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# BENCHMARKING PUBLIC PROCUREMENT

In Prishtina/Priština, Gjakova/Djakovica, Vushtrri/Vučitrna,  
Gjilan/Gnjilane and Peja/ Peć

May 2018







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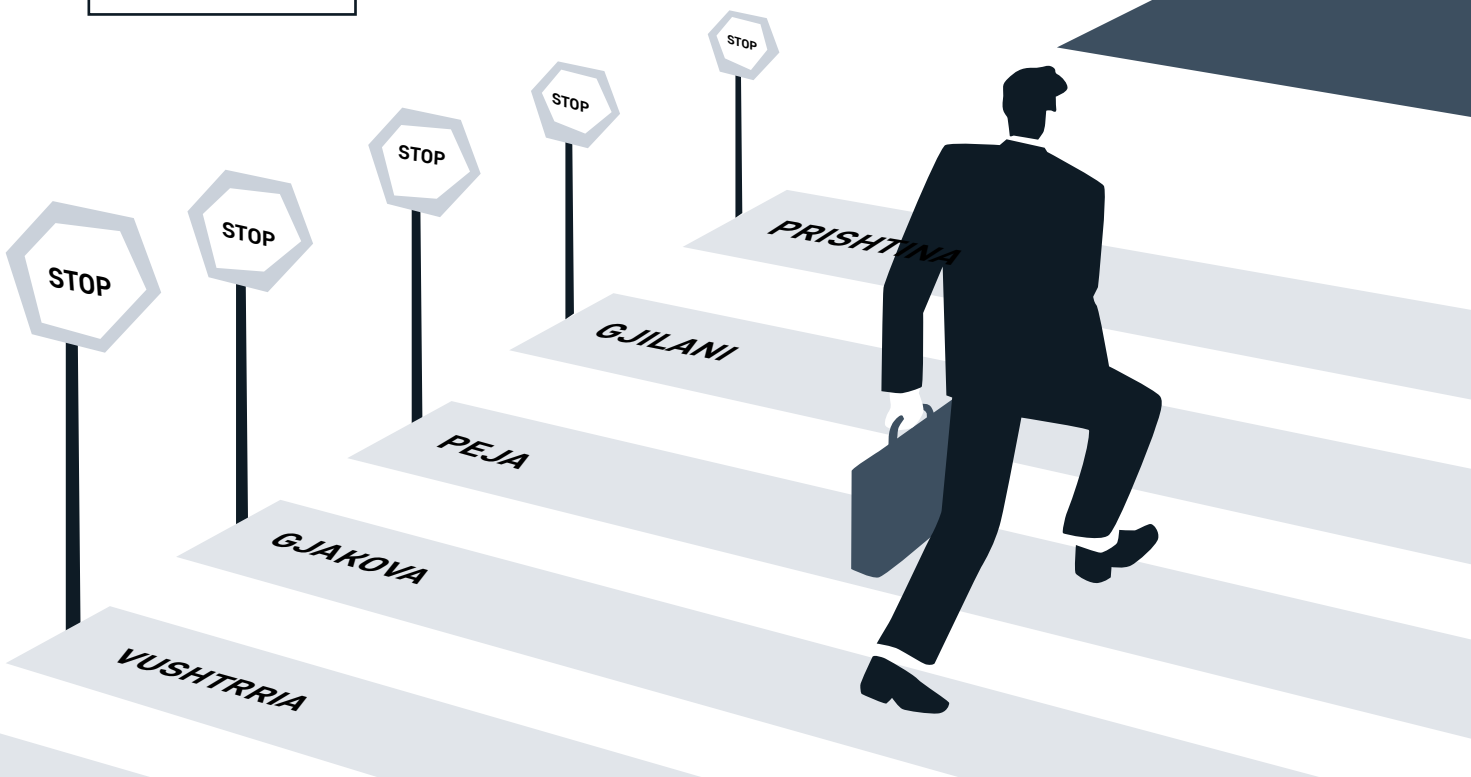


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May 2018



**PROJECT TITLE:** Exposing corruption through active monitoring and comparison of five municipalities  
**DATE OF SUBMISSION:** May 2018  
**PREPARED BY:** Isuf Zejna and Rrita Ismajli

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# ABBREVIATIONS

**ACA** Anti-Corruption Agency

**CA** Contracting Authority

**CPPA** Central Public Procurement Agency

**CSOs** Civil Society Organizations

**D+** Democracy Plus

**EO** Economic Operator

**NAO** National Audit Office

**PPL** Public Procurement Law

**PPRC** Public Procurement Regulatory Commission

**PRB** Procurement Review Body

# EXECUTIVE SUMMARY

Following the "Baseline Report"<sup>1</sup> prepared by Democracy Plus (D+) in December 2017 for five targeted municipalities of Kosovo, D+ has since then been designing a set of benchmarking indicators, cooperating with municipal procurement officials and preparing the first cycle of the "Benchmarking Report" to better assess the performance of Prishtina/Priština, Gjakova/Djakovica, Vushtrri/Vučitrna, Gjilan/Gnjilane and Peja/Peć in public procurement.

The report covers the period from January 2017 - February 2018, focusing and highlighting best practices, irregularities, violations and the main developments in public procurement at the local level. The aim is to assess to which extent the municipalities are operating according to the law, as well as to encourage officials to share good practices of public procurement.

Indicators and research methods were set according to our methodology regarding the monitoring process of public procurement. In order to identify irregularities and municipalities' best practices in the most accurate of ways, D+ prepared a questionnaire for procurement officials to assess performance in public procurement (see Annex 1).

The aim of the "Benchmarking Report" is twofold. It first of all shows comparable data on municipal public procurement practices and performances across five municipalities, and also provides insightful information not only for the public, but in particular for private companies and procurement regulatory bodies such as the National Audit Office (NAO), Public Procurement Regulatory Commission (PPRC), Procurement Review Body (PRB) and the Anti-Corruption Agency (ACA).

The findings in this report were collected through the qualitative and quantitative questionnaire, individual interviews and general discussions related to public procurement system in Kosovo, secondary sources from the independent public procurement institutions and private companies.

The municipalities were compared and analyzed based on the following indicators, for which the reasoning/importance is further explained in the report:

- 1 **Implementation of law**
- 2 **Good Practices**
- 3 **Implementation of the recommendations from oversight institutions**
- 4 **Transparency**
- 5 **Competition**
- 6 **Civic engagement**

<sup>1</sup> Baseline Report via D+ website

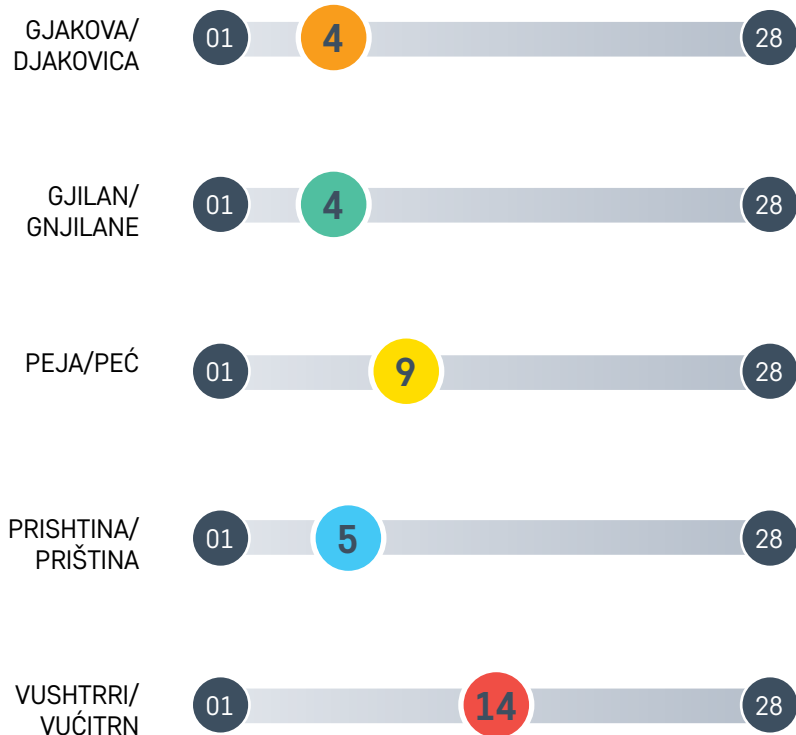
# IMPLEMENTATION OF LAW

Implementation of law indicator includes other sub-indicators such as “Complaints to the Contracting Authority”, “Complaints in the PRB”, “Findings from the Auditor’s office” etc. Based on our analysis, the Municipality of Vushtrri/Vučitrn scores the highest performance with 14 points out of 28. This is due to it regularly respecting the legal framework

during procurement activities. The second highest score is observed at the Municipality of Peja/Peć, scoring 9 points out of 28. The Municipality of Prishtina/Priština scores 5 points and the last two least performing municipalities are the Municipality of Gjakova/Djakovica and Gjilan/Gnjilane, each scoring 4 points out of 28 for this indicator.



