

PUBLIC PROCUREMENT  
MONITORING REPORT IN KOSOVO

# TENDERS OF ENDEARMENT



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## **“Whoever stays under pear tree, gets to eat pears”**

Kajtaz Peci, owner of the competing company commenting on the fact that the tender for transporting pupils on the municipality of Mitrovica, in detriment of Kosovo's budget, was won by the municipal procurement director's farther.

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## **“If I resign, PRB will take the downfall”**

Hysni Hoxha, former chairman of the Procurement Review Body, who was obliged to resign after two indictments against him.

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## **”I see nothing wrong for a vehicle to be serviced at an authorized service. I see it as ridiculous and stupid for it to become news...”**

Isa Mustafa, associated with the fact that his son's firm won the tender to repair the primeminister's vehicles while Musfata is the primeminister.

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## **“This office is continuing to plot with tenders, so that relatives of officials can take jobs from the municipality and this is the reason that capital investments have low quality.”**

Sokol Bylykbashi, an assembly member from the Drenas Municipality regarding the for road paving tender which was won by “Trasing Group” company, owned by the uncle of Betim Berisha, director of urbanization in this municipality.

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# ACRONYMS

<b>AKK</b> – Agjencia Kundër Korrupcionit	<b>ShKK</b> - Shërbimi Korrektues i Kosovës
<b>AQP</b> – Agjencia Qendrore e Prokurimit	<b>ShMF</b> - Shërbimet e Shëndetiti Mendor - Ferizaj
<b>BIRN</b> – Rrjeti Ballkanik i Gazetarisë Hulumtuese	<b>ShMGj</b> - Shërbimet e Shëndetit Mendor - Gjilan
<b>KRPP</b> – Komisioni Rregullativ i Prokurimit Publik	<b>ShMGjk</b> - Shërbimet e Shëndetit Mendor - Gjakovë
<b>KSK</b> - Këshilli i Sigurisë së Kosovës	<b>ShMM</b> - Shërbimet e Shëndetit Mendor - Mitrovicë
<b>MAP</b> - Ministria e Administratës Publike	<b>ShMP</b> - Shërbimet e Shëndetit Mendor - Pejë
<b>MAPL</b> - Ministria e Administrimit të Pushtetit Lokal	<b>ShMP</b> - Shërbimet e Shëndetit Mendor - Prizren
<b>MASHT</b> - Ministria e Arsimit, Shkencës dhe Teknologjisë	<b>ShMPr</b> - Shërbimet e Shëndetit Mendor - Prishtinë
<b>MBPZhR</b> - Ministria e Bujqësisë, Pylltarisë dhe Zhvillimit Rural	<b>ShMSh</b> - Shërbimet e Shëndetit Mendor - Shtime
<b>MD</b> - Ministria e Diasporës	<b>SKGJK</b> - Sekretariati i Këshillit Gjyqësor të Kosovës
<b>MD</b> - Ministria e Drejtësisë	<b>SKQZ</b> - Sekretariati i Komisionit Qendror të Zgjedhjeve
<b>MF</b> - Ministria e Financave	<b>SRGjk</b> - Spitali Regjional Gjakovë
<b>MFSK</b> - Ministria e Forcës së Sigurisë	<b>SRGjl</b> - Spitali Regjional Gjilan
<b>MI</b> - Ministria e Infrastrukturës	<b>SRM</b> - Spitali Regjional Mitrovicë
<b>MIE</b> - Ministria e Integriteteve Evropiane	<b>SRP</b> - Spitali Regjional Pejë
<b>MKK</b> - Ministria për Komunitete dhe Kthim	<b>SRPz</b> - Spitali Regjional Prizren
<b>MKRS</b> - Ministria e Kulturës, Rinisë dhe Sportit	<b>SV</b> - Spitali i Vushtrrisë
<b>MMPH</b> - Ministria e Mjedisit dhe Planifikimit Hapësinor	<b>TRUST</b> - Trusti i Kursimeve Pensionale të Kosovës
<b>MPB</b> - Ministria e Punëve të Brendshme	<b>UM</b> - Universiteti i Mitrovicës “Isa Boletini”
<b>MPJ</b> - Ministria e Punëve të Jashtme	<b>UP</b> - Universiteti i Prishtinës “Hasan Prishtina”
<b>MPMS</b> - Ministria e Punës dhe Mirëqenies Sociale	<b>UP</b> - Universiteti Publik “Haxhi Zeka”-Pejë
<b>MSh</b> - Ministria e Shëndetësisë	<b>UPz</b> - Universiteti i Prizrenit
<b>MTI</b> - Ministria e Tregtisë dhe Industrisë	<b>ZAMV</b> - Zyra Administrative e Mitrovicës Veriore
<b>MZhE</b> - Ministria e Zhvillimit Ekonomik	<b>ZAP</b> - Zyra e Auditorit të Përgjithshëm
<b>OSHP</b> - Organi Shqyrtues i Prokurimit	<b>ZKM</b> - Zyra e Kryeministrit të Republikës së Kosovës
<b>REC</b> - Qendra Rajonale për Mjedis për Evropën Qendrore dhe Lindore	<b>ZMF</b> - Zyra e Menaxhimit të Frekuencave
<b>RTK</b> - Radio Televizioni i Kosovës	<b>ZP</b> - Zyra e Presidentit të Republikës së Kosovës
<b>SF</b> - Spitali i Ferizajit	<b>ZRRE</b> - Zyra e Rregullatorit për Energji
<b>ShB</b> - Shërbimet e Burgjeve	<b>ZRRUM</b> - Zyra e Rregullatorit për Ujë dhe Mbeturina
<b>ShK</b> - Shërbimet e Kadastrës	

# EXECUTIVE SUMMARY

The Balkan Investigative Reporting Network, BIRN, has been monitoring spending through public procurement since January 2014 as part of the public service and public money spending monitoring project.

Our first report in 2014, “Hidden Tender,” revealed various manipulations of tendering procedures. This reporting was conducted with the international standards of journalism applied to our media projects, including Life in Kosovo newspaper, KALLXO.com, Life in Kosovo televised program, Justice in Kosovo and Prishtina Insight.

BIRN’s public procurement monitoring continued in 2015. “Tenders of Endearment” is a summary of our annual findings between the period of January-December 2015. Though we have previously reported on our findings in our media portals, this report supplements an overall summary with:

- a) A statistical presentation of all published notices from the website of Public Procurement Regulatory Commission, PPRC;
- b) Main findings on suspected abuses in attempt to attain public money;
- a) Reporting from all monitored court sessions for tender related abuses; and
- b) Recommendations for improving the negative phenomena identified in the public procurement process.

The report “Tenders of Endearment” contains essential findings on identifying content, technical, procedural, and administrative irregularities that occur in public procurement and offers concrete recommendations for taking the necessary measures for improvement.

This report contains findings from **the monitoring of 169 contracting authorities** arranged into these main categories: Municipalities, Independent Institutions, Public Enterprises, Ministries, Independent Agencies, the Prime Minister’s Office, the Kosovo Assembly, and the Presidency.

Similarly to 2014, the monitoring of contracts in 2015 has revealed that budgeting institutions are failing to implement the opinions of the Kosovo Anti-corruption Agency.

The Law on Preventing Conflicts of Interest in Exercising a Public Function, point 1.6, obligates the Anti-corruption Agency to offer opinions and to undertake legal measures to prevent conflicts of interest and corruption in general.<sup>1</sup>

In 2015, the Anti-corruption Agency offered 65 opinions to budgeting institutions, including the recommendation for annulment of procurement activities, since budgeting institutions had violated the law for public procurement during tendering procedures.

There are numerous institutions who have yet to acknowledge the Anti-corruption Agency’s recommendation to annul their procurement activities, including: Hospital-Clinical University Services, the Kosovo Tax Administration, the Judicial Council Secretariat, Gjilan Regional Hospital, Mitrovica Regional Hospital, and the Procurement Review Body, PRB. Furthermore, the municipalities of Decan, Ferizaj, Gracanica, Leposavic, Rahovec, and Lipjan, have also failed to implement the Anti-corruption agency’s opinions. The Zvecan Municipality has ignored the Anti-corruption Agency’s opinions twice.

<sup>1</sup> Anti-Corruption Agency <http://www.akk-ks.org/wwwimi-i-korrupsionit-opinionet#indexmain>



PTK, Trainkos, Infrakos, Justice Ministry, Infrastructure Ministry, Economic Development Ministry, Health Ministry, Culture Ministry, Public Administration Ministry, Trade and Industry Ministry, Force and Security Ministry, Internal Ministry, Central Procurement Agency, Free Legal Aid Agency, and the Medicinal Products Agency, each declared the annulment of their procurement activities, though they did not list the Anti-corruption Agency's opinions as the reason for their annulments.

The lack of transparency in public procurement in 2015 reveals a serious problem.

The most substantive violations in the public procurement since our last report are regarding two capital projects that exploited public resources.

The Kosova e Re power plant and the Brezovica ski center project were not subjected to procurement procedures, and a lack of transparency from the outset prevented public knowledge on the selection of companies that would operate the projects.

The Kosova e Re plant is expected to be funded 30 per cent by the company Contur Global and 70 per cent with a World Bank loan.<sup>1</sup> The Touristic Center in Brezovica was given with concession for 99 years,<sup>2</sup> but on June 17 the contract failed because the "French company had not fulfilled the contractual criteria."<sup>3</sup>

Furthermore, 2015 marked one year since the beginning of the accusations against Kosovo in an arbitration case regarding failed procurement in previous years. Gazeta Jeta ne Kosove disclosed that the Kosovo budget could lose from 180 to 500 million euro from the German company ACP Axos Kapital. In June 2015, the company sued Post and Telekom Kosovo, PTK in the Washington Arbitration Court for a tender signed in 2013 when the

government had approved the sale of 75% of shares from VALA and Telekom.

The lack of transparency related to the Kosovo Government preparations to protect public money loss is feeding suspicions that certain individuals in power would like to see Kosovo lose this case in arbitrage. Such a loss would initiate PTK's privatization process without the otherwise necessary parliamentary procedures for buying such a large public enterprise. Those individuals interested in the loss could profit from the large compensation that the Kosovo Government would pay to AXOS, a company based in the Cayman Islands.

Our report also measured Kosovo institutions in their notification processes according to public contracts law, and concluded that **over 90% of Kosovo Institutions don't publish big value contracts notices on time** because:

- a) They are not ready for transparency;
- b) They do not have a proper plan for spending and investment, and
- c) They hide information from economic operators in favor of particular operators.

The phenomenon of **awarding tenders for the family and friends of politicians in power**, otherwise known as procurement officials, is a trend that has continued in 2015.

During 2015, the most well-known tender was **won by Prime Minister Isa Mustafa's sons** Arben and Besnik Mustafa, with the Prime Minister's Office as the contracting authority. The Prime Minister's Office utilized the quota procedures, which according to the law do not require a call for tenders. The Prime Minister's Office only published the contract after it was signed.

Another tender that caused troubles for the Mitrovica Municipality was when the municipality's Procurement Director Besnik

2 Article "Expensive Electricity of "Kosova e Re" in 2022", December 2015 <http://kallxo.com/rryma-e-shtrenjte-e-kosoves-se-re-ne-veitin-2022/>

3 Article "Brezovica 'slides' to the French", November 2015 <http://kallxo.com/gjnk/brezovica-rreshqet-te-francezet-1/>

4 Article "Brezovica privatization fails", June 2016 <http://kallxo.com/deshton-privatizimi-brezovices/>

Beka **awarded a company owned by his father and his uncle** for transporting students even though other companies listed lower prices. To prevent this information from becoming public, the municipality did not send the file of the tender for publication in the PPRC, saying that the PPRC had had technical problems with its website on that day.

The Skenderaj Municipality was supplied with oil by **an Assembly member from the party in power, PDK**. Musa Hajdari signed a contract worth 250 thousand euro to supply the municipality with oil from Alfa Trade, a company of which Hajdari is a co-owner.

Another municipality, Drenas, decided that construction projects involving asphalt would be **entrusted to Urbanism Director, Betim Berisha's uncle**. The Drenas Municipality awarded a tender worth 1.8 million euro to Demir Berisha's company Trading Group.

The University of Prishtina was also not immune from tender-related scandals. During the time of **Muje Rugova's rectorship, a contract was negotiated and signed without publication**. The contract was worth 3.3 million euro, to be used to purchase scientific books for various faculties. However, only the Medicine Faculty received these textbooks and the other faculties had no knowledge about them.

The Zvecan-based company Trepca signed a contract with the Romanian company Mineco, a company whose leaders are accused of corruption in Romania. The value of the contract is between 15 and 20 million euro, and was conditional upon Mineco removing all accusations against Trepca in Kosovo courts.

Public procurement is characterized by corruption to such an extent that the EU has decided that the de-politicization of the Procurement Review Body is one condition for Kosovo's visa liberalization process.

This resulted in the resignation of Hysni Hoxha, head of PRB, **who has had three**

**indictments brought against him for abuses of official duty**. Hoxha told Gazeta Jeta ne Kosove that the indictments are not the cause for his resignation, but rather because the board did not have two board members for more than two years. This lack of board members in PRB is seen as one of the regresses in the Progress Report of the European Commission for Kosovo in 2015.

The same report cited the centralized procurement as the only positive aspect within the field of public procurement. The Central Procurement Agency managed to contract oil for 80 Contracting Authorities, but the HIB Petrol company was awarded with a tender of 12.3 million euro **even though the company has two indictments brought against it** – one initiated by the Kosovo Police and the other by the Prishtina Municipality.

Another problem that Kosovo faces regarding procurement is dirty market competition. The Kosovo Competition Authority is supposed to fight monopoly, but this state mechanism **has been dysfunctional for four years now** because it lacks board members. It is the political class's responsibility to appoint board members to this authority. This lack of appointment raises suspicions that politicians in Kosovo are working in the interests of companies who hold monopolies in certain services. HIB Petrol Company has a monopoly in the oil field and thus faces no competition in receiving 80% of the public tenders.

The 2015 Progress Report does not change much from the 2014 report, which also emphasizes corruption and poor planning in the procurement field as serious challenges to the effective implementation of contracts. Specifically, the 2015 report says that "the lack of transparency of judicial authorities in the procurement field" is a major obstacle.

"Effective implementation and enforcement is a major challenge, largely due to weak planning and corruption. Almost 30% of contract notices were cancelled, pointing to a need to improve procurement planning. Risks and shortcomings

exist at all stages of public procurement. The legal provisions on evaluating contract performance, the effectiveness and efficiency of public procurement proceedings, and contract management are in place, but implementation capacity needs to be reinforced,” the report says.<sup>5</sup>

With “Tenders of Endearment,” BIRN aims to provide relevant decision making institutions with concrete recommendations for fulfilling

the legal matters of the public procurement process in order to efficiently and effectively manage public money.

BIRN’s findings warn of the need for depolitization and functionalization of the PRB, also known as the tender court, for the increase of human capacities, the adequate training for procurement officials, and the need for centralized procurement without harming free competition.

## II. METHODOLOGY AND LEGAL FRAMEWORK

Just as it did in the 2014 report “Hidden Tenders”<sup>6</sup>, in 2015 BIRN also analysed the classification of public contracts from contracting authorities by comparing the numbers and value of contracts from the last year.

The annual comparison of data aimed to show the state of public procurement in Kosovo, whether there has been any improvement in this arena, whether the transparency is increased, how the procedures unfolded, and the state of budget expenditures compared to the previous year.

During this period, BIRN has monitored 169 contracting authorities that have performed activities on public procurement.

The monitoring was extended on two levels of governing, particularly on the local level that included **38 municipalities** and the central level that included **19 ministries, 62 independent institutions, 33 public enterprises,**

**14 independent agencies and also The Office of the Prime minister, Kosovo Assembly and the Office of the President.**

In addition, our monitoring of public procurement is also based on the analysis of these sources:

- a) Legislation that was in force until January 2016.
- b) Data from other reports and studies published in this field from local and international organizations.
- c) Articles and documents published in the media that are related to cases processed during the reporting period (January-December 2015).

Based on Public Procurement Law, public contracts are grouped according to their values, being categorized as large, medium and small contracts.<sup>7</sup>

<sup>5</sup> European Commission. Progress Report for Kosovo, November 10, 2015 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

<sup>6</sup> Monitoring Report of Public Procurement 2014 “Hidden Tenders”, February 2015 <http://birn.eu.com/en/file/show//BIRN%20Kosovo%20procurement%20-%20ENG.pdf>

<sup>7</sup> Public Procurement Law in Kosovo. 29 August 2011. pg. 24-25. <http://www.kuvendikosoves.org/common/docs/ligjet/Ligji%20per%20prokurimin%20publik.pdf>

Large-value contracts are considered those contracts to supply services whose value is equal to or greater than 125 thousand euro, and work services whose value is equal to or greater than 500 thousand euro.<sup>8</sup>

Meanwhile, medium value contracts are considered to be supply or service contracts that the estimated value of which is equal to or greater than 10 thousand euro but less than 125 thousand euro. Also, for work contracts estimated value is equal to or greater than 10

thousand euro, but less than 500 thousand euro.<sup>9</sup> Low value contracts are considered as any public contract of the estimated value which is equal to or greater than 1 thousand euro, but less than 10 thousand euro.<sup>10</sup>

For the purpose of reviewing public contracts, BIRN has monitored notices published by the contracting authorities on the official website of the PPRC, as presented in the following categories:

**Table 1. Published procurement notices 01 January-31 December 2015**

	Contract Notice	The contract award notice	Cancellation Notice	Prior Notice	Contest result notice	Notice of Projection Competition	Notice of Projection Competition-Opening of financial bids	Notice of contract cancellation	Notice for extra information or improvement of an error	TOTAL
Municipalities	2243	3023	539	7	9	10	2	33	49	5915
Institucionet e pavarura	1281	1262	584	7	2	1	0	27	27	3191
Public Enterprises	1116	1096	395	9	2	4	0	29	30	2681
Ministries	538	637	244	4	1	5	4	26	27	1486
Independent Agencies	103	203	31	11	0	0	0	6	10	364
Prime Minister's Office	9	22	2	0	0	0	0	0	0	33
Kosovo Assembly	44	27	33	0	0	0	0	0	0	104
President's Office	7	34	2	0	0	0	0	0	0	43
<b>TOTAL</b>	<b>5341</b>	<b>6304</b>	<b>1830</b>	<b>38</b>	<b>14</b>	<b>20</b>	<b>6</b>	<b>121</b>	<b>143</b>	

<sup>8</sup> Article 19.1 of Public Procurement Law

<sup>9</sup> Article 19.2 of Public Procurement Law

<sup>10</sup> Article 19.3 of Public Procurement Law

This procurement monitoring report is drafted within the legal framework set by the legislative system of public procurement in Kosovo based on Public Procurement Law Nr. 04/L-042 which was in force until 20 January 2016.

