

# Trends in implementation of municipal development projects: the Kosovo experience

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## Abstract

Municipal development projects in Kosovo implement local legislation and European standards and good practices. However, the issue of good quality remains a challenge in terms of both, procurement practice and technical standards. This paper attempts to highlight these challenges through analysing municipal audit reports in matters of public procurement of development project, and by identifying, grouping and interpreting key problems emerging from reports. Results show that challenges surface as early as in project inception phase. Also, the trend in addressing procurement challenges is slightly positive, while technical and environmental considerations including aspects of good design remain unaddressed. The paper is mainly trying to disclose the situation in implementing municipal development projects at a national level, and to draw attention about the need for enhancement in critical phases of project cycle management.

**Key words:** municipal development project, municipal audit report, good quality, Kosovo

## 1. Introduction

Municipalities have a key role in shaping up urban built environments through development projects. Kosovo Municipalities also enjoy great chances to develop sustainable public projects due to their legal mandate as basic units of local self-government, as defined in the Law on Local Self Government, Article 4 [1] and due to their right to manage their property Article 14 [1]. Based on this Law, other functional laws in Kosovo with a remit on the development of urban and architectural projects, give municipalities the responsibility for implementation of projects in their respective territories. Specifically, the Law on Spatial Planning attributes the municipalities the responsibility to develop and implement local level plans that is

Municipal Development Plans, Municipal Zoning Map and Detailed Regulatory Plan, Article 13 [2]. The Law on Construction on the other hand authorizes municipalities to issue permits for all construction works [3], except for those defined in Annex No.1 as “of high risk and of national interest” reserved by the Law for Central Government Institutions [3].

This self-governance model provides for a favourable legal environment for municipalities to develop qualitative architecture and urban planning projects, similar to the majority of countries in South East Europe; nonetheless, although the transfer of land ownership to local governments is a process which most of countries in the region have undergone, the state still plays a dominant role in controlling the planning process, until further democratization. [4].

Kosovo legislation in general, and in the field of management of public urban architecture projects in particular, is not only compliant to but also promotes application of European standards and good practices. The Law on Spatial Planning stipulates that “international principles of spatial planning, sustainable development and governance should be in harmony with EU norms” Article 4 [2]. Also, the Law on Construction, , Article 6 stipulates that The Unified Construction Code considers the EU technical standards and international best practice [3]. In addition, the Law on Public Procurement, based predominantly in European models and practice, clearly defines requirements for compliance with European standards. Furthermore, the Law, in the Article 28 demands that Kosovo implement a European standard in training of Procurement Officers and in drafting of Technical Specifications; it refers to the aforementioned, or to any other technical reference system as produced by European standardization bodies [5].

Despite the solid legal base, which guides the implementation of development projects in

accordance with European standards and good practices, the issue of quality assurance in public procurement of municipal development projects remains a challenge. In the field of architecture and urban infrastructure, there is a perception that the lack of quality in implementation of public projects is largely conditioned by the municipal procurement practice which is awarding projects based mainly on the 'lower price' criteria, which according to architects, undermines largely issues related to good design and sustainability. Although the award decisions for architectural services in Kosovo favours the economic-financial criteria, the Procurement Law, in fact, allows for qualitative indicators to be considered. According to the Law, Article 60, the award of contract is based on (i) the least priced responsive tender, or (ii) the most economically advantageous tender. [5].

The problem of economic-financial criteria perceived as an obstacle to adoption of qualitative indicators in public procurement of architectural service is an issue that has been discussed likewise in well-established democracies, which generally develop good practices in public project management. Researches indicate that concerns arise for example in the Swedish experience in municipal procurement practice in the area of architectural and engineering services, which shows a higher focus on price, especially in smaller municipalities [6]. The same has been the case in the UK as well as in Spain, where not only construction but also designs were procured by local authorities based on lower price [7].

