup>4</sup> Explanation given by the Municipality of Pristina

Here, KLI and INPO found that the Municipality of Pristina during 2020 signed five more contracts for security of facilities, using even in those cases the negotiated procedure without publishing a contract notice. It is worth mentioning that the Municipality of Pristina used the negotiated procedure without publishing a contract notice, and has signed 2 other contracts with the same company (“Rojet E Nderit SH.P.K.”) during 2020 for a total of three signed contracts. The company in question has benefited from the municipality 426,450.00 €.

KLI and INPO consider that the negotiated procedure without publication of a contract notice undermines free competition as an important principle in the procurement procedure.

## **7. Technical and professional requests**

Although it is not a legal obligation, technical and professional requirements play an important role especially in terms of the opportunities that economic operators getting the job done as well as provide services or supplies which the contracting authorities will procure. LPP leaves this at the discretion of the contracting authority, the opportunity to request technical and / or professional capacities, but the moment they are required they become mandatory.

INPO and KLI monitored 18 activities from nine selected municipalities, analyzing whether these requests were acceptable, non-discriminatory, as well as directly relevant and proportional to the nature of the procurement that the contracting authority plans to undertake.

In the following section we present in detail six cases in four different municipalities and our findings in this regard for each activity separately<sup>5</sup>, without including a separate analysis of cases where technical and professional requirements submitted by municipalities have been correct.

### **7.1. Municipality of Pristina**

#### **7.1.1. Activity “Physical Security for municipal facilities of Pristina”**

For this procurement activity, the Municipality of Pristina requested only the documentation stated in article 65 and 66 of the LPP,<sup>6</sup> while the requirements on the economic/financial situation and on the technical and/or professional capabilities were not requested at all. In this regard, for this procurement activity, not only did they use a procedure that undermines competition (a very important principle in public procurement), the municipality also showed no interest for economic operators to meet some of the requirements. This

---

<sup>5</sup> Clarification: The title / name of the activities is left (translated) as it was in the contract notices of each municipality, even in cases where KLI and INPO have identified language errors

<sup>6</sup> Law No. 04/L-042 On Public Procurement In Republic Of Kosovo. Article 65 and 66

would affect the quality of service and the seriousness of the candidate who was to offer, even though it is not required by law.

### 7.1.2. Activity "Construction of a shelter for stray dogs and their treatment"

For this procurement activity, the Municipality of Pristina, within the requests for technical and professional capacity, requested that economic operators have “[b]asis for the production of asphalt, owned or agreement for the supply of asphalt.” During the analysis of the works that were expected to be performed within the implementation of this project and after the analysis of the preliminary measures, we noticed that economic operators had no obligation to pave asphalt anywhere, and therefore such a request was unreasonable. The imposition of irrelevant and unreasonable claims is against the provisions of the LPP and ROGPP, respectively in article 69, paragraph 1, which emphasizes that these requests can be requested by the contracting authority only if they are relevant and necessary. Article 26, paragraph 3 of the ROGPP expressly states that “[a]ll minimum qualification requirements shall be both directly relevant and proportionate to the object of the concerned contract”<sup>7</sup>. Also, this irrelevant and unreasonable request contradicts article 7, paragraph 6 of the LPP, in which it is emphasized that CAs should eliminate practices, criteria, requirements and technical specifications that discriminate in favor of, or against, one or more economic operators.

## 7.2. Municipality of Gjakova/Djakovica

### 7.2.1. Activity "Construction of kindergartens in the Municipality of Gjakova/Djakovica"

For this activity, the Municipality of Gjakova/Djakovica requested for technical and professional capacity "a.) graduate engineer or master of construction - constructive management with five years of work experience after graduation, b.) A graduate engineer or master of construction - hydro-technical management with five years of work experience after graduation, c.) a graduate engineer or master of architecture with five years of work experience after graduation, d.) a graduate engineer or master of electrical engineering with five years of work experience after graduation, e.) a graduate engineer or master engineer with five years of work experience after graduation, f.) a graduate engineer or master of geodesy three years of work experience after graduation. g.) a geodesy technician with five years of work experience after graduation”.

In this case, the demand for seven engineers, where six of them are required to have work experience five years after graduation and one three years after graduation, are estimated to be criteria that in this activity appear to apply to only one economic operator. The

---

<sup>7</sup> Ibid Article 69 par.1. in conjunction with article 26 par.3 of ROGPP

requirements of the contracting authority can be considered very high by other contracting operators, for which only one economic operator has offered, which has won this contract.

In this regard, contracting authorities should always take into account not to set unnecessary criteria, as provided by the LPP<sup>8</sup>.

### 7.3. Municipality of Junik

#### 7.3.1. Activity "Construction of Junik- Gjeravica road"

The Municipality of Junik, for the activity "Construction of Junik- Gjeravica road," the technical and professional capacity requirements, among other things, required that the economic operator provide evidence that they have successfully completed similar contracts in the last three years from the publication of the contract notice in the amount of not less than 6,500,000.00 €, where at least one project must be "Extension of regional roads."

We consider this criterion to be unnecessary and contrary to Article 69 of the LPP, because in addition to being required to prove that similar work has been performed during the last three years, it is also required that at least one contract be an expansion of regional roads.<sup>9</sup> So, a potential economic operator may have paved dozens of national, local, and regional roads during the last three years, but definitely one should be the expansion of the national road.

According to the law, evidence may be required for work of a similar nature, but not in the way the Municipality of Junik acted, because the construction of regional roads does not have any special specifics, such as the expansion of highways, national road or anything similar, where this request could be justified. This has more to do with the title of the activity than the nature of the job, which leads to discrimination against economic operators who, despite the numerous works performed in the last three years in the list of references, do not have a contract entitled "Expansion of Local Roads"<sup>10</sup>.

Also, for this activity, the Municipality of Junik has requested that "[t]he Economic Operator must provide evidence that there are at least 50 (fifty) employees in the list of employees submitted to TAK for each year, in the last three years from the notice publication for contract." We believe that this requirement of fifty (50) employees is high, and unreasonable, especially given the fact that this contract has three years of implementation<sup>11</sup>. As a result of these criteria, for this procurement activity worth 4,856,000.00 €, only three economic operators have competed, thus losing the opportunity to ensure greater competition, which would potentially provide a lower price and possibly better work quality.

---

<sup>8</sup> LPP, Article 69 par 1

<sup>9</sup> Ibid article 69

<sup>10</sup> Ibid article 7, par. 2

<sup>11</sup> Ibid article 69 par 1, connected with section 26.3 of the ROGPP

## 7.4. Municipality of Deçan/Deçane

### 7.4.1. Activity: "Road construction in Bjeshkën e Strelcit - Deçan/Deçane"

The Municipality of Deçan/Deçane, for the activity "Road construction in Bjeshkën e Strelcit - Deçan/Deçane, "had very high requirements and in contrast to LPP, these requirements are related to technical and professional capacity. For this activity, the Municipality of Deçan/Deçane requested that the "Economic Operator must provide evidence that has successfully completed similar contracts in the last 3 (three) years from the publication of the contract notice in a value of not less than 4,500,000.00 €, where at least one project should be expansion of regional roads." This request is the same as in the Municipality of Junik, and as such is contrary to Article 69 of the LPP because they require concrete projects and not similar work. So, the municipality has requested a concrete contract from the economic operator, with an identical title, and not a similar contract as are the requirements of article 69 of the LPP. Such requests, as stated above, in addition to being prohibited, are discriminatory under Article 7 of the LPP.

The Municipality of Deçan/Deçane has some requirements that are too high, for instance: "Project Manager - Graduated construction Engineer, constructive direction 10 years of work experience after graduation, leader of the workshop - engineer in construction, constructive direction, 10 years of work experience after graduation, Graduated geodesy engineer with two years of experience. Graduated Engineer, (Master) of Hydro-technics. Minimum two (2) projects realized in the required field, Graduated Electrical Engineer. Minimum two (2) projects realized in the required field, Graduated Traffic Engineer with three years of work experience after graduation Minimum two (2) projects realized in the required field".

In addition, a very high number of ISO standards are required, including ISO - ISO 9001 2015 - Quality Management System Certification - ISO 39001 2012 - Road Traffic Safety Management System - PASS 99 2012 - Integrated System of Management - ISO 14001 2015- Environmental Management System - OHSAS 18001 2007- Occupational Health and Safety Management System -ISO -IEC 27001 2013, Information Security Management System, -ISO 20881 2007, Safety Management System for chain supply, -SA 8000 2014.

The activity "Road construction in Bjeshkën e Strelcit - Deçan/Deçane" is very important and has a very high value, but the imposition of high requirements and contrary to the provisions of the LPP has limited the number of economic operators. That the criteria were high and discriminatory is evident by the fact that, in addition to the winning economic operator, two other economic operators were eliminated since they did not meet technical/professional requirements and economic and financial status requirements.

### 7.4.2. Activity "Supply with e- kiosk"

The Municipality of Deçan/Deçane requested high and irrelevant requirements in terms of technical and professional capacities to the activity, "Supply with e – kiosk." The nature of

the procurement was the supply with e- kiosk, while the requirements for technical and professional capacities were: “Requirement 1 - Staff of the economic operator economic operators must prove that has as regular employees the following staff - A project manager from IT with experience min. 5 years in this field - An expert in database and systems security with work experience min. 5 years in this field - A senior Software Development expert with work experience min. 5 years in development of web applications .net - A system expert for data analysis and interconnection (big data expert) with 2 years min work experience, - Three junior Software Development experts with work experience min. 2 years in web application development - A software training expert with a work experience min. 5 years.”

Given that the activity is only related to the supply and not maintenance of the e-kiosk, these requirements appear contrary to Article 69, paragraph 1 of the LPP in conjunction with Article 26, paragraph 3 of the ROGPP, which specifically requires that “[a]ll minimum qualification requirements shall be both directly relevant and proportionate to the object of the concerned contract.” That the Municipality of Deçan/Dečane was not able to provide the best possible access for all operators is evidenced by the fact that this activity offered only one economic operator, which was awarded a contract.

## **8. Tender Insurance**

Based on the LPP, it is stated that “In a procurement activity leading to the award of large or medium value contract, a contracting authority may require a tenderer to post tender insurance.”<sup>12</sup> At the same time, this law has regulated the value to be requested by the contracting authority, which provides that “If the contracting authority decides to impose a requirement on tender insurance, the amount required of that insurance shall be no less than one percent (1%) and no greater than three percent (3%) of the estimated value of the public contract or design contest, but shall in no case be less than one thousand (1.000) €.”<sup>13</sup>

For each monitored activity, KLI and INPO have requested access to the document proving the security of the tender by the economic operator.

The request for tender insurance is not legally obligatory, but the legislature has left it at the discretion of the contracting authorities whether they decide to request the same or not. We consider that such a request provides guarantee to the contracting authority and holds economic operators accountable for their bids and obligations to the contracting authorities.

---

<sup>12</sup> LPP Article 57, par.1.

<sup>13</sup> Draft Law On Amending And Supplementing The Law No. 04/L-042 On Public Procurement In The Republic Of Kosovo, As Amended And Supplemented With The Law No. 04/L-237, Article 35

Our findings show that the tender insurance, though not obligatory, was not required in three cases, namely in the activity "Placing Surveillance Camera Systems In Public Places," in the Municipality of Junik, in the activity "Physical security for the facilities of the Municipality of Pristina," in the Municipality of Pristina, and for "Supply with transportation vans for hemodialysis- Retendering 2," in the Municipality of Hani i Elezit/Elez Han.

Whereas, in the activity "Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane," in the Municipality of Gjilan/Gnjilane, such a requirement is not applied since it is a limited procedure.

As for the other cases where tender insurance was required and KLI/INPO had access to the document, the insurance was valid in terms of the timeframe requested.

The following table presents illustratively for each municipality the estimated value of the contract, the value of tender security required by the contracting authority and the value provided by the economic operator.

