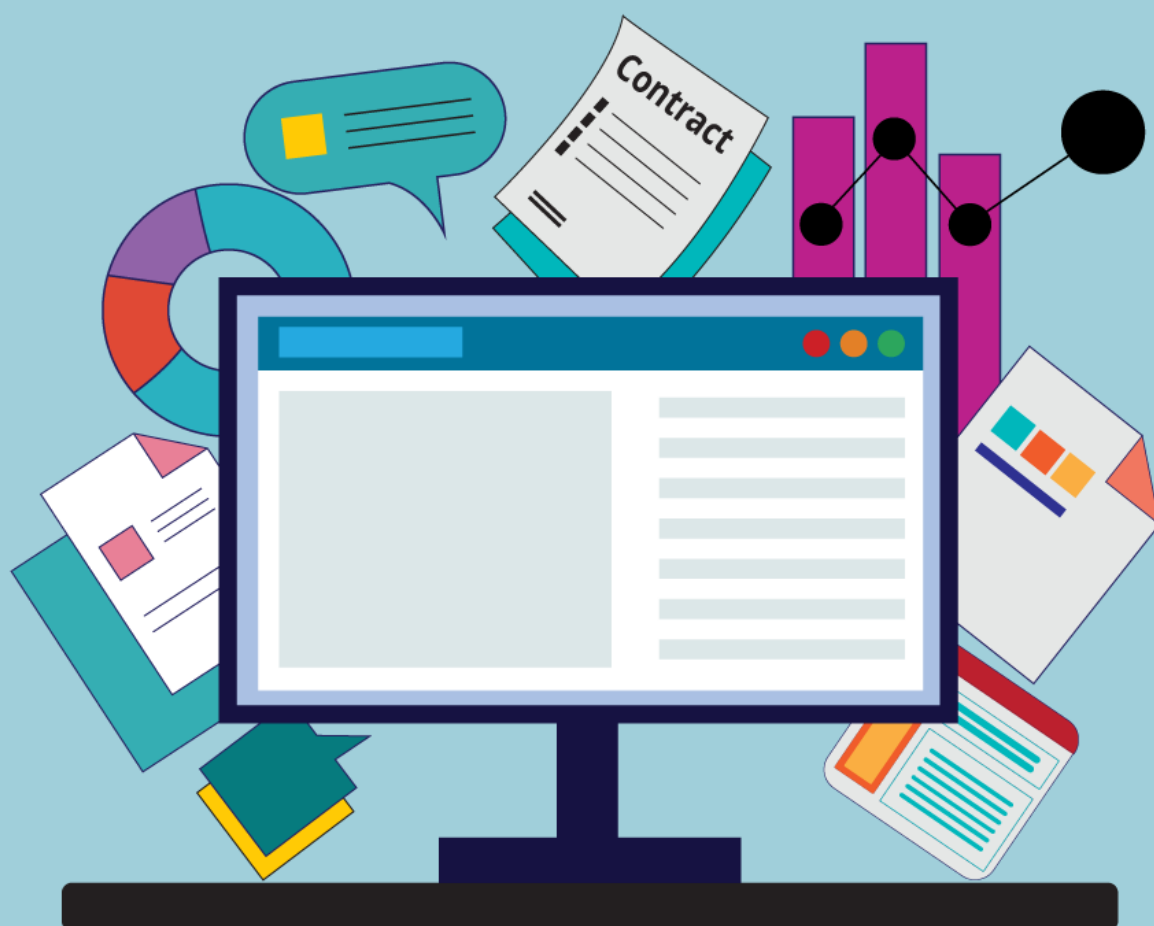




DEMOCRACYPLUS

Level of publication of public procurement contracts

(Kamenica, Podujeva, Fushë Kosova, Shtime and Obiliq)



Level of publication of public procurement contracts

Kamenica, Podujeva, Fushë Kosova, Shtime and Obiliq

Monitoring period: 1st January to 31st October 2019

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Introduction

In August 2019, the public procurement of Kosovo saw a major change occurring. Some municipalities decided to publish all the contract signed through public procurement on their websites. In September, the Public Procurement Regulatory Commission (PPRC) issues a decision ruling that all contract must be published on the e-Procurement platform¹. For a contract to be deemed published, it should contain the contract, the general conditions of the contract, specific conditions and the price list. The Price List is the most important part as it contains the prices that the companies that won the contract have assigned for deliverables/services requested by the contracting authorities.