The public procurement process in Kosovo is developed under the scope of primary legislation, particularly the Public Procurement Law; and on secondary legislation that includes bylaws as guidelines and internal work regulations of relevant stakeholders such as the Public Procurement Regulatory Commission, Central Procurement Agency and Procurement Review Body.

From 22 January 2016 a new law for public procurement came into force, and contracting authorities from this date on are obliged to execute all procurement procedures with this new law.

Whereas with regards to the second legislation, there are several bylaws included such as:

- Operational Guidelines for Public Procurement of PPRC<sup>11</sup>
- Rules of Procedure for the Central Procurement Agency<sup>12</sup>
- Rules of Procedure for the Procurement Review Body<sup>13</sup>

## III. (NON) TRANSPARENCY IN PUBLICATION OF NOTICES

One of the evaluation criteria of transparency of institutions in the field of public procurement is the preliminary notification about contracts. The Contracting Authority after the final budget planning, of tenders up to 500 thousand euro, which will be tendered during one fiscal year or 12 months, should be published with a standard form at prior notice on the website of the Public Procurement Regulatory Commission of Kosovo (PPRC).

Prior notices are prepared by a procurement official and are published at the beginning of the fiscal year for all supplies, services and projects of great value.

Regarding prior notices, according to the PPRC, the Public Procurement Law states:

“When a contracting authority is aiming to give one or more **supply, service or work contracts**

on the period of the next 12 months, **which all together or alone have a value of 500 thousand euro**, regarding every mentioned category, the contracting authority will prepare a prior notice.”

On the other hand, according to Operative Guideline for Public Procurement, Article 5, prior notice assists on matters such as:

- Contribution to transparency and is in favour of economic operators;
- Allows CA (contracting authorities) to shorten minimal time limits of tenders for large contracts from 40 to 24 days;
- Prior Notice can replace the Contract Notice in restricted or negotiated procedure after publication of the Contract Notice;

11 PPRC, Operational Guidelines for Public Procurement <http://krpp.rks-gov.net/krpp/PageFiles/File/draftLS/Shqip/Udhezues%20operativ%20per%20Prokurimi%20Publik.docx>

12 Central Procurement Agency <https://aqp.rks-gov.net/sq/organizimi>

13 Procurement Review Body “Rules of Procedure for the Procurement Review Body of Kosovo” [http://oshp.rks-gov.net/repository/docs/Rregullorja\\_WEB\\_1.pdf](http://oshp.rks-gov.net/repository/docs/Rregullorja_WEB_1.pdf)

From the above table, for all institutions there were only 38 prior notices published, regardless that there were 416 contract notices with bigger values of 260.7 million euro on all levels.

This is an indication of the three outcomes that our report has concluded, and that is over 90%

of Kosovo's institutions choose to not notify on time for public contracts because they:

- are not ready for transparency,
- do not have proper planning for investments and expenditures, and
- hide data from economic operators in order to favour certain operators.

## IV. MUNICIPALITIES

Analysis of tenders in all municipalities is done through review of public procurement materials, which are published on the website of the PPRC.

Methods of monitoring and analysis of tenders has followed several levels, starting from the notification process for a contract - by which economic operators are called to compete

in the tender, award of tenders, cancelling tenders ahead of the announcement for granting a contract, up until the cancellation of the notice for granting a contract by the Procurement Review Body (PRB).

Below, there are all the notices published on the website of PPRC for the period January to December 2015, at the local level;

	Number
Contract Announcement	2,243 38%
Contract Award Announcement	3,025 51%
Annulment Announcement	539 9%
Preliminary Announcement	7 0.12%
Contest results Announcement	9 0.15%
Design contest Announcement	10 0.17%
Design contest Announcement - Disclosure of Financial offers	2 0.03%
Contrat annulment Announcement	33 0.56%
Announcement for extra information or correcting mistakes	49 0.83%
<b>TOTAL</b>	<b>5,915 100%</b>

In some cases, published reports have been cancelled ahead of the announcement of the awarded contract. More specifically, from 2,234 notices for contracts, 24% or 539 of them were cancelled before granting them.

Detailed data for cancellations of contracts before granting them on local level are presented in the following table;

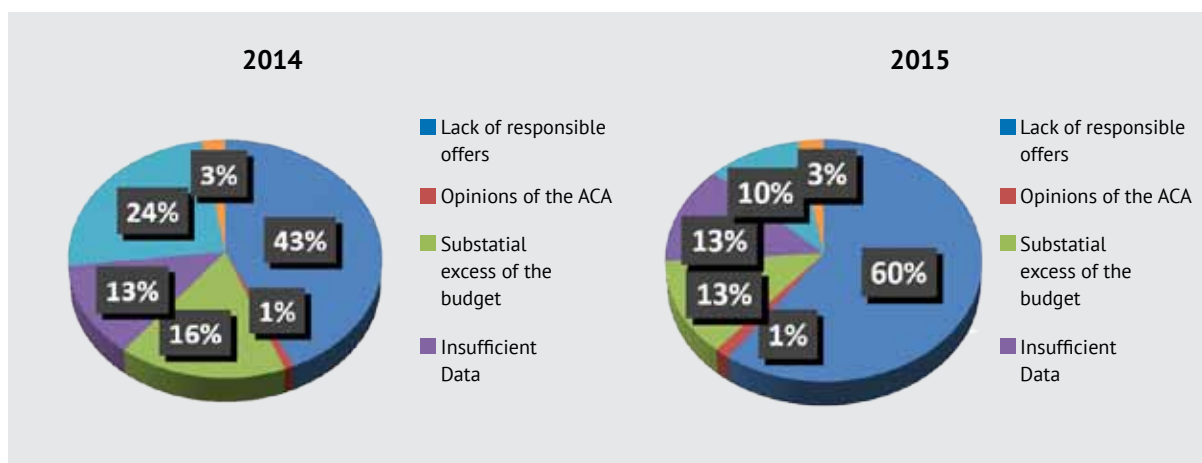
Annulment	Number
In lack of responsible offers	322 60%
Anti Corruption Agency Opinion	8 1%
Tejkalim substancial i buxhetit	69 13%
Substantial excess of the budget	71 13%
Insufficient information	54 10%
Other	15 3%
<b>TOTAL</b>	<b>539</b> <b>100%</b>

Notice cancellation rate from 2014 to 2015 did not change much, as it has a difference of only 1%. During 2014, 23% of the total contract notices were cancelled. Whereas in 2015, 24% of notices were cancelled.

On the other hand, changes from the previous year are noticed in the reasons for cancellation. It is noticed that the the category of cancellations **in absence of general bidders**,

**has marked an increase from 43% in 2014 to 60% in the following year.**

In 2015 the category of other cancellations - including cancellations before the opening of offers and technical errors of contracting authorities, is significantly **reduced to 10% compared to 2014 which was 24% of the total number of cancellations.**



The number of cancellations because of the opinion of Anti-Corruption Agency (ACA) cannot be neglected, with a 1% of the total notices for 2015, same as it was in 2014.

#### **The opinions of the Anti-Corruption Agency:**

The importance of ACA opinions on the contracts of municipalities of Kosovo is reflected in the extent of implementation of these recommendations. From 22 recommendations released by ACA in 2015, municipalities have considered only 8 of them by doing relevant cancellations before awarding contracts.

Municipalities that respected the opinion of ACA are: Municipality of Gjilan<sup>14</sup> <sup>15</sup> in two cases, Municipality of Prishtina<sup>16</sup> in one case, Municipality of Skenderaj<sup>17</sup> in one case and that of Vushtrri<sup>18</sup> in one case.

At the same time, despite that some municipalities had cancelled notices based on the opinion of Anti-Corruption Agency, this was not reflected on the standard forms. Such cases had happened on three tenders in the municipality of Deçan<sup>19</sup>, three in the municipality of Ferizaj<sup>20</sup> <sup>21</sup> <sup>22</sup>, one in the municipality of Graçanica<sup>23</sup>, three in the municipality of Leposaviq<sup>24</sup>, one in the municipality of Rahovec<sup>25</sup> and two in the municipality of Lipjan<sup>26</sup> <sup>27</sup>.

On the other hand, the municipality of Zveçan<sup>28</sup> <sup>29</sup> on two occasions completely disregarded the opinions of ACA and continued awarding contracts.

14 Anti-Corruption Agency "Opinion for Municipality of Peja", June 2015 [http://www.ëë.akk-ks.org/repository/docs/opinion-dpkpp-Komuna\\_e\\_Pejas\\_\(1\)\\_461424.pdf](http://www.ëë.akk-ks.org/repository/docs/opinion-dpkpp-Komuna_e_Pejas_(1)_461424.pdf)

15 Anti-Corruption Agency "Opinion of Municipality of Peja", October 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Pejas\\_380430.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Pejas_380430.pdf)

16 Anti-Corruption Agency "Opinion for Municipality of Prishtina", December 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Prishtines\\_96306.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Prishtines_96306.pdf)

17 Anti-Corruption Agency "Opinion for Municipality of Skenderaj", October 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Skenderajt\\_913132.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Skenderajt_913132.pdf)

18 Anti-Corruption Agency "Opinion for Municipality of Vushtrri", December 2015 [http://www.akk-ks.org/repository/docs/opinion-dpki-K.Vushtrrise-Fadil\\_Muzaqi\\_35226.pdf](http://www.akk-ks.org/repository/docs/opinion-dpki-K.Vushtrrise-Fadil_Muzaqi_35226.pdf)

19 Anti-Corruption Agency "Opinion for Municipality of Deçan", July 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Decanit\\_515314.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Decanit_515314.pdf)

20 Anti-Corruption Agency "Opinion for Municipality of Ferizaj", August 2015 [http://www.akk-ks.org/repository/docs/01-2254-15-dpkpp-opinion-K.Ferizajt\\_727597.pdf](http://www.akk-ks.org/repository/docs/01-2254-15-dpkpp-opinion-K.Ferizajt_727597.pdf)

21 Anti-Corruption Agency "Opinion for Municipality of Ferizaj", August 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Ferizajt\\_508268.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Ferizajt_508268.pdf)

22 Anti-Corruption Agency "Opinion for Municipality of Ferizaj", January 2015 <http://www.akk-ks.org/repository/docs/01-100-2015%20Opinion%20Komuna%20e%20Ferizajt.pdf>

23 Anti-Corruption Agency "Opinion for Municipality of Graçanica", August 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Graçanices\\_820378.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Graçanices_820378.pdf)

24 Anti-Corruption Agency "Opinion for Municipality of Leposaviq", October 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Leposaviqit\\_581383.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Leposaviqit_581383.pdf)

25 Anti-Corruption Agency "Opinion for Municipality of Rahovec", June 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-Komuna\\_e\\_Rahovecit\\_\(1\)\\_768463.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-Komuna_e_Rahovecit_(1)_768463.pdf)

26 Anti-Corruption Agency "Opinion for Municipality of Lipjan", March 2015 <http://www.akk-ks.org/repository/docs/opinion-K.Lipjanit-dpkpp.pdf>

27 Anti-Corruption Agency "Opinion for Municipality of Lipjan", March 2015 <http://www.akk-ks.org/repository/docs/opinion-K.Lipjanit-dpkpp.pdf>

28 Anti-Corruption Agency "Opinion for Municipality of Zveçan", December 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Zvecanit\\_457230.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Zvecanit_457230.pdf)

29 Anti-Corruption Agency "Opinion for Municipality of Zveçan", October 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Zvecanit\\_2810201515052600\\_610549.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-K.Zvecanit_2810201515052600_610549.pdf)

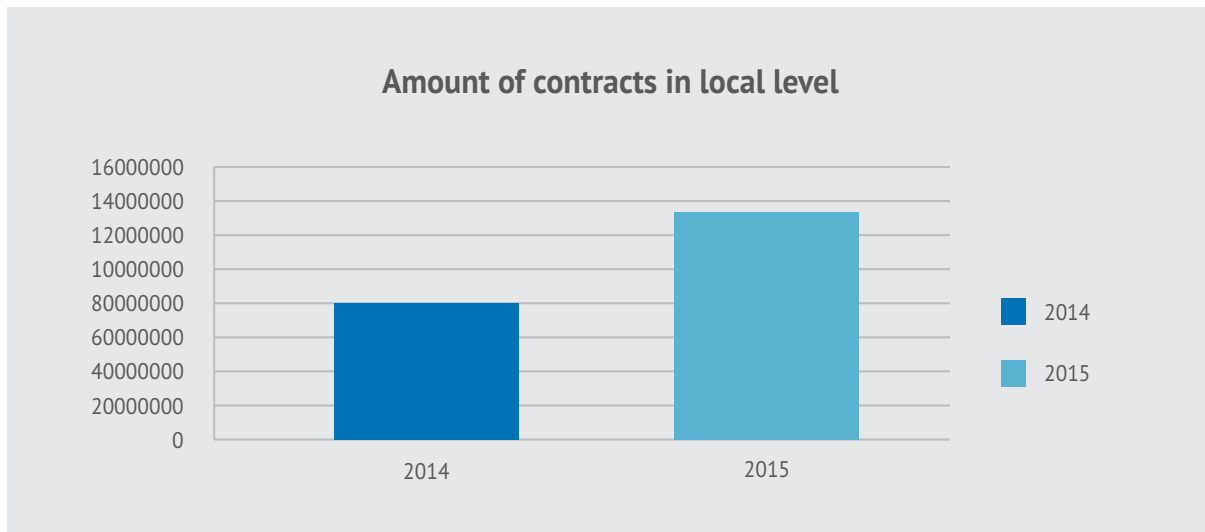


	Value of contracts	Number, amount
Big	Big	91 3%
	Amount of big contracts	42,140,507 26%
Medium	Medium	1,530 51%
	Amount of medium contracts	108,081,269 68%
Small	Small	1,402 46%
	Amount of small contracts	9,742,930 6%
	Total number of contracts	Total value of contracts
	3,023	159,964,706
	100%	100%

From 5,915 published notices, 3,023 of them were for awarding contracts, among which the category with medium contracts leads the way with 1,530 or 51% notices for granting contracts. Afterwards, the category of small contracts comes in line with 1,420 or 46% of notices for contract grants, whereas major contracts follow with 91 notices or 3% of the overall.

The category of small contracts leads with regard to monetary value as well with a share

of 68% or 108 million euro. After them, major contracts are ranked as second with a share of 26% or 42 million euro, whereas on the last category there are small contracts with a share of 6% or 9.7 million euro from a total of 160 million euro. Just as with the numbers, the monetary values as well throughout 2015 noticed an increase of contracts from local level, compared to the previous year.



Granting contracts has increased in numbers by 19%. More specifically, from 2,450 contracts in 2014, the number of granted contracts has increased to 3,023 during 2015, whereas the value of granted contracts increased by 43%; from 90.4 million in 2014 to 160 million in 2015.

During 2015, the General Audit Office has uncovered numerous legal and procurement procedures violations, other violations of contractual conditions as well as irresponsible spending of budget in the municipalities of Kosovo.

According to audit reports, some municipalities such as that of Kaçanik<sup>30</sup>, Zvečan<sup>31</sup>, Leposaviç<sup>32</sup> Zubin Potok<sup>33</sup> did not have a procurement plan at all.

In other municipalities such as in Graçanica<sup>34</sup> in 5 cases, Viti<sup>35</sup> in one case, Junik<sup>36</sup> in one case, Deçan<sup>37</sup> in one case, Kaçanik<sup>38</sup> in 28 cases, and Mitrovicë<sup>39</sup> in 4 cases have had delays on job procedures and the conditions of the contract were not respected, which proves the inadequacy of the Contract Management and failure of municipalities to penalize Economic Operators.

30 General Audit Office, "The audit report on the financial statements of the municipality of Kaçanik for the year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/2.\\_Kacanik\\_Raporti\\_i\\_auditimit\\_-\\_ALB\\_177720.pdf](http://www.oag-rks.org/repository/docs/2._Kacanik_Raporti_i_auditimit_-_ALB_177720.pdf)

31 General Audit Office, "The audit report on the financial statements of the municipality of Zvecan for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_raporti\\_final\\_zvecan\\_804282.pdf](http://www.oag-rks.org/repository/docs/sq_raporti_final_zvecan_804282.pdf)

32 General Audit Office, "The audit report on the financial statements of the municipality of Leposaviq for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Leposavic\\_414164.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Leposavic_414164.pdf)

33 General Audit Office, "The audit report on the financial statements of the municipality of Zubin Potok for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Zubon\\_Potok\\_471482.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Zubon_Potok_471482.pdf)

34 General Audit Office, "The audit report on the financial statements of the municipality of Graçanica for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final-Graçanica\\_2014\\_257937.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final-Graçanica_2014_257937.pdf)

35 General Audit Office, "The audit report on the financial statements of the municipality of Vitia for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/6.\\_Vitia\\_Raporti\\_i\\_auditimit\\_-\\_ALB\\_469557.pdf](http://www.oag-rks.org/repository/docs/6._Vitia_Raporti_i_auditimit_-_ALB_469557.pdf)

36 General Audit Office, "The audit report on the financial statements of the municipality of Junik for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/5.\\_Junik\\_Raporti\\_i\\_Auditimit\\_-\\_ALB\\_569266.pdf](http://www.oag-rks.org/repository/docs/5._Junik_Raporti_i_Auditimit_-_ALB_569266.pdf)

37 General Audit Office, "The audit report on the financial statements of the municipality of Decan for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/4.\\_Decan\\_Raporti\\_i\\_Auditimit\\_-\\_ALB\\_396527.pdf](http://www.oag-rks.org/repository/docs/4._Decan_Raporti_i_Auditimit_-_ALB_396527.pdf)

38 General Audit Office, "The audit report on the financial statements of the municipality of Kaçanik for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/2.\\_Kacanik\\_Raporti\\_i\\_auditimit\\_-\\_ALB\\_177720.pdf](http://www.oag-rks.org/repository/docs/2._Kacanik_Raporti_i_auditimit_-_ALB_177720.pdf)

39 General Audit Office, "The audit report on the financial statements of the municipality of Mitrovica for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KMT\\_2014\\_Shqip\\_989613.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KMT_2014_Shqip_989613.pdf)

Contracts without procurement procedures that proves inadequacy on the spending of public money has happened in the municipality of Peja<sup>40</sup>, Partesh<sup>41</sup>, Obiliq<sup>42</sup>, and Rahovec<sup>43</sup>. Among these inadequacies on budget spending there are payments of services without the service being done at all, as it happened in the municipalities of Gračanica<sup>44</sup> and Shtërpce<sup>45</sup>.