<b>PRISTINA</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Physical security for municipal facilities of Pristina	232,368	N/A	N/A
Construction of a shelter for stray dogs and their treatment	150,000	3,000.00	3,000.00
<b>GJAKOVA /DJAKOVICA</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Digitalization - multifunction columns, smart city and cameras - two-year contract	180,000	5,000	5,000
Construction of kindergartens in the Municipality of Gjakova/Djakovica	197,578	5,000	5,000
<b>PEJË/PEĆ</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Construction of a football field in Baran Municipality of Peja/Peć	521,012	10,000	10,000
Purchase and installation of the elevator in MFMC	38,000	1,000	1,000
<b>RAHOVEC /ORAHOVAC</b>	Estimated contract value	Required value in the tender dossier by the	Provided value by EO

		CA	
Services for implementation of vitalization of infrastructure for project functionalization – home beds	420,396	3,000	3,000
Installation of new traffic lights	55,430	1,000	1,000
<b>VUSHTRRI /VUČITRN</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Equipment supply to support businesses according to LOT1 and LOT2	132,726	LOT 1: 3,529.40 LOT 2: 1,000	LOT 1: 3,530 LOT 2: 1,000
Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn	425,711	4,250	4,250
<b>GJILAN/ GNJILANE</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	20,000	N/A	N/A
Construction of the new bus station	760,278	22,000	22,000
<b>DEÇAN/ DEČANE</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Road construction in Bjeshkën e Strellcit - Deçan/Deçane	3,222,959	32,000.00	32,000.00
Supply with e – kiosk	15,000	1.000,00	1,000.00
<b>JUNIK</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Construction of Junik- Gjeravica road	4,856,000	120,000	120,000.00
Placing Surveillance Camera Systems In Public Places	60,000	N/A	N/A
<b>HANI I ELEZIT / ELEZ HAN</b>	Estimated contract value	Required value in the tender dossier by the CA	Provided value by EO
Supply with transportation vans for	25,000	N/A	N/A

hemodialysis- Retendering 2			
Construction of protective walls	34,800	1,000	1,000

**Table 6. The required and provided value of the tender**

## 9. Deviation from legal deadlines

For this report KLI and INPO specifically analyzed and identified deviations from the legal deadlines that municipalities undertook during the procurement process.

In this regard, the main identified deviation in terms of legal deadlines is their shortening by the contracting authorities.

In the case of the activity "Installation of security cameras in public spaces" in the Municipality of Junik, identified a different issue with implementation of the activity. In this case, the legal deadline was not shortened; however, the contract notice was made in violation of legal provisions. This is because the contracting authority did not set a minimum deadline of 20 days for submission of the offers,<sup>14</sup> but this deadline included a period of only 17 days.

### 9.1. Application of expedited deadlines

At the beginning of this section, we noted that the shortening of deadlines is the most frequent deviation was identified during the monitoring of these activities by KLI and INPO.

It should be noted that the accelerated deadlines constitute a procedure outlined by the LPP, which specifically provides special rules that can enable the shortening of deadlines. However, as provided by law, this can be applied only in urgent and unusual cases, i.e., only when the reasons for the implementation of these deadlines are stable and there is no way to avoid them.

Findings from the monitoring of these activities, show that in five cases, in four monitored municipalities accelerated deadlines were applied.

In the Municipality of Vushtrri/Vučitrn, the activity "Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn" was processed with a shortened period of 20 days, as they have said due to the "vital importance for citizens and businesses operating along the square. The delays caused by the COVID 19 pandemic and knowing that this project should be completed this year, we consider it more than necessary to proceed with a shorter term according to the applicable legislation. Based on the legal provisions in force, as provided by the LPP, when the relevant contract is not a public contract of great value, contracting

---

<sup>14</sup> LPP, Article 44, par.2.2.

authority sets the deadline for receipt of tenders for a period of time not less than twenty days.<sup>15</sup>”

For the activity “Construction of a shelter for stray dogs and their treatment,” the contracting authority Municipality of Pristina shortened the time limits from at least 20 days as allowed by law to 11 days, using Article 46 of the LPP which talks about urgency. Contracting authority this period abbreviation has justified because “having taken into account the need to urgently shelter stray dogs and treat them as a quest that have to do with a risk general of security for the citizens of the capital's neighborhoods by stray dogs, as therefore, it is necessary to shorten the deadline”.

In the Municipality of Hani i Elezit/Elez Han, in the activity “Supply with transportation vans for hemodialysis- Retendering 2,” KLI and INPO find that the deadline for submission of tenders has been shortened to 11 days, since according to the LPP for this activity contracting authority should set the time limit for the receipt of tenders for the period of time not less than twenty days.<sup>16</sup> The date of the contract notice was published on November 18, 2019, while the deadline for submission was November 27, 2019. On this occasion, contracting authority said that something like this is being done “due to the short deadline of the end of the fiscal year.<sup>17</sup>”.

On the other hand, the Municipality of Deçan/Deçane has cut deadlines, in both activities monitored by KLI and INPO. For the activity “Road construction in Bjeshkën e Strelcit - Deçan/Deçane,” the contracting authority implemented a reduction of deadlines from at least 40 days as it should be in a normal situation, to 15 days as the minimum allowed for emergency situations. This shortening of the deadline was rationalized on the basis of the following reasons: “The existing road is very damaged and difficult to cross. Therefore, the livestock farming (economy) of the community of the villages of Strelc i Epërm and Strelc i Ulët greatly depended on this road.” For the activity “Supply with e-kiosk,” the deadlines for accepting offers were reduced to 10 days from 20 days, as it should be in normal cases. The reasoning for this time reduction by the contracting authority was “due to the increase in requests for equipment with documents and the large number of compatriots from the diaspora.”

This reduction that occurred in the case of the activity “Supply with e – kiosk,” by the contracting authority of the Municipality of Deçan/Deçane, has caused the consequence that only one economic operator bid for implementation of the project. Even the amount offered in this case by economic operators is 14,900 €, while the estimated value of the project was 15,000 €.

---

<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> Municipality of Hani i Elezit/Elez Han. Contract Notice. p. 6. Published on 18.11.2019 on the e-procurement platform.

In general, municipalities are abusing the legal option, which allows shortening the legal deadlines in case of emergencies, respectively; legal deadlines are being applied for cases unrelated to emergencies. Even the law is clear when specifying the urgency, and stipulates that the created urgent situation cannot be attributed to the actions or omissions of the contracting authority.<sup>18</sup> So, besides the fact that the situation must be urgent, at the same time, the urgent situation must not have been created by the action or inaction of the contracting authority.

From the reasons stated by the identified municipalities that have shortened the deadlines, we can conclude that no cuts are in line with legal requirements and that these cuts are either (1) not related to urgent situations at all, or (2) are situations declared as urgent. For example, we cannot say that a certain project is vital for citizens, so the deadline must be shortened, and then have a project such as the construction of a shelter for stray dogs and say that this one cannot be called an urgent situation even though this situation has been present for years.

Shortening deadlines introduces certain risks: initially many economic operators cannot prepare the requirements of the Tender Dossier due to the short time and abundant requests. As a result, the tender may be won by another economic operator who knows in advance that the contracting authority will announce a tender with certain requirements. Secondly, the shortening of deadlines reduces competition because many economic operators, due to the impossibility of preparation, do not offer at all; consequently, the competition is held by a few economic operators and, as seen from the findings above, we have cases when the bidder was only one economic operator. Shortening deadlines can bring higher cost and worse quality; higher cost due to low competition, while resulting in poorer quality of projects because many economic operators who could have been much more professional were not been able to bid. Thus, the contracting authority loses the opportunity to get better quality work, service and supplies.

## **10. Proclamation of irresponsible economic operators**

KLI and INPO analyzed the procurement activities in detail, and identified the number of economic operators who offered, the number of economic operators declared irresponsible, and then who had a lower price than the winning economic operators for each activity. The following table illustrates these details.

---

<sup>18</sup> Ibid. Article 46, par 2

Number of involved economic operators in each monitored activity						
Municipality	Municipality			Municipality		
	Number of economic operators (EOs) bidders	No. of EOs declared irresponsible	No. of irresponsible EOs with a cheaper price than the winner	Number of economic operators bidders	No. of EOs declared irresponsible	No. of irresponsible EOs with a cheaper price than the winner
<b>PRISTINA</b>	Physical security for municipal facilities of Pristina			Construction of a shelter for stray dogs and their treatment		
	1	0	0	9	0	0
<b>GJAKOVA/ DJAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year contract			Construction of kindergartens in the Municipality of Gjakova/Djakovica		
	4	3	1	1	0	0
<b>PEJË/PEĆ</b>	Construction of a football field in Baran Municipality of Peja/Peć			Purchase and installation of the elevator in MFMC		
	7	4	3	1	0	0
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds			Installation of new traffic lights		
	2	0	0	3	2	1
<b>VUSHTRRI/ VUÇITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2			Reconstruction of Adem Jashari Square in Vushtrri/Vuçitrn		
	2	1	1	1	0	0
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane			Construction of the new bus station		
	1	0	0	16	15	15
<b>DEÇAN/ DEÇANE</b>	Road construction in Bjeshkën e Strelcit - Deçan/Deçane			Supply with e – kiosk		
	8	7	4	1	0	0
<b>JUNIK</b>	Construction of Junik- Gjeravica road			Placing Surveillance Camera Systems In Public Places		

	3	Initially 0, then 3, finally 2 <sup>19</sup>	0	5	4	3
<b>HANI ELEZIT/ ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2			Construction of protective walls		
	1	0	0	3	0	0

**Table 7: Number of involved economic operators in each monitored activity**

## 11. Requests for reconsideration by economic operators

As seen in the table above, unlike the cases when there was only one offer, or when despite having more than one, the winner was the economic operator with the lowest price, KLI and INPO also identified cases in which there was more than one economic operator that bid for the respective activity and, for certain reasons, one or more economic operators was declared irresponsible.

In these circumstances, a considerable part of them then went further, and pursued the case legally. Initially there was a preliminary settlement of disputes which is done when “[a]ny interested party which considers his/her rights, as set forth in this Law, have been violated by a decision of a contracting authority during the performance of a procurement activity and who is damaged or risks being damaged by an alleged violation, may submit a request for review to that contracting authority.”<sup>20</sup>

As provided by this law, the “submission of a request for review obliges the concerned contracting authority to automatically suspend the implementation of the procurement activity which relates to the alleged violation.”<sup>21</sup>

In this regard, KLI and INPO identified requests for reconsideration submitted by economic operators in seven (7) of the 18 activities monitored in nine (9) selected municipalities. The following table clearly reflects the number of requests for reconsideration submitted by economic operators for each activity monitored by KLI and INPO.

<sup>19</sup> Clarification: Initially all economic operators were responsible, but after continuous re-evaluations as a result of the decisions of the PRB, contracting authorities declared all economic operators irresponsible, while after other complaints EO "Joos & Krasniqi-base" sh. p.k was declared the winner, while the Consortium of economic operators Arfa Group LLC & Euroasphalt "as an interest-free operator (blacklisted by the PRB), while economic operators Lika Trade Sh.p.k., administratively irresponsible.

<sup>20</sup> Law No. 05/L-068 On Amending And Supplementing The Law No. 04/L-042 On Public Procurement Of The Republic Of Kosovo, Amended And Supplementated With The Law No. 04/L-237, Article 60.