**FIGURE 1.**  
Represents the points for each municipality for “Implementation of law” indicator.

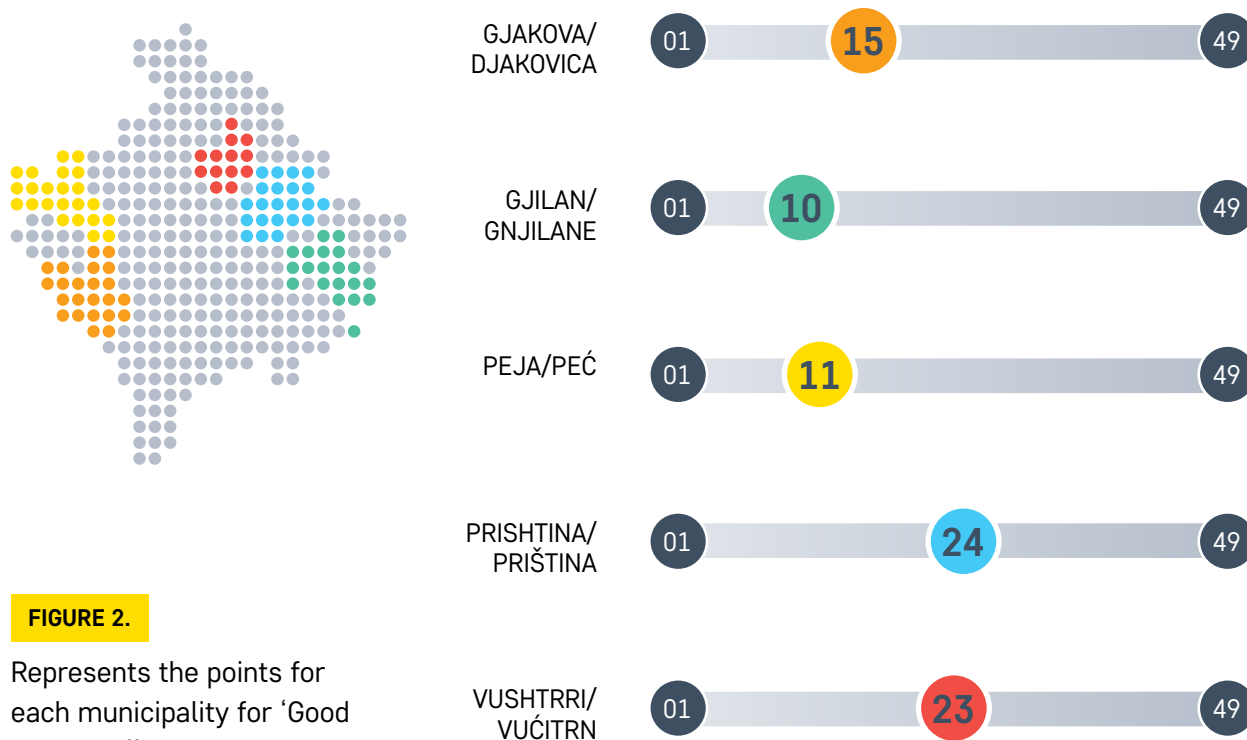




## ● GOOD PRACTICES

For the 2<sup>nd</sup> indicator known as “Good Practices”, the highest performing municipality is Prishtina/Priština. This Municipality has been found to offer higher standards of market research, better management of tender specifications’ requests and has an Integrity Plan in place. The second one is the Municipality of Vushtrri/Vučitrn, which is also one of the most disciplined municipalities in regards to executing payments within the legal deadline. The third best performing

municipality is the Municipality of Gjakova/Djakovica scoring 15 points, and the Municipality of Gjilan/Gnjilane scored just under Peja/Peć with 10 points. Although the Municipality of Gjakova/Djakovica scored 15 points due to some less advanced practices, it did score just as high as the Municipality of Vushtrri/Vučitrn, which executes payments within the legal deadline.



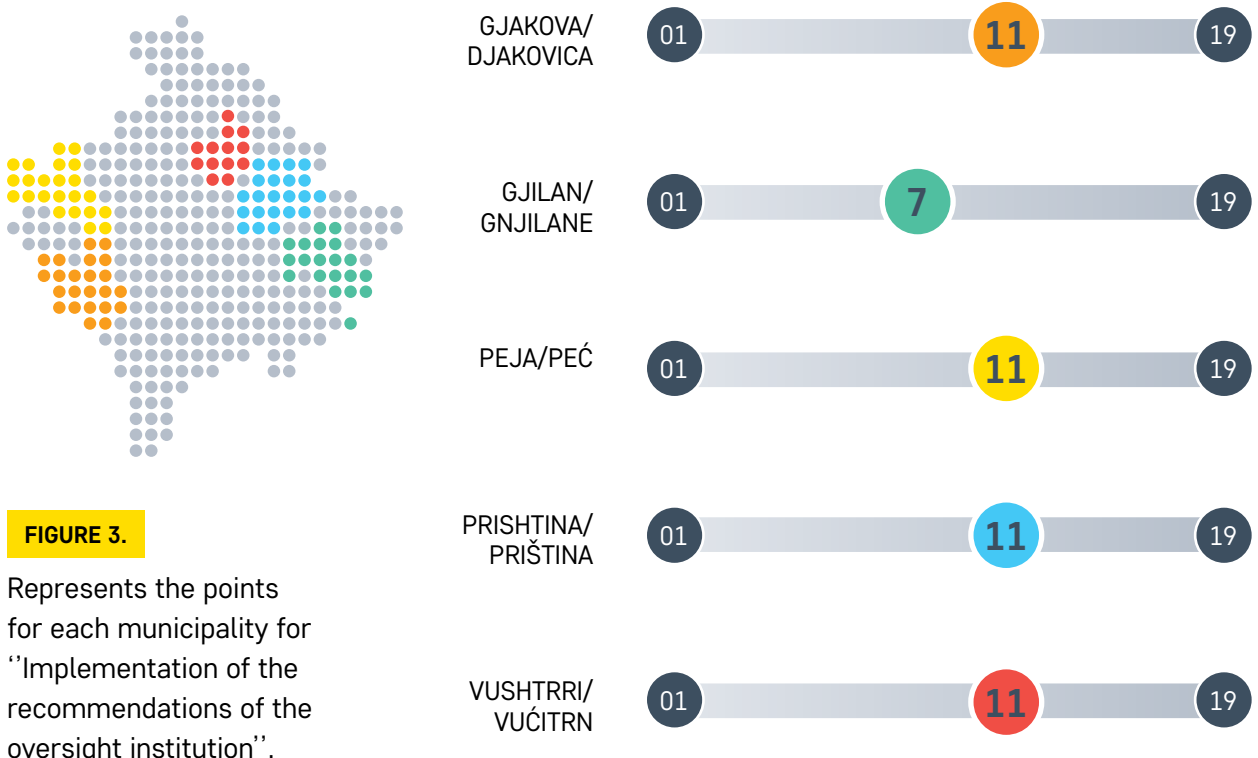
**FIGURE 2.**

Represents the points for each municipality for ‘Good Practices’ indicator.

# IMPLEMENTATION OF THE RECOMMENDATIONS FROM OVERSIGHT INSTITUTIONS

The implementation of the recommendations of the regulatory institutions indicator includes various sub-indicators, such as the National Audit Office (NAO), the Internal Audit Office of the municipalities, the Anti-Corruption Agency (ACA) and direct orders from the Public Procurement Review Body (PRB). Within this indicator, recommendations and opinions issued by these aforementioned institutions

are better addressed and dealt with in the Municipalities of Prishtina/Priština, Vushtrri/Vučitrn and Peja/Peć and Gjakova/Djakovica. However, the Municipality of Gjiilan/Gnjilane still has to work more to accomplish the implementation of recommendations and opinions, for them to boost their performance in this aspect of procurement activity.



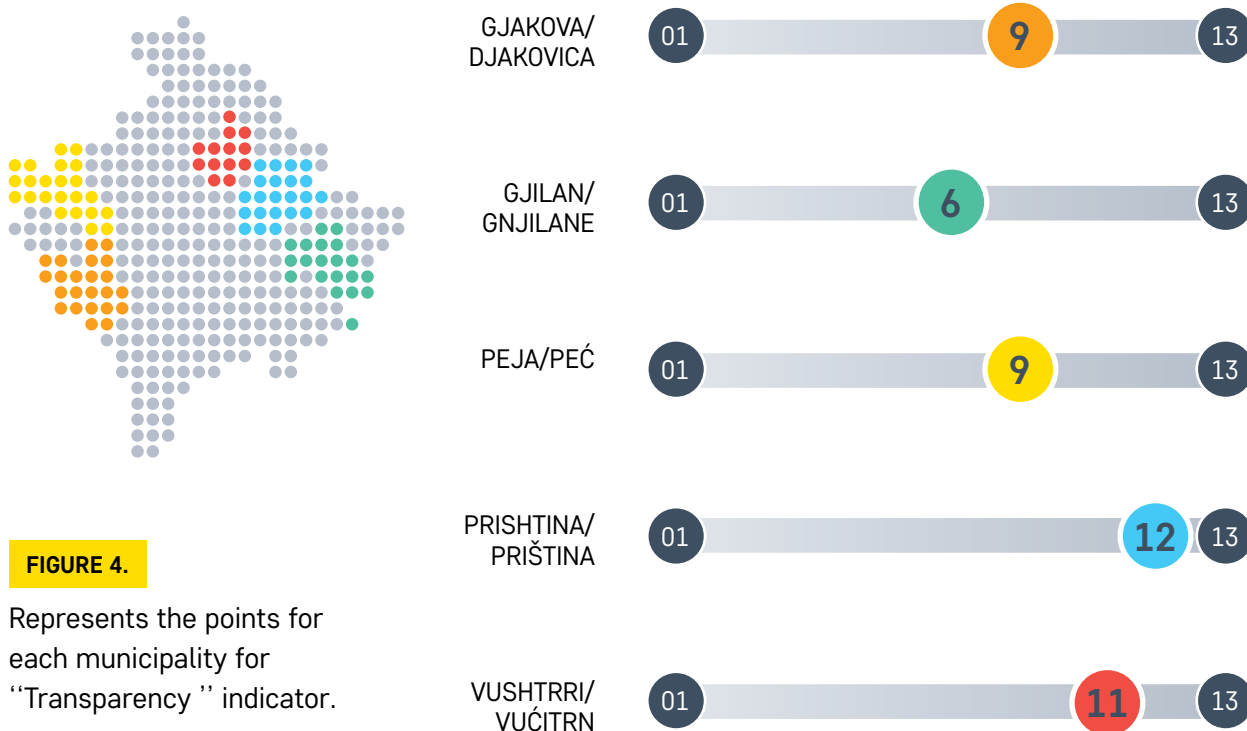
**FIGURE 3.**

Represents the points for each municipality for “Implementation of the recommendations of the oversight institution”.