In addition, in this category of violations there are also the binding of contracts that have surpassed the preplanned budget for that particular contract as it happened with the municipalities of Prizren<sup>46</sup>, Peja<sup>47</sup>, Hanit të

Elezit<sup>48</sup>, Rahovec<sup>49</sup> and Klina.<sup>50</sup> Poor planning and violations on the procurement law according to the auditor are shown on some cases where municipalities have used over 50% of small contracts quotas with the same economic operators and splitting tenders on smaller tenders with a quota below the 10 thousand euro value where there is no need for tender notices, and consequently avoiding open procurement procedures as happened in cases in the municipalities of North Mitrovica<sup>51</sup>, Drenas<sup>52</sup>, Klina<sup>53</sup>, Gjilan<sup>54</sup>, Ferizaj<sup>55</sup>, Lipjan<sup>56</sup>, Kamenica<sup>57</sup> and Mitrovica<sup>58</sup>.

40 General Audit Office, "The audit report on the financial statements of the municipality of Peja for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Peja\\_188865.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Peja_188865.pdf)

41 General Audit Office, "The audit report on the financial statements of the municipality of Partesh for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Partesh\\_530962.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Partesh_530962.pdf)

42 General Audit Office, "The audit report on the financial statements of the municipality of Obiliq for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Obiliq\\_443309.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Obiliq_443309.pdf)

43 General Audit Office, "The audit report on the financial statements of the municipality of Rahovec for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KRA\\_2014\\_Shqip\\_228583.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KRA_2014_Shqip_228583.pdf)

44 General Audit Office, "The audit report on the financial statements of the municipality of Gračanica for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final-Gracanica\\_2014\\_257937.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final-Gracanica_2014_257937.pdf)

45 General Audit Office, "The audit report on the financial statements of the municipality of Shtërpce for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Shterpce\\_2014\\_246831.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Shterpce_2014_246831.pdf)

46 General Audit Office, "The audit report on the financial statements of the municipality of Prizren for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Prizren\\_327559.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Prizren_327559.pdf)

47 General Audit Office, "The audit report on the financial statements of the municipality of Peja for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Peja\\_188865.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Peja_188865.pdf)

48 General Audit Office, "The audit report on the financial statements of the municipality of Hani i Elezit for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_Hani\\_i\\_E\\_282786.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_Hani_i_E_282786.pdf)

49 General Audit Office, "The audit report on the financial statements of the municipality of Rahovec for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KRA\\_2014\\_Shqip\\_228583.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KRA_2014_Shqip_228583.pdf)

50 General Audit Office, "The audit report on the financial statements of the municipality of Klina for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KKL\\_2014\\_Shqip\\_570029.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KKL_2014_Shqip_570029.pdf)

51 General Audit Office, "The audit report on the financial statements of the municipality of Mitrovica for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/sq\\_Raporti\\_Final\\_M\\_Veriore\\_846873.pdf](http://www.oag-rks.org/repository/docs/sq_Raporti_Final_M_Veriore_846873.pdf)

52 General Audit Office, "The audit report on the financial statements of the municipality of Glogoc for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KDR\\_2014\\_Shqip\\_27249.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KDR_2014_Shqip_27249.pdf)

53 General Audit Office, "The audit report on the financial statements of the municipality of Klina for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KKL\\_2014\\_Shqip\\_570029.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KKL_2014_Shqip_570029.pdf)

54 General Audit Office, "The audit report on the financial statements of the municipality of Gjilan for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KGL\\_2014\\_Shqip\\_785801.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KGL_2014_Shqip_785801.pdf)

55 General Audit Office, "The audit report on the financial statements of the municipality of Ferizaj for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KFE\\_2014\\_Shqip\\_627345.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KFE_2014_Shqip_627345.pdf)

56 General Audit Office, "The audit report on the financial statements of the municipality of Lipjan for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KLIP\\_2014\\_Shqip\\_655308.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KLIP_2014_Shqip_655308.pdf)

57 General Audit Office, "The audit report on the financial statements of the municipality of Kamenica for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KKM\\_2014\\_Shqip\\_592097.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KKM_2014_Shqip_592097.pdf)

58 General Audit Office, "The audit report on the financial statements of the municipality of Mitrovica for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_KMT\\_2014\\_Shqip\\_989613.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_KMT_2014_Shqip_989613.pdf)

## The cases of violations with tenders that were reported in our media

### 1. During 2015 BIRN reported about tender misconducts in several Kosovo municipalities.

Gazeta Jeta ne Kosove revealed that the Municipality of Mitrovica signed a public contract with “Ariani” a company that is owned by the father and the uncles of the procurement director, Besnik Beka. Apart from the family relations, the Municipality of Mitrovica based on auditors’ findings, didn’t turn in a notice for contract giving to PPRC. “Ariani” company was also paid twice as much as any other company for the same job. Kajtaz Peci, owner of the competing company “Unioni”, said to BIRN about the gains of “Ariani” company that “the apple doesn’t fall far from the tree”.<sup>59</sup>

The municipality even tried to blame the PPRC saying that because of technical issues, the PPRC didn’t publish the notice for the contract on its website.

After Gazeta Jeta ne Kosove reported, and after the request to monitor this tender, the PPRC proved that the Mitrovica Municipality had violated the law during the procurement and had violated the ethics by giving false declarations for technical problems of their website.

After this the PPRC asked from the Mitrovica Municipality to avoid violations, and if the PPRC finds another violation of the law by the officials of Mitrovica Municipality it would take legal measures.<sup>60</sup> Gazeta Jeta ne Kosove valued the PPRC report of the monitoring of the case as an amnesty for the law violation that the Municipality of Mitrovica had done.<sup>61</sup>

### 2. Another municipality, Peja, during 2015 faced many accusations for a tender worth 2.5 million euro for fixing a protecting wall and the pathway of Lumbardh.

This tender was given to “Enex Trade” company with false references, according to which, this company had built a private apartment building, and ACA proved that this building was built by another company, not “Enex Trade”. The mayor of Peja, Gazmend Muhaxheri tried to cancel the tender even though the contract was signed, saying that they had a lack of budget, but PRB didn’t allow it.

Contradictions between two expertise reports done by a PRB expert took this tender twice for re-evaluation.

After the first re-evaluation, the tender was given to the same company “Enex Trade”, who applied in a consortium with another company. The second re-evaluation by the municipality resulted with the annulling of the tender – because it was evaluated that for this tender only one economic operator was responsible.<sup>62</sup>

But the evaluation to give the tender for the second time to the company “Enex Trade” was done by an evaluation committee that was illegal and unprofessional: Gezim Lajqi, chief of logistics with a firefighter degree, Dardan Muhaxheri who was appointed twice to the evaluation committee, which is illegal, and Sokol Kanolli, assistant for filing documents in the Procurement Office, were the three committee members who evaluated the 2.5 million euro tender, for the second time.

When it was thought that everything was over with Peja’s Lumbardh, economic operators complained again to the PRB. This tender hasn’t been finalized for a year now, despite the fact that Peja Municipality decided to annul it.

59 Article “Secret tender for father”, September 2015 <http://kallxo.com/gjnk/tender-sekret-per-babane/>

61 PPRC, “Warning for Mitrovica Municipality”, September 2015 [https://krpp.rks-gov.net/krpp/PageFiles/File/Dep\\_MM/Shqip/2015/njoftim-25.09.2015.pdf](https://krpp.rks-gov.net/krpp/PageFiles/File/Dep_MM/Shqip/2015/njoftim-25.09.2015.pdf)

62 Article “Family tender puts Mitrovica and PPRC in a conflict”, September 2015 <http://kallxo.com/gjnk/tenderi-familjar-fut-ne-konflikt-mitrovicen-me-krpp-ne/>

Each party demands its rights, the third expert of PRB evaluated that for this tender only one economic operator is responsible and that the tender should be annulled.<sup>63</sup>

The PRB Reviewing Panel doesn't think the same, despite the fact that the company "Enex Trade" was declared irresponsible by two experts. With only one responsible offer for this tender, it was decided that the case would go for re-evaluation a third time.<sup>64</sup>

### **3. The municipality of Skenderaj is furnished with fuel by the company of a PDK assembly member in the Municipal Assembly, Musa Hajdari.**

Before he became an MP, Musa Hajdari was a municipality counsellor since 2007, while the position that he currently holds was previously held by his brother Hajdar Hajdari. Musa and Hajdar as co-owners of "Alfa Trade" furnished the municipality with fuel in 2012.

According to the municipality, this wasn't a conflict of interest because Musa Hajdari had no role in the procurement procedures and on the other hand the company had fulfilled all the criteria, and thus it was awarded with a tender. ACA is examining the case to see whether a conflict of interest exists, where an MP can't be an owner or co-owner in a private company.<sup>65</sup>

### **4. Affiliates of PDK in Drenas weren't left without tenders as well. "Trasing Group" company was awarded with a tender for paving, with a value of 1.8 million euro by the former employee of this company Betim Berisha, today the Director of Urbanism in the Drenas Municipality.**

"Trasing Group" turned out to be the company of Betim Berisha's uncle, Demir Berisha, who before his nephew became Director of Urbanism, was the manager of the company.

"Trasing group" had won tenders from this municipality even in earlier years, because of the family ties with people in power. The counsellor of this company Ferat Shala, is the deputy-minister of Environment and Spatial Planning, while Demir Berisha's sister, Sala Berisha-Shala, and Ferat Shala's wife, are a PDK MP and a member of the Parliamentary Commission for Economic Development for the party.<sup>66</sup>

### **5. Another investigation that shows preference in awarding tenders for companies was used by north Kosovo municipalities when in 2015, north Mitrovica, Zvecan, and Zubin Potok started using budgets for capital investments.**

Investments of 6.2 million euro for paving roads was won without competition by "RAD" company of Radule Stevic, creating a monopoly situation.

Favour for this company was done by Zvecan municipality by violating the law on Public Procurement, with the request that the references of previous work conducted only in the north municipalities, that only "RAD" company had done.<sup>66</sup>

63 Article "Chaotic tender of Lumbardh in Peja stuck in PRB", May 2016 <http://kallxo.com/gjnk/tenderi-kaotik-lumbardhit-ne-peje-ngec-ne-oshp/>

64 Decision of Procurement Review Body, Building a protecting wall and the Lumbardh pathway – retender, May 2016 [https://oshp.rks-gov.net/repository/docs/vendimet/2016/50-51-52-53-16vendim\\_1.PDF](https://oshp.rks-gov.net/repository/docs/vendimet/2016/50-51-52-53-16vendim_1.PDF)

65 Article "Several thousand euro for the PDK MP's company", October 2015 <http://kallxo.com/gjnk/qindra-mijera-per-firmen-e-asamblisit-te-pdk-se/>

66 Article "Drenas paved by the company tied with PDK people", November 2015 <http://kallxo.com/gjnk/drenasi-asfaltohet-nga-firma-e-lidhur-me-njerez-te-pdk-se/>

# INDEPENDENT INSTITUTIONS

Within the scope of independent institutions there are 62 contracting authorities included by changing the structure of the classification from 82 as it was in 2014. Also, 19 agencies are divided by category of independent institutions, which were individually examined.

Independent institutions include the justice organs, institutions of higher education, regulative authorities, police, custody, tax administration and health services.

The table below shows the classification of all independent institution's notices published on the webpage of PPRC from 1 January 2015 until 31 December 2015.

	Number
Contract Announcement	1,281 40%
Contract Award Announcement	1,262 40%
Annulment Announcement	584 18%
Preliminary Announcement	7 0.22%
Contest results announcement	2 0.06%
Design contest announcement	1 0.03%
Contract annulment announcement	27 0.85%
Announcement for extra information or correcting mistakes	27 0.85%
<b>TOTAL</b>	<b>3,191</b> <b>100%</b>

From 3,191 published notices, contract notices as a call for tenders and notices that result with signature of contracts, have an equal share of 40%.

In several cases, published notices were cancelled before awarding the contract. From 1,281 contract notices, there were 584 or 46% of them cancelled before granting them.

Annulments	Number
In lack of responsible offers	369 63%
Anti Corruption Agency Opinion	3 1%
Substantial excess of the budget	43 7%
Insufficient information	78 13%
Others	69 12%
Procurement Review Body	22 4%
<b>TOTAL</b>	<b>584</b> <b>100%</b>

The most common reason for cancellation appears to be a lack of bids. From 584 cancellation notices, 369 or 63% of the notices were cancelled due to lack of bids. This data suggests that the criteria established in the tender dossier often lack the precise description and clear documents that are required, and in some cases this also happens due to favouring certain economic operators.

**During 2015, the Anti-Corruption Agency issued 11 opinions with recommendations for cancellation of the procurement activity.** Only two opinions were taken into account by public institutions, one activity was cancelled by QKUK<sup>67</sup> and one by Ferizaj Hospital<sup>68</sup>. On the other hand, 9 other recommendations remained without being reviewed by 7 institutions.

Procurement officials, because of the ACA's opinion did not declare that they annulled the University Hospital Clinical Service tender<sup>69</sup> <sup>70 71 72 73</sup> in four cases, Tax Administration of Kosovo<sup>74</sup> in one case, Kosovo Judicial Council Secretariat<sup>75</sup> in one case, Regional Hospital of Gjilan<sup>76</sup> in one case, and Regional Hospital of Mitrovica<sup>77</sup> in one case. There is another case where ACA gave the opinion for the annulment of the procurement activities to the tenders

court itself which is the Procurement Review Body<sup>78</sup>, however, it disregarded this opinion and continued with procurement procedures. The opinion was issued over the tender for translation services from Albanian language to Serbian-Croat language and vice-versa, where it said that the Procurement Review Body has violated the law of procurement by accepting references from economic operators from 2015 as well, whereas they should have only been from the years 2012, 2013 and 2014.

Through e-mail, BIRN requested from PRB to offer clarifications regarding the ACA's opinion, however PRB did not reply. Nevertheless, BIRN was directed to the PPRC requiring a legal interpretation whether PRB should have annulled that procurement activity, since ACA had recommended it. In its response the PPRC said that the opinions of ACA are not obligative to be applied, but they are welcomed.

*“The opinions of other institutions, including that of ACA are not obligative according to the Public Procurement Law, however they should be taken into consideration as long as they are reasonable and have legal backup”* said the on the PPRC's answer.

67 Article “Boss of North tenders”, March 2016 <http://kallxo.com/gjnk/bosi-i-tendereve-te-veriut/>

68 Anti-Corruption Agency “Opinion for University Clinical Center of Kosovo” October 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-QKUK\\_388578.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-QKUK_388578.pdf)

69 Anti-Corruption Agency “Opinion for Ferizaj Hospital, June 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-Spitali\\_Ferizaj\\_\\_\(2\)\\_494511.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-Spitali_Ferizaj__(2)_494511.pdf)

70 Agjencia kundër korrupsionit “OpinionShërbimit Klinik Spitalor Universitar”, dhjetorë 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-Sherbimi\\_Spitalor\\_Klinik\\_dhe\\_Universitar\\_i\\_Kosov%C3%ABs\\_528026.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-Sherbimi_Spitalor_Klinik_dhe_Universitar_i_Kosov%C3%ABs_528026.pdf)

71 Agjencia kundër korrupsionit “OpinionShërbimit Klinik Spitalor Universitar”, tetorë 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-QKUK\\_388578.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-QKUK_388578.pdf)

72 Agjencia kundër korrupsionit “OpinionShërbimit Klinik Spitalor Universitar”, prill 2015 <http://www.akk-ks.org/repository/docs/opinion-%20Sherbimi%20spitalor%20Klinik%20Universitar%20.pdf>

73 Agjencia kundër korrupsionit “OpinionShërbimit Klinik Spitalor Universitar”, prill 2015 <http://www.akk-ks.org/repository/docs/opinion-dpkpp-Sherbimi%20Spitalor%20Klinik%20Universitar.pdf>

74 Agjencia kundër korrupsionit “OpinionAdministratës Tatimore rë Kosovës,nëntorë 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-ATK\\_159605.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-ATK_159605.pdf)

75 Agjencia kundër korrupsionit “OpinionKëshillit Gjyqsorë të Kosovës,maj 2015 <http://www.akk-ks.org/repository/docs/opinion-dpkpp-SKGJK.pdf>

76 Agjencia kundër korrupsionit “OpinionSpitalit Rajonal të Gjilanit, maj 2015 <http://www.akk-ks.org/repository/docs/01-1296-2015spitali%20i%20Gjilanit.pdf>

77 Agjencia kundër korrupsionit “OpinionSpitalit Rajonal të Mitrovicë, janar 2015 <http://www.akk-ks.org/repository/docs/opinion-%20Spitali%20Rajonal%20,Dr.Sami%20Haxhibeqiri-Mitrovicë.pdf>

78 Agjencia kundër korrupsionit “Opinion për OSHP”, mars 2015 <http://www.akk-ks.org/repository/docs/opinion%20OSHP-dpkpp.pdf>



It looks like such an opinion was not reasonable enough for PRB, who continued with its procurement procedures. Throughout 2015, most contracts were signed by independent institutions. From the overall number of contracts given by these institutions, 799 of

them are small contracts, meaning that they make up 63% of the total contracts.

Medium contracts are 384 or 30% of the total, whereas big contracts are the least in number with 79 such contracts or 6% of the total.

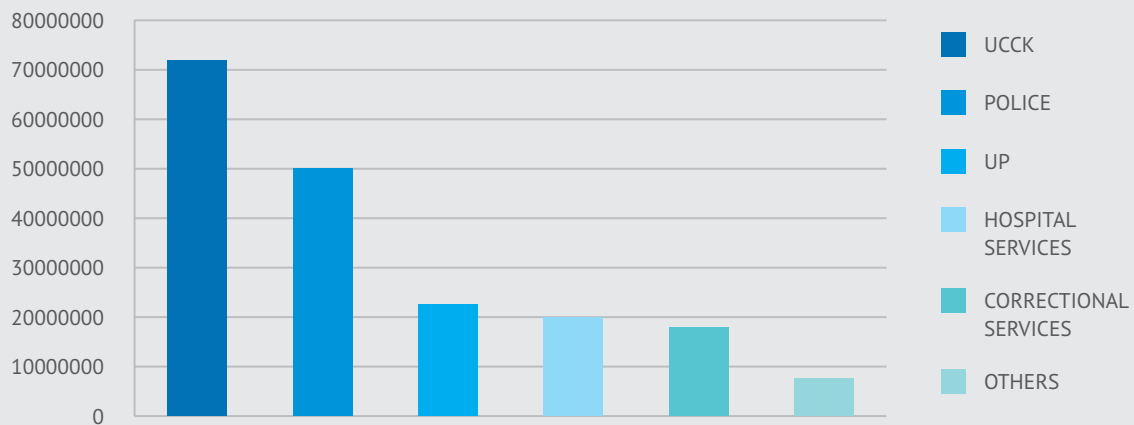
The table below shows details of the number and value of contracted independent institutions for the period between January-December 2015.