The PPRC did not oblige contracting authorities to publish the contracts on their websites as well, but in order to increase transparency, majority of the municipalities have committed to publish the contracts on their websites, however the PPRC encourages contracting authorities to publish notice for contract and notice on awarding of the contract on their websites.

The e-Procurement contract requests users to register in order to be able to download tender documents, including the contracts. For a user without a lot of knowledge on public procurement, but who wants to view the contracts, the need to register is impeding and discouraging. Hence, contracting authorities, despite not being obliged to do so, have decided to publish the contracts on their websites as a sign of good governance.

The report measures the level of publication of the contract on the e-Procurement platform and the website of the municipalities, including the difference between the date of the signature of the contract and the date of publication, whether it has all the required elements for a contract to be deemed published, and the format in which the contract was published.

¹ A01 Amending/Supplementing to the Rules and Operational Guidelines for Public Procurement. Public Procurement Regulatory Commission. 2018
<https://krpp.rks-gov.net/krpp/PageFiles/File/2018/08/RUOPP3092018.pdf>

Methodology

Democracy Plus has monitored the publication of contracts for five municipalities (Obiliq, Shtime, Fushë Kosova, Kamenica and Podujeva). D+ monitored all contracts signed during the period of 1st January to 31st October 2019. Rules and Operational Guidelines for Public Procurement (ROGPP) do not stipulate on how many days the contracting authority has at its disposal to publish a contract after its signature. Article 22.3f of the ROGPP stipulates that after the signature of the contract, the Authority has two days to publish the notice for signature of the contract. Hence, as this notice shows that the contract has been signed, for purposes of the monitoring, the two-day deadline was taken into consideration to assess the publication of the signed contracts.

D+ has identified all the signed contracts through the e-Procurement platform, either through downloading the contracts, or in cases when there was no contract published, through the notice on signature of the contract. In addition, the contracts published on e-Procurement and those published on the website of the municipalities, were compared. The contracts signed per each lot of a tender, have been considered as one contract and as a result there might be cases when one procurement activity results in more than one contract. All the downloaded contracts from both the e-Procurement and the websites of the municipalities were reviewed on whether they contained all the elements (general provisions, specific provisions and price lists). If a contract lacks specific provisions or the price list, it was not deemed as published. Further, the difference in days between the date of signature of the contract and the date of publication on the e-Procurement and the website of the municipalities was calculated. If the difference is more than two days, then it may be considered that the municipality was not transparent. Contracts amounting to less than EUR 1,000, which are known as minimal amount contract, have not been calculated, as the PPRC has not yet rules for these procurement procedures to be conducted through the e-Procurement. The procurement procedures are still conducted through the old PPRC website where the notice for award of the contracts is published. As the municipalities are not obliged to publish these contracts, they do not publish them on their websites either. In this report, the definition of signed contracts applies only to contracts amount to more than EUR 1,000.

Level of publication of contracts

Municipality of Kamenica

For the period of January – October 2019, municipality of Kamenica signed 44 contracts. Out of those, 41 contracts were published on the e-Procurement platform, whereas three procurement activities were not published. The difference between the date of the signature of the contract and the date of publication on the e-Procurement was 2.2 days on average, which is almost within the two days deadline stipulated as the legal deadline by the law. However, the average was decreased by some contracts which were published on the same day as the signature, as there are delays of up to seven days in some cases. Out of 41 contracts published, for 13 of them, the legal deadline of two days was exceeded.

On the other hand, when compared it can be noted that there are huge differences between the publication of contracts in the website and on the e-Procurement platform. Due to publication on the website not being a legal obligation, out of 44 contracts signed, the municipality published only 20 of them on the website, while some of them were published many days after their signature. While publication of signature of the contract was published on average within 2.22 days, when it comes to the website, the average was 41.3 days. In some such instances, the implementation period of the contract was shorter than 41.3 days, which hinders the importance of the publication of contracts itself, as the procurement activity had already been completed by that time.