<sup>21</sup> Ibid

**Number of review requests submitted by economic operators for each monitored activity**

Municipality	Activity 1	Activity 2
<b>PRISTINA</b>	Physical security for municipal facilities of Pristina	Construction of a shelter for stray dogs and their treatment
	0	0
<b>GJAKOVA/ DJAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year contract	Construction of kindergartens in the Municipality of Gjakova/Djakovica
	1	0
<b>PEJË/PEĆ</b>	Construction of a football field in Baran Municipality of Peja/Peć	Purchase and installation of the elevator in MFMC
	1	0
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds	Installation of new traffic lights
	0	2
<b>VUSHTRRI/ VUČITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2	Reconstruction of Adem Jashari Square in Vushtrri/Vučitrn
	0	0
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	Construction of the new bus station
	0	4
<b>DEÇAN/ DEČANE</b>	Road construction in Bjeshkën e Strellcit - Deçan/Dečane	Supply with e – kiosk
	0	4
<b>JUNIK</b>	Construction of Junik- Gjeravica road	Placing Surveillance Camera Systems In Public Places
	3	1

<b>HANI I ELEZIT /ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2	Construction of protective walls
	0	0

**Table 8. Number of review requests submitted by economic operators for each monitored activity**

## 12. Appeals to the PRB and the final decision

Once a contracting authority reviews and decides to consider requests of each economic operator, the economic operators have the right to file a complaint to the PRB. This procedure is clearly regulated by the law in force, which states that “against any decision taken by the contracting authority in accordance with Article 108A circumstances any interested party may lodge a complaint with the PRB. The complaint should be submitted only after a preliminary procedure for resolution of the dispute in accordance with Article 108A of this Law was conducted<sup>22</sup>.”

KLI and INPO analyzed the complaints submitted by each economic operator to the PRB regarding the decisions of the contracting authority.

<b>Number of complaints submitted by economic operators to PRB</b>		
<b>Municipality</b>	<b>Activity 1</b>	<b>Activity 2</b>
<b>PRISTINA</b>	Physical security for municipal facilities of Pristina	Construction of a shelter for stray dogs and their treatment
	0	0
<b>GJAKOVA/ DJAKOVICA</b>	Digitalization - multifunction columns, smart city and cameras - two-year contract	Construction of kindergartens in the Municipality of Gjakova/Djakovica
	1	0
<b>PEJË/PEĆ</b>	Construction of a football field in Baran Municipality of Peja/Peć	Purchase and installation of the elevator in MFMC
	0	0
<b>RAHOVEC/ ORAHOVAC</b>	Services for implementation of vitalization of infrastructure for project functionalization – home beds	Installation of new traffic lights
	0	0

<sup>22</sup> Ibid, article 69

<b>VUSHTRRI/ VUÇITRN</b>	Equipment supply to support businesses according to LOT1 and LOT2	Reconstruction of Adem Jashari Square in Vushtrri/Vuçitrn
	0	0
<b>GJILAN/ GNJILANE</b>	Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane	Construction of the new bus station
	0	6
<b>DEÇAN/ DEÇANE</b>	Road construction in Bjeshkën e Strellcit - Deçan/Deçane	Supply with e – kiosk
	0	3
<b>JUNIK</b>	Construction of Junik- Gjeravica road	Placing Surveillance Camera Systems In Public Places
	6	1
<b>HANI ELEZIT /ELEZ HAN</b>	Supply with transportation vans for hemodialysis - Retendering 2	Construction of protective walls
	0	0

**Table 9. Number of complaints submitted by economic operators to PRB**

As seen in the table above, complaints to the PRB have been submitted by economic operators in five cases, in four different municipalities i.e. Gjakova/Djakovica, Gjilan/Gnjilane, Deçan/Deçane and Junik.

In the case of the municipality of Gjakova/Djakovica, for the activity "Digitalization - multifunction columns, smart city and cameras - two-year contract," the complaint economic operator ATI-KOS- ship & N.N.P.I.ArcProject shpk, filed a complaint against the decision which recommended the group of economic operators Komtel Project Engineering .sh.p.k. In this case, the Review Panel of the PRB decided to approve the complaint in part as grounded of the above-mentioned economic operator, and confirmed the notification for awarding the contract.

In the Municipality of Gjilan/Gnjilane, for the activity "Construction of a new bus station," there were 6 complaints submitted to the PRB by economic operator. Regarding these complaints, the PRB issued a decision and approved the complaints of the economic operator, and requested the cancellation of the tender from the contracting authority.

On the other hand, the contracting authority of the Municipality of Deçan/Deçane, for the procurement activity "Road construction in Bjeshkën e Strellcit - Deçan/Deçane," three complaints were submitted to the PRB. Complaints in this regard have been filed by economic operators Victoria Invest, R& Rukolli and Arfa Group. The decision of the PRB

for each of these complaints has been the same as the above case in Gjakova/Djakovica, so each complaint of the economic operators is partially approved and the notification for the awarded contract is confirmed by contracting authority.

While in the municipality of Junik, for both monitored activities there had been complaints to the PRB. For the activity “Construction of Junik- Gjeravica road,” based on the information possessed by KLI and INPO, a total of six complaints were filed. Out of these six, four complaints in a row were submitted by the economic operators “Joos & Krasniqi-Bazë” sh.pk., which the PRB approved as grounded. However, the last two complaints from the consortium Arfa Group LLC & Euroasphalt have been rejected. In this case, initially the consortium Arfa Group LLC & Euroasphalt was awarded, while after three complaints, the commission concluded that none of the economic operators were responsible and ultimately canceled the activity. In the end, after other complaints economic operators “Joos & Krasniqi-Bazë ” sh.p.k. was awarded the contract. So, in the end the economic operator, which was repeatedly rejected, was awarded.

For the activity “Placing Surveillance Camera Systems In Public Places”, the contracting authority of the Municipality of Junik, initially had awarded the contract to economic operators “TECO SH.PK,” as the economic operators with the lowest price, which was followed by a complaint by economic operators “Tetroniks LLC.” After that, the PRB decided to return the tender for reevaluation, in which case after reevaluation, the tender was awarded to economic operators “PROFESSIONAL ALARM LL.C.,” while "TECO SH.PK" was rejected due to arithmetic errors exceeding the 2 percent value, a finding also presented in the PRB experts' report.

### **13. Other findings from the process of monitoring procurement activities in the nine municipality under monitoring**

During the monitoring process, KLI and INPO identified other violations by contracting authorities. The following are the most specific violations identified in each activity.

The Municipality of Pristina, in the activity "Physical security for municipal facilities," used the negotiated procedure without publishing a contract notice and, despite this, was not able to deduct a single cent. Here, the estimated contract value remained the same even after the negotiations. According to the contracting authority, the reason for using this procedure was "[c]ontracting authority announces a negotiated procedure until the completion of the new activity for security of facilities, since the activity that is being conducted in the procedure is in the complaining phase in the PRB." However, in the contract there was no clause on what would happen if the contract over at the PRB was signed before completion of the current contract.

We also identified violations in the activity "Construction of a shelter for stray dogs and their treatment," developed by the Municipality of Pristina. In this case, the contract was signed on January 13, 2020, but was never implemented.

The municipality and the winning economic operators signed an agreement to terminate the contract, because according to them "After the site visit and the place where the construction of the facility is planned, there is a lack of complete infrastructure including very damaged road, lack of water supply network, lack of electricity network where are involved in the project. Also, in addition there were no construction permits, which on 02.09.2020 was confirmed permission for starting somewhere then nine months after signing the contract and B10 Notification works for cancellation of the procurement activity as a result of the pandemic spread (Covid 19) have lack of staff starting from the project manager and some workers who have been fired and as a result it is impossible to start the works and finish the project."

This is a case of poor planning by the Municipality of Pristina. For this activity, the municipality shortened the deadlines, while nine months after signing the contract, managed to obtain a construction permit, and in the meantime realized that in that area there is no infrastructure which needed to implement the project and thus the contract must be terminated. In this case, the economic operators agreed to terminate the contract, but in other cases, there is a big risk that the municipality will be the subject to a lawsuit for non-fulfillment of the contract in case of such omissions.

In the case of the contracting authority of the Municipality of Gjakova/Djakovica, in the activity "Digitalization - multifunction columns, smart city and cameras - two-year contract," KLI and INPO found a discrepancy between the notification on the decision of the contracting authority and the report on tender evaluation, since an economic operator in the decision notice states that it does not possess a license, while in the evaluation report, the economic operator appears to be in compliance.

In Hani i Elezit/Elez Han, during the analysis of the activity "Supply with transportation vans for hemodialysis- Retendering 2," we identified a request for a 900 € budget increase, and in the end they signed the contract in the amount of 25,900 €, as opposed to 25,000 € as originally planned with the winning economic operator.

KLI and INPO identified other violations in the contracting authority, Municipality of Deçan/Deçane, where, in the activity "Road construction in Bjeshkën e Strelcit - Deçan/Deçane," it was found that the management plan did not include an exact date of completion. Also, in the SCC, the end date is given in months and does not indicate the start nor the end date per month as required by the applicable provisions.<sup>23</sup>

---

<sup>23</sup> Rules and Operational Guidelines on Public Procurement. Article 20, par.11, k.

In the activity “Supply with e- kiosk,” the contract was signed on July 30, 2019, and the Contract Manager was appointed on July 31, 2019, while the contract management plan was prepared on July 30, 2019. Based on this, it means that the manager drafted the plan before being appointed as a contract manager.

So in this case, the CMP was prepared prior to the appointment of the contract manager, while according to the Rules and Operational Guidelines for Public Procurement, after signing the contract, the contracting authority must appoint the contract manager responsible for preparing the contract management plan (CMP). That the contract management plan must be prepared after the appointment of the manager is clearly defined in Article 61, paragraph 7 of the ROGPP, which provides that “[u]pon receipt of the notice of appointment as contract manager, the contract manager should be logged into the e-procurement system and should begin the stages of contract management through contract management functions. As a first step, the contract manager should prepare and create a contract management plan.”<sup>24</sup>

Under these regulations, it is not possible to prepare a management plan before appointing a manager. Doing so shows carelessness and lack of seriousness in preparing an important document for implementation of the contract.

During the monitoring process implemented in the Municipality of Gjilan/Gnjilane, in the activity "Feasibility study - improving the energy efficiency of public lighting in the Municipality of Gjilan/Gnjilane," our findings show that there were three bidders in the prequalification phase, while in the second phase, only one economic operator offered and ultimately won the contract.

Also, KLI and INPO noticed that the process of selecting a winner was prolonged. For this activity, the contract notice was published on February 24, 2020 and the deadline for submission of applications was March 11, 2020. Subsequently, the decision to form an evaluation committee was issued on March 13, 2020, while applications were evaluated on March 6, 2020.

So, although a long and unreasonable time has passed from the publication of the contract notice to the evaluation of the bids, the evaluation of the bids was realized within the legal deadline.

---

<sup>24</sup> Ibid article 61, par. 7.

#### 14. Main findings from the procurement process

KLI and INPO in this part of the report presents the main findings that are the result of monitoring of 18 procurement procedure in the nine selected municipalities.

- In seven of the municipalities under monitoring (Pristina, Pejë/Peć, Vushtrri/Vučitrn, Gjiilan/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.
- 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.
- 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.
- Five municipalities (Gjakova/Djakovica, Deçan/Deçane, Vushtrri/Vučitrn, Pejë/Peć and Gjiilan /Gnjilane) in at least one case corrected – and subsequently changed – the tender dossier. Economic operators submitted requests for clarifications in the tender dossier in four cases of four different municipalities (Gjakova/Djakovica, Rahovec/Orahovac, Junik, and Gjiilan /Gnjilane).
- 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.
- The Municipality of Pristina, for the activity "Construction of a shelter for stray dogs and their treatment," invited requests for technical capacity in violation of legal provisions and requested something that had nothing to do with the work to be performed.
- Excessive and difficult to reach criteria for technical and professional capacity, contrary to article 69 of the LPP, were requested by Municipality of Gjakova/Djakovica for the activity "Construction of kindergartens in the Municipality of Gjakova/Djakovica;" the Municipality of Junik for the activity "Construction of the road Junik- Gjeravica;" the Municipality of Deçan/Deçane for "Construction of the road in Bjeshkën e Strelcit- Deçan/Deçane" and "Supply with e-kiosk".
- 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.
- Out of 18 procurement activities monitored, seven activities in six different municipalities (Gjakova/Djakovica, Pejë/Peć, Rahovec/Orahovac, Gjiilan/Gnjilane, Deçan/Deçane and Junik) requests for reconsideration submitted by economic operator were identified.