	Value of contracts	Number, amount
Big	Big	79 6%
	Amount of big contracts	25,057,910 57%
Medium	Medium	384 30%
	Amount of medium contracts	14,742,572 34%
Small	Small	799 63%
	Amount of small contracts	4,200,221 10%
	Total number of contracts	Total value of contracts
	1,262	44,000,703
	100%	100%

Regarding the value of contracts, the situation is different in comparison with their number. In this category major contracts lead with a share of 57 percent, with the monetary value of 25 million euro. Middle sized contracts follow with a share of 30 percent or 14.7 million euro, as well as smaller contracts with participation of 10 percent or 4.2 million euro. In the scope of contracts with higher value the University

Clinical Centre leads with 7.2 million euro or 28 percent, Kosovo Police with 5 million euro, or 20 percent, University of Pristina, with 2.4 million euro, or 10 percent, Clinical Service Hospital with 2 million euro, or 8 percent, KCS with 1.8 million or 7 percent, the Student Centre with 1.2 million euro, or 5 percent of the total of 25 million euro big contracts.

### Big contracts of independent institutions in 2015



Some of the companies that have benefited from millions of euro with these large contracts are public institutions and are listed below:

Companies	Owner	Institution	Contract Title	Amount
Ko-Med Triomed Exclusive Pharma Medica-Ks Made Kos	Arben Ismajli Ram Idrizaj Artrin Bajrami Bedri Buzuku Ylber Saliu	QKUK	Supply from essential medicines list	2,548,213
Meditech	Agron Sadiku	QKUK	Supply with cytostatic	2,102,400
Tre Pharm Meditech Redoni HM	Mergim Prishtina Agron Sadiku Fisnik Ymeri	QKUK	Supply from essential medicines list	1,033,075
Blendi	Shaip Rama	QKUK	Supply with toners	315,392
Made Kos	Bedri Buzuku	QKUK	Supply of Medical Inventory	222,500

Atom Med Made Kos	Bekim Murati Bedri Buzuku	QKUK	Supply from essential medicines list	216,791
Ejona	Hysni Prevlukaj	QKUK	Servicing and maintenance of elevators in QKUK	207,360
Medica - KS	Artrin Bajrami	QKUK	Servicing and maintenance of equipment in Radiotherapy	196,320
Amitech Copy Service InterSoft-a Computer	Bujar Shurdhaj	QKUK	Pay per print supply and maintenance of Toshiba photocopiers	167,500
Keis Pharmaceuticals	Shkelqim Kabashi	QKUK	Supply of expendable material for Biochemistry	154,675
			Total	7,164,226

Companies	Owner	Institution	Contract Title	Amount
KATANA	Skender Ruhani	Kosovo Police	Supply with spray, tear gas and grenades for the Kosovo Police	1,600,286
KATANA	Skender Ruhani	Kosovo Police	Top water supply for Kosovo Police	1,428,960
AUTEKNIK BAHOLLI	Rexhep Baholli	Kosovo Police	Supply with operational vehicle for IEDD	353,116
Reload	Shpend Zenuni	Kosovo Police	Police Supply of equipment (weapons) - 1, 2, 3	352,535

CREA-KO	Avni Ternava	Kosovo Police	System Maintenance of PRIMS	300,000
PBC KOSOVA	Bashkim Selmani	Kosovo Police	Supply with licenses and computer software - reevaluation part 1	300,000
INFRA PLUS & FERPETROL		Kosovo Police	Construction of the closed type garage at camp Vrella	295,600
DEKORAL & EURO CONSTRUCTION	Gani Osmanaj	Kosovo Police	The renovation of the former administration building of the KP	283,298
VIRTUO	Glauk Hoxha	Kosovo Police	Supply with licenses and computer software - Retender	198,163
			<b>Total</b>	<b>5,111,958</b>

Companies	Owner	Institution	Contract Title	Amount
ADA Group & Altrade	Shpetim Musliu	University of Prishtina	Construction of the Deans Object of the Faculty of Medicine	1,886,787
Enex Trade Loshi Company Rexha & AF Construction	Visar Kelmendi Samir Rexha Shefqet Loshaj	University of Prishtina	Renovimi i Amfiteatrit 408 të FNA-së	356,723
Botec		University of Prishtina	Supplies of information technology for the needs of the University Hasan Prishtina	173,063
			<b>Total</b>	<b>2,416,573</b>

Companies	Owner	Institution	Contract Title	Amount
Santepharma Exclusive Pharma Sinorg	Milaim Abdullahu Rame Idrizaj Shefqet Mehmetukaj	Hospital Clinical Service	Supply with films and accompanying equipment	1,358,401
Kosova Med	Xhavit Asallani	Hospital Clinical Service	Supply with films and accompanying equipment	623,301
			<b>Total</b>	<b>1,981,702</b>

Companies	Owner	Institution	Contract Title	Amount
Beni Dona Hajdini Commerc Kualiteti	Musa Leku Ragip Mustafa	Correctional Service	Supply of food (fruit, vegetables, flour, bread and meat) for KCS institutions	721,623
Beni Dona	Ragip Mustafa	Correctional Service	Supply with cigarettes to inmates - Canteen	538,590
Loshi Design	Valmir Loshi	Correctional Service	Renovation of the interior of the pavilion 5 Correctional Center in Dubrava	283,088
Unikat	Zeqir Qollaku Ahmet Kuqi	Correctional Service	Supply with uniforms and shoes for KCS	238,037
			<b>Total:</b>	<b>1,781,338</b>

Companies	Owner	Institution	Contract Title	Amount
Standard Plus	Azem Lima	Students Center	Construction of dormitory nr. 8 Pristina	1,031,233
Mullisi	Enver Hajdari	Students Center	Supply with bread and burek for the needs of Students Center	215,000
			<b>Total:</b>	1,246,233

During 2015, the Kosovo Police finally entrusted the Central Procurement Agency (CPA) with procurement activity for the supply of vehicles started since 2011.

CPA is an independent agency responsible for carrying out the procurement activities for budgetary institutions with is founded by the Ministry of Finances for professional expertize reasons, efficiency of the cost and efficiency of other legal matters.<sup>79</sup>

CPA has competences to do two kinds of procurement:

- Common procurement with the request of Contracting Authorities;
- Common procurement for Contracting Authorities with an order by the Finances Ministry

The Kosovo Police asked CPA to lead the procurement procedures, while the director of CPA Mursel Rracaj explained to BIRN how this procurement activity was developed:

“Kosovo Police has been facing problems of tendering cars for six years. Fulfilling this procurement activity the CPA has achieved successfully and in accordance with the old law with the request of the Contracting Authority, the vehicles contract is being implemented,” said Rracaj.

CPA contracted 219 patrolling vehicles for the Kosovo Police that can't be bought immediately, but based on needs with a framework contract for 36 months valued at 4.4 million euro by “Porsche Kosova” company.<sup>80</sup>

79 Central Procurement Agency <https://aqp.rks-gov.net/sq/rreth-aqp-se>

80 PPRCC “Notice”, August 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtID=VieëNotices&ID=104156>

“Gazeta Jeta ne Kosove” investigated the negotiated tender without publication worth 3.3 million euro of the University of Prishtina (UP) with the Macedonian company “Tebernakul” for providing scientific books, a contract that only the Medical Faculty gained from. Other faculties were supposed to gain from this contract as well but that didn’t materialise. The Economic Faculty and the Philology Faculty had never requested to be equipped with scientific books, while the Physical Education Faculty had no knowledge of this contract.<sup>81</sup>

The suspicious contract negotiated without publication from UP and MEST for being supplied with scientific books started in 2012 when Muje Rugova was rector.<sup>82</sup>

Another investigation of Gazeta JnK, in February 2015 showed that UP had continued misusing the budget for official spending material, buying with a more expensive price than the market price.<sup>83</sup>

For a marker, that in the market costs 0.40 cents, UP paid 1.5 euro, for two years. Likewise, for 500 papers that can be bought for 2.7 euro, UP paid 3.98 euro.

Irregularities in the tender and the huge prices of spending material that are spent continuously, compared to the price drop to practically ‘zero’ for material that is never ordered by UP, it’s been proven that 250 A3 papers which in the market cost 20 euro, were offered to UP for 0.009 cents.

This contract was signed in 2012 for two years, valid until 2014 when Muje Rugova was rector.

A similar “adjustment” of prices has happened continuously, not only from UP but also from other institutions.

In several cases, the awarded company with the lowest price, in reality was not the cheapest, but the total value of the offer in the end resulted to be the cheapest because they mark the goods that the most is spent on as more expensive, and undermine or lower the price of the material that is never ordered. The ploy that our monitoring discovered, also shows that the contracting authorities and the companies who win the contracts are partners, which is done through lowering some prices and increasing others, and this is how the Kosovo budget is damaged the most.

Another indictment was raised in July 2015, this time against Enver Hasani, when he was rector of University of Prishtina.

According to the prosecution’s indictment, Hasani as UP rector, Hakif Veliu as chief of Procurement Office in UP and Albert Rakipi as director of International Studies Institute, and other officials, are suspected of falsifying the original contract “Translating books from English to Albanian according to needs of University of Prishtina”, dated December 5, 2008.

The value of the contract that Enver Hasani is being accused of is half a million euro, while the indictment charges the defendants that according to previous agreements, they signed a new contract in which they used the same protocol number and the same date of the original contract only changing article 17 of the contract, so that instead of price per unit-1000 words is 12.65 euro, they changed it to price per unit-1000 characters, 12.65 euro.

In the indictment, it’s alleged that this change of price has ensured a bigger gain for the International Studies Institute and that Enver Hasani and other UP officials are responsible.

81 Article “Millions contract – benefitors only Medicine Faculty”, February 2015 <http://kallxo.com/gjnk/kontrata-milioneshe-perfitues-vetem-fakulteti-i-mjekesise/>

82 Article “Suspicious signature in 3.3 million contract”, February 2015 <http://kallxo.com/gjnk/nenshkrimi-i-dyshimte-ne-kontraten-3-3-milioneshe/>

83 Article “UP contract with manipulated prices”, February 2015 <http://kallxo.com/gjnk/kontrata-e-up-se-me-cmime-te-manipuluara/>

# PUBLIC ENTERPRISES

In central and regional Public Enterprises there are 33 Contracting Companies involved with an overall 2,681 published notices.

The table below shows the category of published notices for the period between January-December 2015:

	Number
Contract Announcement	1,116 42%
Contract Award Announcement	1,096 41%
Annulment announcement	395 15%
Preliminary announcement	9 0.34%
Contest results announcement	2 0.07%
Design contest announcement	4 0.15%
Contract annulment announcement	29 1%
Announcement for extra information or correcting mistakes	30 1%
<b>TOTAL</b>	<b>2,681</b> <b>100%</b>

From 1,116 contract notices, 395 or 35% of notices have been cancelled before granting the contracts as showed on the table below:

Annulments	Number
In lack of responsible offers	198 50%
Anti Corruption Agency Opinion	2 1%
Substantial excess of the budget	45 11%
Insufficient information	85 22%
Others	55 14%
Procurement Review Body	10 3%
<b>TOTAL</b>	<b>395</b> <b>100%</b>



The table below shows the number and the value of the notices for the granting of contracts:

	Value of contracts	Number, amount
Big	Big	115 10%
	Amount of big contracts	97,971,422 82%
Medium	Medium	423 39%
	Amount of medium contracts	18,654,372 16%
Small	Small	558 51%
	Amount of small contracts	2,774,415 2%
Total number of contracts		Total value of contracts
1,096		119,400,209
100%		100%

Public Enterprises during 2015, from the total of notices in this category, have cancelled half or 50% of notices before signing the contracts with the justification that there are no adequate offers. This category of giving such justifications is increased compared to 2014 when they made up only 37%.

About 22% of the total cancellations were without concrete evidence of a cancellation reason - a figure that represents an increase compared to 2014 when 9% of cancellations were made without concrete reasons. In addition, the category of other cancellations before opening of the offers that were

cancelled because of technical errors of CA, have decreased from the previous year, more specifically from 36% as they were in 2014 to a lower rate of 14% in 2015.

From an overall of 5 opinions that ACA had released for Public Enterprises, procurement activities cancelled only 2 enterprises such as KOSST<sup>84</sup> and Mitrovica Regional Water Company<sup>85</sup>, whereas the procurement activities based on the opinions of ACA were not declared that were cancelled by PTK<sup>86</sup>, Trainkos<sup>87</sup> and Infrakos<sup>88</sup>, regardless that ACA had an opinion for all of these Public Enterprises.

84 Anti-Corruption Agency "Opinion for KOSTT", February 2015 <http://www.akk-ks.org/repository/docs/opinion-%20KOSTT-dpkpp.pdf>

85 Anti-Corruption Agency "Opinion for KUR Mitrovica", February 2015 <http://www.akk-ks.org/repository/docs/opinion-%20KUR-Mitrovica-dpkpp.pdf>

86 Anti-Corruption Agency "Opinion for Kosovo Post Office", July 2015 [http://www.akk-ks.org/repository/docs/opinion\\_Posta\\_e\\_Kosoves-dpkpp\\_313964.pdf](http://www.akk-ks.org/repository/docs/opinion_Posta_e_Kosoves-dpkpp_313964.pdf)

87 Anti-Corruption Agency "Opinion for Trainkos", May 2015 <http://www.akk-ks.org/repository/docs/01-1297-2015.pdf>

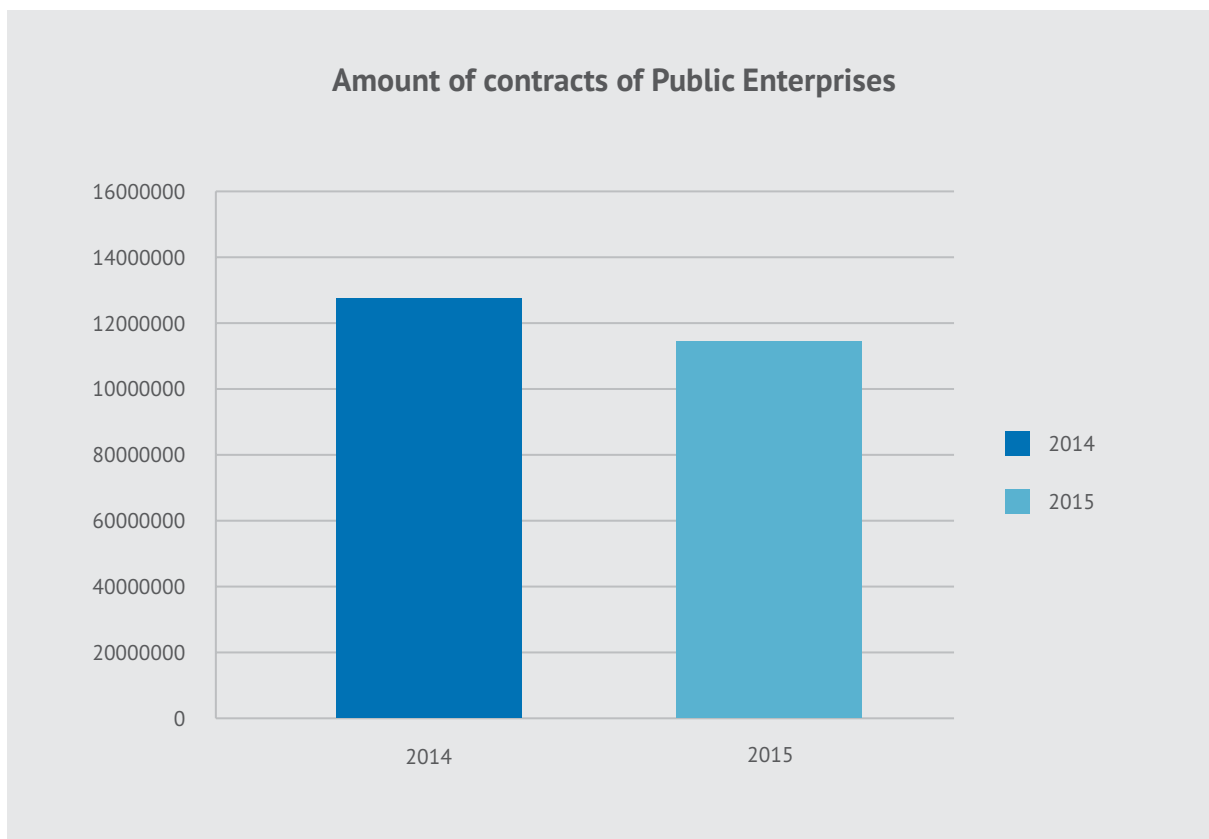
88 Anti-Corruption Agency "Opinion for Infrakos", October 2015 [http://www.akk-ks.org/repository/docs/01-3642-15-opinion\\_dpkpp-Infrakos\\_467699.pdf](http://www.akk-ks.org/repository/docs/01-3642-15-opinion_dpkpp-Infrakos_467699.pdf)

On the webpage of PPRC, Public Enterprises have published small contracts with a quota of the most with a share of 558 or 51% of contracts, followed by small contracts with quota with a share of 423 or 39%, whereas there were only 115 or 10% of major contracts published.

With regards to value at Public Enterprises, major contracts lead with an amount of 98 million euro or 82%, followed by medium contracts with 18.7 million euro or 16%,

whereas small contracts, even though they were first in terms of numbers, they are the last on monetary value terms with a share of 2.7 million euro or 2%. Compared to 2014, Public Enterprises did not have changes on the number of granting contracts, but their value has experienced a decrease of 20%.

This means that from 149 million euro that were published in 2014, their value has decreased to 119.4 million euro in 2015.



This is confirmed by the Ministry of Economic Development with the publications of financial reports for 2014 for Public Enterprises.

In the reports it says that from an overall 17 enterprises, 10 of them had a positive balance, whereas 7 other enterprises continue to close the year with financial losses. From the individual viewpoint for each enterprise, three of them have increased the revenue: KOSTT,

Mitrovica Regional Water Company and the Water Company Prishtina.

On the other hand, the companies that operated on losses are: South Hydro region Prizren and Hydrodrini Peja. The airport "Adem Jashari" has avoided previous losses, KEK and Kosovo Post Office have decreased their revenues, whereas Ibër-Lepenci and Water Company Radoniqi-Gjakovë have increased their losses.<sup>89</sup>

<sup>89</sup> Article "Poor performance of public enterprises", January 2016 <http://kallxo.com/performance-e-dobet-e-ndermarrjeve-publike/>

Nr	Public Company	Gains	Losses	Decrease of gains
1	KOSTT	✓		
2	Regional Water Company Mitrovica	✓		
3	Regional Water Company Prishtina	✓		
4	Hidroregjioni Jugor- Prizren		✓	
5	Hidrodrini- Pejë		✓	
6	KEK			✓
7	Kosovo Post and Telekom			✓
8	Ibër- Lepenci			✓
9	Water supply Radoniqi - Gjakove			✓

Gazeta Jeta në Kosovë revealed another suspicious tender, when despite bribery accusations in Romania and a suspicious bankruptcy in Serbia, “Mineco” company signed a multi-million contract with Trepca enterprise, based in Zvecan.