# ● TRANSPARENCY

The other important indicator looks at transparency around procurement activities in these municipalities. During our data analysis and questionnaire assessments, D+ identified that the Municipality of Prishtina/Priština does not only share good practices of transparency but also has an "Open Data" platform in place. This initiative indeed helps the citizens of Prishtina/Priština to be better informed, as well as grant the private sector the confidence to apply for public tenders. The Municipality of Vushtrri/Vučitrn is also scoring high in transparency indicators, thanks to their commitment towards open and accountable local governance. The Municipality of Gjako-

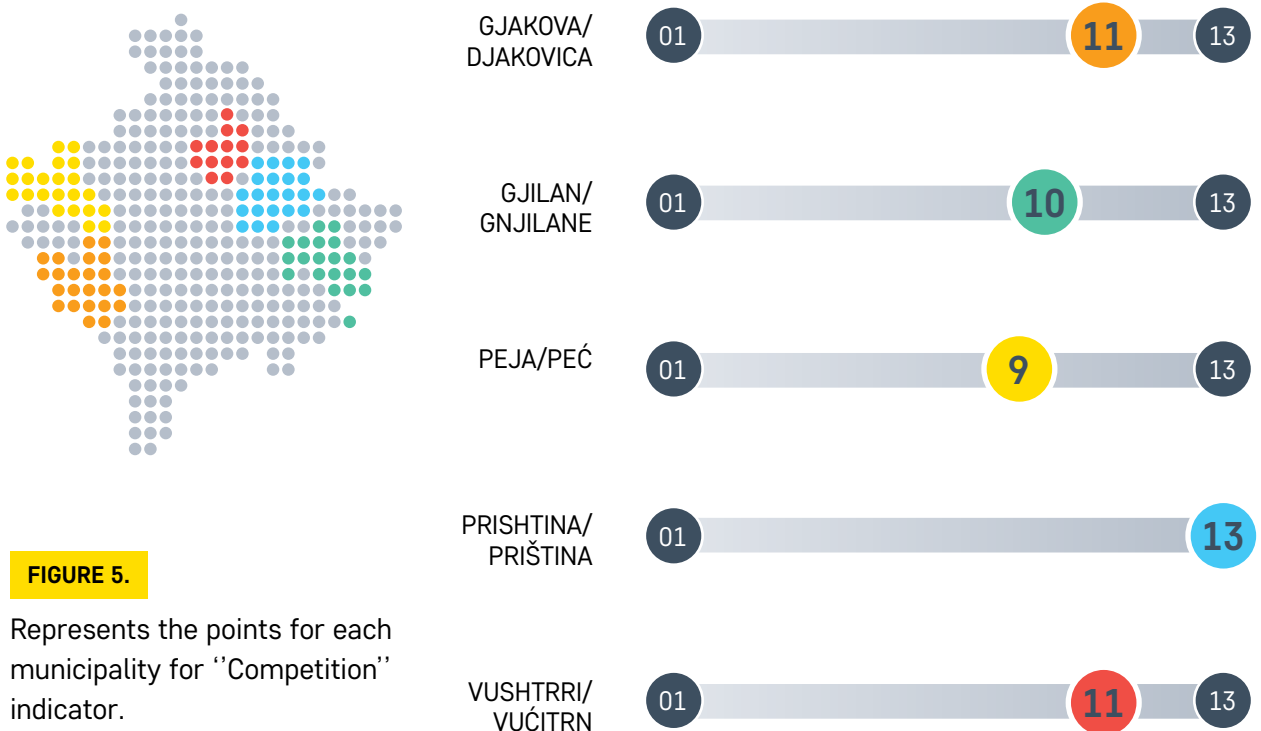
va/Djakovica also has shown great efforts to ensure transparency in this sector. Further improvements are deemed to take place in public procurement, but as of now, this Municipality stands 3rd in terms of transparency. The Municipality of Peja/Peć is in the same category, as it's also aiming to improve its transparency level and efforts in public administration. The Municipality of Gjilan/Gnjilane could further improve its score in this indicator, by allowing citizens to have better access to public information and improving its website, particularly the "procurement section".



# ● COMPETITION

The 5<sup>th</sup> indicator looks at the fairness of competition in public procurement. The municipalities of Kosovo should implement all the necessary procedures to ensure that competition is not undermined by political affiliations, but only ruled by meritocracy and fair bidding. Regarding this, the Municipality of Prishtina/Priština scores the highest points in comparison with other municipalities. The Municipalities of Vushtrri/Vučitrn and Gjakova/Djakovica are also not far behind in this section, as they also share sustainable and good practices to ensure that competition is carried out ef-

fectively and at pace. The Municipality of Gjilan/Gnjilane has good practices in place, but more could be done in improving the number of bids and ensuring that activities are carried out by a number of different companies rather than engaging same companies simultaneously. This could definitely boost the performance in these municipalities, as well as increase competition in the private sector. The Municipality of Peja/Peć did not score particularly high in this section, because it requires more commitment and a coherent strategy for competition in public procurement.



**FIGURE 5.**

Represents the points for each municipality for “Competition” indicator.

# CIVIC ENGAGEMENT

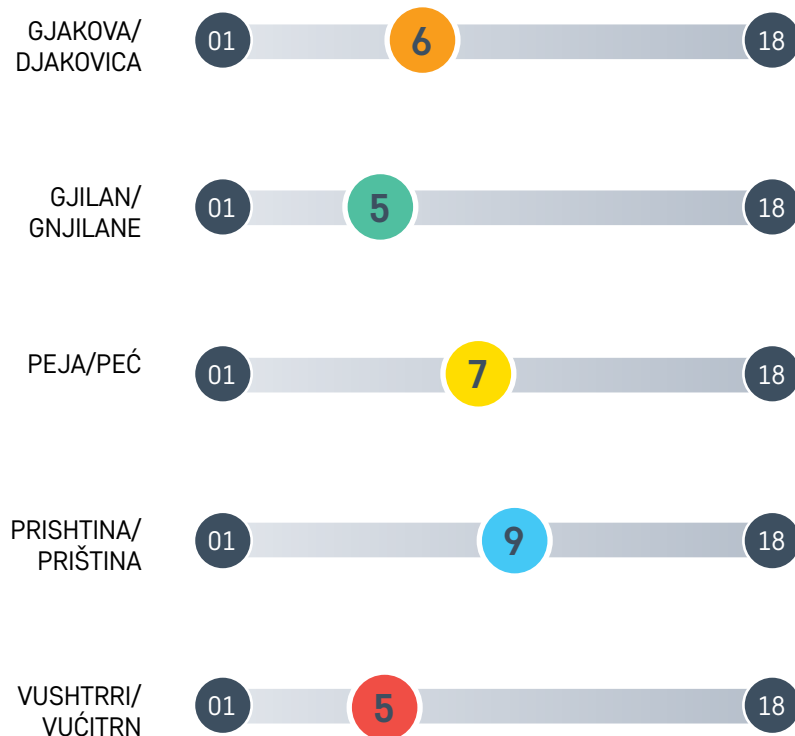
The last indicator of this tool relates to civic engagement in the public procurement cycle. It is important that the municipalities play an important role in society as a social regulator and as a purchaser in the market. Citizens, CSOs and the media hold great scrutiny power over the public procurement process, and it is within their rights to be informed and to be in touch with public activities. In general, these

municipalities should all establish a method to interact more with the public and ensure that the citizens are interested and informed of the public works. All of these municipalities do not score significantly different from one another. However, the Municipalities of Peja/Peć and Prishtina/Priština play a better role in informing their citizens, but more could be done to improve in other municipalities.



**FIGURE 6.**

Represents the points for each municipality for 'Civil Engagement' indicator.



In order to comprehend the situation of public procurement in Kosovo, this report will first offer an overview of the public procurement system, commenting on the main developments and areas that require further assistance. The third and the fourth section will explain the methodological aspects of this

report as, whilst preparing the research methods, limitations were faced during the data gathering process. The latter is important to be emphasized in order to help incentivize the public authorities to be more open in sharing public information and documents.



**FIGURE 7.** Represents the points of each municipality for all the sub-indicators

Ultimately, the first cycle of the “Benchmarking Report” provides a clear overview of the public procurement structure in the Municipalities of Prishtina/Priština, Gjakova/Djakovica, Vushtrri/Vučitrna, Gjilan/Gnjilane and Peja/ Peć. It can be argued that there have been efforts in developing and sustaining a better public procurement system, but a great deal of work

still has to be done in terms of ensuring fair competition, transparency and accountability in procurement activities. In order to get a general overview of municipalities’ performance on this questionnaire below is a scorecard that shows all the indicators, sub-indicators and results accordingly.

	PRISHTINA/ PRIŠTINA	GJILAN/ GNJILANE	PEJA/PEĆ	GJAKOVA/ DJAKOVICA	VUSHTRRI/ VUČITRN	
 <p><b>INDICATOR IV</b> Transparency</p>	Requests for access to official documents	3	2	3	3	
	Allowing access to official documents	5	3	3	3	4
	Website of the municipality	4	1	3	3	4
	<b>Sub-Score</b>	<b>12</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>11</b>
 <p><b>INDICATOR V</b> Competition</p>	Number of bids	5	2	3	2	2
	Origin of bids	4	3	3	4	4
	Equality in treatment	4	5	3	5	5
	<b>Sub-Score</b>	<b>13</b>	<b>10</b>	<b>9</b>	<b>11</b>	<b>11</b>
 <p><b>INDICATOR VI</b> Civic engagement</p>	Transparency in tender evaluation	5	1	4	2	0
	Transparency in bid opening	2	2	2	2	2
	Consultations on drafting procurement plans	2	2	2	0	2
	Monitoring in phases after the award of the tender	0	0	0	0	1
	<b>Sub-Score</b>	<b>9</b>	<b>5</b>	<b>8</b>	<b>4</b>	<b>5</b>
<b>TOTAL POINTS</b>	<b>74</b>	<b>42</b>	<b>57</b>	<b>53</b>	<b>75</b>	
<b>Percentage</b>						

# INTRODUCTION

This report's primary purpose is to assess and outline the performance of public procurement at the local level through various benchmarking indicators. In the pursuit of this goal, this project draws on comparative analysis: primarily, by focusing on five targeted municipalities, and secondly, through identifying irregularities of procurement trends across municipalities. This section will provide a comprehensive view of public procurement in Kosovo, as well as the anti-corruption fight in this part of public administration. It should be noted that the other important aspect of this project activity is to engage municipalities in sharing public information with the general public, and in particular with civil society organizations (CSOs). Providing such incentives could help boost cooperation between these two stakeholders, as well as help mitigate corruption risks that doing business with the private sector present.

It is not granted, indeed, that regulating the way public authorities work and purchase goods and services is critical to creating a level-playing field for all businesses.<sup>2</sup> That being taken into consideration, D+ is seeking to initiate that public authorities ensure a more citizen- and business-friendly public procurement system. The latter has proven to be slightly more difficult to establish, as many private businesses have been more reluctant to share information and further discuss issues when working for the public sector. Nevertheless, some local businesses have shared valuable insights with our team and have assured further cooperation, although the number of these companies is very limited. Given this dilemma faced by company managers as well as other civil society organizations, D+ will seek to address the following questions:

- How transparent are public procurement activities in Kosovo?
- To what extent is competition promoted and enforced by these municipalities?
- Are the private sector and the general public involved in public procurement planning?

By answering the aforementioned questions, D+ believes that this report will serve as an informative tool to gain a holistic approach to the local situation in public procurement, and contribute to the existing debate on tackling corruption in public procurement in Kosovo. Let us consider the current political and public will for anti-corruption debate on public procurement. Apart from civil society and the media's interest in this topic, efforts in addressing corruption in this sector are hardly in existence. Shifting the debate on the technical aspects of transparency, such as launching the e-procurement platform, is indeed a great start. However, exposing corruption in this sector requires even more efforts both from civil society and private businesses. The e-procurement platform has had issues during the implementation and even today this platform is not yet fully implemented, as a result of which the companies have the option of submitting offers physically.