- Complaints to the PRB were submitted by economic operators for five procurement activities of four different municipalities (Gjakova/Djakovica, Gjilan/Gnjilane, Deçan/Deçane and Junik).
- Even though the Municipality of Pristina used the negotiated procedure without the publication of the contract notice for the procurement activity "Physical security for the municipality facilities," it did not manage to deduct any cent of the contract's estimated value.
- The Municipality of Hani i Elezit/Elez Han signed a contract for 900€ more than the estimated value for the activity "Supply with transportation vans for hemodialysis-Retendering 2."
- The Municipality of Deçan/Deçane, did not fulfill the SCC and the Management Plan in accordance with legal requirements for the activity "Road construction in Bjeshkën e Strellcit - Deçan/Deçane," while for the activity "Supply with e- kiosk," the date of compilation of the Management Plan was earlier than the date for when the manager was appointed.

## **15. Recommendations regarding the procurement process**

- Contracting authorities should strictly follow their procurement plans, which they prepare in order to properly implement their budget.
- 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.
- Contracting authorities should implement the appropriate procedures when initiating public procurement and avoid using procedures that prevent competition among economic operators.
- 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.
- Contracting authorities should avoid deviations from the legal deadlines as much as possible, and particularly avoid using the measure of accelerating deadlines in cases when the situation is not legitimately urgent.
- The Municipality of Pristina should ensure that the technical and professional requirements required are in accordance with the nature of the activity that is planned to be procured.
- The municipalities of Gjakova/Djakovica, Junik and Deçan/Deçane should ensure that the requirements for technical and professional capacities are in accordance with article 69 of the LPP, and should not be excessive, irrelevant, discriminatory, or favorable toward any economic operators.
- The Municipality of Hani i Elezit/Elez Han should ensure that it has thoroughly planned the assigned activity, so that it does not create situations where all offers are

higher than the estimated value and then require additional commitment in order to sign the contract.

- The Municipality of Junik should ensure the deadlines for the receipt of offers are in accordance with the provisions of the LPP.
- The Municipality of Pristina should make attempts to negotiate better terms for services or supplies when using procedures where negotiations are mandatory, so that it saves public funds.
- The Municipality of Deçan/Deçane should ensure that it drafts the contract management plan and the special conditions of the contract in accordance with the legal requirements.

# **PART 2**

## **Contract Management**

## I. Contract management

Contract management is a key aspect that requires relentless commitment from the people involved. Contract managers are responsible for managing contracts, and in some cases, the Contracting Authorities also appoint a commission to oversee the work that includes supplies, services, or more complex or larger work. The moment the contract is signed, the procedural aspect ends and the implementation phase begins. After signing the contract, the responsibility to a large extent leaves the procurement office and moves to the contract manager.

KLI and INPO monitored eighteen (18) management activities, including two activities in each monitored municipality. The selection of contracts was made taking into account several factors, including but not limited to: the value of the contract, the number of complaints from economic operators, the importance of the contract to the community, and the type of procurement procedure. In the contract management aspect, KLI and INPO monitored the work appointment, qualification, and performance by the manager of the assigned contract, work performance based on the preliminary measures and contract conditions, payment of economic operators in accordance with the contract conditions, time and compliance with the level of work, and the validity of the contract insurance execution, among other factors.

The following table reflects all activities monitored by KLI and INPO during this phase:

### ANEX I. Monitored activities for management

Municipality	Contract 1	Contract 2
<b>Deçan/Deçane</b>	Title: Summer and winter maintenance of roads in the Municipality of Deçan/Deçane	Title: Construction of Youth Center 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€
<b>Gjakova/Djakovica</b>	Title: Proposal of low construction projects	Title: Construction and restoration of roads with concrete cubes
	Procurement number: 632-20-3904-2-1-1	Procurement number: 632-20-1533-5-1-1
	Contract value: 180 000,00(estimated value), price per piece 0.66€	Contract value: 626,653.15€
<b>Gjilan/Gnjilane</b>	Title: Supply with hygienic and	Title: Construction of the green market

	sanitary material	
	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€
<b>Hani I Elezit/Elez Han</b>	Title: Equipping cabinets with teaching and laboratory tools	Title: Renovation of MFMC in Hani I Elezit/Elez Han
	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€
<b>Junik</b>	Title: Transportation of students by bus in the relation, Agim Ramadani neighborhood - school and vice versa	Title: Construction of 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€
<b>Pejë/Peć</b>	Title: Material supply for the MFMC drugstore	Title: Construction of the “ Drelaj – Leqinat “ road in Rugovë
	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€
<b>Pristina</b>	Title: Supply with croassant for students of grades 1-5	Title: Construction of the park in the neighborhood Arbëria
	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€
<b>Rahovec/Orahovac</b>	Title: Supply with X-ray films for the MFMC	Title: Treatment of fecal sewage (septic tanks) in the municipality of Rahovec
	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€
<b>Vushtrri/Vučitrn</b>	Title: Expansion of water supply network	Title: Pavement of local roads 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€ (estimated value), price per piece 72.4	Contract value: 581.357,85

**Table I0: Selected activities for monitoring**

Also, KLI and INPO monitored the implementation of the contract together with the citizens and members of Local Councils. Toward this process, a monitoring body was established consisting of a member of the Local Council and two citizens who benefited directly from the implementation of the contract in question. For each municipality where an activity was monitored, fieldwork was conducted to observe the level of work performance, quality of implemented activities, and other aspects related to contract management.

## 2. Qualifications of contract managers and the sufficient time to deal with management

The contract management process is very important and must be performed by a professional in the field. The Law on Public Procurement (LPP) generally requires that public officials who deal with procurement have integrity and professional responsibility when involved in procurement procedures, while Rules and Operational Guidelines on Public Procurement (ROGPP) in particular require that the “RPO appoint a person from the Requesting Unit, with the skills and experience as a Contract Manager and one from the Requesting Unit or from the institution as the direct Supervisor of the contract manager.”<sup>25</sup>

The table below presents the findings regarding the qualifications of contract managers.

Necessary qualifications for contract managers		
Municipality	Contract 1 (Yes/No)	Contract 2 (Yes/No)
Deçan/Deçane	Yes	Yes
Gjakova/Djakovica	Yes	Yes
Gjilan/Gnjilane	Yes	<sup>26</sup>
Hani I Elezit/Elez Han	Yes	Yes

<sup>25</sup>See Article 1, par. 2 and 3 of LPP in conjunction with article 61.15 of ROGPP <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret//shq/A01%20Rregullat%20dhe%20Udh%20C3%ABzuesi%20Operativ%20p%C3%ABr%20Prokurimin%20Publik.pdf>.

<sup>26</sup> KLI and INPO could not gain access to this tender nor any information on who was the manager.

<b>Junik</b>	Yes	Yes
<b>Pejë/Peć</b>	Yes	Yes
<b>Pristina</b>	<sup>27</sup>	Yes
<b>Rahovec/Orahovac</b>	Yes	Yes
<b>Vushtrri/Vučitrn</b>	Yes	Yes

**Table I I: Necessary qualifications for contract managers** <sup>28</sup>

From the data above, it is apparent that the appointed managers for the monitored contracts had the necessary qualifications related to contract management. Overall, their experience and profession was in accordance with the nature of the work they were appointed for.

The managerial aspect, in addition to requiring the contract manager to demonstrate professionalism in the given field, must also have the time to deal with management. The aspect of time is very important because the management of the contract requires the manager to have an active role in work performance, both of that in the progress as well as in administrative matters related to the confirmation and continuous reports on the work performed along recommendations for the execution of payments..

We interviewed contract managers regarding how much time they had to deal with the management of the contract and whether that time is enough for them to do their job as managers; according to all the managers in question the given time is enough for them to finish their job.. However, most managers admit that the task of management comes as an additional task and that is a problem for them, but it seems they are still able to perform their duties.

### **3. Economic Operators Payments on time and in accordance with the level of work**

Payment execution has also an important role in the framework of contract implementation.. It is very important that payments are made on time (i.e., without unreasonable delays) and just as important that payments are in line with supplies, services, or work performed. It is legally prohibited for payments to be executed without a detailed report that proves the contract has been implemented to the extent that payment is required.<sup>29</sup>

<sup>27</sup> For this contract the Municipality of Pristina did not name any manager because the implementation of the contract has not begun.

<sup>28</sup> Source: All information has been attained through requests for access to public documents and direct interviews with contract managers.

<sup>29</sup> See, Articles 24 and 25 of Financial Rule No. 01/2013 / MF - on the Expenditure of Public Money, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10203>.

During the monitoring phase, KLI and INPO found that:

Municipality of Deçan/Dečane, in the contract "*Summer and winter maintenance of roads in the Municipality of Deçan/Dečane*," payments were not made properly based on the level of provided services. This is argued by the fact that for situation number three (III), based on the invoice of the Economic Operator and the report of the contract manager, services were performed in the amount of 455,204.44€, while the payment was executed in the amount of 285,000.00€. Also, situation four (IV), based on the manager's report and the invoice of the Economic Operator, services were performed in the amount of 224,457.00€, while payments were made in the amount of 104,457.00€. Based on this, it can be concluded that the Municipality of Deçan/Dečane did not execute its requirement to pay the Economic Operator the amount of money of 290,207.00€, also the payments were not made on time, nor in accordance with the services performed, and this is further proven by the contracting company through a telephone discussion dated 18.03.2021, which emphasizes the fact that this is a frequent occurrence.

In the contract "*Construction of the Youth Center in Deçan/Dečane*", funded by the Ministry of Culture, Youth and Sports (MCYS), our findings show that payments were not made regularly, nor were they based on invoices issued by the Economic Operator. For the work performed, the Economic Operator issued two invoices: the first invoice in the amount of 50,000.00 €, and the second invoice in the amount of 45,000.00 € and the Economic Operator have proof of payment., KLI and INPO on 18.03.2021 submitted a request for access to public documents to the MCYS since the Municipality of Deçan/Dečane does not possess proof of payments, , but MCYS has not responded nor has it sent any document related to this request. During the phone interviews with the project manager and the representative of the Economic Operators, we found that the 50,000.00 € invoice was paid on time, while the 45,000.00 € invoice was initially paid only in the amount of 22,500.00 €, according to the representative of the Economic Operator. After approximately three months, a part of 10,000.00 € was paid, while the current outstanding liabilities from MCYS amount to 12,500.00€. The invoices in question are in full compliance with the reports of the contract manager. Their payment, in addition to being a legal obligation, is also a contractual obligation and a delay in payment can put the Economic Operator into financial difficulties, which could then jeopardize the completion of projects.<sup>30</sup>

#### **4. Validity of Insurance Execution**

Contract Insurance Execution is a monetary guarantee that can be legally required by the Economic Operator with whom the contract is signed. When performance guarantee is required by the Tender Dossier, it is prohibited to sign contracts without such

---

<sup>30</sup> See article 24 of the Contract [https://e-prokurimi.rks-gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=997723](https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=997723) , for more see also <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2828>.

insurance. This insurance should also represent at least 10 % of the contract value.<sup>31</sup> Thus, when performance guarantee is required by the Tender Dossier, it assumes unsurpassed procedural character, meaning the contract cannot be signed without such insurance.

Performance insurance has two main roles: first, it makes the Economic Operator more responsible when providing supplies, services, or contracted work; and second, it is a guarantee for the Contracting Authority that in case of termination of the contract they can withdraw compensation insurance for non-performance. The law requires that "[t]he performance insurance will remain valid for a period of thirty (30) days after the completion of the contract."<sup>32</sup> Once the validity expires, insurance cannot be withdrawn by the Contracting Authority, and consequently there is a risk that the municipality will not receive damage compensation for non-performance. Given this risk, KLI and INPO analyzed whether execution insurance the monitored contracts were valid at least thirty (30) days after the end of the contract, as required by law.