The contract which varies between 15-20 million euro was signed with “Mineco” despite the fact that the latter had filed a lawsuit against Trepca in 2013 alleging that it was damaged by Trepca in an earlier contract for furnishing with lead concentrate.

But the agreement signed on May 15, 2015 foresees that “Mineco” temporarily terminates the requests in the Kosovo judiciary authorities.

A board member of the “Mineco” company, Dimitrije Aksentijevic, is accused of corruption in Romania, and likewise the directors of this company were tried in absentia by courts in Romania.<sup>90</sup>

Gazeta JnK in another investigation revealed that the Kosovo budget could lose 180-500 million euro by German company “ACP Axos Kapital”, which in June 2015 sued the Post and Telecommunication of Kosovo (PTK) in Arbitrage Court in Washington for the 2013 tender, when the government had approved the sale of 75% of shares of Vala and Telekom.

“Axos” company has asked for compensation from the Kosovo government, because for a long time it has prepared for participation in the process of applying for buying shares, alleging that they spent a lot of money in the failed privatization process of PTK.<sup>91</sup>

Despite the fact that the government is silent and is keeping the accusations by

Axos secret, PTK on June 8, 2015 contracted the Swiss company “Homburger AG” with a value of 6 thousand euro, for “Completing a legal expertise for Arbitrage in ICC”.<sup>92</sup> BIRN contacted PTK officials for the expertise tender, but received no reply.

The lack of transparency related to Kosovo Government preparations to protect public money loss is feeding suspicions that certain individuals in power would like to see Kosovo lose this case in arbitrage. Such a loss would initiate PTK’s privatization process without the otherwise necessary parliamentary procedures for buying such a large public enterprise. Those individuals interested in the loss could profit from the large compensation that the Kosovo Government would pay to AXOS, a company based in the Cayman Islands.

After a year, Minister Blerand Stavileci in a conference, where a report on PTK by “Cohu” organization was published for the first time, made the lawsuits against PTK public, where he said that in August 2016 a court hearing will be held. According to Stavileci, the company’s request could go from 150 to 600 million euro.<sup>93</sup>

90 Article “Suspects for bribe gain millions in Trepca”, August 2015 <http://kallxo.com/gjnk/te-dyshuarit-per-ryshfet-fitojne-milionat-ne-trepce/>

91 Article “Axos – multi million danger”, February 2015 <http://kallxo.com/gjnk/axos-rreziku-qindra-milionesh/>

92 PPRC “Announcement”, June 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=1&CtlID=VieëNotices&ID=99841>

93 Article “‘Cohu’:PTK has problems with income and lawsuits”, May 2016 <http://kallxo.com/cohu-ptk-ja-probleme-te-hyrat-dhe-padite/>

# MINISTRIES

Within ministries there are 19 Contracting Authorities, with an overall 1,486 notices according to the table below:

	Number
Contract announcement	538 36%
Contract award announcement	637 43%
Annulment announcement	244 16%
Preliminary announcement	4 0.27%
Contest results announcement	1 0.07%
Contest design announcement	5 0.34%
Design contest Announcement - Disclosure of Financial offers	4 0.27%
Contract annulment announcement	26 2%
Announcement for extra information or correcting mistakes	27 2%
<b>TOTAL</b>	<b>1,486</b> <b>100%</b>

Compared to 2014, Ministries have 30% or 655 less notices than in 2015. From 2,141 notices that were published in 2014. In 2015 Ministres had 1,486 notices published.

Cancellations before granting contracts are issued for the following reasons:

Annulments	Number
In lack of responsible offers	115 47%
Anti Corruption Agency Opinion	3 1%
Substantial excess of the budget	19 8%
Insufficient information	62 25%
Other	37 15%
Procurement Review Body	8 3%
<b>TOTAL</b>	<b>244</b> <b>100%</b>

Compared with 2014 where there were no annulments or the absence of data, in 2015 in this category there were 25% or 62 more annulments before contract granting. Most cancellations have the description regarding the absence of bids with the participation of 115 annulments or 47% of the total of 244 cancellations before awarding tenders. In 2014, the Ministries did not cancel contract notices because of the opinion of the ACA, however, as of 2015 the Ministries did not take the opinions of the ACA any more seriously to cancel the procurement activity although the latter issued 22 opinions on ministries. The Ministry of Finance alone<sup>94</sup>

<sup>95</sup> <sup>96</sup> cancelled 4 notices before awarding the contracts based on the recommendations of the ACA, whereas another 18 opinions were given to the Ministry of Justice in 3 cases<sup>97</sup> <sup>98</sup> <sup>99</sup>, Ministry of Infrastructure in one case<sup>100</sup>, Ministry of Economic Development in 2 cases<sup>101</sup> <sup>103</sup>, Ministry of Health<sup>104</sup> in 4 cases<sup>105</sup> <sup>105</sup> <sup>106</sup>, Ministry of Culture, Youth and Sport in three cases<sup>107</sup> <sup>108</sup> <sup>109</sup>, Ministry of Public Administration in one<sup>110</sup>, Ministry of Trade and Industry in 2 cases<sup>111</sup> <sup>112</sup>, Ministry of Force and Security in one<sup>113</sup>, and the Ministry of Internal Affairs in one case<sup>114</sup>, where they did not declare on the standard forms that they took the ACA's opinion to cancel the activities.

94 Anti-Corruption Agency "Opinion for Ministry of Finances", September 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-Ministria\\_e\\_Fianancave\\_575203.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-Ministria_e_Fianancave_575203.pdf)

95 Anti-Corruption Agency "Opinion for Ministry of Finances", September 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-MF\\_308458.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-MF_308458.pdf)

96 Anti-Corruption Agency "Opinion for Ministry of Finances", September 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-MF\\_\(1\)\\_902826.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-MF_(1)_902826.pdf)

97 Anti-Corruption Agency "Opinion for Infrakos", October 2015 [http://www.akk-ks.org/repository/docs/01-3642-15-opinion-dpkpp-Infrakos\\_467699.pdf](http://www.akk-ks.org/repository/docs/01-3642-15-opinion-dpkpp-Infrakos_467699.pdf)

98 Anti-Corruption Agency "Opinion for Ministry of Justice", July 2015 [http://www.akk-ks.org/repository/docs/opinion\\_M.Drejtewise\\_24584.pdf](http://www.akk-ks.org/repository/docs/opinion_M.Drejtewise_24584.pdf)

99 Anti-Corruption Agency "Opinion for Ministry of Justice", May 2015 <http://www.akk-ks.org/repository/docs/01-1307-2015.pdf>

100 Anti-Corruption Agency "Opinion for Ministry of Infrastructure", November 2015 [http://www.akk-ks.org/repository/docs/OPINION\\_DPKPP-M.INFRASTRUKTURES\\_0911201512455400\\_827238.pdf](http://www.akk-ks.org/repository/docs/OPINION_DPKPP-M.INFRASTRUKTURES_0911201512455400_827238.pdf)

101 Anti-Corruption Agency "Opinion for Ministry of Economic Development", September 2015 [http://www.akk-ks.org/repository/docs/01-2904-15-dpkpp-Opinion\\_MZHE\\_216069.pdf](http://www.akk-ks.org/repository/docs/01-2904-15-dpkpp-Opinion_MZHE_216069.pdf)

102 Anti-Corruption Agency "Opinion for Ministry of Economic Development", March 2015 <http://www.akk-ks.org/repository/docs/opinion%20MZHE-dpkpp.pdf>

103 Anti-Corruption Agency "Opinion for Ministry of Health", September 2015 [http://www.akk-ks.org/repository/docs/01-2756-15\\_1409201514105700\\_834188.pdf](http://www.akk-ks.org/repository/docs/01-2756-15_1409201514105700_834188.pdf)

104 Anti-Corruption Agency "Opinion for Ministry of Health", August 2015 [http://www.akk-ks.org/repository/docs/01-2534-15\\_383256.pdf](http://www.akk-ks.org/repository/docs/01-2534-15_383256.pdf)

105 Anti-Corruption Agency "Opinion for Ministry of Health", August 2015 [http://www.akk-ks.org/repository/docs/01-2533-15\\_380698.pdf](http://www.akk-ks.org/repository/docs/01-2533-15_380698.pdf)

106 Anti-Corruption Agency "Opinion for Ministry of Health", February 2015 <http://www.akk-ks.org/repository/docs/opinionMinistria%20e%20Shendetise%2016%20shkurt%202015.pdf>

107 Anti-Corruption Agency "Opinion for Ministry of Culture, Youth and Sport", August 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-MKRS\\_922941.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-MKRS_922941.pdf)

108 Anti-Corruption Agency "Opinion for Ministry of Culture, Youth and Sport", March 2015 [http://www.akk-ks.org/repository/docs/opinion%20MKRS-dpkpp\\_1103201511125600.pdf](http://www.akk-ks.org/repository/docs/opinion%20MKRS-dpkpp_1103201511125600.pdf)

109 Anti-Corruption Agency "Opinion for Ministry of Culture, Youth and Sport", February 2015 <http://www.akk-ks.org/repository/docs/opinion%20MKRS-dpkpp.pdf>

110 Anti-Corruption Agency "Opinion for Ministry of Public Administration", July 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-MAP\\_737762.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-MAP_737762.pdf)

111 Anti-Corruption Agency "Opinion for Ministry of Trade and Industry", July 2015 [http://www.akk-ks.org/repository/docs/opinion-dpkpp-MTI\\_259766.pdf](http://www.akk-ks.org/repository/docs/opinion-dpkpp-MTI_259766.pdf)

112 Anti-Corruption Agency "Opinion for Ministry of Trade and Industry", March 2015 <http://www.akk-ks.org/repository/docs/opinion-MTI-dpkpp.pdf>

113 Anti-Corruption Agency "Opinion for Ministry of Security Forces of Kosovo", April 2015 <http://www.akk-ks.org/repository/docs/opinion-MFSK-dpkpp.pdf>

114 Anti-Corruption Agency "Opinion for Ministry of Internal Affairs", April 2015 <http://www.akk-ks.org/repository/docs/opinion-MPB-dpkpp.pdf>

The table below shows the number of notices for granting contracts according to their value:

	Value of contracts	Number, amount
Big	Big	105 16%
	Amount of big contracts	55,300,283 78%
Medium	Medium	223 35%
	Amount of medium contracts	13,431,558 19%
Small	Small	309 49%
	Amount of small contracts	2,020,264 3%
Total number of contracts		Total value of contracts
637		70,752,106
100%		100%

Out of a total of 637 contracts worth 70.7 million euro, contracts are classified in the following order:

1. According to numbers, small contracts lead with a share of 49%, while according to value these contracts are classified as the least with the participation of only 3% or 2 million euro in monetary value.
2. With regard to numbers medium contracts follow with a share of 35% or 223 contracts whereas by value they have a share of 19% or 13.4 million euro.
3. Whereas the major contracts have the least participation with 16% in numbers, however, this category has the bigger participation over the other two categories in terms of monetary value with a participation of 78% or 55.3 million euro.

From 2014 the value of the published contracts from the Ministry has had a decrease of 91%, from the value of contracts in 2014 which was 745.5 million euro, this amount in 2015 reached just 70.7 million euro.

The reason for this downfall is because in 2014 the 600 million highway was contracted, which connected Kosovo with Macedonia, and according to the dynamic plan should end at the beginning of 2018. Just as with the Municipalities, the auditors identified poor management of public money in the Ministries as well, such as the payments of services without the job being done as it happened with the Ministry of Culture<sup>115</sup>. Payments for additional work without correct planning of procurement has happened at the Ministry of Education<sup>116</sup>, and at the Ministry of Finances<sup>117</sup>.

115 General Audit Office, "The audit report on the financial statements of the Ministry of Culture, Youth and Sports for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MKRS\\_2014\\_Shqip\\_853422.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MKRS_2014_Shqip_853422.pdf)

116 General Audit Office, "The audit report on the financial statements of the Ministry of Education, Science and Technology for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MASHT\\_2014\\_Shqip\\_696850.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MASHT_2014_Shqip_696850.pdf)

117 General Audit Office, "The audit report on the financial statements of the Ministry of Finances for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MF\\_2014\\_Shqip\\_511139.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MF_2014_Shqip_511139.pdf)

Delays in execution of works under the contract are a phenomenon that for many years have not been remedied and similar cases where the General Auditor has evidenced in several Ministries that the jobs were not done according to the dynamic plan such as in the Ministry of Culture<sup>118</sup>, Ministry of Finances<sup>119</sup>, Ministry of Spatial Planning<sup>120</sup> and the Ministry of Internal Affairs<sup>121</sup>.

Binding contracts without procurement procedures according to auditor's reports identifies violations in several Ministries such as the Ministry of Culture, Youth and Sport<sup>122</sup>, Ministry of Education<sup>123</sup> and Ministry of Trade and Industry<sup>124</sup>.

Without due process of an open procurement procedure to eliminate competition the auditor has identified violations of the Ministry of Economic Development that bought telephone handsets by IPKO<sup>125</sup>, whereas the avoidance of procurement procedures, avoiding open procedures and dividing contracts in small tenders was applied by

Ministry of Education<sup>126</sup>, Ministry of Finance<sup>127</sup> and Ministry of Foreign Affairs<sup>128</sup>.

In 2015, the PRB annulled the license of procurement of the manager of procurement in the Finances Ministry.

Elmaze Xhema, from the Procurement Review Body is accused of violations of the Law of Public Procurement because she didn't respect the PRB's decision for automatic suspension of a procurement activity.<sup>129</sup>

The Procurement Review Body Reviewing Panel had ordered the Ministry of Finances to suspend the procurement activity entitled "Service of ensuring vehicles", Elmaze Xhema hadn't respected this decision, that's why her license was annulled. BIRN interviewed Elmaze Xhema related to the annulling of the license, who told us that the problem had arisen because of a late email delivered to PRB.

118 General Audit Office, "The audit report on the financial statements of the Ministry of Culture, Youth and Sports for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MKRS\\_2014\\_Shqip\\_853422.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MKRS_2014_Shqip_853422.pdf)

119 General Audit Office, "The audit report on the financial statements of the Ministry of Finances for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MF\\_2014\\_Shqip\\_511139.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MF_2014_Shqip_511139.pdf)

120 General Audit Office, "The audit report on the financial statements of the Ministry of Environment and Spatial Planning for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MMPH\\_2014\\_Shqip\\_112953.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MMPH_2014_Shqip_112953.pdf)

121 General Audit Office, "The audit report on the financial statements of the Ministry of Internal Affairs for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MPB\\_2014\\_Shqip\\_745585.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MPB_2014_Shqip_745585.pdf)

122 General Audit Office, "The audit report on the financial statements of the Ministry of Culture, Youth and Sports for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MKRS\\_2014\\_Shqip\\_853422.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MKRS_2014_Shqip_853422.pdf)

123 General Audit Office, "The audit report on the financial statements of the Ministry of Education, Science and Technology for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MASHT\\_2014\\_Shqip\\_696850.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MASHT_2014_Shqip_696850.pdf)

124 General Audit Office, "The audit report on the financial statements of the Ministry of Trade and Industry for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MTI\\_2014\\_Shqip\\_807196.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MTI_2014_Shqip_807196.pdf)

125 General Audit Office, "The audit report on the financial statements of the Ministry of Economic Development for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MZHE\\_2014\\_Shqip\\_611343.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MZHE_2014_Shqip_611343.pdf)

126 General Audit Office, "The audit report on the financial statements of the Ministry of Culture, Youth and Sports for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MASHT\\_2014\\_Shqip\\_696850.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MASHT_2014_Shqip_696850.pdf)

127 General Audit Office, "The audit report on the financial statements of the Ministry of Finances for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MF\\_2014\\_Shqip\\_511139.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MF_2014_Shqip_511139.pdf)

128 General Audit Office, "The audit report on the financial statements of the Ministry of Foreign Affairs for year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_MPJ\\_2014\\_Shqip\\_662328.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_MPJ_2014_Shqip_662328.pdf)

129 Procurement Review Body: Services for car security TPL, TPL + and Kasko security, December 2015 [https://oshp.rks-gov.net/repository/docs/vendimet/2015/414-15\\_vendim\\_MF\\_3\\_1.PDF](https://oshp.rks-gov.net/repository/docs/vendimet/2015/414-15_vendim_MF_3_1.PDF)



“I respected the PRB decision, I suspended that procurement activity, I just delayed the email to PRB and they thought that I hadn’t respected the decision,” said Xhema.<sup>130</sup> Xhema also said that the Secretary of Finance Ministry had written a complaint against this decision to the PRB, but they still haven’t got a response. While Xhema had gone a step further by submitting a complaint to court. This isn’t the first time that PRB has cancelled the procurement licenses of procurement officials. In 2012, Bekim Gojani, manager of procurement from the Infrastructure Ministry, had his license annulled for violations of law for procurement and discrimination of economic operators for six procurement activities. Despite the license annulment, the Infrastructure Ministry was fined 10 thousand euro.<sup>131</sup>

In 2014, Suzana Kosumi, manager of procurement in the Ministry of Local Power Administration, had her license annulled for the tender “Building of Police Station, phase two in Klllokot”. MLPA hadn’t started the procurement procedures on time, and the companies validity offer had expired, for this tender MLPA was fined 20 thousand euro.<sup>132</sup>

In 2015, Fatmir Gjonbalaj, procurement manager from PTK had his license annulled, and PTK was also fined 30 thousand euro for not complying with the decision of PRB for the tender “Work and furnishing for expanding the telecommunication network in Kosovo”.<sup>133</sup> PRB Reviewing Panel had recommended that the Kosovo Post and Telekom suspend the entire procurement activity for the same tender, , Fatmir Gjonbalaj hadn’t respected the decision and got his license taken away. Another public enterprise, KEK, in 2015 was fined 30

thousand euro, and the procurement manager, Ymer Dragusha’s license was annulled for not respecting a PRB decision.<sup>134</sup>

PRB Reviewing Panel had recommended that the KEK tender entitled “Furnishing with material lot.6” should have been re-evaluated, Ymer Dragusha hadn’t respected this decision, thus PRB had annulled his license.