The municipality publishes contracts in a scanned format, which does not allow for searching or copying of the text of the contracts. This is due to the contract being printed and signed, and later scanned for publication on the e-Procurement and the website. Nevertheless, the lack of searching makes it difficult for interested parties to be able to analyse the content of the contract.

Differences between the date of signature and the date of publication (in days)

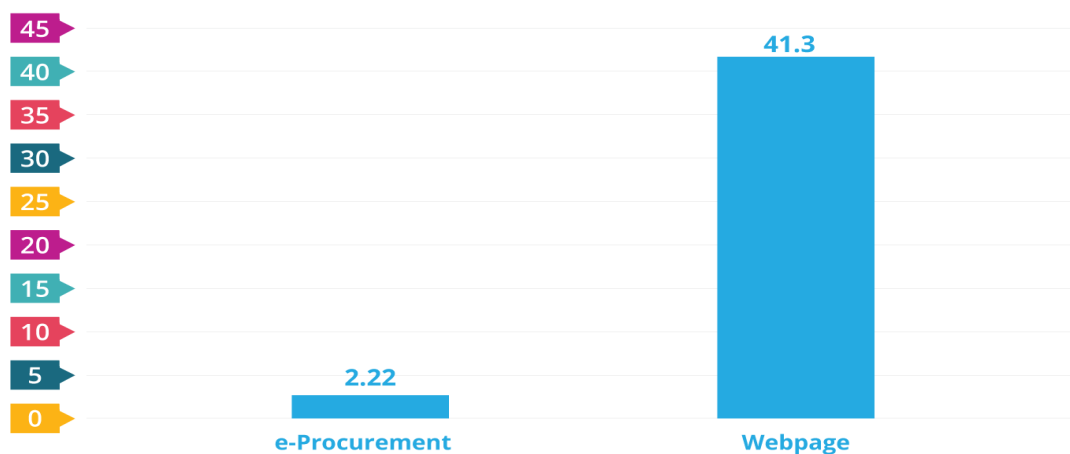


Figure 1: The difference in days between the signature of contracts and their publication on e-Procurement and website of the Municipality of Kamenica

Municipality of Kamenica - Level of publication of contracts

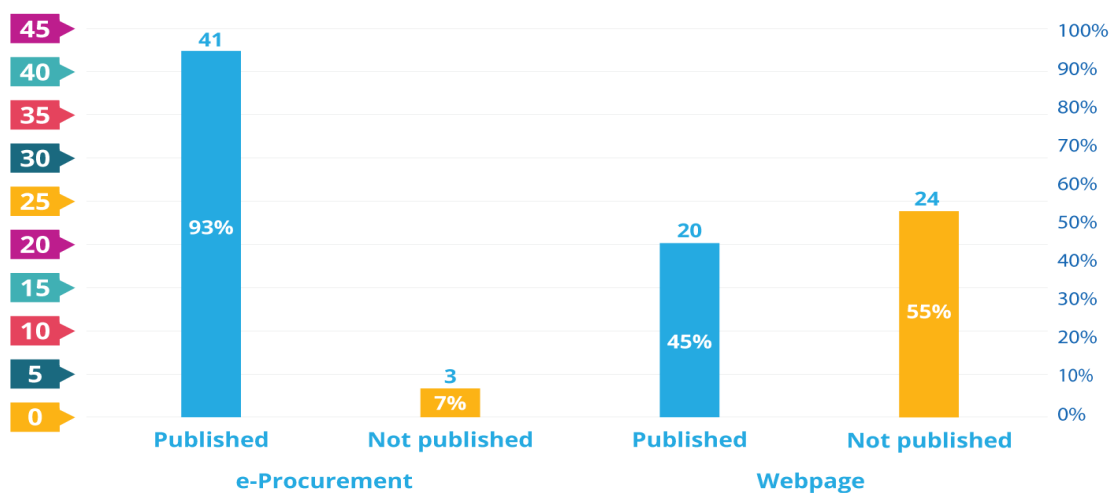


Figure 2: Level of publication of contracts in e-procurement and the website of the Municipality of Kamenica

Municipality of Podujeva

For the period of January-October 2019, the municipality of Podujeva signed 96 contracts. 84 contracts were published on the e-Procurement, while in 65 of them price lists as the main element of a contract are missing. Even before decision of the PPRC to open contracts, the winner of the tender and the price were made public through notice for contract/signature of the contract, however prices for each specific item or service were not known. Without this element, it may be concluded that the published contracts do not serve the interested parties. On the other hand, the lack of publication of 12 contracts on e-Procurement, municipality of Podujeva violated the instruction of the PPRC to publish contracts.