The findings show that the Municipality of Junik in the contract "*Construction of the Center for Culture, Tourism and Agribusiness*," accepted tender insurance for a period shorter than the minimum allowed by law (i.e., execution security is valid only 27 days after the end of the contract). The contract is expected to end on 03.11.2022, while the execution insurance is until 30.11. 2022 (i.e., 27 days - three days less than what is required).

The Municipality of Prishtina in the contract "*Construction of the park in the neighborhood Arbëria*" did not have a valid insurance execution because the contract officially ended on 13.12.2019, while the execution insurance was until 27.12.2019. Section 30.6 of the RrUOPP requires that "[t]he performance security shall remain valid for a period of thirty (30) days after the completion of the contract."<sup>33</sup>

The Municipality of Pristina in the contract "*Construction of the park in the neighborhood Arbëria*," accepted execution insurance contrary to the requirements of the Tender Dossier, and accepted it for a period of 60 days, while the requirements of the Tender Dossier are one hundred and twenty (120) days.<sup>34</sup> In this case, besides the fact that we are dealing with invalidity of execution security, the Municipality of Pristina committed another legal violation when it signed a contract with the winning economic operators without providing execution insurance in accordance with the Tender Dossier.

---

<sup>31</sup> See <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret//shq/A01%20Rregullat%20dhe%20Udh%C3%ABzuesi%20Operativ%20p%C3%ABr%20Prokurimin%20Publik.pdf>.

<sup>32</sup> See <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret//shq/A01%20Rregullat%20dhe%20Udh%C3%ABzuesi%20Operativ%20p%C3%ABr%20Prokurimin%20Publik.pdf>

<sup>33</sup> See article 30.6 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.pdf>

<sup>34</sup> See article 63 of LPP, supplemented and amended, in conjunction with Article 30 of the ROGPP <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret//shq/A01%20Rregullat%20dhe%20Udh%C3%ABzuesi%20Operativ%20p%C3%ABr%20Prokurimin%20Publik.pdf>

In addition to that, the Municipality of Pristina in the contract "Supply of croissant for students of grades 1-5,"<sup>35</sup> despite the fact that performance guarantee was a requirement of the tender dossier, the same accepted performance insurance that is in violation of the law. At the time the contract was signed, there was no insurance; The contract was signed on 25.02.2020, while the performance insurance was issued on 27.02.2020, and even this will be valid from 25.05.2020 until 26.12.2020. According to ROGPP, when performance insurance is required, it becomes a prerequisite for signing the contract, so performance insurance must exist at the time of signing the contract. In this case, the Municipality of Pristina, acting in violation of the law, signed a contract without proper insurance.<sup>36</sup>

Apart from the fact that this contract was signed without any insurance, the Municipality of Pristina – contrary to legal provisions – admitted that the contract remains in place without performance insurance for over three months now, while the same should be valid from the moment the contract was signed until at least 30 after the end of the contract.

These omissions, i.e. non-compliance with legal procedures, although may seem technical, inevitably reduce the responsibility of the Economic Operator to the Contracting Authority, respectively to the implementation of the contract.

## **5. Findings during site visits and interviews with citizens**

Within the framework of contract monitoring for each municipality, KLI and INPO, together with a member of the Local Council and two citizens of the area where the project is implemented, conducted field trips to observe the implementation of the monitored contracts more closely. Respectively, the visits are organized in each municipality for for each work contract.

In addition we also interviewed members of Local Councils and citizens regarding their knowledge about the given contract and their satisfaction with the work done until the time when the interview took place.

### **5.1. Municipality of Deçan/Deçane**

In the Municipality of Deçan/Deçane, we conducted a field trip for the contract "Construction of Youth Center in Deçan/Deçane." During the visit, it could be noted that there was a discrepancy between the works completed and the payments – specifically, invoices issued by economic operator. Regarding this issue, the contracted economic operators stated that they used the pandemic period, respectively the reduction of prices for construction materials and the work advanced faster than the dynamic plan. In addition

---

<sup>35</sup> See the contract [https://e-prokurimi.rks-gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=796765](https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=796765)

<sup>36</sup> See article 30.6 of ROGPP par 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>.

to that, this center was deemed quite far from the city center, and access to it is quite difficult.

KLI and INPO interviewed six citizens regarding the information they have about this project and how satisfied they are with its implementation. These results are as follows:

Interviews with citizens regarding the contract "Construction of Youth Center in Deçan/Deçane"				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	Satisfied	No	Yes	No
2	Satisfied	No	Yes	No
3	Medium	Yes	Yes	No
4	Satisfied	No	Yes	No
5	Satisfied	No	Yes	No
6	medium	No	Yes	No

**Table 12: Interviews with citizens regarding the contract "Construction of Youth Center in Deçan/Deçane"**

Citizens were also asked about any possible complaints they have, or have had regarding the project and whether they addressed it to the supervising bodies, and the same have emphasized that they had no complaints. While asked for additional comments, citizens answered that this center should be operational as soon as possible and employ professional staff, while two citizens had remarks; one that the center is far from the city and is located near the Center for the Mental Health and the other had remarks about the distance from the city center.

In general, we noticed that the citizens of the Municipality of Deçan/Deçane were satisfied with this project, they welcome it, and see it as a priority. We also learned that the citizens were not consulted in advance about this project and had no knowledge of its duration and cost.

## 5.2. Municipality of Gjakova/Djakovica

The contract for which the field visit was conducted in the Municipality of Gjakova/Djakovica is the contract entitled "Construction and restoration of roads with concrete cubes." During this field visit, we visited parts of the project related to the construction and restoration of the sidewalk on Sylejman Lleshi Street, as well as the construction of Ilir Soba Square in Gjakova/Djakovica. What we noted during the site visit is that in both locations there were no drainage basins, although the same had been foreseen by pre-measurement, respectively for the whole project there were been planned twenty-

five (25) drainage basins.<sup>37</sup> Excluding this, generally other works have been carried out on the basis of pre-measurement and contract terms.

For the contract pertaining to the project "Construction and restoration of roads with concrete cubes," six citizens were interviewed who benefited from this project and their answers regarding satisfaction with the implementation of the contract can be found in the table below.

Interviews with citizens regarding the contract "Construction and restoration of roads with concrete cubes"				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	Yes	No	Yes	No
2	No	No	Yes	No
3	Medium	No	No	No
4	Medium	No	Yes	No
5	Yes	No	Yes	No
6	Yes	No	Yes	No

**Table 13: Interviews with citizens regarding the contract "Construction and restoration of roads with concrete cubes"**

When asked if they had, or did have any complaints regarding the implementation of this contract, three out of six citizens had complaints related to the duration of the project and lack of lighting, lack of drainage basins, and consequently the citizen complains that water enters his property as a result, and the last complaint was the fact that they used small cubes. These complaints were not formally submitted to municipal bodies. In terms of additional comments, citizens have demanded more green spaces, lighting, placement of children's play areas, and arrangement of drainage basins.

Finally, only half of the interviewed citizens are satisfied with this project, although five of them estimate that this project has been a priority. Also, none of the interviewed citizens were consulted in advance for this project. Due to the lack of consultation and transparency, none of the interviewed citizens was aware of the cost and duration of the contract.

<sup>37</sup> See [https://e-prokurimi.rks.gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=972029](https://e-prokurimi.rks.gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=972029).

### 5.3. Municipality of Gjilan/Gnjilane

From two monitored contracts in the Municipality of Gjilan/Gnjilane, the site visit was conducted for the contract entitled "Construction of the green market." During the site visit, we noticed that the implementation of the contract was partially done, and the work had been suspended. The work done is the preparative work of soil, gravel, masonry, and roof work partly, but the work of waterproofing, plastering, leveling and coating the floor and walls, carpentry work, and facade work had not yet been completed. According to the contract, the job should have been completed in 2019, but the opposite was confirmed during the visit, so the contract has not been implemented yet.

Regarding this contract, interviews were conducted with six citizens and the answers can be found in the table below.

Interviews with citizens regarding the contract "Construction of the green market"				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	Medium	No	Yes	No
2	Yes	Yes	Yes	Yes
3	No	No	Yes	No
4	Medium	Yes	Yes	No
5	Yes	Yes	Yes	No
6	No	Yes	Yes	Yes

**Table 14: Interviews with citizens regarding the contract "Construction of the green market"**

Also, to the questions of whether they had have, or have a complaint, and whether they addressed the complaint to the supervising bodies, two citizens responded that they have filed complaints and submitted them to municipal bodies. Additional comments concerned the fact that this project should be completed as soon as possible.

Generally, from the data and interviews, we conclude that the citizens are not satisfied with this project, even though according to them it was necessary. Only two citizens out of six surveyed are satisfied with this project, and only two of them know the cost and duration of the contract. The Municipality of Gjilan/Gnjilane had previously consulted four of the six surveyed citizens regarding this project.

#### 5.4. Municipality of Hani I Elezit/Elez Han

In the Municipality of Hani I Elezit/Elez Han, the site visit was conducted for the contract "Renovation of MFMC in Hani I Elezit/Elez Han." During the site visit, it was ascertained that the work such as painting, masonry work, doors and windows, toilets, ventilations, lighting, canteen, X-ray room, and other things involved like: hallway seats, monitor, information board, were completed and everything was in place to provide services to citizens.<sup>38</sup> However, in the hallway of MFMC there were 10 seats placed, while according to the pre-measure, position I.10.1, it was expected to place only six seats. The Municipality paid 145€ per piece for each seat, while with this change in the measure, the Municipality of Hani I Elezit/Elez Han has paid 580€ more for additional seats. Asked about this issue, the Contract Manager stated that "this position was added due to the request of the Directorate of Health and that this change is within the value of the contract." Also, it is noted that the top of the canteen, position I.8.9, was not realized according to the pre-measure, while according to the Manager this was unnecessary. All these findings indicate mis-planning by the Municipality of Hani I Elezit/Elez Han.

Regarding this contract, six citizens who were residents of the locality where the MFMC was renovated, were interviewed. Their responses were as follows:

Interviews with citizens regarding the contract "Renovation of MFMC in Hani I Elezit/Elez Han"				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	Yes	No	Yes	Yes
2	Yes	No	Yes	No
3	Yes	No	Yes	No
4	Yes	No	Yes	Yes
5	Yes	No	Yes	No
6	Yes	Yes	Yes	Yes

**Table 15: Interviews with citizens regarding the contract "Renovation of MFMC in Hani I Elezit/Elez Han"**

Asked about possible complaints about this contract or project, citizens stated that there were no complaints, and they also did not have additional comments regarding this project.

We conclude that the citizens of the Municipality of Hani I Elezit/Elez Han are satisfied with this project and that it has been a priority for them. However, we note that citizens were

<sup>38</sup> See [https://e-prokurimi.rks.gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=1097837](https://e-prokurimi.rks.gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=1097837).

not informed for this project, except for one citizen who stated that he was consulted, and only half of the respondents know the cost of the contract and its duration.