During 2015, Gazeta Jeta në Kosovë investigated an official from the Infrastructure Ministry who had been appointed as a member of an evaluating committee for tender “Summer and Winter maintenance of highway Ibrahim Rugova”. Bekim Gojani, who before he evaluates a tender according to the public procurement law must sign a declaration under oath that forces procurement officials to respect the rules, and protect the confidentiality of information. Yet, during the time that the tender was being evaluated, Bekim Gojani as member of the evaluation committee for the avobementioned tender in the value of 1.2 million euro, had met with the owner of “Famis CO” company<sup>135</sup>, Bekim Bytyci, a company that two days later was declared the winner of this tender.

The law of procurement forbids members of evaluation committees to meet representatives of competing companies in tenders, especially during the evaluation phase. After “Famis CO” was declared the winner of the tender, PRB had annulled the tender because the company was irresponsible. Bekim Gojani, who in 2012 had his procurement license revoked, was certified again in 2015 as a procurement official. The Law of Public Procurement doesn’t foresee how many years until a procurement official can get their license back.

130 Interview with Elmaze Xhema – Prishtina, February 15, 2016

131 Procurement Review Body, over annulling the licence of procurement for Bekim Gojani, acting Director of Procurement, and sentencing the fine, February 2012 [https://oshp.rks-gov.net/repository/docs/vendimet/2012/Sinjal\\_sanim\\_Kline-broje.pdf](https://oshp.rks-gov.net/repository/docs/vendimet/2012/Sinjal_sanim_Kline-broje.pdf)

132 Procurement Review Body, Building a Police Station – Phase two in Klllokot, April 2014 <https://oshp.rks-gov.net/repository/docs/vendimet/2014/44-14-vend-pdf>

133 Procurement Review Body, Decision over annulling the license of procurement and sentencing the fine, PTK, April 2015 <https://oshp.rks-gov.net/repository/docs/vendimet/2015/58-72-519-15-vend-ptk.pdf>

134 Procurement Review Body, Decision over annulling the license of procurement and fine, KEK, April 2015 <https://oshp.rks-gov.net/repository/docs/vendimet/2015/Anulimi-i-licenses-dhe-gjoba.pdf>

135 Article “The ‘mysterious’ meeting of the state official with the businessmen”, November 2015 <http://kallxo.com/gjnk/takimi-i-mistershem-i-zyrtarit-shteteror-me-biznesmenin/>

# INDEPENDENT AGENCIES

Independent Agencies including 14 Contracting Authorities with an overall of 364 notices published, as displayed in the table below:

	Number
Contract announcement	103 28%
Contract award announcement	203 56%
Annulment announcement	31 9%
Preliminary announcement	11 3%
Contract annulment announcement	6 2%
Announcement for extra information or correcting mistakes	10 3%
<b>TOTAL</b>	<b>364</b> <b>100%</b>

Independent agencies have cancelled 30% or 31 of notices from a total of 103 before granting contracts according to the reasons below:

Annulment	Number
In lack of responsible offers	11
	35%
Anti Corruption Agency Opinion	-
	0%
Substantial excess of the budget	1
	3%
Insufficient information	10
	32%
Others	8
	26%
Procurement Review Body	1
	3%
TOTAL	31
	100%

In 35% of cases, cancellations were made in the absence of bids, whereas there are no data on the reasons for cancellation of notices of 32% of the cases from the total cancellation notices.

ACA had given several recommendations among which three were for the Central

Agency of Procurement<sup>136 137 138</sup> one for the Agency for Free Legal Help<sup>139</sup> and one for The Agency of Medicinal Products<sup>140</sup> and in those recommendations it was recommended to cancel the procurement activities. Despite this, the aforementioned institutions did not consider the opinions of ACA.

136 Anti-Corruption Agency "Opinion for Central Procurement Agency", October 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-AQP\\_1610201512310800\\_809926.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-AQP_1610201512310800_809926.pdf)

137 Anti-Corruption Agency "Opinion for Central Procurement Agency", October 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-AQP\\_332463.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-AQP_332463.pdf)

138 Anti-Corruption Agency "Opinion for Central Procurement Agency", September 2015 [http://www.akk-ks.org/repository/docs/01-2764-15-\\_Opinion-\\_AQP\\_351327.pdf](http://www.akk-ks.org/repository/docs/01-2764-15-_Opinion-_AQP_351327.pdf)

139 Anti-Corruption Agency "Opinion for the Agency for Free Legal Assistance", October 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-Agjencia\\_per\\_Ndihme\\_Juridike\\_Falas\\_90949.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-Agjencia_per_Ndihme_Juridike_Falas_90949.pdf)

140 Anti-Corruption Agency "Opinion for Kosovar Agency for Medicinal Products and Equipment", November 2015 [http://www.akk-ks.org/repository/docs/opinion\\_dpkpp-AKPPM\(1\)\\_498541.pdf](http://www.akk-ks.org/repository/docs/opinion_dpkpp-AKPPM(1)_498541.pdf)

The number of notices for granting contracts based on the value is classified as in the table below:

	Value of contracts	Number, amount
Big	Big	25 12%
	Amount of big contracts	42,002,216 94%
Medium	Medium	44 22%
	Amount of medium contracts	1,955,067 4%
Small	Small	134 66%
	Amount of small contracts	727,704 2%
	Total number of contracts	Total value of contracts
	203	44,684,987
	100%	100%

Despite that in terms of number, small contracts lead with a share of 66%, big contracts with a share of 94% ranked in first place in terms of value.

Their overall value is 42 million euro from the total of 44.7 million euro contracted by the Independent Agencies.

The amount of 2.7 million euro or 6% belongs to medium and small contracts.

Only the Central Agency of Procurement had 37.2 million euro in value contracted for common procurements at the central level, as well as procurements with the request of Contracting Authorities. Throughout 2015 CAP has developed 6 activities of procurement with the request of AKK and has published

them on the PPRC Website, 3 activities are yet not on the implementation phase, whereas 3 others are being implemented.

CPA director, Mursel Racaj, emphasized during his interview with BIRN that 4 contracts for 3 procurement activities had been left in limbo because the Finances Minister, Abdullah Hoti hadn't signed the letter.<sup>141</sup> "Furnishing with tickets, tires, office supplies. The CPA had conducted the procurement procedures successfully but they were left in limbo because of a lack of signatures from the minister," said Racaj.

Racaj later said that these three procurement activities including supply for wood and pellets, and fuel and oil, have been signed by the minister and are being implemented.

The biggest centralized contract contracted in 2015 by CPA for 80 Contracting Authorities worth 12.2 million euro for 36 months, started implementing. The fuel contract was criticized in the media, because it was won by Hib Petrol which is facing two indictments for fraud.

The Kosovo Police has accused HIB Petrol of fraud for a fake offer for furnishing with fuel with zero profit. The indictment was raised in 2012, the case is currently being tried, and in the session of October 2014 the Kosovo Police, as the damaged party didn't participate in the session at all.<sup>142</sup>

Another case, for which an indictment was raised in July 2015 for HIB Petrol, is the accusations that the Prishtina Municipality committed fraud by supplying oils for heating and generators for 44 educational institutions.<sup>143</sup>

According to the Public Procurement Law 04/L-042 article 65 point 3, allows all Economic Operators to participate in procurement activities and can win contracts as long as they weren't declared guilty by a competent court<sup>144</sup>, and aren't in the black list of operators in PRB. In this case HIB Petrol can legally participate in tenders. HIB Petrol company won a 13.8 million contract in 2014 by CPA for 37 contracting authorities with their request.

**For the 13.8 million contract of CPA, Kosovo Democratic Institute conducted research on the procedures and the prices of this procurement activity and concluded that:**

"From the analyses of paid prices by different institutions, even with the same Economic

Operator, we can conclude that the CPA has ensured good value for money, compared to other institutions, and that is the primary goal, to pay lower prices than in retail," it said in the report.<sup>145</sup>

The drawbacks that this contract could bring, according to KDI's report, is the elimination of competition, which brings a disadvantage for smaller businesses by awarding only one economic operator. HIB Petrol is the biggest gainer of public contracts for supplying with fuel in 2014 and 2015. Artan Canhasi from KDI said that the focus of the report wasn't HIB Petrol but the Central Procurement Agency.

"Our focus in the report is the value for money, and in this direction we're pleased with the work that the CPA has done for this contract. If the indictment for an economic operator has to do with fraud that damages the value for money, then the company shouldn't win public contracts until the final verdict of the court, so the law has to be changed, so that it can take into consideration these situations and not to award operators who are accused of fraud with tenders," said Canhasi.<sup>146</sup>

Since 2012, Kosovo doesn't have protection of competition because of the dysfunction of the Competition Regulation Authority. For four years the Kosovo Government has allowed the Competition Regulation Authority to be dysfunctional, because this state mechanism doesn't have a board member anymore.<sup>147</sup> The government hasn't moved toward functionalizing this authority whose duty is to fight monopoly.

142 Article "Police missing in the court where they're the damaged party", October 2014 <http://kallxo.com/policia-mungon-ne-gjykimin-ku-eshte-pale-e-demtuar/>

143 Article "Indictment for fraud against HIB Petrol with derivatives in Prishtina", July 2015 <http://kallxo.com/aktakuze-per-mashtirim-kunder-hib-petroll-per-naften-ne-prishtine/>

144 Law for Public Procurement <https://oshp.rks-gov.net/repository/docs/Ligji-per-Prokurim-Publik.pdf>

145 Kosovo Democratic Institute "Public Money or competition?", December 2015 <http://www.kdi-kosova.org/publikime/25-paraja-publike-apo-konkurrenca.pdf>

146 Email answer Artan Canhasi, KDI, June 2016.

147 Article "The government allows 'paralyzation' of anti-monopoly", December 2015 <http://kallxo.com/gjnk/qeveria-lejon-paralizimin-e-anti-monopolit/>

The government appoints the board, the chief and other members of the Authority which is overseen by the Parliamentary Commission for Economic Development, Infrastructure, Trade and Industry.

The commission didn't have to oversee anything of this institution, which exists as a name only.

The mission of this authority is to ensure sustainable economic and trade development in Kosovo by stopping the actions that limit, or disturb the competition. This law works to ensure free and effective competition in trade by supporting three main elements that establish the protection of competition:

1. Abuse with dominating position;
2. Forbidden agreements in the form of cards and;
3. Unions or concentrations of enterprises.<sup>148</sup>

In Public Procurement in Kosovo it's clear that some businesses have a dominating position in receiving tenders, there are agreements in the form of cards that companies themselves make to split the market, and unions of companies in consortiums, while one single company does the work.

## MAJOR CAPITAL PROJECTS

Regarding the contentious thermocentral in "Kosova e Re", the government has not been transparent from the beginning for selecting the company for building it.

For several months, the Ministry of Economic Development has negotiated with "Contour Global", which is the only company left from the other offers for the construction of the thermo central in "Kosova e Re".

In December 2015, Minister Blerand Stavileci, presented before the Commission of Economic Development the overall information for the stages of this project. "Kosova e Re" is foreseen to be constructed 30% by the "Contour Global" company and 70% with a loan from the World Bank, however the creditor will be the same company "Contour Global".<sup>149</sup> The power plant is expected to be operational after 7 years, in 2022, and procurement activities will be led by the "Contour Global" company

itself to contract Kosovar companies for the construction of the plant.

Gazeta Jeta në Kosovë has done several investigations for the wellknown powerplant and in February 2015 published a summary of results, by Ranjit Lamech, manager of energy sector for Europe in World Bank, where explanations are provided on how to continue with the controversial tender.<sup>150</sup>

According to Lamech it's not a tragedy for Kosovo to sign a contract with the single company, Contour Global, because it had been successful in Armenia.

On the Ministry of Economic Development's website a press release was published on May 26, 2016, when the International Fair of Construction, Energy and Technical "EXPOKOS" was held in Prishtina, where minister Blerand Stavileci stated that the project, which is

<sup>148</sup> Kosovar Competition Authority <https://ak.rks-gov.net/?cid=1,21>

<sup>149</sup> Article "Expensive energy of Kosova e Re in 2022", December 2015 <http://kallxo.com/rryma-e-shtrenjte-e-kosoves-se-re-ne-vitin-2022/>

<sup>150</sup> Article "Expensive energy of Kosova e Re in 2022", December 2015 <http://kallxo.com/rryma-e-shtrenjte-e-kosoves-se-re-ne-vitin-2022/>

expected to be started in spring next year, will bring lots of benefits to Kosovo in many dimensions.

“Except for the sectorial dimension in ensuring sustainable and quality furnishing of energy, we have the social dimension, since we’re talking about thousands of job positions which will be created and the environmental dimension, because advanced technology will be used to protect the environment,” he said.<sup>151</sup>

No explanation from the ministry about the legal aspect, more marketing was done for the power plant in the social aspect for the opening new job positions, rather than for damaging the consumers with the expensive tariffs that they’ll pay for themselves with the high energy fees from this power plant.

Brezovica was given with a concession for using it for 99 years<sup>152</sup>. This contract was signed in April 2015, between the government and the consortium “Compagnie des Alpes SA & MDP Consulting & PGIManagement & Outdoor Kosovo”.

Ranjit Lamech, from World Bank has also spoke about this project, as he evaluated the signed agreement with the only company for the skiing centre as successful and that the Brezovica project could pave the road for the Kosova e Re power plant.

He had suggested that the Kosovo Government should continue even with one offerer because “it had a recent experience recently, when the only offerer was accepted

in a competing sale/concession procession for developing a skiing resort”.<sup>153</sup>

The Brezovica project, like the Kosova e Re power plant, didn’t explain much for the citizens, during the discussions with the responsible ministries that led the negotiating procedures.<sup>154</sup>

For Brezovica all legal deadlines for fulfilling the contract had been violated, while in June 2016 this project failed, because the French company hadn’t been able to fulfil the financial offer and ensure the necessary means for implementing the project.<sup>155</sup>

The appraisal and the conditions of the World Bank, together with the government approval that the big capital projects can be finalized with only one company and with direct negotiation, is shown by the “success” of the Brezovica project, and the expectations for the Kosova e Re power plant of how successful it would be.

151 News from the webpage of Ministry of Economic Development “Kosova e Re power plant with socio-economic and environmental benefits”, May 2016 [http://mzhe-ks.net/sq/lajmet/tc-kosova-e-re-me-benefite-socio-ekonomike-e-mjedisore#.V0xl\\_NR97Dc](http://mzhe-ks.net/sq/lajmet/tc-kosova-e-re-me-benefite-socio-ekonomike-e-mjedisore#.V0xl_NR97Dc)

152 Article “Brezovica ‘slides’ to the French”, November 2014 <http://kallxo.com/gjnk/brezovica-rreshqet-te-francezet-1/>

153 Article “Envelope of World Bank for Kosova e Re power plant”, February 2015 <http://kallxo.com/gjnk/zarfi-i-bankes-boterore-per-termocentralin-kosova-e-re-1/>

154 Article “Brezovica – deadline expires for contract signing”, April 2015 <http://kallxo.com/gjnk/brezovica-shkelet-afati-per-nenshkrimin-e-kontrates/>

155 Ministry of Trade and Industry, Press Release, June 2016 <http://www.mti-ks.org/sq/Aktivitetet-e-Ministres/Komunikate-per-Media-Projekti-per-Zhvillimin-e-Qendres-Turistike-te-Brezovices-3494-3494>

# PRIME MINISTER'S OFFICE

The Prime Minister's Office has published a total of 33 reports as presented on the following table:

	Numri
Contract announcement	9 27%
Contract award announcement	22 67%
Annulment announcement	1 6%
<b>TOTAL</b>	<b>32</b> <b>100%</b>

Compared to 2014 where there were 80 notices, in 2015 the Prime Minister's Office, there were 32 published notices for all categories. This means that the number of publications is 59% lower than in 2014.

Only one notice has been cancelled before granting the contract due to lack of adequate offers.

Contracts according to the values are classified as in the table below:

	Value of contracts	Number, amount
Big	Big	1 5%
	Amount of big contracts	235,000 48%
Medium	Medium	5 23%
	Amount of medium contracts	175,327 36%
Small	Small	16 73%
	Amount of small contracts	78,108 16%
	<b>Total number of contracts</b>	<b>Total value of contracts</b>
	22	78,108
	100%	16%



Also, the value of notices for the grant of contracts in 2015 were 29% lower. From 683 thousand euro in 2014, this year the total value of the contracts amounts to 488 thousand euro.

The Prime Minister's Office in 2014 had violated the procurement law by dividing tenders into small contracts to supply IT goods bypassing competitiveness.<sup>156</sup>

These contracts are found by BIRN through a publication in the PPRC webpage. These findings were also confirmed by the General Audits Office.

"In the Office of the Prime Minister there were six procurement procedures developed, all divided into different periods for the supply of information technology goods with a total value of € 74,913. This was as a result of the requesting units that had made the request for supply that had not been originally planned in the beginning of the year", the audit report stated.<sup>157</sup>

During 2015 Gazeta Jeta në Kosovë, revealed that the Prime Minister's Office had awarded the Prime Minister's sons with a tender. The tender for fixing vehicles of the Prime Minister's Office was won by "Makcar", whose owners are the sons of the primeminister, Besnik and Arben Mustafa.<sup>158</sup>

This scandal was commented on by some international media as well, including Reuters, Euronews and the Daily Mail. The latter reported on investigation saying that the Kosovo Prime Minister, Isa Mustafa, had used

Facebook to protect a payment for a company directed by his son to fix one of his official cars, sparking "complaints about nepotism in a country full of corruption".<sup>159</sup>

Five days after the investigation was published in Gazeta Jeta ne Kosove, Besnik Mustafa, the son of the prime minister, posted on Facebook the notice that he pulled out from the contract with the Prime Minister's Office.

Besnik Mustafa through this declaration had said that he was pulling from the tender contract for fixing the vehicles of the Prime Minister's Office because of the media campaign, emphasizing that his company will cover the expenses of ordering the parts for the repairs.<sup>160</sup>

But Prime Minister Mustafa had declared that he didn't know that "Makcar", his sons' company had won the tender in his office saying:

"Yes, now that I know, I'll stop him (Besnik Mustafa, manager of Makcar) from fixing the government's cars," said Mustafa.