Out of the contracts published on e-Procurement, the average time between the date of signature of the contract and the date of publication is 3.27 days, thus higher than the average time in the municipality of Kamenica. 51 contracts were published within two days of signature of the contract, whereas 33 contracts were published, on average after two days. Similar to Kamenica, Podujeva also published some contract very late. Such was the case of the contract "Removal of the foundations (the foundation lines and the concrete) of containers in the Martyrs Neighbourhood and their removal to the nearest landfill", which had to be completed within a period of eight days, but was published only 41 days after the contract was signed.

67 contracts were published on the website while 29 were not published. Same as in e-Procurement, 52 of the published contracts lacked price lists, thus it may be calculated that only 15 contracts have been published (67-52). In addition, as is the case with the municipality of Kamenica, the contracts published are saved as a picture, which does not allow the possibility of searching or copying the text of the contract. The publication on the website is done faster than in the municipality of Kamenica, on average the contracts are published after 4.44 days, which is closer to the average of publication on e-Procurement. Usually, the municipality publishes the contract on the e-Procurement and the website on the same day, which is how it should be done.

Differences between the date of signature and the date of publication (in days)

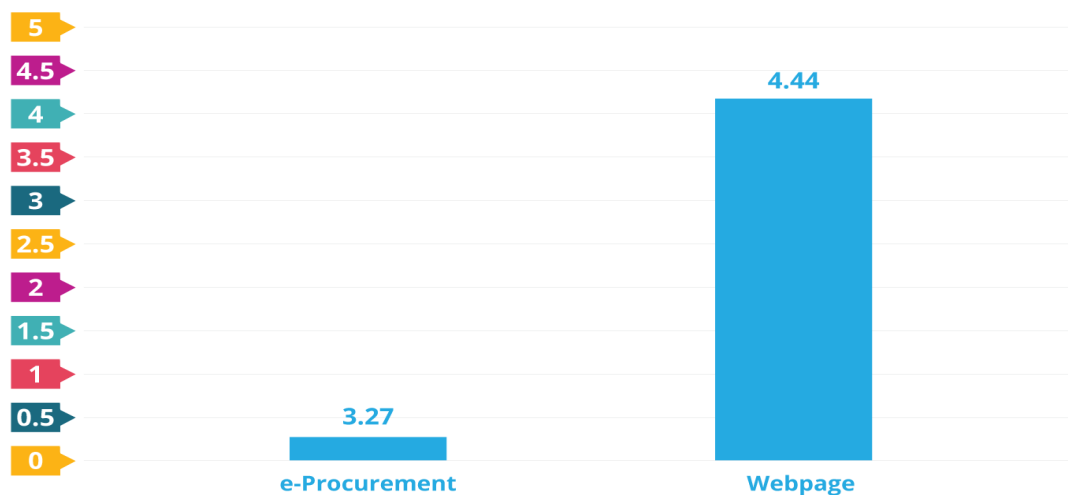


Figure 3: The difference in days between the signature of contracts and their publication on e-Procurement and website of the Municipality of Podujeva