### 5.5. Municipality of Junik

The contract implemented by the Municipality of Junik and for which a site visit was conducted, is entitled "Construction of the Center for Culture, Tourism and Agribusiness." During the site visit, we identified numerous violations contrary to the pre-measure and the payments made. These findings are shown below:

1. According to pre-measurement position 1.2 "Supply with material and installation of temporary fence to visually cover the construction site. The fence should be made of metal construction and covered with sheet metal. The height of the fence should be three meters." Finding: This position cost 7,620.00€, while according to what we have seen in the field the construction of the fence is made of wood (not iron), and the height of the fence is not three meters, but two meters.
2. Position 1.3 "Development of signage table where information should be included: Project, investor and contractor. The price should also include warning signs that warn of danger with the inscription "construction site." The information board should be with dimensions 200x300cm, while the warning board should be with dimensions 50x80cm, and should be placed in the fence of the workshop." Finding: Each of these tables cost the municipality from 10,000.00 €, in total 20,000.00 €, and none of them has the specifications according to the measure, even though the real market price of these tables ranges from 100-150 €.
3. Position 1.4 "Supply and placement of temporary assembly facility that should contain: An office for various consultations and two toilets. The office should have dimensions of 3x4 meters. Finding: The office does not exist despite the fact that for it was paid € 5,000.00.
4. Position 10.1 "Supply transport and installation of one-sided windows made of oak wood and complete with mechanism and handle for opening and closing, with normal opening and tipper." Finding: For these windows the municipality paid 9,600.00 €, while from the view of the workshop it results that the windows are not made of wood but of plastic (PVC).

Regarding these findings KLI de INPO, in addition to the interview with the contract manager via e-mail, these findings were sent to municipal bodies to seek clarification, while the same responsibility was transferred to the contract manager. The contract manager during the phone conversation agreed with all the findings and said that he raised these issues in time, but no one had listened. Meanwhile, when questions were addressed to him by e-mail, he justified the issue of fences due to climatic conditions, emphasizing that they would be replaced according to pre-measurement, while for the temporary assembly facility and signboards, he stated that they were returned to the workshop, respectively replaced by pre-measures. Regarding the windows, the same states that they are made of plastic material due to durability, but when we asked for a document proving the agreement

between the contracting authority and economic operators for a change as required by law, the same stated that there is no such document.<sup>39</sup>

All these findings prove a lapse in contract management , and they all have a common conclusion: misuse of public money because the municipality did not accept jobs under the terms of the contract, respectively pays without accepting a certain job at all, or accepts work contrary to the terms and conditions of the contract.

Six citizens of the Municipality of Junik were interviewed for the project in question, and their answers can be found below.

<b>Interviews with citizens regarding the contract “Construction of the Center for Culture, Tourism and Agribusiness”</b>				
<b>Citizen</b>	<b>Are you satisfied with this project</b>	<b>Were you consulted on this project</b>	<b>Do you think this project is a priority</b>	<b>Have you been informed about the cost and duration of the contract</b>
<b>1</b>	Yes	No	Yes	Yes
<b>2</b>	Yes	No	No	No
<b>3</b>	Medium	No	No	Yes
<b>4</b>	Yes	No	No	Yes
<b>5</b>	Medium	No	Yes	No
<b>6</b>	No	No	No	No

**Table 16: Interviews with citizens regarding the contract “Construction of the Center for Culture, Tourism and Agribusiness”**

When asked if they had any complaints and if they had submitted the same to the competent authorities, two of the citizens answered that they had complaints, but did not address them, while other citizens stated that they had no complaints. Citizens also had additional comments, namely that they believed the Municipality of Junik did not need such a project because there are many similar projects, the contract price is unreasonable, and the priorities that Junik has according to them are mainly related to road infrastructure. Also, two of the six citizens interviewed appealed for this project to be functionalized and not to remain as many unusable projects.

In general, it is evident that the citizens of the Municipality of Junik are not so satisfied with this project, and that they have not been consulted by the municipality for its construction. As for whether this project has been a priority, we noticed that two out of six citizens

<sup>39</sup> See Article 61.22 – 61.26 of ROGPP

believe it was not a priority, while half of respondents have no knowledge of the cost and duration of the contract.

### 5.6. Municipality of Pejë/Peć

In the Municipality of Pejë/Peć, the site visit was conducted for the contract "Construction of the road "Drelaj - Leqinat" in Rugova." Based on what we observed in the field, nothing was done yet, the road planned to be built was completely covered with snow and the contract was signed at the end of October (i.e., about five months ago). When the contract manager was asked why, the answer was that the work has not started yet due to weather conditions, and according to him, only the preparatory work has been done.

KLI and INPO interviewed three citizens regarding their satisfaction with the implementation of the contract "Construction of the road 'Drelaj – Leqinat'" and their answers are as follows:

Interviews with citizens regarding the contract "Construction of the road "Drelaj - Leqinat"				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	No	No	Yes	Yes
2	No	No	Yes	No
3	Yes	Yes	Yes	Yes

**Table 17: Interviews with citizens regarding the contract "Construction of the road "Drelaj - Leqinat"**

Citizens were also asked about complaints related to this project. Each citizen complained that the implementation of the project had not begun, while one of them stated that he addressed the complaint to the manager of contract. Asked for additional comments, citizens said that they appealed for this project to be implemented within the timeframes provided by the contract and the quality of work to be at the appropriate level.

In general, we noticed that the citizens, despite the fact that they considered it a priority project, were generally not satisfied with the project and most of them were not advised in advance of this project, while one of the three interviewed citizens did not know the cost and duration of contract.

### 5.7. Municipality of Pristina

The work contract which has been monitored is "Construction of a park in the Arbëria neighborhood." The site visit proved that the contract was not fully fulfilled; respectively,

certain positions were not fulfilled according to the contract.<sup>40</sup> In fact some pre-measure positions were not implemented at all, some of them partially, while in other cases there were positions that have been worked on more than the pre-measures dictated. From the 362,878.72 € value of the contract, until the end of the project, work was performed in the amount of 352,522.95€, or 10,355.77€ less than the value of the contract.

Also, we observed that after the completion of the project there were interventions in it, respectively certain parts of the project were cut to open canals for the extension of irrigation pipes of decorative trees throughout the park. According to the Contract Manager, this intervention was made by the Parks Directorate after the completion of the project, since the project did not initially provide for the irrigation of trees. Even the toilets dedicated to the needs of visitors were closed and demolished. These findings testify to a bad planning of the Municipality of Pristina, initially for the fact that many contract positions were not implemented at all due to the fact that, according to the Contract Manager, there was no need, which again proves poor planning; and secondly, after all this work as a result of not planning irrigation, they had to intervene in the newly completed project to lay irrigation pipes, damaging the park project in certain places.

As in all municipalities, in the Municipality of Pristina, citizens were asked about their satisfaction with this project. The results can be found in the table below.

Interviews with citizens regarding the contract “Construction of a park in the Arbëria neighborhood”				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	Medium	No	Yes	No
2	Yes	No	Yes	No
3	Yes	No	Yes	No
4	Yes	No	Yes	No
5	Yes	No	Yes	No
6	Yes	No	Yes	No

**Table 18: Interviews with citizens regarding the contract “Construction of a park in the Arbëria neighborhood”**

In addition to the questions presented in the table, citizens were also asked about any complaints related to this project and if they addressed them to the competent municipal

<sup>40</sup> See [https://e-prokurimi.rks.gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=325970](https://e-prokurimi.rks.gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=325970).

bodies. Out of the four citizens interviewed, only two had complaints but they had not addressed them. The complaints are related to not being included in this project, the construction of some stairs which would connect the park with the neighborhood below, and the interventions in the project as a result of the extension of the irrigation network.

Asked for additional comments regarding this contract, citizens requested the construction of several stairs to connect the park with the neighborhood below, the change of location of toilets because it smells bad, regular maintenance of the park, more playgrounds, and security cameras set up because unscrupulous citizens damage the park.

Finally, we can conclude that the citizens are satisfied with this project and that it has been a priority, but for this project the citizens were not consulted and did not know the cost and duration of the contract. As a result of not consulting with citizens, we see that they have many additional requirements for the project and if they were consulted in time, most of the requests could be included in the project.

#### 5.8. Municipality of Rahovec/Orahovac

In the Municipality of Rahovec/Orahovac, the field visit was conducted for the contract entitled "Treatment of fecal sewages in the municipality of Rahovec/Orahovac." In this municipality, we monitored the regulation of fecal sewage in the city and some villages. Specifically, we visited the villages of Pataqan i Ulët, Fortesa/Bellacërkë, as well as Rahovec/Orahovac. In the village of Fortesa, in two different locations, we noticed that the work was completed, while in Pataqan i Ulët, we saw that the work had begun, respectively only the preparatory works, cleaning the space, and providing the necessary channels for those parts, while their installation had not yet been completed, but was in process. Most of the work was still in progress, but we recall the fact that the project is supposed to take three years.

KLI and INPO conducted interviews with citizens of the Municipality of Rahovec/Orahovac, respectively with citizens who benefit from this project. Their answers can be found in the table below.

**Interviews with citizens regarding the contract "Treatment of fecal sewages in the municipality of Rahovec/Orahovac"**

Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	Yes	No	Yes	No
2	Medium	Yes	Yes	Yes
3	Yes	Yes	Yes	No

4	No opinion	Yes	Yes	No
5	Yes	Yes	Yes	Yes
6	Yes	No	Yes	Yes

**Table 19: Interviews with citizens regarding the contract “Treatment of fecal sewages in the Municipality of Rahovec/Orahovac”**

When asked if they had any complaints regarding the implementation of this contract and if they addressed them, the citizens stated that they have no complaints, while there was only an additional comment from a citizen who asked that this project be completed as soon as possible because it is so vital.

In general, we noticed that the citizens were largely satisfied with this project and that according to them this project was a priority. Regarding whether the citizens were advised for this project, out of six interviewed citizens only two stated they were not advised, while three citizens did not know the duration or value of the contract.

#### 5.9. Municipality of Vushtrri/Vučitrn

The contract for which the field visit was conducted and which is implemented by the Municipality of Vushtrri/Vučitrn is entitled "Pavement of local roads in the city." The visit took place on two main roads, Faruk Beqiri Street and Nexhip and Ferat Draga. From the site visit, we notice that the quality was not appropriate, because the road that seemed to have just been paved had potholes and unregulated parts. Also, the sidewalks were very high and unsuitable for people with special needs.

For this contract, we interviewed the citizens of the Municipality of Vushtrri/Vučitrn who have benefited from this contract. Their answers regarding how satisfied they are with the implementation of the contract, and other issues related to it, are shown below.

Interviews with citizens regarding the contract “Pavement of local roads in the city”				
Citizen	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you been informed about the cost and duration of the contract
1	No	No	Yes	No
2	Yes	No	Yes	No
3	Medium	No	Yes	No
4	Yes	No	Yes	No
5	Medium	No	Yes	No

6	Yes	No	Yes	No
---	-----	----	-----	----

**Table 20: Interviews with citizens regarding the contract “Pavement of local roads in the city”**

When asked if they had or did have any complaints regarding the implementation of this contract, five out of six citizens have complaints, these complaints were related to delays in the work performance of, poor quality of works, and the lack of easy access for people with disabilities, while stating that these complaints had not been addressed. As additional comments, citizens appealed to managers not to accept jobs that do not provide access for people with disabilities, and also demanded greater supervision to ensure that work is of good quality.

From the interview of six citizens of the Municipality of Vushtrri/Vučitrn, we conclude that only half of them were satisfied with this project and all of them considered it a priority. Meanwhile, none of the interviewed citizens were consulted about the project, nor did any of them know the cost or duration of the contract.

## 6. Interviews with members of Local Councils

Local Councils, also recognized by the Law on Local Self-Government, are an organization of elected bodies that represent the communities of one or more villages, settlements, and urban neighborhoods.<sup>41</sup> Local Councils are citizens elected to represent the interests of a certain neighborhood or community within the municipality and which the municipality recognizes because their election is organized by the municipality. Local Councils play a critical role in citizen-municipality communication, and their main purpose is to represent the specific interests of the neighborhood or community they represent.

KLI and INPO interviewed one member of the Local Councils in each contract area for each municipality, regarding the same project for which the citizens were also interviewed. The Municipality of Junik does not have Local Councils and as a result of this the interview was organized with a representative of a non-governmental organization which operates in this municipality. The results of the interviews can be found in the table below.

