

# PAR Principles Mainstreaming in Sectoral Policies

## Report for Kosovo

INPO | August, 2024



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**Publisher:** European Policy Centre - CEP

**Par Area: Public Finance Management – Public Procurement**

**Instituton: Ministry of Environment, Spatial Planning and Infrastructure**

**Policy Sector: Procurement Sector**

Prishtinë | August, 2024



Produced within *Western Balkan Enablers for Reforming Public Administrations – WeBER 3.0* project. WeBER 3.0 is implemented by Think of Europe Network - TEN and Centre for Public Administration Research – KDZ. Civic initiatives are one of the members of the WeBER 3.0 Platform for monitoring public administration reform from Serbia.

WeBER 3.0 is funded by the European Union and the Austrian Development Agency - ADA. Views and opinions expressed are however those of the authors only and do not necessarily reflect those of the European Union or ADA. Neither the European Union, ADA, TEN nor KDZ can be held responsible for them.

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## Report summary

This summary provides an overview of the monitoring results of the Ministry of Infrastructure's public procurement activities, assessing compliance with Kosovo's public procurement legislation. The analysis highlights both compliance and gaps in key areas, including the publication and implementation of procurement plans, competitiveness of procedures, and transparency of reporting.

This report was prepared using several methods, beginning with an analysis of the procurement planning of the Ministry of Infrastructure for 2023 and 2024. Data was gathered from the public procurement platform to examine procurement activities, with a focus on the types of procedures used and the number of bidders involved. Quantitative analysis was employed to calculate the percentages of competitive versus non-competitive procedures, while comparative analysis identified discrepancies between procurement planning and the initiation of procurement activities. To gain insights into the challenges of aligning procurement activities with the plan, an interview was conducted with the Chief Procurement Officer of the Ministry of Infrastructure.

The Ministry met the legal requirement to publish its procurement plan for 2024, with the plan available on the e-procurement platform and the Ministry's website since January 19, 2024. No updates or amendments were made to the procurement plan, reflecting compliance with regulations. However, the Ministry has struggled to align its procurement activities with planned deadlines. Among the last five planned activities, only one was initiated, and it was started ahead of schedule, while the remaining four were not initiated by the end of August 2024 due to delays in the execution of the requesting unit's project. This misalignment points to a significant gap between planning and execution.

The Ministry did not amend its procurement plans in 2024 or 2023, rendering the evaluation of amendment justifications inapplicable. However, the absence of changes suggests a lack of adaptive management in response to evolving circumstances. Of the 126 procurement activities initiated in 2023 and 2024, 59.52% were conducted through competitive procedures, while 40.48% were non-competitive, including 25 annex contracts. The high reliance on non-competitive procedures indicates a need to improve the Ministry's approach to fostering competition and transparency.

The average number of bidders in competitive procedures was 5.69, which, although reasonable, fell slightly short of the desired threshold, suggesting a limited pool of contractors and a need for broader engagement in procurement processes. A critical issue identified was the lack of publicly available annual reports on signed contracts for 2023, as the Ministry failed to publish these reports online, though they were submitted to the Regulatory Commission for Public Procurement. This omission impairs transparency and diminishes public trust.

Overall, the Ministry of Infrastructure shows compliance in several legal aspects of public procurement but requires significant improvements in execution, transparency, and competitiveness. Strengthening internal coordination, enhancing the accessibility of procurement data, and promoting broader competition are essential steps for aligning the Ministry's practices with best procurement standards and ensuring more accountable and efficient public spending.

The recommendations focus on enhancing the transparency, efficiency, and competitiveness of the Ministry of Infrastructure's procurement processes. It is advised that the Ministry should publish its procurement plans and annual reports on signed contracts on its website and the e-procurement portal to improve public access and accountability. Furthermore, the Ministry should ensure that procurement deadlines align with the needs of requesting units to avoid delays and enhance overall efficiency. Providing justifications for unplanned procurement activities will increase transparency and maintain the integrity of the process. Additionally, increasing the use of competitive procedures and raising the average number of bidders per procedure will foster greater competition, improve quality, and help achieve better pricing. Implementing these recommendations will strengthen procurement practices, ensure compliance with legal standards, and build greater public trust in the Ministry's procurement activities.