Municipality of Podujeva - Level of publication of contracts

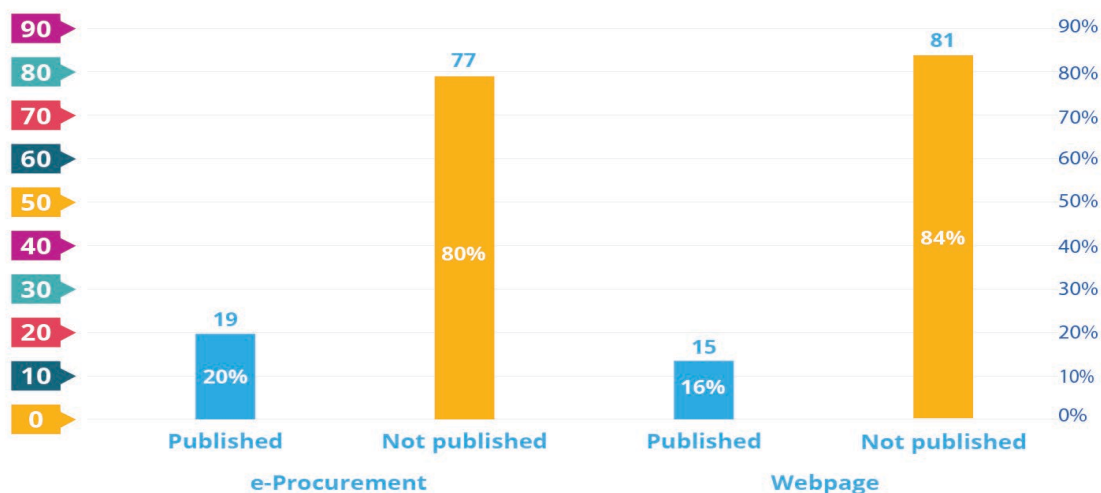


Figure 4: Level of publication of contracts in e-procurement and the website of the Municipality of Podujeva

Municipality of Fushë Kosova

During the period of January – October 2019, the municipality of Fushë Kosova signed 77 contracts, out of which 73 were published on the e-Procurement, whereas four were not published. The municipality of Fushë Kosova included price lists in the contract, in comparison to the municipality of Podujeva. Only in one contract, the price list is missing, namely the tender on "Fixing manholes in the streets".

The average time of publication after signature of the contract is 1.25 days, an average which is the best when compared to the other municipalities. In contrast to the other municipalities, it has been noted that overall the municipality of Fushë Kosova publishes the contracts on the same day of signature. This good practice should be followed by all municipalities, in order not to have differences between the date of contract signature and the date of publication. Only 13 out of 77 contracts have a difference of more than two days between the signature of the contract and the date of publication.

However, the efficiency of publication of contracts on the e-Procurement was not reflected on the publication on municipal website as well. Only 33 out of 77 contracts signed have been published on the website. The municipality has not published any contracts since 2nd September 2019. All the published contracts appear to have been published on the same day of signature. However, D+ revealed that the municipality has changed the date of publication, as all contracts that have been published since April have in fact been published on September 2019. The manipulation with the date of publication, hinders all the efforts of the municipality for transparency on the public procurement, and it hinders the entire procurement process.

Because of inaccurate data from the publication of contracts on the website of the municipality of Fushë Kosova, the figure comparing the difference between the date of contract signature and the day of publication of contracts on e-Procurement and website.

Municipality of Fushë Kosova - Level of publication of contracts

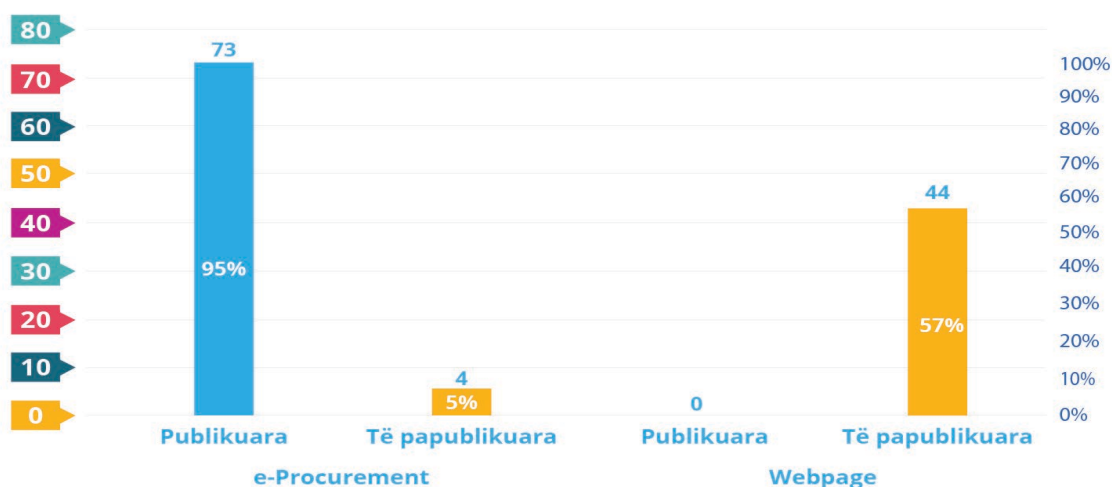


Figure 5: Level of publication of contracts in e-procurement and the website of the Municipality of Fushë Kosova