Interviews with members of the Local Council					
Municipality	Are you satisfied with this project	Were you consulted on this project	Do you think this project is a priority	Have you had the opportunity to meet with the municipality’s representative in charge with monitoring this	Have you been informed about the cost and duration of the contract

<sup>41</sup> See <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2530> and <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>.

				contract?	
Dečan/ Dečane	Yes	No	Yes	No	No
Gjakova/ Djakovica	Yes	Yes	Yes	Yes	No
Gjilan/Gnjilane	Yes	No	Yes	No	No
Hani i Elezit/ Elez Han	Yes	Yes	Yes	No	Yes
Junik	No	No	Yes	No	No
Pejë/Peć	Yes	Yes	Yes	No	Yes
Pristina	Yes	No	Yes	No	No
Rahovec/ Orahovac	Yes	Yes	Yes	No	Yes
Vushtrri/ Vuçitër	No	No	Yes	No	No

**Table 21: Interviews with members of the Local Council**

The members of the Local Councils were asked if they had any complaints about the project and there was a complaint made by the member of the Local Council of the Municipality of Vushtrri/Vuçitër, who claimed that, “The quality of work is not at the desired level, the work was not conducted in continuity, there have been delays, there are problems with accessing the roads for people with special needs, for women with children and the elderly.” Additionally, a Local Council representative from the Municipality of Rahovec/Orahovac had a complaint as well, but said that he would address it in future. Members of Local Councils from other municipalities expressed no complaints.

Regarding additional comments, the member of the Local Council representing Municipality of Gjakova/Djakovica requested to have playgrounds for children in the park. The member of the Local Council representing the Municipality of Gjilan/Gnjilane requested the completion of the project as soon as possible. The member of the Local Council representing the Municipality of Hani I Elezit/Elez Han requested a modern ambulance. The member of the Local Council representing the Municipality of Pristina requested more seats in the park for citizens and a field for individual sports up to 300m<sup>2</sup>. The member of the Local Council representing the Municipality of Rahovec/Orahovac requested that the project to continue all the way to Fortres, while the member of the Local Council representing the Municipality of Vushtrri/Vuçitër requested that the project be completed as soon as possible and with high quality.

In general, the interviews with the members of the Local Councils show that, except for the Municipality of Junik and Vushtrri/Vučitrn, the members of the councils representing other municipalities are satisfied with the project or the contract and all unanimously stated that the project was a priority for the location. The fact that out of nine municipalities, only members of the Councils from the Municipality of Gjakova/Djakovica, Hani I Elezit/Elez Han, Pejë/Peć and Rahovec/Orahovac were consulted in advance is concerning, while only the member of the Local Council from the Municipality of Gjakova/Djakovica had the opportunity to meet the representative of the municipality responsible for monitoring the contract. Also, only members of the Local Councils from the municipalities of Hani I Elezit/Elez Han, Pejë/Peć and Rahovec/Orahovac were aware of the cost and duration of the contract.

These findings show that municipalities have shortcomings in consulting citizens regarding certain projects; in fact, they did not organize any consultations with citizens and community representatives for various projects. The results of the interviews with the members of the Local Councils prove that there is a lack of proper cooperation between the municipal bodies and Local Councils. In other words, the council is not used for the purpose for which they are elected (i.e., representing the interest of the community, neighborhood, village or locality).

Apart from the fact that the citizens are not informed about the projects implemented by the municipality, the people elected to represent them were not informed either.

## **7. Other findings**

During the monitoring of contract management signed by the monitored municipalities KLI and INPO identified other findings which relate to the fact that:

The Municipality of Pristina, in the contract "Supply with croissant for students in grades 1-5," made two professional omissions, which could bring consequences, both practical and legal. Initially, according to the Administrative Instruction QRK- No. 06/2018 on the Implementation of Central Public Procurement Procedures, Central Procurement Agency (CPA) is also responsible for procurement procedures related to the supply of food items.<sup>42</sup> As a result of this legal obligation, CPA on 13.12.2018 had initiated the procurement activity entitled "Supply of food items," but due to complaints, the procedure was delayed and signed on 07.02.2020.<sup>43</sup> The Municipality of Pristina, considering the delays on 13.11.2019 requested from the CPA information regarding the procurement procedure and at their request CPA on 15.11.2019, allowed the same to carry out the activity until they signed the

---

<sup>42</sup> See <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18812>.

<sup>43</sup> See [https://e-prokurimi.rks-gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=785798](https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=785798).

contract, reminding the Municipality of Pristina the obligation to the CPA contract, the moment the CPA signs the contract.<sup>44</sup>

On 25.11.2019, the Municipality of Pristina decided to conduct the procurement procedure on its own for a period of six months, after the complaint procedures the contract is signed on 25.02.2020, or 18 days after the entry into force of contract with the CPA.<sup>45</sup> When KLI and INPO requested the documents for the management of this contract, the Procurement Office of the Municipality of Pristina said that this contract was never implemented because the CPA contract of common procurement had been adopted.

The first professional violation committed by the Procurement Office is the fact that it used an open procedure, respectively ordinary procedure for an emergency situation. If, for example, the negotiated procedure was used without the publication of the contract notice, complaints would have been avoided in the PRB, and students would have received timely food supplies. Although the procedure was initiated due to delays of the CPA, the contract was signed only after the contract led by the CPA was in force.

The second professional violation concerns the fact that the Procurement Office of the Municipality of Pristina, in any article or part of the contract, did not include any clause where, for a certain period of time (30-60 days), the moment the contract developed by the CPA is in force, the contract will have no legal effects.

Consequently, there is a risk that the Municipality of Pristina will be sued by the winning Economic Operator for compensation of damages resulting from non-performance. Otherwise, if the prior approval of the CPA was not obtained, the contract would have been invalid and contrary to public procurement legislation.<sup>46</sup> We submitted questions regarding these professional omissions to the Procurement Office, but received no response.

In the municipality of Deçan/Deçane, for the contract entitled "Summer and winter maintenance of roads in the Municipality of Deçan/Deçane," for less than six months of contract implementation, 848,687.94 € were spent, from 1,933,111.00 €, which is the indicative value. With this intensity of contract implementation, the municipality will not be able to have maintenance through this contract as long as the contract is signed, because very soon the indicative value will be achieved, including the maximum deviation of + 30%. If contract performance continues with this intensity, maintenance cannot potentially be more than until the end of 2021, while the contract has a framework with a duration of 36 months, lasting from 26.06.2020 to 26.06.2023.

---

<sup>44</sup> Information obtained through questions sent electronically to CPA

<sup>45</sup> See [https://e-prokurimi.rks-gov.net/SPIN\\_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=796765](https://e-prokurimi.rks-gov.net/SPIN_PROD/APPLICATION/IPN/DocumentManagement/DokumentPodaciFrm.aspx?id=796765)

<sup>46</sup> See Article 95, par 3 of LPP supplemented and amended, related to article 5.11, of ROGPP, <https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregoret/shq/A01%20Rregullat%20dhe%20Udh%C3%ABzuesi%20Operative%20p%C3%ABr%20Procurement%20Public.pdf>

The contract manager was asked about this issue and answered that contracts are usually implemented faster than the time specified in the contract. When asked why the issue with road maintenance still remains, he stated that the municipality initiates new activities. If we continue with this pace, even after spending at least 1,933,111.00 €, the Municipality of Deçan/Deçane will not provide road maintenance for three years, but there will be a need to sign a new contract .

## 8. Access Restriction to Public Documents

The right of access to public documents is a constitutional right that is directly derived from the Constitution of the Republic of Kosovo.<sup>47</sup> This right is regulated and guaranteed by Law No. 06/L-081 On Access To Public Documents.<sup>48</sup> Also, the Law on Public Procurement, with its additions and amendments to the framework of promoting transparency, obliges the Contracting Authorities to be open and allow access to procurement documents in an unrestricted manner, save the restrictions allowed by law<sup>49</sup>.

KLI and INPO sent requests to each monitored municipality as well as a request to the MCYS, using the right to access public documents and a justification based on the fact that many of the documents needed (especially those related to contract management) are not available on the electronic e-procurement platform. Restrictions of access are of various natures, and range from not granting access within the deadlines provided by law, to not granting access in the form requested by the applicant for the document, to not allowing access to public documents at all or only to the extent that they make monitoring impossible.

Based on the Law on Access to Public Documents, the public institution (in this case the municipality) is obligated to allow or refuse the applicant access to the requested document within seven days. Excluding the Municipality of Rahovec/Orahovac we did not receive the requested documents within the legal deadline from any municipality we<sup>50</sup> Also, KLI and INPO, based on Article 14 of the same law, requested to receive the documents electronically, but this has been impossible in the following municipalities: Deçan/Deçane, Gjilan/Gnjilane, Junik, and Rahovec/Orahovac/Orahovac, for reasons that include large volume of documents, lack of logistics, and technological difficulties in sending documents electronically.

The municipalities where KLI and INPO had partial access include the Municipality of Gjilan/Gnjilane for the activities “Construction of the new bus station” and “Supply with hygienic sanitary material;” Municipality of Pejë/Peć for the activities “Purchase and installation of the elevator in MFMC,” “Construction of the football field in Baran Municipality of Pejë/Peć,” “ Supply with consumables for the central pharmacy of MFMC,”

---

<sup>47</sup> Constitution of the Republic of Kosovo, article 41

<sup>48</sup> Law No. 06/L-081 On Access To Public Documents

<sup>49</sup> See Article 10 of LPP <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=20505>.

<sup>50</sup> See Article 12 of law No. 06/L-081 <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=20505>.

and "Construction of the road 'Drelaj – Leqinat' in Rugova;" and Municipality of Vushtrri/Vučitrn for two activities, "Pavement of local roads in the city" and "Expansion of the water supply network;" and the Municipality of Gjakova/Djakovica for two activities, "Design of low construction projects" and "Construction and restoration of roads with concrete cubes."

Apart from the partial access, KLI and INPO did not receive any document from the Municipality of Gjilan/Gnjilane for the contract "Construction of a green market in the municipality of Gjilan/Gnjilane"<sup>51</sup>, and we were unable to obtain access to public documents of payments related to the contract "Construction of the Youth Center in Deçan/Deçane" from MCYS.

Access denial to public documents is not only a violation of constitutional and statutory law it is also a sign of non-transparency which further makes it impossible to investigate certain activities. Consequently, contract management violations can go unnoticed, and recommendations on how those procedures should be conducted in the future must be based on legal requirements.

Finally, public institutions must be advanced in terms of their constitutional and legal obligations towards granting access to public documents. In addition, institutions must work continuously so that access is not only enabled but it, is also done within the legal deadlines; otherwise its purpose is jeopardized.

## **9. Findings during monitoring of contract management**

- 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.
- The Ministry of Culture, Youth and Sports did not execute payments to the economic operator in accordance with the terms of the contract and the level of work performed for the contract "Construction of Youth Center in Deçan/Deçane,".
- 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,".
- 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.

---

<sup>51</sup> Regarding this refusal, the Municipality of Gjilan said that the contract is under investigation, but has provided no proof.