The Anti-Corruption Agency and other respective authorities could also strengthen their efforts in preventing corruption, but also most importantly in tracking cases, reviewing them and punishing accordingly. The reason why this is crucial is because it significantly affects the process of public procurement at the local level. As the OECD Monitoring Report for 2017 states, an institutional framework for public procurement is in place but with weaknesses in the performance of the tasks required for it.<sup>3</sup> Therefore, integrating a level of control mechanisms and anti-corruption discipline could help positively change the performance of procurement activities at the local level. Public procurement makes up approximately one seventh (1/7<sup>th</sup>) of Kosovo's GDP and is one of the major drivers of its economy.<sup>4</sup> It is concerning that the main elements required for an effective framework in public procurement that demonstrates the "value for money" to the taxpayer continues to be less advanced. As a result of this, civil society and other important stakeholders should continue to push for a transparent public procurement system in order to achieve efficient allocation of resources through increased transparency and fair competition.

2 World Bank Benchmarking Public Procurement Report "Assessing public procurement systems in 180 economies", 2017, pg 22.

3 OECD Report "The Principles of Public Administration" 2017 edition, pg 1-106.

4 PPRC Report "National Public Procurement Strategy for 2017-2021" January 2017, pg 1-41.



# METHODOLOGY

Based on our “Baseline Report”<sup>5</sup> conducted at the beginning of this project, we have analyzed the main findings and irregularities in the target municipalities. However, the main purpose of the Benchmarking Report aims at not only exposing irregularities or errors during the procurement activities, but to also identify best practices managed by these municipalities. Therefore, after consulting a considerable amount of research methods and various interdisciplinary schools of thought, D+ designed a unique set of benchmarking indicators to assess the performance of the municipalities, as well as to identify good practices.

As opposed to the previous methods used for the report, which were mainly based on the analysis of secondary sources such as annual reports and statistical data, the Benchmarking Report has a rather different approach. D+ prepared a qualitative and quantitative questionnaire for municipalities to answer on different aspects of procurement activities such as: Implementation of law, good practices, recommendations of the regulatory bodies, fair competition, transparency and civic engagement. Moreover, this questionnaire included sub-indicators whereby municipal officials were able to assess the level of efficiency, transparency depending on the indicator from 0-5, where 0 represents the weakest performance to 5 representing the highest.

The performance of municipalities in public procurement was measured based on our levels of scores. Each sub-indicator has a maximum of 5 points and a minimum of 0 points. These points then are all calculated together, thereby leading to a ranking, with the best performing municipality or the weakest one. Low municipal scores indicate a weak performance in public procurement and vice versa. The “Benchmarking Tool” altogether consists of 6 main indicators and 14 sub-indicators. The total number of points is explained in order in this report in accordance with each indicator. For example, the first sub-indicator (Implementation of law) consists of 28 points and the best performing Municipality is Vushtrri/Vučitrn scoring 14 points. However, it should be noted that some indicators have a maximum of 3 or 4 points such as the following sub-indicators: “Days until decision”, “Market Re-

search”, “Institutional Integrity”, “Transparency in Bid Opening”, “Opinions of National Audit Office (NAO)”, “Orders from Public Procurement Review Body (PRB)”, “Anti-Corruption Agency (ACA) Opinions”, “Request for Access to Official Documents”, “Number of Bids” and “Origin of Bids”.

D+ ensured that the data given by the municipalities were correct by validating it with the main stakeholders such as private companies, public independent institutions such as NAO, PRB, PPRC and ACA. D+ also requested official information by using its legal rights of accessing public documents to these municipalities and simultaneously analyzing if the access to documents was provided within the legal deadline. The rationale and background of this research are also based on secondary research. Secondary research was deemed appropriate for this report because of its easy accessibility; its low cost and the availability of general background information regarding methods used to tackle corruption in procurement at the local level. Other methods also include individual interviews with five procurement officials and five officials from the public information center in each municipality and private companies, in order to gain a holistic approach of the procurement situation at the local level

## A BREAKDOWN OF THE DATA GATHERING WAS CONDUCTED AS FOLLOWS:

- Benchmark indicators and questionnaire preparation;
- Analysis of questionnaire answers and data validation;
- Data collection from secondary sources available such as annual report from NAO, PRB, ACA, and PPRC for 2017;
- Discussions with PPRC officials to review in more detail the monitoring of the PPRC;
- Interview with the President of PRB Mr. Blerim Dina;
- Discussions with public procurement officials in the five target municipalities;
- Analysis of all the complaints from the economic operators addressed to contracting authorities and the PRB for 2017;
- Analysis of ACA’s opinions on the annulment of activities in municipalities.

<sup>5</sup> Baseline Report via D+ website

# Limitations on data gathering

Gathering data for public procurement activities is not an easy task. That is firstly due to the economic importance it has for both public officials and private companies, and secondly due to the potential illicit activities that take place in procurements. The main problem during data gathering and analysis was the municipalities' response on the given questionnaire. Not all municipalities responded promptly after the given deadline and the answers to the questionnaire were rather restrictive.

Non-disclosure of public information has been a trend since the establishment of public procurement in Kosovo. Despite the introduction of a culture to release public information and pressure from the international community to be open and transparent in public procurement, the progress has

been slow. All five municipalities have limitations when it comes to providing access to public information to other organizations, institutions as well as companies.

It is fair to argue that throughout this research report, public procurement institutions and the targeted municipalities in Kosovo should not only be able to provide access to information and other public documents, but to publish Open Data whether or not anyone has requested it. Increasing access to information to large amounts of government data will open the door for new tools to be developed to aid CSOs, private companies and the public at large in identifying and preventing corruption.



Non-disclosure of public information has been a trend since the establishment of public procurement in Kosovo. Despite the introduction of a culture to release public information and pressure from the international community to be open and transparent in public procurement, the progress has been slow.



What does this  
mean?

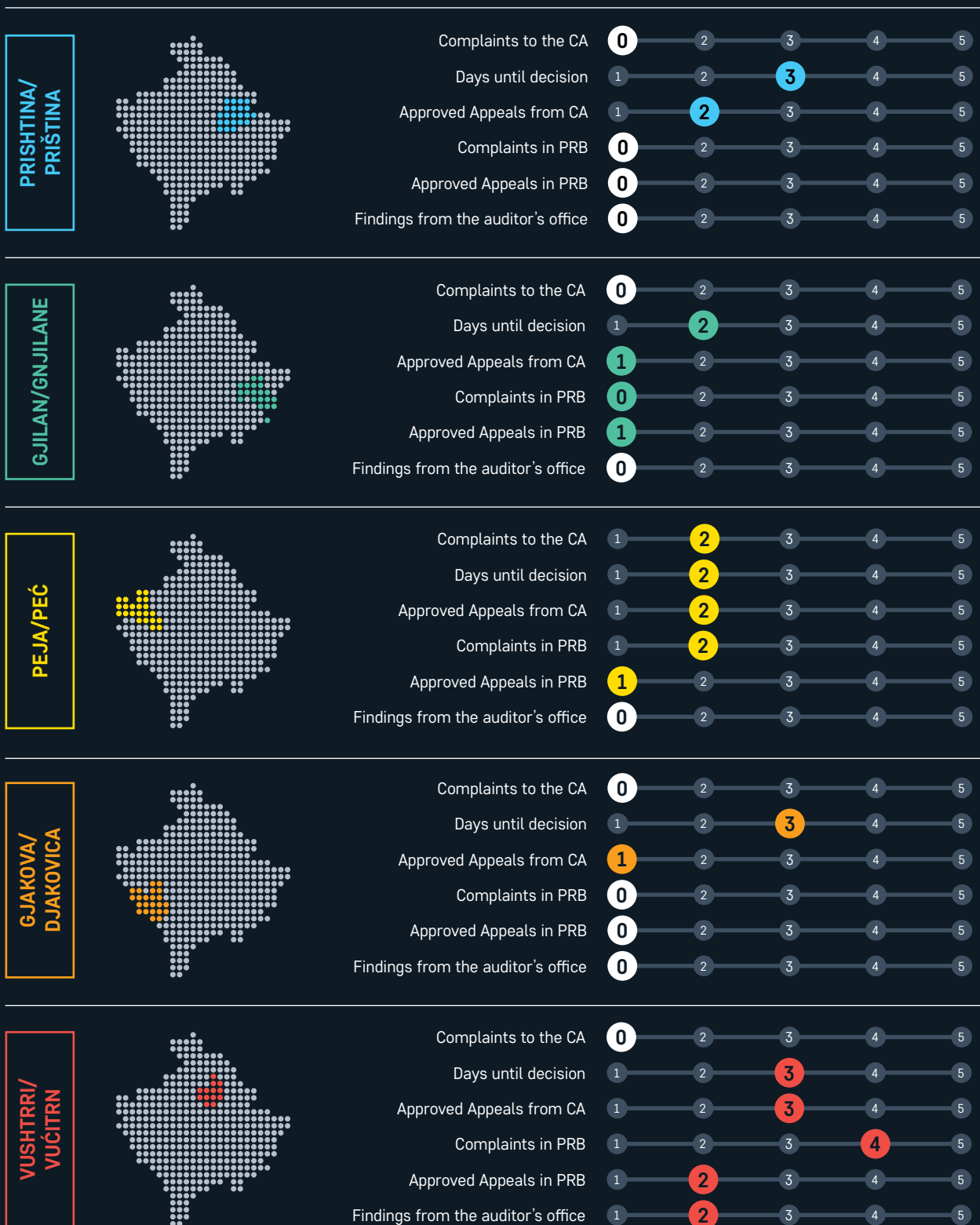


# IMPLEMENTATION OF LAW

**B**ased on this criterion, all five municipalities are compared in six indicators including: complaints to contracting authorities, effectiveness in reviewing complaints, number of approved complaints, complaints at the PRB, number of complaints approved at the PRB and findings of the NAO. The purpose of measuring these indicators is to assess the level of implementation of the Public Procurement Law (PPL) and other laws related to financial

management, as well as to assess the effectiveness of the complaints' management process by the private sector. The data analyzed for these indicators showed moderately low levels of law enforcement, and a relatively large number of irregularities were identified. In the implementation of the law, municipalities have had a weaker performance. However, data show that there are different scores and results depending on the municipalities.

# IMPLEMENTATION OF LAW



**FIGURE 8.** Illustrates the score of each municipality based on the grade, for all six indicators. Points of municipalities are evaluated from 0 up to 5 maximum. Some indicators may be evaluated on a maximum point basis of less than five, depending on the importance of the indicator. See Annex 1 of the report for more information.