Municipality of Shtime

The municipality of Shtime, although the smallest amongst four other municipalities, for the period of January to October 2019, it signed 71 contracts. Similarly to the other municipalities, Shtime did not fully comply with its legal obligation either. Five (5) out of the nine unpublished contracts are annexes to previously signed contracts. The difference between the day of signature of the contract and its publication on the e-Procurement is 1.73 days, meaning that contracts are published on the e-Procurement within a reasonable time. Majority of contracts are published on the day of signature or the day after, however two contracts have been published 33 days, and respectively 40 days after the signature of the contracts.

In terms of publication of the contracts on the website of the municipality, Shtime has not been transparent, as it has published only 15 contracts, whereas 56 of them were not published at all. Out of the published contracts, nine of them did not provide the title of the contracts on the link, meaning that all documents need to be opened

separately in order to learn the name of the contract, which does not enable searching a specific contract through key words. The contract may exist within the website, but it is impossible to find it through key words, due to names of the documents in the website being titled “Contract”, “Contract (3)” and so on.

The small number of contracts published on the website, makes the difference between the dates of signature with the date of publication on the website to be only 0.8 days. This shows that the municipality of Shtime neglected publication of the contracts on its website, while those it decided to publish, were published almost within the day.

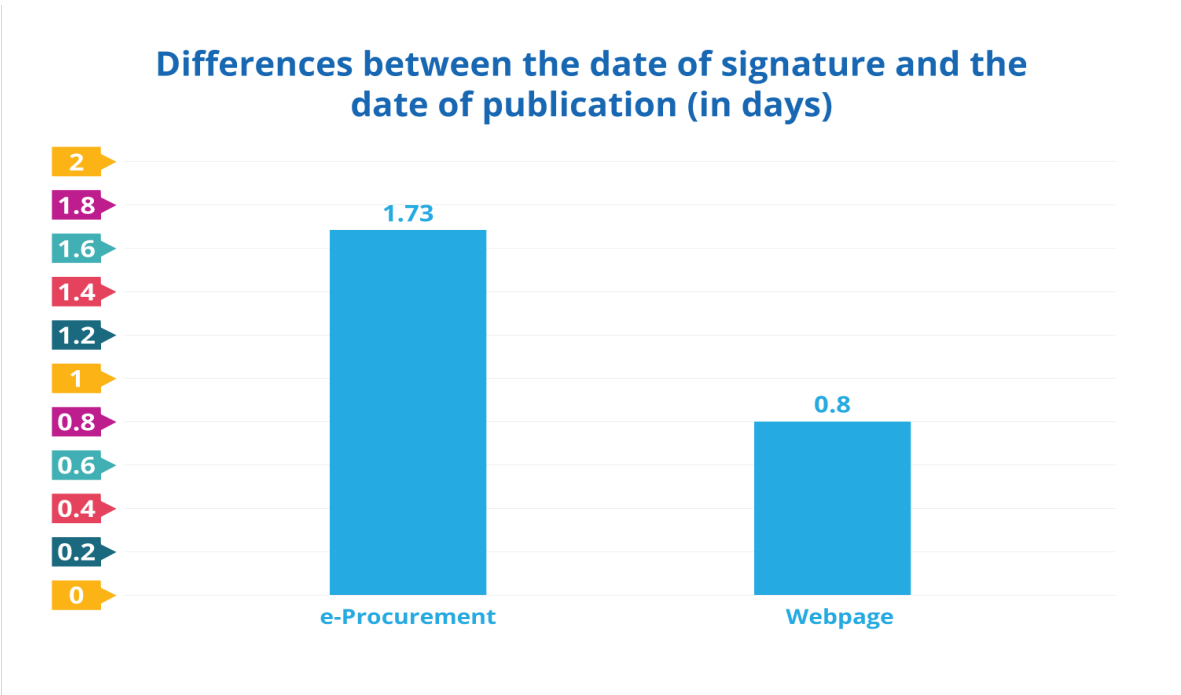


Figure 6: The difference in days between the signature of contracts and their publication on e-Procurement and website of the Municipality of Shtime