156 Public Procurement Monitoring report in Kosovo 2014 "Hidden Tenders", February 2015 [http://jetanekosove.com/repository/docs/BIRN-shqip\\_350845.pdf](http://jetanekosove.com/repository/docs/BIRN-shqip_350845.pdf)

157 General Audit Office, "The audit report on the financial statements of the Prime Minister's Office for the year ending December 31, 2014", June 2015 [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_ZKM\\_2014\\_Shqip\\_796412.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_ZKM_2014_Shqip_796412.pdf)

158 Article "Isa Mustafa's sons win tenders from the Prime Minister Office", August 2015 <http://kallxo.com/gjnk/djemte-e-isa-mustafes-fitojne-tendere-nga-kryeministria/>

159 Article "Investigation of Gazeta Jeta ne Kosove for tenders of Prime Minister echoes in foreign media", August 2015 <http://kallxo.com/gjnk/hulumtimi-i-gazetes-jeta-ne-kosove-per-tenderin-e-kryeministrise-jehone-ne-mediat-e-huaja/>

160 Article "Which declaration of the characters of 'BMW scandal' is a fraud?", August 2015 <http://kallxo.com/gjnk/cila-deklarate-e-protagonisteve-te-bme-skandalit-eshte-mashtrom/>

# KOSOVO ASSEMBLY

The assembly has published an overall of 33 notices according to the table below:

	Number
Contract announcement	44 42%
Contract award announcement	27 26%
Annulment announcement	33 32%
TOTAL	104 100%

From the 44 notices published before granting contracts, there were 75% or 33 notices cancelled according to the reasons stated below:

Annulment	Number
In lack of responsible offers	28 85%
Anti Corruption Agency Opinion	0 0%
Substantial excess of the budget	4 12%
Insufficient information	0 0%
Other	1 3%
TOTAL	33 100%

In 85% of the cases these cancellations were made due to absence of adequate offers.

The value of notices for granting 27 contracts reaches 426 thousand euro, classified as in the table below:

	Value of contracts	Number, amount
Të mëdha	Big	0 0%
	Amount of big contracts	0 0%
Të mesme	Medium	11 41%
	Amount of medium contracts	373,314 88%
Të vogla	Small	16 59%
	Amount of small contracts	52,822 12%
	Total number of contracts	Total value of contracts
	27	426,136
	100%	100%

In 2015, the Assembly had planned to spend 72% less than the previous year, from 1.5 million in 2014 to 426 thousand euro in 2015.

Kosovo assembly has tendered fire extinguishers valued at 3 thousand euro in June 2015 from the "Pastor Kosova" company, but the two blockades that happened in the assembly in 2015 from throwing teargas didn't activate any fire extinguishing equipment.

The problem wasn't that the equipment didn't work, but because they hadn't activated them at the assembly, saying that they didn't need them because the warranty was active.<sup>161</sup>

Despite the fact that the assembly spends 3 thousand euro each year in maintaining equipment for extinguishing fires, they remain turned off and are only turned on when the staff of the assembly wants to do that.

In 2014, the Kosovo Assembly contracted a tender for the value of 11 thousand 800 euro for the purchase of laptops<sup>162</sup>, however according to the GAP Institute<sup>163</sup>, even though the Assembly purchases laptops and laptops every year, this has not resulted in the decrease of the expenditures on letters, photocopy and printing.

161 Article "Assembly hadn't activated anti-fire equipment in the session with teargas", October 2015 <http://kallxo.com/kuvendi-nuk-kishte-aktivizuar-pajisjet-anti-zjarr-ne-seancen-me-gaz-lotsjelles/>

162 Public Procurement Monitoring report in Kosovo 2014 "Hidden Tenders", February 2015 [http://jetanekosove.com/repository/docs/BIRN-shqip\\_350845.pdf](http://jetanekosove.com/repository/docs/BIRN-shqip_350845.pdf)

163 Institute GAP "How much did the purchase of laptops for MPs in Parliament affect the costs for paper and printing?", April 2015 <http://www.institutigap.org/lajme/729>

# PRESIDENT'S OFFICE

The Office of the President has published a total of 33 reports as shown in the table below.

	Number
Contract announcement	7
	16%
Contract award announcement	34
	79%
Annulment announcement	2
	5%
TOTAL	43
	100%

There were only 2 cancellations before granting contracts due to the absence of adequate offers.

The President's Office in 2015 reached the contract value of 62% more than the previous year, where from 226 thousand euro contracted in 2014, this number reached 582 thousand euro in 2015.

	Value of contracts	Number, amount
Big	Big	0 0%
	Amount of big contracts	0 0%
Medium	Medium	5 15%
	Amount of medium contracts	391,116 67%
Small	Small	29 85%
	Amount of small contracts	190,852 33%
	Total number of contracts	Total value of contracts
	34	582,068
	100%	100%

While in 2014 the Office of the President had more small contracts, with the exception of 3 medium value contracts with the value of 69 thousand euro, in 2015 medium value contracts increased by 82% and amounted to 391 thousand euro.

Contracts for services, service maintenance for three types of vehicles where contracted for:

**Toyota** - 181 thousand euro

**Audi** - 43 thousand euro

**Chevrolet** - 8,225 thousand euro

**Security of vehicles** - 11,492 euro thousand euro

**Vehicle tires** - 9,580 euro

**Fuel** - 55,550 euro

**Cleaning of these vehicles** - 8,400 euro

BIRN contacted the President's Office to ask how many vehicles they use.

Through email the office responded that it possesses a total of 25 vehicles purchased during the period 2002-2005.

The "Office of the President has 25 cars, 12 Toyotas, 7 Chevrolets, 3 Audis, 1 VW Polo, 1 VE Kombi, 1 Mercedes and that the vehicles were purchased during the period 2002-2005," said the e-mail.

For vehicles from 10 to 13 years old, the President's Office plans to spend a total of 317 thousand euro. Whereas for air transport, 100 thousand euro was contracted.

## LACK OF APPROXIMATE VALUES IN CONTRACTS

In 2015, the issued the Administrative Guideline 02/2015 for public framework contracts where it clearly specified how such should be used:

"Framework contract maximum may have a duration of 36 months, the amount specified in the tender cannot be determined accurately because it is indicative quantity, but CA should quantify and value these contracts to determine a threshold and a ceiling which should not be deviated from, and also declare the share of non-compliance allowed also that cannot be higher than plus/minus 30%."<sup>164</sup>

Some contracting authorities ignored this administrative instruction and continued as in

2014, publishing framework contracts without specifying quantity or approximate value.

In 2015, during the monitoring of contract publishing, it was noticed that 48 CA on 61 publications for granting contracts had not specified the approximate contract value:

164 PPRC, "Administrative Guideline Nr. 2/2015 for framework on public contracts", March 2015 <https://krpp.rks-gov.net/krpp/PageFiles/File/Udhezimet%20Adminis%202015/UA%202%202015%20per%20Kontrat%20Publike%20Kornize.pdf>

Contracting Authority	Transport services	Insurance of facilities	Supply of IT equipment	Heavy fuel supply	Supply of medical materials	Vehicle Servicing	Others	Amount
MFSK				1				
Ministry of Infrastructure						1		
MMPH	1						4	42,678
MPJ							1	
MSH				1				
QKMF Mitrovica					1			
MTI							3	1,284
Kosovo Customs			1				1	68,038
Constitutional Court							1	10,500
Police Inspector							1	3,712
Judicial Institution						1		880
Labour Medicine Institute of Gjakova						1		3,048
Mental Health Service in Shtime				1				29,551
Mental Health Service in Mitrovica							1	1,440
Hospital of Vushtrri				1				
Hospital of Gjakova				1				20,000
Hospital of Mitrovica					1			
Hospital of Peja							1	1,470
Hospital of Prizren				1				
AKK		1					1	37,000

Contracting Authority	Transport services	Insurance of facilities	Supply of IT equipment	Heavy fuel supply	Supply with office materials	Food Services	Internet and telephone Services	Others	Amount
Municipality of Dragash	2								
Municipality of Drenas		1							
Municipality of Gjakova	1								42,224
Municipality of Gjilan			1	1					
Municipality of Hani i Elezit			1						50,000
Municipality of Kamenica			1						7,975
Municipality of Klina			1						30,000
Municipality of Lipjan					1	1			76,317
Municipality of Novo Brdo			1						6,000
Municipality of Partesh			1						
Municipality of Podujeva	2							1	76,718
Municipality of Ranillug				1			1		
Municipality of Viti							1		2,100

Through e-mail BIRN has contacted all CAs to obtain the approximated values of contracts.

From the 48 CA contacted, only 23 of them responded from the above-table, where the total value of these contracts amounted to 981,030 euro.

The table shows that CAs in most cases have difficulty calculating the services, while in terms of supplies it is difficult to calculate fuel and IT equipment.

For secrecy values related to standard forms of contracts, BIRN interviewed procurement office directors to disclose why contracts are without value.

During the interview, Artan Jaha from the Division of Procurement in the Ministry of Agriculture, said that the forms were republished without amounts since the PPRC had not sent them back for improvement:

“In the case of not placing the total or rough value of the contract, the PPRC returns notices to us, but they have not returned it and we have republished them” said Jaha.<sup>165</sup>

Fatos Shala from the procurement division of MAPL stressed that the ministry where he works does not submit to the PPRC contracts without value because then they will send it back.

“We continually place the overall value of the contract because without this value the PPRC does not publish them” said Shala.<sup>166</sup>

The PPRC still faces understaffing problems, and the monitoring of publication of notices by the end of 2015 was made only for major contracts. With the new law medium contracts, will be monitored too, while while smaller contracts are not in the plan to be monitored. Chairman of the PPRC Safet Hoxha, in an

interview for BIRN stressed that sufficient and adequate staff is a prerequisite to build a better system of procurement.

“We have been monitoring the publication of major contracts in order to eliminate irregularities in the tender files, while in 2016 we also started monitoring medium-value contracts, it requires additional resources, an issue that we have addressed because it is a prerequisite for building a better system of procurement”, said Hoxha.<sup>167</sup>

Hoxha constantly stressed that the problem of publishing contracts without value is there have been attempts to regulate the issue, starting last year with the administrative instruction.

In 2015 the PPRC were only monitoring the publication of major contracts, at the same time it had also to monitor the publication of all framework contracts to see if Administrative Instruction 02/2015 was being implemented.

According to our monitoring it shows that the PPRC has not done an effective monitoring publication of framework contracts, it has not sent the forms back to the institutions to decide the estimated value of the contract, and this is not excused by the lack of staff but negligence on the implementation of administrative instructions.

165 Interview with Artan Jahajn - Prishtina 28 January 2016

166 Interview with Fatos Shalën - Prishtina 08 February 2016

167 Interview with Safet Hoxhën - Prishtina 08 February 2016



# HIGHEST PRICE VS LOWEST PRICE

During the monitoring of contracts an interesting fact was noticed by the publication of the contract value.

In the standard form except that there should be the responsible tender with the lowest price, which is the winner, there should also be responsible tender with the highest price.

Ferizaj Municipality, in two different tenders had differences in value, where they contracted the cheapest one.

For the contract of the feasibility study for the Economic Zone in the Babush village, they had planned to spend more than 10 thousand euro by classifying this contract as middle sized, but the feasibility finished with 7 thousand, 800 euro by defeating the offer of 22 thousand euro.

The tender was won by Edmond Hajrizi from the College of Business and Technology UBT, by defeating the private company "Intertech".

This shows the seriousness of feasible measurements for a project with economic importance, when one college can do an analysis 65% cheaper than a private company.

Another contract classified as medium from Ferizaj Municipality, dealing with a supply of electro-material was contracted for the

amount of 7 thousand 800 euro, while the highest bid was 31 thousand 600 euro, 4 times or 75% higher than the one contracted.<sup>168</sup>

The municipality of Novo Brdo has contracted the drafting of projects for the municipality, classified as medium contract with 1080 euro, while the highest bid was 15 thousand 667 euro, 85 times higher or 93% more expensive than the one contracted.<sup>169</sup>

The Regional Water Company has contracted Bifurcation Ferizaj to service "technical and financial evaluation of urban systems and rural water supply" for the amount of 10,650 euro. The highest offer for this tender was 68 888 euro, 6 times higher or 75% more expensive than the contracted value.<sup>170</sup>

The Regional Company of Waste "Pastrimi" Prishtine has contracted for toners with an amount of 791 euro, whereas the most expensive offer was 6,765 euro, 8 times higher or 88% more expensive than the one contracted.<sup>171</sup>

QKUK has contracted 20.400 cytostatic pieces with a price of 6.80 euro per unit and a total value of 137,720 euro, by defeating the most expensive bid where a cytostatic costs 83 euro each and the value of 20,400 pieces reaches 1.7 million euro, 12 times higher or 92% more expensive than the contracted value.<sup>172</sup>

168 PPRC "Notice for granting a contract", December 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=111851>

169 PPRC "Notice for granting a contract", March 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=96996>

170 PPRC "Notice for granting a contract", August 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=104618>

171 PPRC "Notice for granting a contract", April 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=97914>

172 PPRC "Notice for granting a contract", December 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=110218>

The Assembly of Kosovo bought low cost cartridges with 2,106 euro, beating the offer of 27 thousand euro, 13 times higher or 92% more expensive than the contracted ones.<sup>173</sup>

The Ministry of Internal Affairs will do the servicing of the photocopiers with 17,136 euro, while the highest bid was 81,463 euro, 5 times higher or 79% more expensive than the contracted one.<sup>174</sup>

KEK has also contracted striking buttons with 9,651 euro, while the most expensive bid was 82,060 euro, 8 times higher or 88% higher than the value of the final contract.<sup>175</sup>

From all the 9 different contracts there is a huge difference between the contracted price and the actual offer.

## CORRUPTION IN PUBLIC PROCUREMENT

The year of 2015 was concluded with trials, indictments and even convictions of procurement officials.

Corruption in public procurement is not being fought enough by any of the state mechanisms starting from the PRB as a court of tenders to the competent courts, when cases are delayed and finally dismissed as unfounded.

Also, convictions of this nature are very low, allowing the accused for the offense of corruption to take seriously the purpose envisaged by the Criminal Code of the Republic of Kosovo.

This is also proved by the Court Monitoring Report 2015, compiled by BIRN Kosovo and Internews Kosova published in May 2015.<sup>176</sup>

Findings in the report show that according to the Secretariat of the Judicial Council of Kosovo chapter cases of corruption offenses,

in 2015 was 121 cases, of which 19 cases were concluded with acquittals.

This shows that corruption cases are difficult to prove, or that the prosecution did not adduce sufficient evidence, where perpetrators of such cases are not punished, and those few cases that are prosecuted are often with low penalties provided, despite the fact that the Criminal Code foresees penalties for perpetrators of criminal offences of corruption.

We have not received answers from Special Prosecution for indictments in 2015 for abuse of tenders, but we are aware that the basic prosecution in Ferizaj has filed 5 indictments during 2015 on 19 people involved in abuses with tenders, while the prosecution of Prizren has filed two indictments, and the prosecution of Peja and Gjakova have not filed any charges of wrongdoing tenders.

173 PPRC "Notice for granting a contract", March 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=96337>

174 PPRC "Notice for granting a contract", September 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=105468>

175 PPRC "Notice for granting a contract", March 2015 <https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=VieëNotices&ID=96304>

176 PPRC "Notice for granting a contract", May 2016 [http://kallxo.com/ëp-content/uploads/2016/05/BIRN-court-report-2015\\_ALB\\_ëeb.pdf](http://kallxo.com/ëp-content/uploads/2016/05/BIRN-court-report-2015_ALB_ëeb.pdf)

## The indictment against Hysni Hoxha and PRB's scandals

The indictment raised by the Special Prosecution in Kosovo against the head of PRB, Hysni Hoxha, internal expert of PRB, Hysni Muhadri and owner of company "Canex Group", Veton Fetahu and the accountant of this company Arsim Robelli, are being tried by the Prishtina Basic Court.

In 2013, Veton Fetahu, owner of "Canex Group" company deceived PRB with false documentations of the Kosovo Tax Administration (TXA) for building bars in Pejton.

For this case, Hysni Hoxha as chief of PRB, and Hysni Muhadri as reviewing expert of PRB, are accused of cooperation and abusing the official duty or authority, that had brought material gains of 1.8 million euro to the "Canex Group" company.

In the initial hearing, held in August 2015, Hysni Hoxha, Hysni Muhadri and Arsim Robelli didn't declare themselves guilty, while Veton Fetahu on March 10, 2015 had reached an agreement with the prosecutor for declaring a guilty plea, and with this, they had agreed that for the acts that he's being charged, he'd be sentenced to six months in prison and a 16,000 euro fine.<sup>177</sup>

After the indictment was raised with the "Canex Group" case in December 2014, Hysni Hoxha in a press conference, had declared that he won't resign from his position, because according to him if that happens "PRB will go down".<sup>178</sup>

## Another indictment for Hysni Hoxha

In January 2015, The Prishtina Basic Court raised an indictment against KEK director, Arben Gjukaj, mayor of Skenderaj, Sami Lushtaku and five other people for the tender of physical security of the KEK building, the value of which was around six million euro.

In this court case, Esat Tahiri and Milazim Lushtaku were accused of the criminal act of fraud, former director of procurement Driton Pruthi, the director of KEK, Arben Gjukaj and the former chief of PRB Hysni Hoxha were accused of abuse of official duty or authority, while the mayor of Skenderaj, Sami Lushtaku was accused of forcing abuse of official duty, while Azem Duraku was accused of forcing for misconduct.<sup>179</sup>

## Blocking and unblocking the PRB

In January 2016, Hysni Hoxha resigned from his position as chief of PRB for the reason that he's tired of waiting for the PRB to have two more board members and emphasizing that his resignation has nothing to do with the indictments.

"I've been waiting for a decision to elect two new members of the PRB for more than a year now, this hasn't happened, and as a result of this around 50 complaints have been left without being reviewed and within these past few days there have been some new ones, the resignation has nothing to do with the charges against me, those are nonsense and

177 Article "Head of 'Tenders court' in the defendants desk", August 2015 <http://kallxo.com/kryetari-i-gjykates-se-tendereve-ne-banken-e-te-akuzuarve/>

178 Article "Hysni Hoxha: I won't resign", December 2014 <http://kallxo.com/hysni-hoxha-nuk-jap-doreheqje/>

179 Article "Sami Lushtaku and Arben Gjukaj in court for KEK tender", February 2016 <http://kallxo.com/sami-lushtaku-e-arben-gjukaj-ne-gjyq-per-tenderin-e-kek-ut/>

don't have anything to do with this, this has to do with me being tired," declared Hoxha after his resignation.<sup>180</sup>

The PRB had been left without two board members from the five that they were originally, and the function of this institution was paralyzed with the lack of new appointments.<sup>181</sup> The European Union, asked for the completion and the depolitization of the PRB, as criteria for the visa liberalization of Kosovo.<sup>182</sup>

After three sessions of the assembly a new chief and board members of the PRB were elected. Blerim Dina, who in the first session didn't get the necessary votes, was elected in the third session, as Head of the PRB, and two new board members: Nuhi Paqarizi and Goran Milenkovic were elected.<sup>183</sup>

## Bajram Zogiani worked from prison

Another member of the PRB, Bajram Zogiani was discharged from this position in March 2016, as he was in detention since December 2014, under suspicion of human trafficking.<sup>184</sup>

Bajram Zogiani, even though he wasn't physically in his job place, continued to receive his paycheck as a member of board of PRB for 14 months.