The Municipality of Vushtrri/Vučitrn had the best performance out of the other four municipalities, due to the low number of complaints at PRB it showed. Vushtrri/Vučitrn indeed had only two complaints at the PRB, which shows an effective complaints' review at the first instance. Although from a budget perspective, Vushtrri/Vučitrn has less financial means to spend through procurement, again the number of procurement activities during 2017 has been 207, a number significantly higher than Gjilan/Gnjilane, which had only 43, Prishtina/Priština with 150, Peja/Peć with 142 and Gjakova/Djakovica with 117 activities.<sup>6</sup>

# 5/28

## PRISHTINA/ PRIŠTINA

Prishtina/Priština scored only 5 points in Implementation of law indicator. As part of this section, there are sub-indicators such as complaints at the municipal level for tenders, the efficiency of complaints review, complaints in the PRB, the municipality's success in winning cases in the PRB, and finally the findings of the auditor's office. In this regard, the Municipality of Prishtina/Priština received fewer points due to the large number of complaints both at the municipality level as well as in the PRB. In addition, Prishtina/Priština had numerous violations in the auditor's report. Within these indicators, the municipality has only taken into account the efficiency of the complaints reviews at the municipal level and the number of complaints it has approved at the municipal level. This shows indeed that the municipality has seriously reviewed the complaints at the first level. On the other hand, no point was scored in the other indicators.

# 4/28

## GJILAN/ GNJILANE

Gjilan/Gnjilane together with Gjakova/Djakovica have received the lowest score regarding the sub-indicators for Implementation of law. This is due to the large number of complaints and the ineffectiveness of complaints review system at the municipal level. In reviewing complaints at the first level, the municipality received 2 points and 1 point in the case of representation at the PRB.

<sup>6</sup> Annual report on public procurement contracts for PPRC, Municipality of Vushtrri/Vučitrn 2017.

# /28

**9/28****PEJA/  
PEĆ**


The Municipality of Peja/Peć scores better in this set of indicators. It also performs better than Prishtina/Priština, Gjakova/Djakovica and Gjilan/Gnjilane. This municipality received points almost in each indicator, except for the sixth indicator related to the findings of NAO, in which Peja/Peć also had a large number of findings. In all four sub-indicators, the municipality has received only 2 points, which represents an average score, especially in the review of complaints. In relation to the approval of complaints at the PRB, Peja/Peć scored only 1 point, which means that the municipality has lost many cases at the PRB.

**4/28****GJAKOVA/  
DJAKOVICA**

The municipality of Gjakova/Djakovica, similarly to Gjilan/Gnjilane, has received a low number of points. The only two indicators where this municipality has received points are those related to the effectiveness of reviewing complaints at the municipal level. This Municipality indeed reviews complaints within 48 hours, and there is one case where the complaint was found to have valid grounds.

**14 /28****VUSHTRRI/  
VUĆITRN**

The best performing Municipality in this indicator is Vushtrri/Vucitrn, scoring 14 points out of 28. Hence, it can be said that this municipality has a satisfactory level of implementing the law. The Municipality examined first-instance complaints rather fast and within the legal deadlines, approved a number of complaints, which proves that the first-instance complaint review effectively works. Moreover, during our monitoring phase, only two complaints were filed at the PRB. However, in both cases, the complaints were grounded and the procurement activities were re-evaluated. Comparing complaints with the number of procurement activities in this municipality, only two complaints indicate that companies do not have significant dissatisfaction with this municipality.



What are good  
practices?



# GOOD PRACTICES

One of the most important pillars of this report is the dissemination of good practices, which implies more than legal obligations that municipalities apply to increase procurement quality. Ten indicators of municipal performance have been included in this aspect,

which mainly measure the will of municipalities to improve contract management, cooperation with the private sector to ensure equal conditions, and increase institutional integrity.

# GOOD PRACTICES

## PRISHTINA/PRIŠTINA

## GJILAN/GNJILANE

**FIGURE 9.** Represents the scores of each municipality for the ten indicators of good practices' sharing. Municipalities' points are evaluated from 0 up to 5 maximum. Some indicators may be evaluated on a maximum point basis of less than five, depending on the importance of the indicator. See Annex 1 of the report for more information.



Warranty of products/works	1 — 2 — 3 — <b>4</b> — 5	<b>1</b> — 2 — 3 — 4 — 5
Market research	<b>0</b> — 2 — 3 — 4 — 5	<b>0</b> — 2 — 3 — 4 — 5
Consultation with the private sector in planning	<b>0</b> — 2 — 3 — 4 — 5	<b>0</b> — 2 — 3 — 4 — 5
Handling requests for changes to tender specifications	1 — <b>2</b> — 3 — 4 — 5	<b>0</b> — 2 — 3 — 4 — 5
Confiscation of execution of contracts insurance	1 — 2 — 3 — <b>4</b> — 5	<b>0</b> — 2 — 3 — 4 — 5
Implementation of quality criteria	1 — 2 — 3 — <b>4</b> — 5	1 — 2 — 3 — <b>4</b> — 5
Efficiency in making payments	1 — 2 — 3 — <b>4</b> — 5	<b>1</b> — 2 — 3 — 4 — 5
Institutional Integrity	1 — <b>2</b> — 3 — 4 — 5	<b>0</b> — 2 — 3 — 4 — 5
Revision of projects	<b>0</b> — 2 — 3 — 4 — 5	<b>0</b> — 2 — 3 — 4 — 5
Managing Contracts	1 — 2 — 3 — <b>4</b> — 5	1 — 2 — 3 — <b>4</b> — 5

**24**

**10**



PEJA/PEĆ



0 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

11

GJAKOVA/DJAKOVICA



1 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

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1 — 2 — 3 — 4 — 5

15

VUSHTRRI/VUÇITRN



1 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

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1 — 2 — 3 — 4 — 5

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1 — 2 — 3 — 4 — 5

0 — 2 — 3 — 4 — 5

1 — 2 — 3 — 4 — 5

23

24/49

**PRISHTINA/  
PRIŠTINA**

Within the implementation of good practices aspect, this municipality stands out with the best score, compared to the other four municipalities. Prishtina/Priština has received points for contract management, efficiency in seizure of contract performance, insurance in cases of non-performance of the contract, payment efficiency, use of most economically advantageous tender criterion, and requests for product or work warranties in procurements. On the other hand, the municipality has had weaker results in the area of project revision, market research, private sector consultations for drafting plans and technical specifications.

11/49

**PEJA/  
PEĆ**

The Municipality of Peja/Peć received a lower grade in the implementation of good practices. This is because this municipality, according to the monitoring data, does not have an Integrity Plan, nor does it have an efficient contract management system in place. There are furthermore complaints from economic operators about the efficiency of payments, lack of market research, private sector consultation and request for warranties on products. On the other hand, the municipality has received points in the revision of the projects, seizure of contract performance insurance and handling requests for changes in technical specifications.

/49

**15/49****GJAKOVA/  
DJAKOVICA**

Gjakova/Djakovica also has a modest result compared to Prishtina/Priština and Vushtrri/Vučitrn. This is because in 4 out of 10 sub-indicators, this municipality has received 0 points. This municipality has not provided sufficient data to show that it conducts market research, does not have private sector consultations during procurement planning and has not confiscated contract performance insurance. However, Gjakova/Djakovica scored some points regarding its efficiency in executing payments for companies. The municipality but also the economic operators expressed their satisfaction with the effectiveness of payment execution, with some exceptions when it was required to execute payments with a private enforcement agent. The Municipality of Gjakova/Djakovica also has an Integrity Plan and for this it has received 3 points. However, there is no data on how much this plan is being implemented and what are its effects. For the revision of the projects, the municipality had a separate contract in 2017, but there is no data on how the projects were revised.

**10/49****GJILAN/  
GNJILANE**

Identifying good practices in the Municipality of Gjilan/Gnjilane was challenging. This municipality has many problems with the functioning of the Procurement Office due to problems with the suspension of a large number of procurement officers, as a result of criminal investigations and trials. The Municipality of Gjilan/Gnjilane did not receive points in market research, private sector consultations, handling requests to change technical specifications and seizure of contract performance insurance. When implementing the contracts, the municipality received 4 points, because it did not report any issue with the execution of contracts. However, this data has yet to be verified. This municipality has received 4 points for the use of the most economically advantageous price criterion. This criterion indeed, if used carefully in practice, ensures greater quality of products or works than those of the lowest price criterion.

**23/49****VUSHTRRI/  
VUĆITRN**

Ranking very close to Prishtina/Priština in terms of good practices is the Municipality of Vushtrri/Vučitrn. This municipality has very well adjusted the requirement for warranties in each tender dossier analyzed by D+. Also, the municipality has provided data supporting the fact that it does basic market research, especially with regards to pricing. In addition, this Municipality has applied fines in case of delays from companies to complete obligations. However, so far there was no need to confiscate insurances for the execution of contracts. The municipality could organize better consultations with the private sector which, besides strengthening the relationship with companies, could also help the municipality design better tender plans and specifications. The municipality should also examine the possibility of reviewing the projects, as this ensures that the measures, forecasts and plans are in line with the needs of the market.



D+ aims to encourage municipalities to implement as many recommendations as possible and to publish the internal audit reports.