# I. Introduction

## *1.1 What does WeBER monitor and how?*

The monitoring of public procurement practices, within the Public Finance Management (PFM) area, is performed against SIGMA Principle 29.

*Principle 29: Contracting authorities conduct public procurement operations, including public-private partnerships, efficiently and economically.*

PFM checklist on public procurement consists of 7 requirements that pertain to transparency and competitiveness of public procurement practices of assessed contracting authority. Firstly, requirements focus on public procurement planning – availability of up-to-date plans, as well transparency and justification to their amendments. In addition, it is monitored whether these plans are adhered to in terms of launching public procurement procedures as scheduled (based on a sample). Secondly, competitiveness and transparency of public procurements are monitored by assessing how open these procedures are for interested suppliers, i.e., whether open and competitive procurement methods constitute the most frequently used options in practice, and what is average number of bidders using these methods within the observed period. Finally, the last requirement considers whether there is a transparent and comprehensive annual reporting practice, that encompasses all conducted public procurements planned or a calendar year.

For data collection, approach to this checklist relies on review of websites of assessed contracting authority, government-sponsored public procurement portal, but also on filing of requests for free access to information for all documents that are not available online. Depending on individual requirement, the timeframe of analysis covers public procurement practices for the ongoing year at the time of assessment, or last calendar year, or both.

## *1.2 In this report*

In this Report, Section II delves into a detailed analysis of each requirement pertaining to procurement processes and practices within the Ministry of Infrastructure. This section systematically examines the adherence of the Ministry to the stipulated criteria, evaluating aspects such as the publication of updated procurement plans, the initiation of procurement activities in accordance with the established timelines, and the transparency of amendments made to procurement plans.

Section II also assesses the adherence to competitive procedures and the average number of bidders participating in these processes, highlighting any discrepancies or areas of non-compliance observed. Each requirement is used to determine the level of conformity with legal and procedural standards, providing a comprehensive understanding of the Ministry's performance in these areas.

Section III, on the other hand, offers targeted recommendations based on the findings presented in Section II. It outlines actionable steps that the Ministry of Infrastructure should undertake to address identified gaps and enhance the overall efficiency and transparency of its procurement practices. Recommendations focus on improving public access to procurement plans, ensuring timely initiation of planned activities, justifying unplanned procurement activities, increasing the use of competitive procedures, and enhancing the average number of bidders in procurement processes.

Additionally, it emphasizes the importance of publicly disclosing annual reports on signed public contracts to bolster accountability. This section aims to provide clear, practical guidance to facilitate improvements and align the Ministry's procurement practices with best practices and regulatory requirements.

## II. Analysis

Section II of this report delves into the analysis of the Ministry of Infrastructure's procurement practices, focusing on compliance with specific requirements. It evaluates the availability and accuracy of procurement plans, adherence to initiation timelines, clarity of amendments, application of competitive procedures, and the average number of bidders. This analysis aims to assess the Ministry's adherence to legal and procedural standards and identify key areas for improvement.

### Requirement 1: Up-to-date Public Procurement Plans Are Publicly Available

This requirement evaluates whether the Contracting Authority, the Ministry of Infrastructure, makes its current public procurement (PP) plans for the ongoing calendar year accessible to the public, either through its website or via the e-procurement portal. According to Kosovo's public procurement legislation, every institution (Contracting Authority) is obliged to prepare and publish its procurement planning (Form B01 - Procurement Planning) for the following year within 15 days after the fiscal year's budget approval by the Assembly of Kosovo<sup>1</sup>. This document must also be submitted to the Central Procurement Agency (CPA) to verify that the procurement planning does not include activities that fall within the CPA's domain. INPO submitted a Freedom of Information (FOI) request to the Ministry of Infrastructure seeking confirmation on potential amendments to the 2024 Procurement Plan. In its official response received on September 10, 2024, the Ministry of Infrastructure confirmed that no amendments have been made to the 2024 Procurement Plan.