## Nexhat Krasniqi guilty for tender abuse

In September 2015, Nexhat Krasniqi, Adem Zogiani, Safet Fazliu and Sadri Hykosmani were declared guilty for abuse of official duty by a court body in the Prishtina Basic Court.

Nexhat Krasniqi was sentenced to 12 months in prison for official duty abuse. He was given a unique sentence of 26 months in prison.

Nexhat Krasniqi, former official of the Trade and Industry Ministry was charged with accepting bribes and signing damaging contracts.

Other MTI officials were sentenced to probation. Adem Zogiani with 10 months, Sadri Hykosmani with 8 months and Safet Fazliu with 7 months.<sup>185</sup>

The four accused were declared guilty for building a "Business Park" in Drenas, where Nexhat Krasniqi, an official in MTI had avoided the procurement procedures by paying "Eltoni" company an advance of 135 thousand euro for building the park and not respecting the contract conditions.

Sadri Hykosmani had approved this payment as certifying official, Adem Zogiani hadn't stopped the payment, and Safet Fazliu hadn't overseen the signed contract properly.<sup>186</sup>

180 Article "Exclusive: Former Chief of tenders speaks after resignation", January 2016 <http://kallxo.com/ekskluzive-flet-ish-shefi-i-terndereve-pas-doreheqjes/>

181 Article "Court of tenders' paralyzed from lack of appointments", March 2016 <http://kallxo.com/gjnk/gjykata-e-tendereve-paralizohet-nga-mungesa-e-emerimeve/>

182 Article "Demarcation a term for visa liberalization", December 2015 <http://kallxo.com/demarkacioni-kusht-per-heqjen-e-vizave/>

183 Article "Blerim Dina head of PRB", March 2016 <http://kallxo.com/blerim-dina-ne-krye-te-oshp-se/>

184 Article "Government proposes dismissal of Bajram Zogiani", March 2016 <http://kallxo.com/qeveria-proponzon-shkarkimin-e-bajram-zogianit/>

185 Article "Nexhat Krasniqi sentence to 26 months prison", September 2015 <http://kallxo.com/nexhat-krasniqi-denohet-me-26-muaj-burg/>

186 Article "Here's where they were found guilty Nexhat Krasniqi with friends", September 2015 <http://kallxo.com/ja-ku-u-gjeten-fajtor-nexhat-krasniqi-me-shoke/>

## Nexhat Krasniqi again as defendant

But, for Nexhat Krasniqi, former official of the Trade and Industry Ministry, the accusations didn't end with that position. After he had gone to the Ministry of Infrastructure as procurement manager, he's now being tried together with the former minister, Fatmir Limaj, and other officials, Endrit Shala, Shpetim Telaku and business owner, Florim Zuka. Former minister Limaj and these officials are being tried for corruption in public procurement for the tender of maintenance of roads in the Gjilan region.<sup>187</sup>

## Softer sentences for former Culture Ministers

Another sentence was given during 2015 to the two former Culture Ministers, Astrit Haraqija and Valton Beqiri for signing contracts of 570 thousand euro in violation of the Law for Public Procurement and the one for Cinematography in the years 2002-2008.

Astrit Haraqija and Valton Beqiri were sentenced to 10 months probation each. They can't commit other criminal acts within two years, if they don't want to serve this sentence, while the film producer Armond Morina was sentenced to six months in prison.<sup>188</sup>

For the two former ministers the case doesn't end here, the Appeal Court has decided that the first instance verdict should be annulled and that the case should go back to the Basic Court for a retrial.

The appeal has concluded that the Basic Court "didn't describe the incriminating actions of the defenders and their motive to commit a criminal act" in the verdict for the former ministers and producers.<sup>189</sup>

## Medication misconduct

Another procurement official in another ministry is being tried for tender misconducts. Enkelejda Gjonbalaj from the Health Ministry is being accused and tried for a 1.1 million euro tender for removing the cheapest medication from the list of the essential medications, to buy the most expensive ones.<sup>190</sup>

## Charges dropped after six years

Six years after the case they were charged for happened, Ekrem Maliqi, Berat Marmullaku, Bekim Fusha and Hajrullah Fejza from the Health Ministry were declared innocent. The Basic Prosecution in Prishtina's indictment said that during the tender evaluation, to supply medication from the essential list by the Ministry of Health, they had recommended a company that hadn't fulfilled the tender criteria, because they hadn't submitted the authorization of the producer – Regional Office in Slovenia in the tender file.

All the prosecution's allegations were dismissed, after the court body found no evidence against the accused.<sup>191</sup>

187 Article "Prosecutor in Limaj case: Corruption a cancer that damages Kosovo", December 2015 <http://kallxo.com/prokurori-ne-rastin-limaj-korrupsioni-kancer-qe-demton-kosoven/>

188 Article "Probations for former Culture Ministers", December 2015 <http://kallxo.com/denime-me-kusht-per-ish-ministrat-e-kultures/>

189 Article "Case of former ministers returned for retrial", June 2016 <http://kallxo.com/kthehet-ne-rigjykim-rasti-ish-ministrave/>

190 Article "1.1 millions tender of Health Ministry in Court", February 2016 <http://kallxo.com/tenderi-1-1-milionesh-i-ministrise-se-shendetesise-ne-gjykate/>

191 Article "Innocent the defendants for medicine tender", March 2016 <http://kallxo.com/te-pafajshem-te-akuzuarit-per-tenderin-e-barnave-2/>

## Legal amendments- both hopeful and frightful

In the session that it was supposed to discuss the events of strikes and use of tear gas, Kosovo Parliament suddenly changed the topic to approving one of the most important laws, the law on Public Procurement.<sup>192</sup> The debate within Kosovo's Parliament for the implementation of such law did not take place, just as it did not take place for other laws at such late hours. Consequently, two mistakes were found in this law and the Parliament had to make changes after only 2 months the law entered into force.<sup>193</sup> In the meantime, the new adopted law in public procurement had opened the gateway for the biggest changes in public procurement since after the war in Kosovo. A novelty that this law introduced was related to the start of applying electronic public procurement. The law entered into force on 29 December, which was followed in two weeks' time with the inauguration of electronic procurement. Six contracting entities on the national level have started working on different projects through electronic procurement.<sup>194</sup>

It was initially planned for electronic procurement to begin in June throughout all contracting authorities on the central level, however, now this is not expected to happen. Currently, September is being mentioned as another possibility, however this is not official and it could be prolonged even more. Electronic procurement in local CAs (contracting authorities) is announced that it will start in January of 2017. Electronic Procurement was one of the conditions set by the EU for Kosovo's visa liberalization. A platform that removes letters and possibilities to interfere with documents, this form of procurement is said to be able to save up to 10% of the budget spent through tenders.

However, electronic procurement is not the only change that has come from the amendment of Public Procurement Law. Some of the changes mentioned by government is the possibility for dividing tenders on tender lots in order to make it possible for small economic operators to take part in government and municipal projects. This change is in conflict with the practice of the Central Procurement Authority that had centralized some of the services by giving only one contract under the name of several institutions. Since the possibility of dividing into lots is offered, CPA should divide major tenders on lots in order to enable several companies to benefit contracts from public institutions and to eliminate the possibility of monopoly creation in certain fields.

When taking about centralization, with the legal changes, the number of the competences of CPA have increased as well, since due to the new law it is also assigned with performing procurement activities for independent institutions that have less than 50 employees and that respond to the Assembly or Government. This makes it necessary for the number of CPA staff to increase. In addition, the level of control of this institution should increase as well and its competences should be clearly assigned. This institution is currently under the Ministry of Finances.

Also, the new law allows non-profit organizations to take part on public tenders. However, it is foreseen for the contractors to be obliged to hire from the different communities of society that have less chances to be hired, such as: long-term unemployed individuals, persons with disabilities, women and so on. Positive change is the clear definition of individual responsibility of each member of the committee for evaluation and comparison of tenders. Even limiting the percentage of change of arithmetic errors is one of the changes made to this law, which is expected

192 <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-068%20sh.pdf>

193 <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-092%20sh.pdf>

194 <http://kallxo.com/prokurimi-online-per-zvogelim-korrupsioni/>

to limit the scope the possible arithmetic errors. Now, with the new amendments, the competences to cancel licenses of procurement is taken from PRB and is given to the PPRC.

## The change that can decrease the number of irresponsible companies

If the decisions of PRB are analyzed, it appears that the majority of companies that are declared irresponsible are named as such because of their failure to provide the documents required by the tender dossier. Many operators claim they are unfairly eliminated from the procurement processes with the aim of favoring another company.

Currently, with legal amendments made, the level of eliminations will decrease. Article 72 of basic law allows a CA to enable economic operators to complete their offers. *“When information or documents that must be submitted by economic operators is, or appears to be incomplete or incorrect, or there is an absence of specific documents, the contracting authority may require economic operators to submit, complement, clarify or complete information or documentation within a certain time period, provided that such claims are made in full compliance with the principles of equal treatment and transparency”*.<sup>195</sup>

## Legalization of one-source tenders

Kosovo's Government and Parliament were engaged to remove one of the most controversial provisions of the procurement law in recent years. A paragraph of Article 34 that determines the need for any tender to

have at least two responsive offers has been entirely removed. Before, the PPL required that for a tender to be valid, there must have been at least three adequate offers. Based on the previous law, contracting authorities are obliged to cancel a tender if they have received less than two responsive offers. Civil society is often called in this section to oppose major projects.<sup>196</sup> Now, with the new law it is not required to have two adequate offers. This increases the risk for AKK to eliminate operators for one or another reason and leave the competition only to those who are declared the winner by default.

## The unclarified two-degree authority

One of the major changes that have been made in the area of procurement in 2016 is two-degree complaints of economic operators. Two-degree complaints in procurement processes were done for the first time in Kosovo. So far, operators have complained only to the PRB, which has issued the final decision. The same is applied by the contracting authorities as well, but operators were given the opportunity to seek the right to compensation in the Basic Court.

Now, economic operators must first submit a request for reconsideration to the Contracting Authorities, known as first degree.<sup>197</sup>

But, the way of examining the request of operators is disputed, since the law does not specify whether to create new committees for reassessment or whether the request is considered as reviewed even if it is done by only the main financial officer. In the “Rule of filing the complaint” published on the website of the PPRC it says that the review of the complaint is done by the Responsible

195 First paragraph of Article 72 of Public Procurement Law.

196 <http://kallxo.com/kosid-i-kundershton-procesin-jotransparent-per-kosoven-e-re/>

197 <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-068%20sh.pdf>; Article 108/A Preliminary solution of disputes.

Procurement Officer within the contracting authority. This rule stipulates that in the first instance, economic operators can submit a request for review to the contracting authority managing the procurement activity.

The request for reconsideration can be made by the operators in all phases of the procurement, provided that they respect deadlines. With the filing of the request for reconsideration under the new rule, authorities are obliged to make the suspension of the procurement activity until a new decision of their own is made.

If operators are not satisfied with the response given by the contracting authority, they may appeal to the PRB. But the new PRB does not examine complaints if the operator has not used the right to seek review of the decision of the Contracting Authority. In order for the complaint to be completed, it should have a copy of the decision attached, adopted by the contracting authority during the previous dispute resolution in accordance with Article 108/A of the Public Procurement Law.

In addition the PPRC has made another substantial change. The tax has increased for the appeal made by the PRB. From 500 euro fixed, as it is now, it is expected to go up to 5 thousand euro. These changes are part of the "Rules for filing complaints."

Submitting an application for review in the first degree, or to the contracting authority is free. However, the appeal in the second degree, the Procurement Review Body, is done with a fee. So far the appeal fee to the PRB has been fixed for all types of tenders, but this is expected to change.

The sum of the fee is equal to 2% of the total amount of the offer, but not less than 500 (five hundred) Euro and not more than 5,000 (five thousand) Euro. The payment should be done in cash or through a bank account created by PRB.<sup>198</sup>

Based on this new rule, all complaints made by economic operators who have submitted a higher offer than 250 thousand euro will pay a maximum fee of 5 thousand euro. Also, for the offers that start from 100 thousand euro, operators will be obliged to pay a fee of 2 thousand euro.

The lowest fee of 500 (five hundred) euro is to be paid only by operators who have submitted an offer which is lower or does not exceed 25,000 (twenty five thousand) Euro.

## Electronic Procurement

The biggest change that is expected to be finalized this year are electronic procurements. As there is still a lack of information on the pilot projects that are launched through this form of public procurement, its eventual defects are not yet known. However, what is already known is the need for training of procurement officers, but also economic operators to use this form of procurement. As such, e-procurement is expected to eliminate the possibility of interference of persons in the procurement process. However, fighting corruption through this form is viewed with skepticism<sup>199</sup>, perhaps taking into account the fact that some of the states that have applied continue to face problems of corruption.

Nevertheless, what can be said so far is the delay in the training of procurement officers. Electronic procurement in central level is planned to be launched in September and the training have still not been done. By the end of this year, it will be a challenging training for all officials, including officials at the local level.

<sup>198</sup> Rules for filing complaints. Article 14, paragraph 3.

<sup>199</sup> <http://www.telegرافي.com/prokurimi-elektronik-nuk-eliminon-korrupsionin/>



# CONCLUSIONS

The word 'tender' or Public Procurement in Kosovo has almost become the synonym for 'corruption'.

Public procurement has risen as a need for budgetary savings, however in practice it is proved otherwise.

Procurement legal violations have been noticed since the beginning, with its poor planning damaging not only the budget but also the image of the country in general. Violations were identified during the evaluation and comparison phase of offers. Practice has proved that the PRB has committed legal violations as well, the body who is competent to establish justice in procurement. So, from the decisions of the PRB and of the Courts it appears that legal violations in tenders are happening throughout all institutional levels.

Various local and international reports continue to consistently criticise the procurement arena. This situation continues without improvement, and this is proven by the Office of the Auditor at the end of the year. After regularity reports on procurement find all kinds of violations of procurement law and makes several recommendations that are then not addressed at all.

Handling of cases of abuse tenders continue to receive light sentences, which does not help in raising the performance of the institutions in this field.

Also cases of fraud under investigation by senior tenders, result in release of most of the charges in the absence of evidence and delays in investigations. This issue should be raised to the level of the Prosecutorial Council, to see if prosecutors dealing with tenders need to be specialized and have additional training in this area.

Institutions still do not take procurement

planning seriously, during which the budget is spent without any responsibility, buying goods without any procurement procedure with a price more expensive than the value than these products on the market.

Procurement office managers are carriers of one of the most important processes in an organization and as such should be unbiased and professional to ensure that taxpayers' money will go to the right place. As such, they are also the most accountable ones for the entire procurement process.

The creation of evaluation commissions within institutions to assess the process of public procurement is still formal, not giving chances to experts as the law requires.

PPRC during 2015 has not made any changes in relation to monitoring the publication of contracts since it concentrates on the monitoring of big contracts but in most cases there is no effective monitoring, by passing up the irregularities that occur in the description of the tender specifications in the files.

Electronic procurement is in the pilot phase and requires a greater commitment to avoid mistakes, so the Ministry of Finance must approve the request of the PPRC for staffing of this institution.

PRB in some cases does not review the complaint at all points, it does not prove the forged documents with the claim that it belongs to the contracting authority, it is not concerned with abnormally low or high prices in the tender dossier and in some cases there are discrepancies in expertise reports of similar cases.

Legislation commission should amend the Law on the National Audit Office in the relevant section so that the auditor's responsibilities would be increased in punitive measures for

institutions which consistently violate the Procurement Law.

Anti-Corruption Agency has not attempted to strengthen the Department for monitoring of public procurement, and makes no effort to have their opinions taken seriously or address them to the competent bodies.

Kosovo Judicial Council should functionalize the Court of Arbitration, so that the handling of cases of abuse with tenders would be mediated by third parties in order for the trial to be fair and impartial.

The influence of political power and favorable treatment are still present in the public budgetary institutions.

In the conclusions it should also be introduced the need to clarify the powers of the Anti-Corruption Agency and other institutions. So, if ACA finds that in a procurement process there was a violation of the law made and they are not taken into account, the citizens should have an answer as to why this happens. Was the ACA or CA or PRB right? Even unstable opinions given by ACA should be punished. After all, they have come from the same society and in any case they could be involved in corrupt practices to convey any reassessment or re-tendering of a procurement procedure.

# RECOMMENDATIONS

Throughout this report, recommendations are given that should be addressed by other government agencies, whether central or local level, which should take more seriously the improvement of public procurement as a very sensitive and highly corrupt area.

The recommendations below are addressed to:

## Government and Parliament of Kosovo:

- Identify shortcomings of electronic procurement in the early phase, starting from the pilot phase;
- Strengthen institutions dealing with procurement in the field of professional human capacity;
- Strengthen parliamentary commissions to be more functional during their assessment towards institutions dealing with public procurement;
- Amend the Law of the Auditor General with enhanced competences for action against institutions that do not address the recommendations;
- Enforce cooperation between the Ministry of Finance and the Central Procurement Agency for the development of centralized procurement.

## Ministry of Justice

- Set up the Court of Arbitration;
- Provide professional associates in the field of procurement for prosecutors and judges;
- Assist in the specialization of prosecutors in procurement.

## Contracting Authorities

- To conduct meaningful budget spending through procurement procedures;
- Avoid adjusting the specifications in the tender to favor certain economic operators;

- Train Procurement Managers to be responsible in approving requests by requesting units to purchase products;
- Appoint the Tenders Evaluation Commissions with professionalism and within the scope required;
- Penalise the economic operators if they do not abide by the dynamic plan by executing the amount of the tender security.

## PPRC

- Increase the monitoring of contracting authorities;
- Increase the control of publication of contract notices;
- Address legal violations of the Contracting Authorities to competent authorities;
- Give recommendations as required by procurement law without making differences from case to case.

## PRB

- Professionalize experts and not allow for expertise reports to have contradictions on similar cases;
- Establish the accounting department of contract value to prevent prices that are not normally low;
- Digging deeper in investigating cases as a court of tenders.

## CPA

- Implement a centralized procurement for all kinds of specific services;
- Create and publish a reference price list for all products;
- Safeguard competition when dividing in lots the contracts with large amounts of money as in cases of petrol etc.

PUBLIC PROCUREMENT MONITORING REPORT IN KOSOVO

# TENDERS OF ENDEARMENT

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#### Photography Legend

A photograph reported to KALLCO.com from a citizen from Viti, where some seedlings are seen planted on the middle of the street on the holes that were not covered by no one. 11 February 2015

This report has highlighted the fact that some roads that are in poor condition in Kosovo are built by companies that are qualified for public contracts only for the sake of political or family connections that they had with a public authority that have granted them contracts.

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