## What are the Recommendations of the Supervisory Institutions?

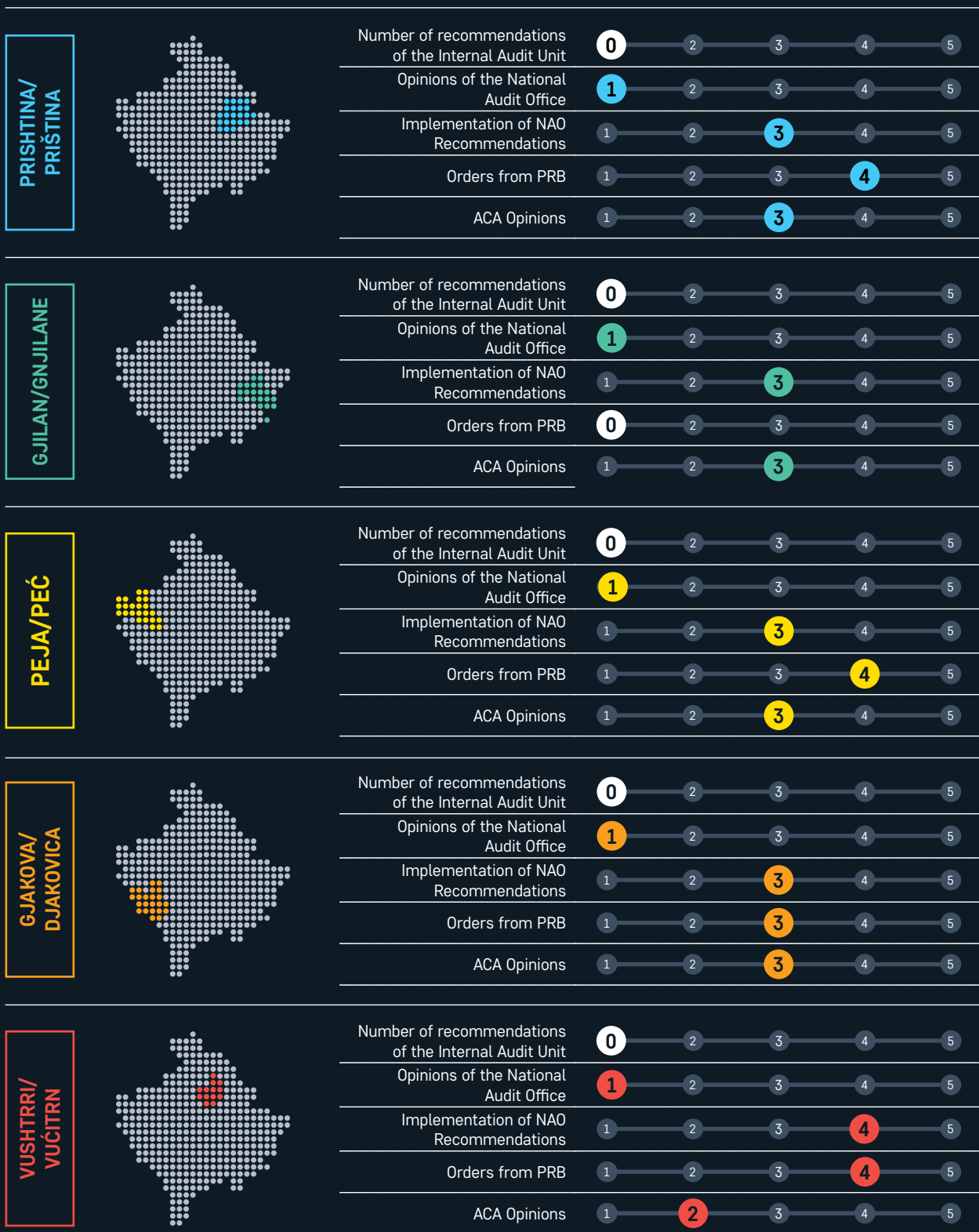


# IMPLEMENTATION OF RECOMMENDATIONS OF THE OVERSIGHT INSTITUTIONS

In Kosovo, there are a large number of oversight mechanisms that control the manner in which public institutions spend public money. Some of the most important ones include: 1. the Internal Audit Unit; 2. the National Audit Office; 3. the Procurement Review Body; and 4. the Anti-Corruption Agency. For each oversight institution, a sub-indicator was created, for the purpose of emphasizing

the efforts of municipalities to implement the recommendations of these public institutions. This is because in Kosovo, in general, the recommendations of the supervisory institutions are not adequately addressed. Through this measurement, D+ aims to encourage municipalities to implement as many recommendations as possible and to publish the internal audit reports.

# IMPLEMENTATION OF RECOMMENDATIONS



**FIGURE 10.** Represents the scores of each municipality for the five indicators of the part for the implementation of the recommendations of the supervisory institutions. Points of municipalities are evaluated from 0 up to 5 maximum. Some indicators may be evaluated on a maximum point basis of less than five, depending on the importance of the indicator. See Annex 1 of the report.

11/19

**PRIŠHTINA/  
PRIŠTINA**

In implementing the recommendations of the supervisory institutions, the Municipalities of Prishtina/Priština, Vushtrri/Vučitrn and Peja/Peć have the best performance. The Municipality of Prishtina/Priština only failed to receive points in the first indicator related to internal audit reports. This is due to its lack of a functional unit of internal auditing and its failure to publish reports. This is important because it further promotes transparency and it could also serve as a comparison tool with the NAO's annual report. However, the municipality has gained significant points in the level of addressing NAO recommendations, where it has shown a remarkably high level of implementation of recommendations.

7/19

**GJILAN/  
GNJILANE**

The report shows that the Municipality of Gjilan/Gnjilane also did not receive a large number of points in the implementation of the recommendations of the supervisory institutions. The main reasons for this are the non-implementation of some decisions of the PRB for procurement activities and failure to publish the report of the Internal Audit Unit. The municipality, on the other hand, had a solid opinion of the auditor, which gave unmodified opinions with an emphasis on the matter. While partial implementation of the recommendations was above average, there were a small number of recommendations addressed entirely.<sup>7</sup>

/19

<sup>7</sup> National Audit Office, Annual Regularity Audit Report of Gjilan Municipality for 2016, pg 12.

**11/19****PEJA/  
PEĆ**

The implementation of the recommendations of the supervisory institutions gave the Municipality of Peja/Peć a score of 11 points, hence placing it on equal footing with Vushtrri/Vučitrn and Prishtina/Priština. The Municipality did not publish the Internal Audit Unit's report and in this sub-indicator, did not receive any points. However, this document has not been published by any of the monitored municipalities. The municipality has received maximum points for the implementation of the PRB's decisions and has received a good assessment of the implementation of the NAO recommendations.

**11/19****GJAKOVA/  
DJAKOVICA**

Gjakova/Djakovica stands very close to three other municipalities, Prishtina/Priština, Peja/Peć and Vushtrri/Vučitrn. The difference with the three previous municipalities lies in the number of recommendations addressed in the NAO reports. Unfortunately, the Municipality of Gjakova/Djakovica did not take any action to address 8 out of 18 recommendations from the Auditor, but on the other hand, did not disregard any order of the PRB.

**11/19****VUSHTRRI/  
VUĆITRN**

The Municipality of Vushtrri/Vučitrn also showed a good score in the group of sub-indicators for implementing the recommendations of the supervisory institutions, thereby scoring 11 points. Vushtrri/Vučitrn only failed to implement 2 recommendations out of 17. For the number of recommendations addressed, the municipality has scored an extra 4 points compared to any other municipality. Also, the municipality has implemented all orders of the PRB. Moreover, in one of the 2 complaints from EO, the Municipality has agreed with the PRB's expert recommendation. This shows a very constructive approach from the Municipality in relation to PRB, as it avoids delays in procurement activities.



## Why transparency?

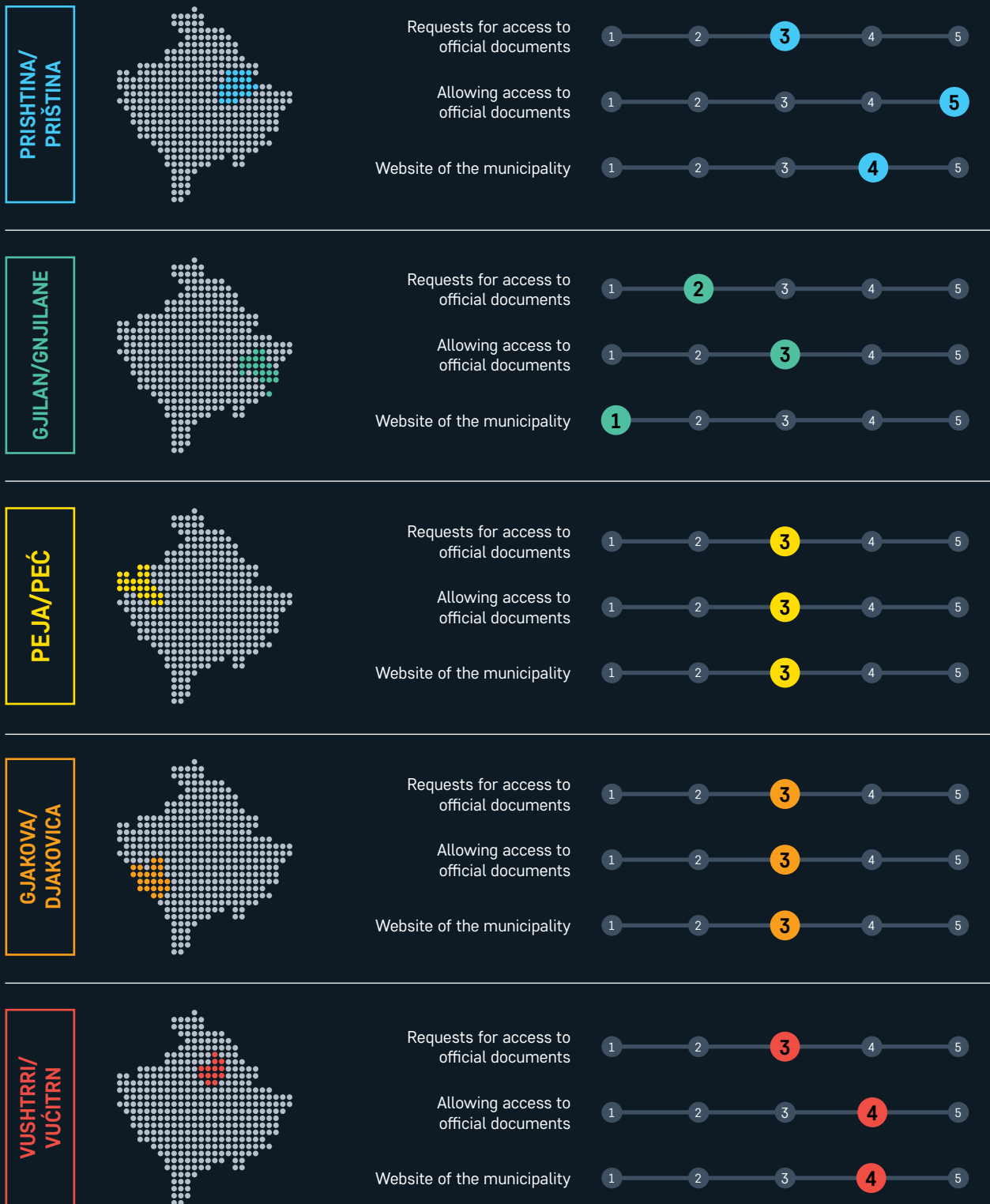


# TRANSPARENCY

It is important to measure how open the municipalities are in relation to the public, in order to assess their will for accountable local governance towards their citizens. Oftentimes, municipalities that have greater transparency also have better management. Transparency often makes the officials aware that in the event of irregularities or unjust expenditures, the media and civil society will hold them accountable. D+ has measured the three main indicators of municipal transparency in public procurement to assess how these

municipalities publish or offer access to tender documentation. Firstly, it should be noted that all municipalities have been resistant and slow in providing public procurement data and have exceeded the legal deadline, which indicates that none of the five municipalities are fully complying with the standards of access to information and documents. However, some municipalities are more efficient than others and do more often publish documents on their websites, despite having any legal obligation to do so.