Based on research conducted on the Ministry's website, the e-procurement platform, and the Freedom of Information (FOI) request sent to the Ministry, it was confirmed that the Ministry has fully complied with the requirement to publish the latest version of its procurement plan for 2024. The procurement plan was published on the e-procurement platform on January 19, 2024, fulfilling this requirement. However, it is important to note that the Ministry of Infrastructure has not updated or modified the procurement plan since its initial publication at the beginning of the year.

### Requirement 2: Public Procurements Are Launched in Accordance with the Plan

This requirement analyzed the last five planned activities in the current procurement plan to determine whether they were initiated within the scheduled timeframes. Out of the 5 procurement activities planned in the Procurement Plan, only two activities are scheduled to be initiated after August 31; all other activities should have been initiated by the time INPO completed data collection on August 31. INPO identified these activities and analyzed whether they were initiated according to the plan. Given that more than five activities shared the same projected start date, INPO analyzed the last five planned activities selected from the list closest to August 31.

<sup>1</sup> Article 8, Law No. 04/L-042 on Public Procurement in the Republic of Kosovo. It can be accessed at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2772>.

Contract Description	Planned Procurement Start Dates	Actual Start Date	Ministry of Infrastructure justification	INPO assessment on justification
Supply of ADE Blues for 4x4 Vehicles	01.08.2024	25.04.2024	No justification provided.	Not justified.
Construction of Korishë - Kabash Road - Connection with Regional Road R118	01.07.2024	Not Yet Initiated	Delays due to executive project development, and expropriation needed.	Properly justified.
Implementation of Digital Tachographs	03.06.2024	Not Yet Initiated	Awaiting response from requesting unit.	Not justified.
Expansion of Regional Road R102 Komoran - Skenderaj	03.06.2024	Not Yet Initiated	Request made by Municipality of Glogovc to modify the project.	Properly justified.
Rehabilitation of National Road N9, Pejë - Kuqishtë - Qakorr Segment	03.06.2024	Not Yet Initiated	Delays due to expiration of contract of the project development company.	Properly justified.

In order to obtain additional justifications as to the reason of why the procedures have been delayed, INPO has submitted a FOI request to the Ministry of Infrastructure. On the response received on September 10, 2024, the Ministry has provided the justification for four out of five procurement procedures. Below is presented an assessment of justifications provided by the Ministry in its response to FOI request:

## Procurement procedures and Ministry's justifications

### 1. Activity: Supply of "ADE Blues for 4x4 Vehicles"

The Ministry of Infrastructure did not provide any justification for initiating this procurement activity three months earlier than the date scheduled in the procurement plan. Therefore, INPO considers that the early initiation of this activity is unjustified.

### 2. Activity: Construction of the Korishë-Kabash Road, Connecting to Regional Road R118

According to the Procurement Office of the Ministry of Infrastructure, the delay in initiating this project as planned was due to the need for improvements in the project design and issues related to the expropriation elaborates. Considering the frequent expropriation challenges in road infrastructure projects in Kosovo and the fact that this road is intended to pass through mountainous areas that require widening, INPO finds the delay in initiating this activity to be properly justified.

### 3. Activity: Implementation of Digital Tachographs

The Procurement Office of the Ministry of Infrastructure has not received any response from the requesting unit for this activity. Therefore, INPO considers the delay in initiating this activity as unjustified.

### 4. Activity: Expansion of Regional Road R102, Komoran-Skenderaj

According to the Procurement Office of the Ministry of Infrastructure, the delay in initiation, as per the planned timeline, was due to ongoing negotiations with the Municipality of Glogovc regarding the new road route or the expansion of the existing one. INPO considers the delay in initiating this activity to be properly justified.