Although "best value" is the more commonly used awarding system, price still has high weighting [7]. In the Dutch context, the practice of design and construction procurement criteria during tender evaluation, in accordance with European Directive, has often been based on financial turnover rather than on quality [8]. In the case of Italy as compared to the UK, one research found that very few local authorities consider environment-related technical dimensions as a sustainability measure in awarding contracts [9]. In the case of Kosovo, previous research indicate that the problem of quality assurance is more complex, given that the issue of implementing existing procurement regulations prevails as a priority [10, 11, 12].

## 2. Materials and Methods

Challenges in implementing municipal development projects in Kosovo derive mainly due to weak law enforcement, which characterizes Kosovo since the termination of the 1998/9 war. The civil society organizations pressure [11, 12] to enhance transparency and accountability in municipal governance in Kosovo has raised public awareness on the need to re-examine issues related to quality of municipal development projects.

One solid source of information, which is used in this paper to identify and measure municipal performance in implementing urban and architectural projects is the package of Municipal Audit Reports, made available for public in the official website of the National Audit Office of the Republic of Kosovo [13]. The aim of the paper is to analyse these reports for (at least) two consequent years, in order to identify systematic deficiencies and challenges in managing municipal development projects. The municipal audit reports chosen randomly for the purpose of these analysis, address municipal performances for years 2015 and 2016, the first set of reports being published online in June 2016, and the second one in June 2017. Each set of reports consists of individual audit report for each of the 38 municipalities of Kosovo.

Analysis of audit reports of all 38 municipalities in Kosovo for 2015 enables us to identify issues that have direct impact on the management of municipal development projects, while audit reports of 2016 have been analysed in order to understand the trend of addressing these issues by municipalities themselves, based on the recommendations as provided in the previous years' reports. The analyses are focused on issues which the National Audit Office has presented as weaknesses in capital investment and in the procurement sector.

Although issues reported in the Municipal Audit Reports are common and specific, for the sake of analysis this study groups them into five basic challenges of similar nature: a) Inadequate planning of needs/funds; b) inadequate design brief/project documentation, c) poor supervision/ project implementation, d) absence/disregard of municipal officials' ToR, e) noncompliance with legislation/regulations. The table below provides these these five groups of challenges, each listing the most

commonly reported problems in municipal audit reports (Table 1). The first three groups of challenges are the main thresholds/phases that determine the quality of urban and architectural development projects, of which the first group illustrates the way municipalities manage capital investments, while the second and the third group consider the expertise needed to draft projects and contract, and to supervise construction works. The last two groups of problems are directly related to law enforcement.

The grouping of challenges into five basic challenges of the similar nature has enabled to cross-analyze municipal audit report findings and

to understand the municipal annual performance trend in addressing auditor’s recommendations, and by that, of the projects’ implementation. Table 2. gives a general overview of deficiencies from the 2015 municipal audit reports for each municipality, aligned according to five challenges listed in Table 1, as well as the status of addressing these challenges in the following year, derived from the 2016 municipal audit reports.

*Table 1. Challenges most commonly reported in Municipal Audit Reports of 38 municipalities in Kosovo*

<b>a) Inadequate planning of needs/funds</b>	
	Inadequate Statement of Needs and Determination of Availability of Funds Misstatement of expenditures on / from capital investments Inadequate budget planning and/or spending of capital investments Missing procurement plan and/or procurement officer Municipality did not submit Procurement Plan to the Central Procurement Agency
<b>b) Inadequate design brief/project documentation</b>	
	Missing contract management plan Commitment of funds is smaller than the amount of signed contracts Contract annexes for positions outside the basic contract Changes in contract terms / conditions Procurement through minimal value procedures
<b>c) Poor supervision/project implementation</b>	
	The project is not completed as foreseen in the contract Discrepancies in Bills of Quantities Inadequate supervision / delays in execution of works Inadequate supervision / Non-compliance with contracted prices Commission Recipient Reports without notes on the concluded work
<b>d) Absence/disregard of municipal officials’ ToR,</b>	
	The contract manager also makes the receipt of goods Same member is in the opening committee and in tender evaluation commission Member of the Supervisory Body is the Financial Director, non-expert in the field of construction, also is the executor of payments; Member of the Evaluation Commission is also contract manager/supervisor The drafter of the bill of quantity is also: contract manager, member of the Evaluation Commission, Supervisor of works & does technical acceptance
<b>e) Noncompliance with legislation/regulations</b>	
	Contract with non-responsive EO / does not meet the criteria Contract without procurement procedures Tender dossier differs from bill of quantity Payment without technical acceptance of works by the commission Payment executed for works not completed Payment of positions different from those contracted