# TRANSPARENCY



**FIGURE 11.** Represents the points of each municipality for the three transparency measurement indicators.

**12/13****PRISHTINA/  
PRIŠTINA**

Prishtina/Priština has received points in all indicators of transparency, very closely approaching the maximum score of this indicator. The reason for this result is the Open Data platform of the municipality, which is well equipped with documents, including those in regards to public procurement (Prishtinaonline.com). Access to public documents is well regulated through this website and reports show that access to documents was provided to all parties.

**6/13****GJILAN/  
GNJILANE**

The Municipality of Gjilan/Gnjilane in these sub-indicators of transparency has not received a good number of points. This is because the municipal website does not contain data on public procurement and access to the documents of this municipality is very difficult. The two websites of this municipality, Smart City and the one developed by the Ministry of Public Administration, do not provide data on public procurement activities for 2017.

**/13**

**9/13****PEJA/  
PEĆ**

Peja/Peć has scored 9 points in transparency sub-indicators. However, a large number of documents remain yet to be published, including contracts and procurement plans, which are currently published by very few institutions. On the website nevertheless, there is data regarding contract notices, contract signature notices and some other documents, which are also made public on the e-Procurement portal.

**9/13****GJAKOVA/  
DJAKOVICA**

One of the municipalities, which had a high level of transparency but has not continued this trend in 2017 is the Municipality of Gjakova/Djakovica. This municipality developed the GjakovaPortal, a website dedicated to the city in general, where a considerable amount of data on procurement can be accessed<sup>8</sup>. Apparently though, after 2016, the publication of these documents has not continued. To sum up, the Municipality of Gjakova/Djakovica does not score poorly in this category, but it failed to maintain its leading position on the path for transparency.

**11/13****VUSHTRRI/  
VUČITRN**

Despite the fact that there is no Open-Data or special public procurement portal, Vushtrri/Vučitrn is the only Municipality among the targeted five that has published the Procurement Plan online. This plan is a very important document that enables the private sector to prepare for activities that will take place during the year. Similarly, in case of non-publication, it could enable businesses to use their social ties to receive inside information hence leading to corruption. Therefore, the municipality should increase the number of published documents online, regulate access to information and ensure that the new municipal website contains sufficient public documents.

<sup>8</sup> Gjakova Portal Website: <http://gjakovaportal.com/al/>

## Why competition?



# COMPETITION

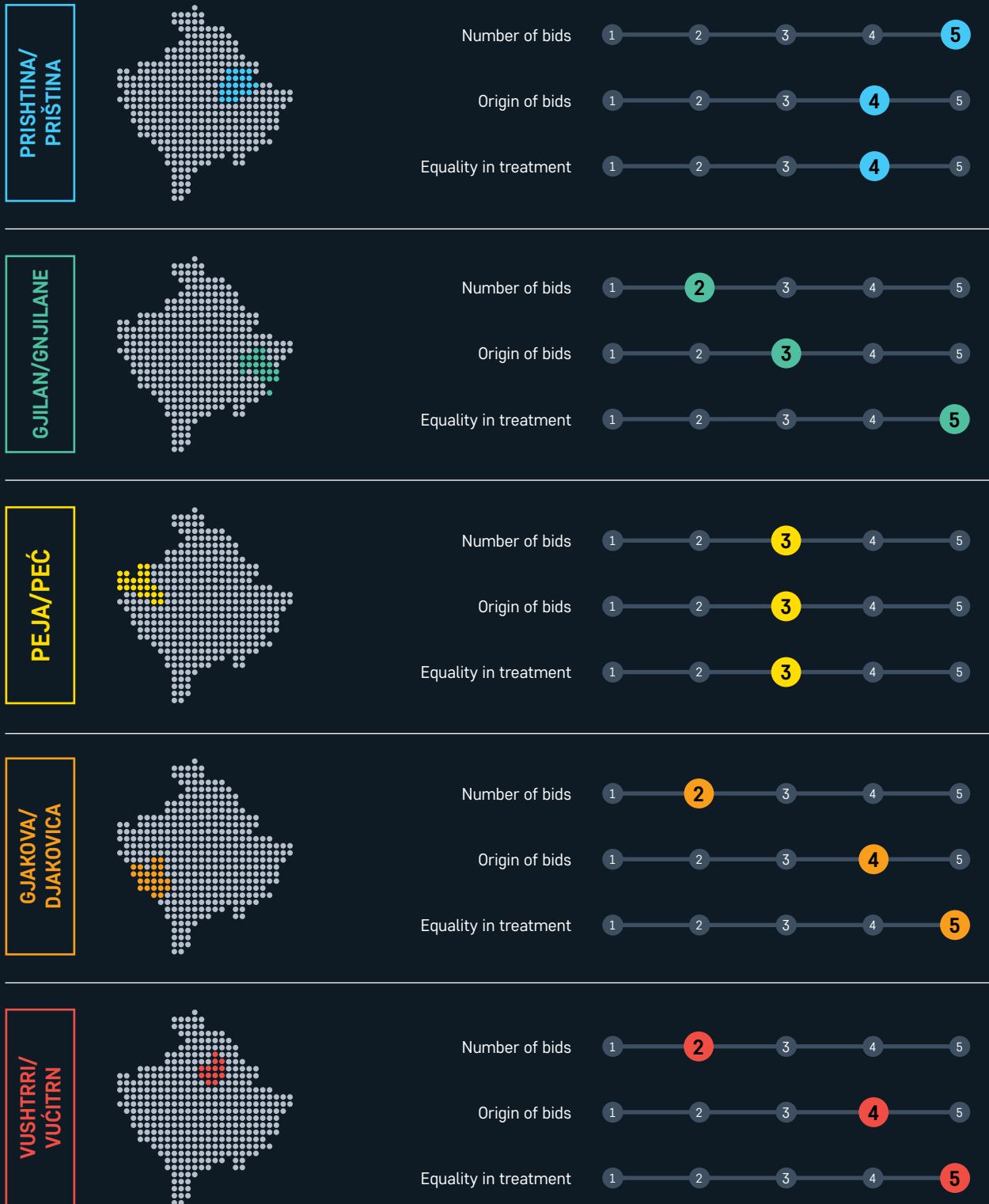
Competition is one of the principles of public procurement legislation. Through this principle, it is ensured that regardless of the origin of the bidders, they will be treated equally. The number of bids for procurement activity best reflects the sustainability of public procurement in a municipality. In other words, the greater the number of bids, the more open the municipality is towards contracting with

economic operators. In those municipalities where the number of bids is smaller, this represents a red flag or an indicator of potential corruption. In Kosovo, according to the PPRC annual reports, the average of bids at the national level is above 5 bids for each procurement activity, which reflects a moderate competitive market in the private sector.<sup>9</sup>

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<sup>9</sup> Public Procurement Regulatory Commission, Annual Work Report for 2016, pg 38.

# COMPETITION



**FIGURE 12.** Represents the points of each municipality for three indicators measuring competition.

13/ 13

**PRISHTINA/  
PRIŠTINA**

From the annual reporting data for procurement activities, the Municipality of Prishtina/Priština has had an average of 5.9 bids for a procurement activity, exceeding the average of Kosovo. This is also influenced by the fact that the Municipality has a higher budget and the interest of the operators to bid is higher. A higher number of bids also shows that in principle, the municipality has an open access to businesses. In addition, bids in this municipality come from businesses that are registered outside the territory of the Municipality of Prishtina/Priština and a significant number of them are rewarded with contracts. However, this Municipality has limited competition within some contracts, for which it has entered into direct contracts with public enterprises, without an open process in accordance with the PPRC interpretation and case law of PRB.

10/13

**GJILAN/  
GNJILANE**

In 2017, the Municipality has conducted 48 open procurement activities for which there were 191 bids, or 3.9 bids on average for each procurement activity. The number of bids in this municipality is significantly below Kosovo's average, however it still is evidence of a satisfactory competition climate in public procurement. This municipality also received offers from businesses that are registered outside the Municipality of Gjiilan/Gnjilane, with a number of them being awarded with contracts. In this Municipality, it is evident that local companies are being favored, and in particular in the tenders for heating installations in some public buildings. In the tender dossier, it was requested that radiators should come from Radiator Factory in Gjiilan/Gnjilane, or equivalent. This practice is not legally prohibited, but however indicates a favorable approach to a local company. On the other hand, the municipality declares that it has open access to private and public companies without any favor.

/13

9/13

**PEJA/  
PEĆ**

Peja/Peć had 142 procurement activities in 2017, for which there were 701 bids, or on average 4.9 bids per procurement activity. The number of bids is close to Kosovo's average. Also, the origin of bids is mixed, including the number of companies that are registered outside this municipality, which in some cases are rewarded with contracts. Peja/Peć Municipality has attempted to initiate an open contract for telephone services, but was blocked by the complaint of Kosovo Telecom in the PRB. Afterwards, the PRB requested from the municipality not to publish a tender, but to rather use Article 9.4 of the PPL and sign a contract without an open call.<sup>10</sup>

11/13

**GJAKOVA/  
DJAKOVICA**

Gjakova/Djakovica has an average of 3.4 bidders per procurement activity. This is considerably lower than the Kosovo-wide average, but the figure still reaches a satisfactory average for public procurement competition. But what makes this Municipality different from others is that it has a very open approach to the private sector in relation to the public enterprises. This Municipality had open calls for each contract, hence giving the chance to both public and private sector companies. Moreover, in the case of a tender for telephone services, the contract was awarded to the private operator IPKO. Kosovo Telecom lodged a complaint at the PRB, accusing the Municipality of violating Article 9.4 of PPL. The Municipality of Gjakova/Djakovica successfully defended and won its case before the PRB, explaining how this contract saves the budget of the taxpayers in Gjakova/Djakovica and offers more favorable conditions for the municipality. Also, the Municipality has a very open access to companies that are not registered in this municipality, as the majority of contracts are awarded to operators of other municipalities. This shows great efforts to ensure equal treatment to all companies regardless of their origin. This is important, as it indicates that the Municipality appreciates the quality of the products, works or services rather than the origin of the companies.