### 5. Activity: Rehabilitation of National Road N9, Segment Pejë-Kuqishtë-Qakorr

According to the Procurement Office of the Ministry of Infrastructure, the delay in initiation was due to the expiration of the contract with the design company responsible for preparing the project. Given that the Ministry of Infrastructure, after the contract ended, promptly began procedures to contract a new economic operator for project design, INPO finds the delay in initiating this activity to be properly justified.

Taking into account the justifications provided by the contracting authority, only 3 out of 5 procurement procedures not initiated according to PP plan have been properly and transparently justified. Hence, these findings indicate that this requirement was partially met by the Ministry of Infrastructure.

### Requirement 3: Amendments to Public Procurement Plans Are Clearly Visible

Requirement 3 assessed whether there have been any changes to the Ministry's procurement plans in the last two calendar years and whether all changes are clearly visible compared to the original procurement plan for the respective year. According to public procurement legislation, the Final Procurement Plan, once submitted to the CPA and published on the electronic platform, cannot be altered unless a planned procurement activity undergoes budget revision.

To verify whether any changes were made by the Ministry of Infrastructure to the procurement plans for 2023 and 2024, INPO analyzed the data published under the "Procurement Plans" section on the electronic procurement platform. The published data indicated that there were no changes to the procurement plans. However, to confirm this, INPO sent inquiries to the Procurement Office of the Ministry of Infrastructure. In responses received from the Information Office on July 18, 2024, and September 10, 2024, it was confirmed that there were no amendments to the procurement plans for 2023 and 2024, respectively. Hence, based on INPO's review of electronic procurement platform to detect for visibility and detectability of any amendments compared to the original PP plan, and the responses from the Ministry, it is concluded that the Ministry has not made any amendments to the PP plan. Ultimately, according to the assessment guideline states that in cases where no amendments were made, the requirement is considered fully met by the contracting authority. Hence, the Ministry is considered to have fully met Requirement 3.

### Requirement 4: Amendments to Public Procurement Plans Are Duly Justified

Requirement 4 aims to evaluate whether amendments or additions to the procurement plans for the current and previous year are justified. Based on the findings from Request No. 3, which confirmed that the 2023 and 2024 procurement plans have not undergone any changes, it is not possible to evaluate justifications for amendments to these plans. According to the assessment guideline of the request 4, which states that if no changes have been made, the request is considered fully fulfilled, the Ministry of Infrastructure is therefore deemed to have fully met this requirement.

### Requirement 5: Contracting Authority Conducts Open/Competitive Public Procurement Procedures

Requirement 5 assesses whether the Contracting Authority, the Ministry, conducted open and competitive procurement procedures for 2022 and 2023. According to the evaluation guidelines, procurement activities conducted in lots were treated as a single procedure.

Kosovo's Public Procurement Law outlines six types of procurement procedures under which procurement activities can be initiated. Methods allowing open and competitive procedure include:

*Open Procedures (Article 33, Paragraph 1): Any economic operator may submit a bid, and any interested economic operator has the opportunity to compete.*

*Restricted Procedures (Article 33, Paragraph 2): The contracting authority invites economic operators who have passed the selection phase to submit bids.*

*Competitive Negotiated Procedures (Article 34): The contracting authority negotiates with economic operators to improve their offers after initial submissions.*

*Price Quotation Procedures (Article 36): Although limited and for lower-value contracts, these procedures involve competition among economic operators offering prices to win the contract.*

*Procedures for Minimal Value Contracts (Article 37): The contracting authority must send invitations to at least three economic operators through the electronic procurement system.*

Methods that do not allow open and competitive procedure include:

*Negotiated Procedures without Contract Notice Publication (Article 35): The contracting authority negotiates directly with one or more economic operators without an open call for bids.*

*Framework Public Contracts (Article 38): In some cases, competition is limited to mini-tenders during the contract's validity period.*

INPO analyzed all procurement activities initiated from January 2023 until the current monitoring period ending August 31, 2024.