Table 2. Problems in implementation of municipal development projects, as identified in 2015 audit reports and addressed in 2016 audit reports

MUNICIPALITY	Inadequate planning of needs and funds		Inadequate design brief/project documentation		Poor supervision/project implementation		Absence of / noncompliance with municipal officials' ToR		Non-compliance with legislation / regulations	
	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016
DECAN	●	Δ	●	Δ						
DRAGASH	●	Δ	●				●	Δ		
DRENAS			●	X			●	X		
FERIZAJ	●	X	●	✓						
FUSHE KOSOVA	●	X								
GJAKOVA	●	Δ	●	Δ					●	X
GJILAN			●	Δ					●	Δ
GRACANICA	●	Δ							●	Δ
HANI I ELEZIT	●	Δ					●	Δ	●	Δ
ISTOG			●	✓					●	Δ
JUNIK	●	Δ	●	Δ			●	Δ		
KACANIK	●	✓	●	✓	●	✓	●	✓		
KAMENICA	●	Δ			●	✓			●	✓
KLINA	●	✓	●	Δ						
LEPOSAVIC	●	X	●	X	●	X				
LIPJAN	●	Δ	●	Δ	●	Δ	●	X	●	Δ
MALISHEVA	●	Δ	●	✓						
MAMUSHA	●	Δ	●	Δ			●	Δ		
MITROVICA	●	Δ	●	Δ	●	Δ	●	Δ		
MITROVICA NORTH			●	X					●	X
NOVOBERDA	●	✓	●	✓	●	✓				
OBILIQ			●	✓	●	Δ			●	✓
PARTESH	●	X								
PEJA	●	✓								
PODUJEVA			●	✓						
PRISHTINA	●	✓							●	✓
PRIZREN	●	Δ	●	Δ					●	Δ
RAHOVEC	●	Δ	●	✓						
RANILLUG			●	✓						
SHTERPCE			●	✓			●	✓	●	✓
SHTIME	●	X	●	✓						
SKENDERAJ	●	Δ	●	Δ					●	X
SUHAREKA	●	✓								
VITIA			●	Δ	●	Δ				
VUSHTRRI			●	✓			●	Δ	●	✓
ZUBIN POTOK									●	✓
ZVECAN	●	✓	●	✓						

● problems identified in 2015

✓ addressed in 2016

Δ addressed partly in 2016

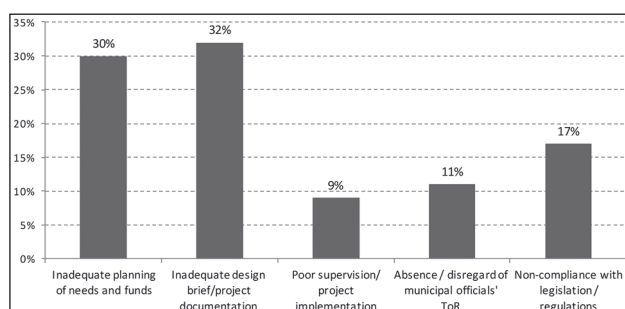
X unaddressed in 2016



### 3. Results and Discussion

#### 3.1. Deficiencies in implementation of municipal development projects

Analyses of Municipal Audit Reports from 2015 highlight the level of deficiencies in implementation of development projects at the national level. The graph below (Graph. 1) shows that out of all identified problems: 32% relate to inadequate design brief and/or project documentation, 30% are related to inadequate definition of needs and funds; 28% relate to law enforcement issues and the lack of good practices in determining official duties, while the remaining 9% relate to poor supervision and project implementation during project implementation. This indicates that the most significant deficiencies/problems at the national level are found in the initial phase of planning for capital investments and their translation into matching urban and architectural project proposals.