11/13

**VUSHTRRI/  
VUĆITRN**

In 2017, this Municipality has carried out 207 procurement activities, for which there were 740 offers to bid, or on average 3.5 offers per activity. The high number of procurement activities shows that the tenders of this municipality have been of smaller values, and this may have caused a lower interest of companies to bid. However, despite this bid average being lower than Kosovo's average, it still represents a solid number of average bids. The number of bids from businesses that are not registered in this Municipality exceeds 30%. As for open competition, this Municipality respects the decisions and interpretations of the PPRC and the PRB.

<sup>10</sup> Public Procurement Review Body, Decision no. 280/17.



How can  
people get  
engaged in public  
procurement?

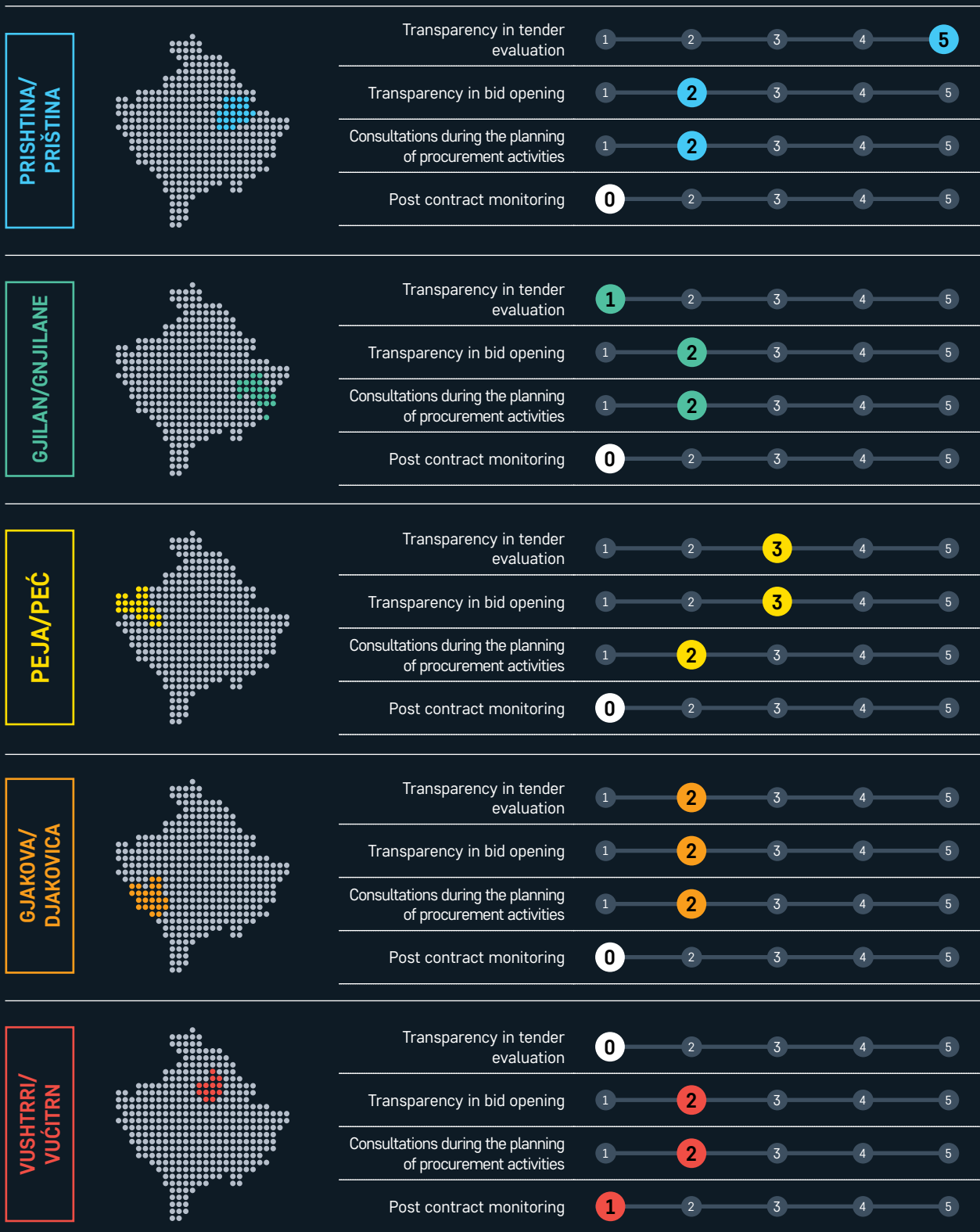


# CIVIC ENGAGEMENT

Citizens should be an integral part of public procurement, as procurement projects are done in their interest and most importantly with their money. Based on this principle, citizens should ensure that the projects that are being implemented are in their best interest. This part is not regulated by sufficient legislation, so the civil society in Kosovo should make maximum efforts to engage in public procurement activities, by participating in observations, in the evaluation of tenders, and even in the contract

implementation process. Although this area is not regulated by legislation, it is important to see how many municipalities enable their citizens to engage in planning, reviewing bidding, awarding contracts and monitoring their implementation in practice. As a matter of fact, if citizens are more informed and engaged in public spending and in particular public procurement, it could help all municipalities receive higher public trust and even feedback for procurement activities.

# CIVIC ENGAGEMENT



**FIGURE 13.** Represents the points of each municipality for four indicators measuring civic engagement.

9/18

**PRIŠTINA/  
PRIŠTINA**

Priština/Priština scored 9 points out of 18. This Municipality has a good reputation in engaging the citizens and the CSOs in procurement activities. This is because it has enabled the continuous monitoring of the tenders' evaluation. Moreover, there were some instances where organizations in the past participated in the observations of tender evaluation. The municipality also allows citizen participation in bids opening and reading of prices, but there is a lack of public interest to participate in bid opening sessions. Regarding the consultation on the drafting of procurement plans, this Municipality does not consult with the private sector or with the citizens. After the division of the projects, there is no regulated form on how citizens can get involved in tracking the implementation of the contract, besides them being allowed access to official documents.

5/18

**GJILAN/  
GNJILANE**

Similarly with the other aspects of this report, this Municipality has a low score regarding the engagement of citizens in public procurement activities. Based on the data collected, this Municipality, besides declaring that it allows access to the tender evaluation commissions, has not had any external monitoring from citizens or CSOs. The same situation is to be found regarding the opening of bids, apart from some businesses, which participate in these sessions where bids are being opened and read. Regarding consultations for the drafting of procurement plans, for the first time at the end of last year, the Municipality initiated internal consultations with departments and some external partners in order to draft the Procurement Plan, which represents a positive step towards further transparency. On the other hand, the municipality has no similar mechanism like other municipalities through which to involve citizens in the monitoring of contract implementation.

/18

**7/18****PEJA/  
PEĆ**

Peja/Peć is one of the municipalities that allows CSOs access to monitor the procurement activities, but only if the organization is professional, and after signing a Memorandum of Understanding. The municipality also states that it allows the monitoring of opening of bids. Regarding the consultations for the drafting of the Procurement Plans, the Municipality of Peja/Peć also conducted this consultation within the departments and with the Municipality's partners.

**6 /18****GJAKOVA/  
DJAKOVICA**

The Municipality of Gjakova/Djakovica has a similar approach than that of Peja/Peć. CSOs are allowed to monitor public procurement, but under the condition of signing a Memorandum of Understanding. This has not been tested so far by any other NGO. The consultation part of drafting the Procurement Plan remains an internal process with professional partners, since there is no involvement of citizens or the private sector. Also, the involvement of citizens in monitoring the implementation of contracts has not been done so far.

**5/18****VUSHTRRI/  
VUĆITRN**

At the end of 2017, on December 20, there was a switch of the political party that governed the Municipality. The power was passed from the Democratic Party of Kosovo to the Democratic League of Kosovo. Among other things, the Mayor of Vushtrri/Vučitrn replaced the Procurement Director, who is a political staff in this municipality. Inclusion of citizens can guarantee protection of the public interest, prevent corruption and increase accountability of the Municipality in relation to the public procurement. Other practices of this Municipality remain similar to the other four municipalities measured in this report. However, in this Municipality, a slight difference was found when it comes to the contract implementation process: the Municipality tries to inform the public regarding the progress of contract implementation through a public consultation process that takes place twice a year.

# CONCLUSION

D+ will be conducting the next cycle of this “Benchmarking Report” and assess if these municipalities have improved their public procurement performance. Nevertheless, so far, as a result of our monitoring process and municipalities’ assessments, it can be concluded that building skills and experience of these five contracting authorities is crucial to ensuring sustainable public procurement. Identifying irregularities or best practices is a good approach to encourage municipalities and develop better procurement activities from planning to contract management. Sharing good examples and cases of “what works” would also increase cooperation between these organizations and further strengthen anti-corruption efforts in this sector. In relation to this, the municipalities should make the public sector an attractive market for all economic operators to participate in, by excluding barriers such as unequal treatment of bidders, discrimination and inefficiency of public funds.

In respect to the performance of these municipalities, D+ found that there was a correlation between “good practices” and “implementation of recommendations from the oversight institutions” indicators. In other words, where there was a higher number of implemented recommendations from a municipality, there were also better practices conducted during contract managing, in the case of Prishtina/Priština, or more advanced institutional integrity in the case of Gjakova/Djakovica. A similar correlation was evident between “transparency” and “competition”. For instance, the municipalities that scored better in transparency were more keen to award bids to companies outside of their local areas, this way enabling an open, fair and competitive procedure for companies. However, D+ found that there was little correlation between legal implementation and transparency indicators. Although a municipality could be more open and transparent in the conduct of its activities that did not entail that those activities were carried out according to PPL.

It is evident that the Municipality of Vushtrri/Vučitrn is one of the best performing municipalities in the first cycle of the “Benchmarking Report”. This Municipality has done exceptionally well in the “Implementation of law” indicator, “Good Practices”, “Implementation of recommendations from the oversight institutions” and “Civic Engagement”. The second best performer is the Municipality of Prishtina/Priština, scoring the highest for the following indicators: “Good Practices”, “Transparency” and “Competition”. Whereas, the third municipality is Peja/Peč, scoring particularly well for “Implementation of law”, “Civic Engagement” and “Implementation of recommendations from the oversight institutions”.

Gjakova/Djakovica Municipality was also very close to the Municipality of Peja/Peč with only a 5-point difference. Gjakova/Djakovica has scored particularly well in the “Competition” indicator, which is crucial to having a strong public procurement and also for initiating “good practices” in this sector. In regards to Gjilan/Gnjilane, D+ is aware of all the recent changes and challenges this Municipality is currently facing. Given the new staff and the transitioning process, this Municipality would have to work more in order to reinforce a better and more sustainable procurement system, as well as catch up with other municipalities

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