- The Municipality of Pristina agreed to sign a contract without the security required as a condition of the Tender Dossier in the contract "Supply with croissant for students of grades 1-5,".
- Municipalities generally do not consult citizens in advance for certain projects, and the vast majority of surveyed citizens have no knowledge of the cost and duration of contracts impacting their communities.
- There is a lack of proper cooperation between municipalities and members of Local Councils, especially regarding certain projects.
- The Municipality of Gjakova/Djakovica did not ensure that works performed were in accordance with the terms of the contract for "Construction and restoration of roads with concrete cubes".
- 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.
- The Municipality of Hani i Elezit/Elez Han did not properly plan the contract "Renovation of QKMF in Hani i Elezit/Elez Han." Consequently, during its implementation, there have been changes in pre-measurement.
- The Municipality of Junik was unable to manage the contract "Construction of the Center for Culture, Tourism and Agribusiness," and improperly managed key aspects of the contract, including allowing the execution of payments without performing certain works, allowing the execution of payments despite the fact that the works were not performed in accordance with the measure, and acceptance of changes to pre-measure positions in violation of legal provisions.
- The Municipality of Pristina was unable to properly plan the contract "Construction of the park in the neighborhood Arbëria." As a result, many positions were not fully realized. Due to mis-planning, the municipality has intervened again in the project, after the completion of all works, to extend the system of irrigation of decorative trees which were part of the project and for which irrigation was not foreseen at all. As a result of the intervention in the project, different parts of the project were compromised due to improper interventions for the purpose of extending the irrigation system.
- The Municipality of Vushtrri/Vučitrn was unable to ensure the quality of works in the contract "Pavement of local roads in the city". As a result, the streets "Faruk Beqiri" and "Nexhip e Ferat Draga" suffer damages and potholes, and parts of the streets remain unfinished.
- The Municipality of Pristina went ahead on its own to procure "Supply with croissant for students of grades 1-5," due to delays of the CPA in procuring the framework contract for

joint supplies, and it did not include any clause indicating that this contract will cease to be in force within a certain period of time (30-60 days) after the CPA contracts such supplies. This omission risks the municipality being sued for non-performance of the contract.

- 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.

- None of the municipalities under monitoring, except Municipality of Rahovec/Orahovac, provided full access to public documents within the deadlines provided by law.

- Partial access to public documents was provided by the Municipality of Gjilan/Gnjilane for two activities, the Municipality of Pejë/Peć for four activities, the Municipality of Vushtrri/Vučitrn for two activities, and the Municipality of Gjakova/Djakovica for two activities. The request for access to public documents was completely rejected by the Municipality of Gjilan/Gnjilane for one procurement activity and by MCYS, jointly with Gjilan/Gnjilane, for one activity.

## **10. Contract management recommendations**

- The Municipality of Deçan/Deçane should ensure that it executes payments based on the terms of the contract and level of work performed.

- The Ministry of Culture, Youth and Sports should execute payments based on the terms of the contract and the level of work performed for contracts it finances for the benefit of the municipalities.

- 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.

- 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.

- Municipalities should engage in public consultation with citizens for certain projects so that citizens are informed and have the opportunity to give their comments and suggestions.

- Municipalities should increase cooperation with representatives of Local Councils as a mechanism of communication between municipalities and citizens.

- The Municipality of Gjakova/Djakovica should ensure that the contracted work is performed based on the terms of the contract and pre-measures.

- 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.
- The Municipality of Hani i Elezit/Elez Han should ensure that the contract planning process is in accordance with certain needs and avoid situations when the pre-measure positions need to be changed.
- The Municipality of Junik should ensure that the management of contracts is done professionally and ensure that no payment is executed without completing the assigned work and without being assigned the work in accordance with the terms of the contract and pre-payment. Additionally, the Municipality of Junik should not allow position changes that are in contradiction with the legal rules.
- The Municipality of Pristina should properly and professionally plan projects to avoid situations of intervention in the project, degrading the completed works, and endangering the sustainability of the project.
- The Municipality of Vushtrri/Vučitrn should ensure that the contracted works are properly executed and that they are managed based on the terms of the contract so that they are durable.
- The Municipality of Pristina should ensure that if it faces the need to initiate a procurement procedure which is within the responsibility of the CPA, it includes a clause in that contract that will invalidate the contract within a certain period of time (30-60 days) from the moment of entry into force of the contract initiated by CPA.
- The Municipality of Deçan/Deçane should ensure that its contract planning procedures are in accordance with the actual needs of the municipality, in order to avoid the risk of developing the same procurement procedures within a short period of time.
- Municipalities should provide access to public documents within the deadlines provided by law.
- The municipalities of Gjilan/Gnjilane, Pejë/Peć, Vushtrri/Vučitrn, and Gjakova/Djakovica should ensure full access to public documents, respectively access to all required documents after a request for access to public documents. The Municipality of Gjilan/Gnjilane and MCYS should respect the Law on Access to Public Documents as a right guaranteed by the Constitution and the Law.

## ANNEX I – Municipality comments not included in the report

Municipality	Comments	Addressing the comments of the municipalities by KLI and INPO
<p><b>Hani i Elezit/ Elez Han</b></p>	<p>The Municipality of Hani i Elezit/ Elez Han, regarding the acceptance of the draft report by KLI and INPO partially agrees with this report.</p> <p>The points that we do not agree with are presented as follows:</p> <p>1. In the procedure "Supply with a van for hemodialysis – RE-TENDER", we explain it to you that you as a remark have left the reason that the tender security was not required, we explain this that we have announced the activity twice and we have not had an Interested Operator, and for reasons it has been announced twice and the only possibility for simplifying the conditions is to remove the criterion "TENDER SECURITY ", since it is Optional is NOT MANDATORY,</p> <p>So, we justify this according to paragraph I of Article 57 of the LPP, which says that CA can request TENDER SECURITY, and does not say SHOULD request!</p> <p>Paragraph I of the Article 57 of the LPP states (citation): In a procurement activity leading to the award of large or medium value contract, a contracting authority may require a tenderer to post tender</p>	<ol style="list-style-type: none"> <li>1. This was presented only as a finding by KLI and INPO and was not related to presenting of any violation. But only each municipality was compared, illustrating for each case whether or not tender security was required.</li> <li>2. KLI and INPO in these cases have identified whether the municipalities, when appointing persons to the evaluation commission, have taken into account whether they are persons related to the field or have the necessary qualifications to be part of the commission.</li> <li>3. This is a finding presented by KLI and INPO, the explanation of the municipality in this case enriches that part, but it is enough to put it in the appendix where it is understood the explanation of this municipality on the manner of their action, but this does not mean that the finding should be removed.</li> <li>4. The comment as in the point 2 is valid.</li> </ol>

security.

2. Regarding the evaluation commission of the procurement activity, we explain that: We as a municipality have appointed the members of the evaluation commission (municipal officials), and we as a Municipality do not have the budget capacity / opportunity to pay an expert as there is no need because new vehicles are certified by the manufacturer

Each admission will surely cost us more than 2,000 Euros with an external expert, and we assure you that for the period of 1 year, we would surely spend over 80,000 Euros only for consulting services.

One of the members of the commission is the appropriate person Head of the car park sector (responsible for vehicles), while the other two have other qualifications, which is not unacceptable!

The law does not require that there must be an expert, but in case the CAs need then, an expert can be requested. Attached is the explanation according to ROGPP for the members of the evaluation commissions.

So, according to article 40.5 of ROGPP: The number of members of the evaluation commission will depend on the value and complexity of the procurement activity, but in all cases, it will consist of not less than (3) three and the number will always

be odd. The commission will consist of a member with the appropriate skills, knowledge and experience relevant to the procurement requirements. Persons who have been members of the bid opening committee may be members of the evaluation committee.

Allowing experts is permitted by Article 40.10 of ROGPP, which states: 40.10 CA will have the right to invite external experts, where special technical or specialized knowledge is required from the procurement object and is not otherwise available within the CA. Such experts shall acknowledge in writing that they are strictly subject to the provisions of Article 11 of the PPL regarding the protection of confidential business information.

3. Regarding the project planning for "Supply with a van for hemodialysis – RE-TENDER", we have planned 25,000 euros, but the cheapest offer has come 25,900 euros, which based on the evidence that you possess we have not had other offers, according to this results that we had two options either to add additional budget which is allowed by article 62 of the LPP, or to cancel the activity and lose the budget 25,000 euros (lose the project).

So, it is more favorable to increase the budget for 900.00 euros, and not to fail the project of 25,000 euros and to lose the funds (added to surplus).

This is also determined by article 62

of the LPP, that CA can increase the budget, it is not decisive that the activity MUST be canceled!

4. Regarding the project "Construction of protective walls", in the report you said that the evaluation commission is not professional!

-As we explained in explanation no.2 we appoint the members of the evaluation commission - municipal officials.

As you know, every expert / professional who is hired for us is an expense, because for an expert for receiving material we must pay per diem surely in the amount of 500.00 euros for each member / expert, which means that we must pay at least 1500 euros receiving materials, 1500.00 € for evaluation, which is unaffordable for us as a municipality!

Each new car that is produced has its own specifications, and according to those specifications and those required in the tender dossier, it is assessed whether the car / van meets the criteria or not. So, according to the detailed specification described in the file and in the catalog, the evaluation commission also performs procedural work (where the documentation is evaluated whether it is in conformity to the criteria and the specifications required by dossier for that activity), because for the quality of works is the project manager who is professional and who constantly monitors the progress of the project and for every detail is a

	professional person, since the project is construction!	
<b>Deçan/ Deçane</b>	<p>In your conclusions presented in the report that: The Municipality of Deçan/ Deçane for some activities, has required very high requirements and contrary to the PPL, related to technical and professional capacity.</p> <p>Contracting authority-Municipality of Deçan/ Deçane notifies that every procurement activity initiated by the Procurement office in Deçan/ Deçane initially through electronic platform is controlled and monitored by the Monitoring Department in the PPRC (Public Procurement Regulatory Commission) where the activity in question has passed through the PRB (Procurement Review Body), Anti-Corruption Agency, and if there was discrimination in criteria this would be corrected in time.</p> <p>Therefore, congratulating you for the great work done by the Kosovo Law Institute (KLI) and the Initiative for Progress (INPO) in the service of increasing Transparency and Accountability, we thank you and at the same time offer our support.</p>	This is an explanation of the municipality and in this case there is nothing specific that can / should be addressed by KLI and INPO, to be part of the report, except to be attached as an appendix.
<b>Rahovec/Orahovac</b>	Regarding this paragraph of the report: Pursuant to the Law on Access to Public Documents, the public institution in this case the municipality is obliged to allow or refuse access to the requested document within seven (7) days, while excluding the Municipality of Rahovec/Orahovac, in none of the monitored municipalities KLI and INPO have received documents	We clarified this part during the telephone conversation directly with the information officer of Rahovec/Orahovac also. KLI and INPO in no way have concluded that Rahovec/Orahovac has refused to send us the documents, but we have shown that in 4 municipalities, including Rahovec/Orahovac, we have not received the documents in electronic form. In this municipality

	<p>within this legal deadline. Also, KLI and INPO, based on Article 14 of the same law, have requested to receive the documents electronically, but this way of access has been impossible in the municipalities: Deçan/ Deçane, Gjilan/ Gnjilane, Junik and Rahovec/Orahovac, for various reasons ranging from reasons of large volume of documents, lack of logistics and technological difficulties to send documents electronically.</p> <p>Municipality of Rahovec/Orahovac has given the bellow comment:</p> <p>As an official for the initial review of requests in public documents, I have accepted all requests and in time they have been reviewed in accordance with applicable laws, I have not had any complaints regarding not sending documents either via email or as physical documents.</p> <p>There have been cases where I have communicated by email or phone with NGO officials or even citizens and I have informed them that I do not have the possibility to send you the documents via email and the same official at the appointed time from them received the required documents through the same request made for access to public documents.</p> <p>I believe a mistake has been made at this point.</p>	<p>this has happened, due to the volume of documents, as mentioned in the following part of the paragraph.</p> <p>Also, KLI and INPO have shown in this part that only the municipality of Rahovec/Orahovac has been the one that has returned a response within 7 days as provided by the applicable legal provisions.</p>
<p><b>Municipality of Junik</b></p>	<p>The Municipality of Junik has sent this comment regarding the report:</p> <p>We, as the Contracting Authority after consulting with the responsible persons, do not agree with the Draft</p>	<p>We have sent this draft report for comments to your municipality for the first time and we do not know what inclusion of your remarks you are referring to. Please attach for us</p>

	<p>Report regarding the procurement activities because our remarks that we gave during your audit are not included in your report, so we ask you to take into account in the drafting of the Final Report.</p>	<p>all remarks specifically on which part is in question or finding of the report and you do not agree with, in order to look at the possibilities of addressing them.</p> <p>We have not received other comments from the municipality of Junik.</p>
--	--	---