### Findings of Competitive Procedures:

Type of Procedure	Number of Procurement Activities
Open Procedure	59
Restricted Procedure	11
Competitive Negotiated Procedures	0
Price Quotation Procedures	0
Minimal Value Contract Procedures	5
Total	75

In total, 75 activities were initiated through competitive procedures.

### Findings of Non-Competitive Procedures:

Type of Procedure	Number of Procurement Activities
Negotiated Procedures without Contract Notice	51
Framework Public Contracts	0
Total	51

Overall, out of 126 activities initiated during the monitoring period, 75 activities (59.52%) were initiated through competitive procedures, while 51 activities (40.48%) were initiated through non-competitive procedures.

According to the evaluation guide for Requirement 5, if competitive procedures are applied in more than 50% but less than 85% of procurement procedures, the **Ministry of Infrastructure partially fulfills this requirement.**

INPO also analyzed activities initiated through non-competitive procedures. Of the 51 non-competitive procedures, 25 are annex contracts or additional work contracts with a pre-existing base contract. Article 35 of the Kosovo Public Procurement Law allows such activities only for covering one or more contracts for additional services or works that, alone or together, do not exceed ten percent (10%) of the initial contract's value.

### Requirement 6: Average Number of Bidders in Open/Competitive Procedures

Requirement 6 was verified through assessing the total number of bidders who submitted bids for each competitive procedure to determine the average number of bidders for each initiated procedure. Since some procurement activities are initiated as a single activity but result in multiple contracts due to the activity being divided into lots, INPO analyzed the number of bidders for each lot.

Based on the above findings, of the 75 activities initiated through competitive procedures in 2024 and 2023:

- 53 activities resulted in bid submissions
- 8 activities were canceled for various reasons
- 14 activities are still in process, initiated in the last months of the monitoring period up to August 31, 2024, and there is no data on the number of bidders since they are still in progress.



In evaluating this requirement, INPO focused on the 53 procurement activities that resulted in bid submissions, while excluding 8 procurement activities that were canceled and 14 activities that remained in progress as of August 31, 2024, without reaching the bid submission stage.

Because certain procurement activities begin as a single process but result in multiple contracts due to being divided into lots, INPO conducted a separate analysis to evaluate the number of bidders for each individual lot. Of the 53 procurement activities with bid submissions, 6 were divided into multiple lots. Each lot was considered as a separate procurement contract as per the evaluation of Requirement 6 as per the total number of bidders for each lot. Hence, these 53 procurement activities collectively resulted in the awarding of 72 contracts. Across these 72 contracts, a total of 410 bidders participated, resulting in an average of 5.69 bidders per activity/lot.

According to the evaluation guide, if the average number of bidders is between 2 and 5.99, the Contracting Authority, the Ministry of Infrastructure is found to partially fulfill Requirement 6.

**Requirement 7: Annual Reports Encompassing All Conducted Public Procurements Are Publicly Available**

The Public Procurement Regulatory Commission, within secondary legislation, specifically in Article 16.32, mandates the preparation of an annual report on signed public contracts, obliging each contracting authority to compile a comprehensive annual report for each public contract signed in the previous fiscal year. The PPRC has approved Form B53 - Annual Report for Signed Public Contracts within its regulation. However, although the Ministry of Infrastructure submitted the report to the PPRC, it was not published on the Ministry's website nor on the e-procurement portal. INPO obtained the report on signed contracts for 2023 only through a public document access request. Since the Annual Report on Signed Public Contracts is not publicly available, the **Ministry of Infrastructure has not met this requirement.**