Graph. 1. Challenges identified in audit reports 2015 for 38 municipalities of Kosovo

##### 3.1.1. Inadequate planning of needs and funds

Almost all municipalities of Kosovo suffer the problem related to inadequate planning of needs or funds, as identified from analysis of the municipal auditing reports. Reasons for this range from low level of accountability and law enforcement to the lack of professional municipal staff. In terms of law enforcement, continuous reforms are ongoing in order to develop and strengthen contract law framework and systems [14]; however, there is no political will to empower and professionalize local administration, which is an important factor for rendering efficient, accountable and transparent local administration [15]. Within this framework of competencies, municipalities of-

ten lack expertise in the task of transposing urban planning provisions into development projects. Urban development plans provide projections on demand and supply for municipal technical and social infrastructure, which ensure that residents' needs are met over the course of the planning timeframe. The weakest point of municipal level plans in Kosovo is the section on implementation of plans, in which case provisions on priority projects are poorly articulated during the project planning processes. Weakness in project selection in the municipal level is part of the overall national challenge on prioritization of projects in Kosovo. This has been also identified in the IMF Reports, which usually emphasizes that the project selection in Kosovo has a generally low level of effectiveness, as well as it suffers weak and fragmented decision-making on project prioritization and selection. According to IMF, this contributes to the 45 percent efficiency gap" [16].

##### 3.1.2. Inadequate design brief and/or project documentation

Design briefs for urban and architectural projects are usually compiled by municipal officials, i.e. project officers, procurement officers or urban planning officials. In most cases, design briefs incorporate technical considerations but rarely do they include contextual and cultural aspects, or do they stipulate requirements for good and sustainable design. Projects selected during the procurement process are often insignificant in terms of good design and innovation, as they are considered more practical and more appropriate due to the lower architectural complexity and lower price. Hence, constructed facilities are often stripped from symbolic, cultural or contextual aspects.

The issue of design quality was debated in recent years, following the addressing that was made in the framework of the Public Procurement Package issued by the EU in October 2017. This discussion among other concluded that architectural design contests should be included in a Guidance note on Public Procurement of Innovation, given that "architectural design contests are best suited for the award of architectural contracts as they allow for quality assurance" [17]. Arguably, architectural design contests would need to be ad-

dressed and promoted in discussions on quality assurance in the case of Kosovo as well, however, the issue of implementing existing procurement regulations prevails as a priority at the present. It is worth noting that similar concerns deriving from unbalanced implementation of procurement regulations are raised in discussions regarding EU Public Procurement Package too [17].

### 3.1.3. Poor supervision/project implementation

Inadequate implementation of architectural projects is mainly associated with the problem of poor quality of the main design documentation, and often with the implementation of constructions based on schematic design projects. Poor supervision/project implementation comprises 9% of total problems as identified in Audit Reports and is mainly present in smaller municipalities which according to reports, need improvement in the structure of procedures for management of implementation and supervision of construction works. As IMF notes: “The law requires project implementation to be monitored and explanations for delays or cost overruns to be given, but in practice, monitoring is limited and explanations are rarely provided even when delays or overruns are substantial.” [16].