Final assessment of the requirements

Requirement	Final assessment
[Up-to-date public procurement plans are publicly available]	Fully met
[Public procurements are launched in accordance with the plan]	Partially met
[Amendments to public procurement plans are clearly visible]	Fully met
[Amendments to public procurement plans are duly justified]	Fully met
[Contracting authority conducts open/competitive public procurement procedures]	Partially met
[Average number of bidders in open/competitive procedures]	Partially met
[Annual reports encompassing all conducted public procurements are publicly available]	Not met

## III. Recommendations for improvements

Based on the analysis of procurement practices within the Ministry of Infrastructure, this section provides targeted recommendations to address identified weaknesses and enhance the overall efficiency and transparency of procurement processes. The recommendations are designed to be specific, actionable, and time-bound to ensure effective implementation and measurable improvements. Each recommendation directly responds to the issues outlined in the analysis, with a focus on practical steps that the Ministry can take in the short, mid, and long term.

**1. Publish Procurement Plans Online:** The Ministry of Infrastructure should publish its procurement plans on its official website. This step will enhance transparency and facilitate public access to necessary procurement information. This recommendation is a short-term intervention and should be implemented immediately to improve information accessibility and stakeholder engagement.

**2. Align Procurement Deadlines with Requesting Units:** The Ministry should ensure that the deadlines outlined in the procurement plan are synchronized with the requesting units. This approach will help prevent delays and ensure the overall efficiency of the procurement process. This is a mid-term recommendation, requiring a review and adjustment of current planning and coordination procedures.

**3. Justify Unplanned Procurement Activities:** For any unplanned procurement activities, the Ministry should provide a clear justification. This will increase transparency by offering detailed explanations for deviations from the original procurement plan, thereby maintaining the credibility and integrity of the procurement process. This recommendation is applicable in both short and mid-term interventions and should be integrated into standard operating procedures.

**4. Increase Use of Competitive Procedures:** The Ministry should increase the number of procurement activities conducted through competitive procedures. Open and competitive procedures promote transparency and fairness, ensuring that all interested parties have equal opportunities. This recommendation is a mid-term strategy that involves revising procurement practices to favor competitive bidding processes.

**5. Raise the Average Number of Bidders:** The Ministry should aim to raise the average number of bidders in each competitive procedure to more than six. Increasing the number of bidders enhances competition, which can improve the quality of bids and potentially lead to lower prices. This is a mid-to long-term recommendation, requiring changes in procurement practices and outreach efforts to attract more bidders.

**6. Publish Annual Procurement Reports:** The Ministry should publish its annual report on signed public contracts on its website and the electronic procurement portal. Making this report publicly accessible will increase transparency and accountability in the procurement process. This is a short-term recommendation that should be implemented annually to ensure ongoing public access to procurement data.

### Appendices

#### Free access to information requests

Institution	Date of sending	Date of receipt
Ministry of Infrastructure	24.06.2024	18.07.2024
Ministry of Infrastructure	08.07.2024	18.07.2024
Ministry of Infrastructure	18.07.2024	19.07.2024
Ministry of Infrastructure	06.09.2024	10.09.2024

#### Interviews

Institution	Position	Date	Place
Ministry of Infrastructure	Responsible Procurement Officer	27.06.2024	Office of the Ministry of Infrastructure

### *Other sources*

- Law No. 04/L-042 on Public Procurement in the Republic of Kosovo - This law outlines the framework for public procurement processes in Kosovo. It can be accessed at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2772>.
- Regulation No. 001/2022 on Public Procurement - This regulation provides detailed rules and procedures for public procurement. It is available at [https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret/shq/Rregullore%20Nr.001\\_2022%20p%C3%ABr%20prokurimin%20publik.pdf](https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Rregulloret/shq/Rregullore%20Nr.001_2022%20p%C3%ABr%20prokurimin%20publik.pdf).
- Public Procurement Portal - This portal offers resources and updates related to public procurement in Kosovo. Access it at <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=327>.
- Ministry of Environment, Spatial Planning, and Infrastructure - The official website of the Ministry, providing information on environmental and infrastructure matters. Visit it at <https://mmphi.rks-gov.net/Environment>.