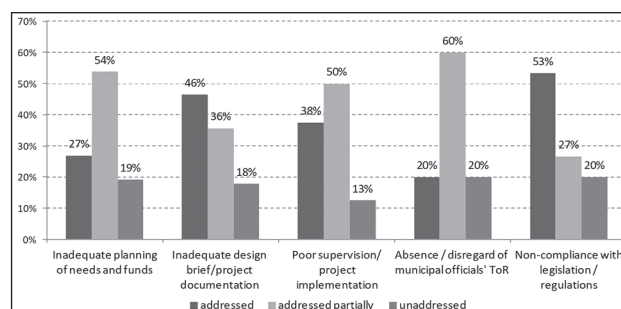
### 3.1.4. Official duty and implementation of legislation

Problems related to these two issues, namely, official duty and implementation of legislation, are systematic in Kosovo since the end of the 1998/99 war. Lack of transparency and politicization of recruitment at municipal levels has created situations of lack of professionalism [15]. Moreover, as reported frequently by CSOs in Kosovo such as BIRN’s Public procurement monitoring report in Kosovo “municipalities suffer from dubious ethics of their staffs” [10]. In Municipal Auditor’s Reports mentions are made of suspicious cases where the drafter of bills of quantities is simultaneously a contract manager, a member of evaluation commission and a supervisor of works, or part of the technical acceptance body, which according to the applicable law qualifies as clear conflict of interest. In smaller municipalities these problems arise due to the size of the administrations, that is

small number of staff and their inability to separate the roles. But in larger municipalities these problems are systematic and manifest in almost all development areas.

### 3.2. Deficiencies in implementation of municipal development projects

Municipal Audit Report of a consecutive year, namely 2016, are further analysed in order to understand the level of implementation of audit’s recommendations given to the municipalities for the previous year. The analysis was also carried out with a view of helping us understand the trend of annual performance improvement in the implementation of development projects. Chapter “Annex III: Progress in the Implementation of Prior Years Recommendations” in the 2016 Reports’ findings suggest that auditor’s recommendations on procurement procedures and practice are partially addressed, while those related to legal framework compliance are more substantially addressed (See Graph 2).



Graph. 2. The progress of addressing of 2015 challenges in the Audit Reports of 2016 for 38 municipalities of Kosovo

While compliance with regulations remains the main focus when discussing trends and performances in implementation of municipal development project, technical and environmental considerations, including aspects of good design remain unaddressed by Municipal Audit Reports. Unsatisfactory progress in addressing auditor’s recommendations sheds light on the limited power of the National Audit Office to ensure enforcement. This issue is mainly attributed to the lack of Auditor’s institution financial independence and this is considered to be the main limiting factor for the i Audit Office to performing the two roles: that of monitor-

ing, and the role of giving recommendations. [11]. At the same, the alleged corruption in public procurement is not being sufficiently fought by state mechanisms [10] while politicization and favoritism in the procurement field persists in budget institutions. [10]. Cases of misuse of urban and architectural tenders receive light penalties, which doesn't serve in the interest of the betterment of municipal performance in the procurement area [10].

An important aspect that needs to be considered when discussing the enhancement of the process of project implementation by Kosovo municipalities is citizens' opinion. Public participation in Kosovo is guaranteed by Law, Articles 68-72 [1] but it merely translates into practice of opening municipal development projects for public consultation purpose. This deprives the citizens, including professionals, to actively participate in the selection process, which in turn affects their awareness of their role in collective decision-making about the quality of public architecture that would best represent their identity and expectations. [18].

#### 4. Conclusion

As this paper shows, implementation of municipal development projects in Kosovo is based on solid regulations that mirror European standards and good practices, yet, good quality of public projects remains a challenge. Municipal Audit Reports register problems at the earliest phases of project planning, which indicates that problems related to weak implementation are not solely limited to law enforcement. The issues of common goals of transparency, openness, as well as identification of problems that stimulate innovation through procurement, as emphasized by the Architects' Council of Europe, are key to the improvement of current project implementation practices in the case of Kosovo municipalities. In order for these practices to take place, Kosovo municipalities should consider the use of professional advisory bodies in critical phases of project cycle management. This can play a critical role in improving the phase of project selection through transposition of planning provisions into development projects, as well as in drafting design briefs to include sustainability indicators that would ensure good quality in municipal development projects.

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