Municipality of Shtime - Level of publication of contracts

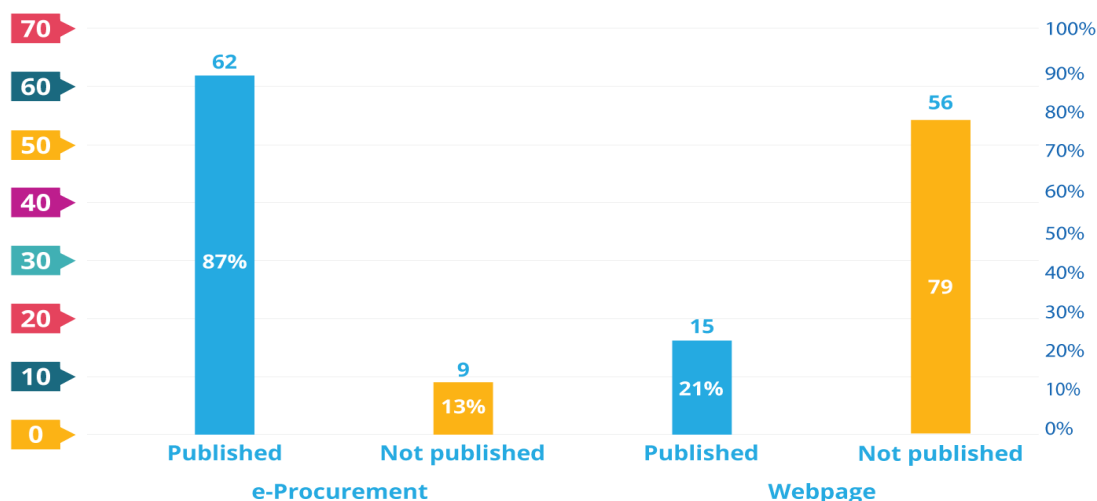


Figure 7: Level of publication of contracts in e-procurement and the website of the Municipality of Shtime

Municipality of Obiliq

In the period of 1st January to 31st October 2019, the municipality of Obiliq signed 73 contracts. Out of them, 40 contracts were published whereas 33 were not published. Out of the 40 published contracts, the average of publication is 2.76 days after the signature of the contract, which means that deadline was exceeded for two days. 20 out of 40 contracts were published within the two-day deadline. Two contracts did not include price lists and thus may not be deemed as published, as the information contained in the contract such as the winner and price of the contract may be found in the notice for signature of contract.

Similarly, to the other municipalities, in Obiliq as well, the contracts are published as a scanned document, which does not enable searching within the text.

The municipality of Obiliq has published 49 contracts while 24 were not published. Like Fushë Kosova, the phenomenon of changing the date of publication was noted, making the date of publication appear to be the same as the date of signature. The municipality has changed the date for a few months, as for example the contract signed in April 2019 were in fact published in May 2019, those of May, June, July and

August were in fact truly published in September. The findings of D+ show that it appears that all contracts have been published in one single day, which hinders the trust on the sincerity of the institutions in the entire process of transparency in public procurement.

The naming of the documents in the website is another issue, as they are all titled "contract 001", "contract 002" and so on. This manner of naming the documents makes it impossible to search the website with the name of the contract. During the process of compiling this report, D+ researcher had to manually open each single contract published on the website, in order to verify which contracts have been published and to see if they are compatible with the contracts/notice of signature of the contract located in e-Procurement, as this does not allow copying the text within the contract, as it was mentioned above.

Similar to the municipality of Fushë Kosova, due to inaccurate data on publication of the contract on the website, the figure for Obiliq comparing the difference between the date of publication in the e-Procurement and the website, is not provided.

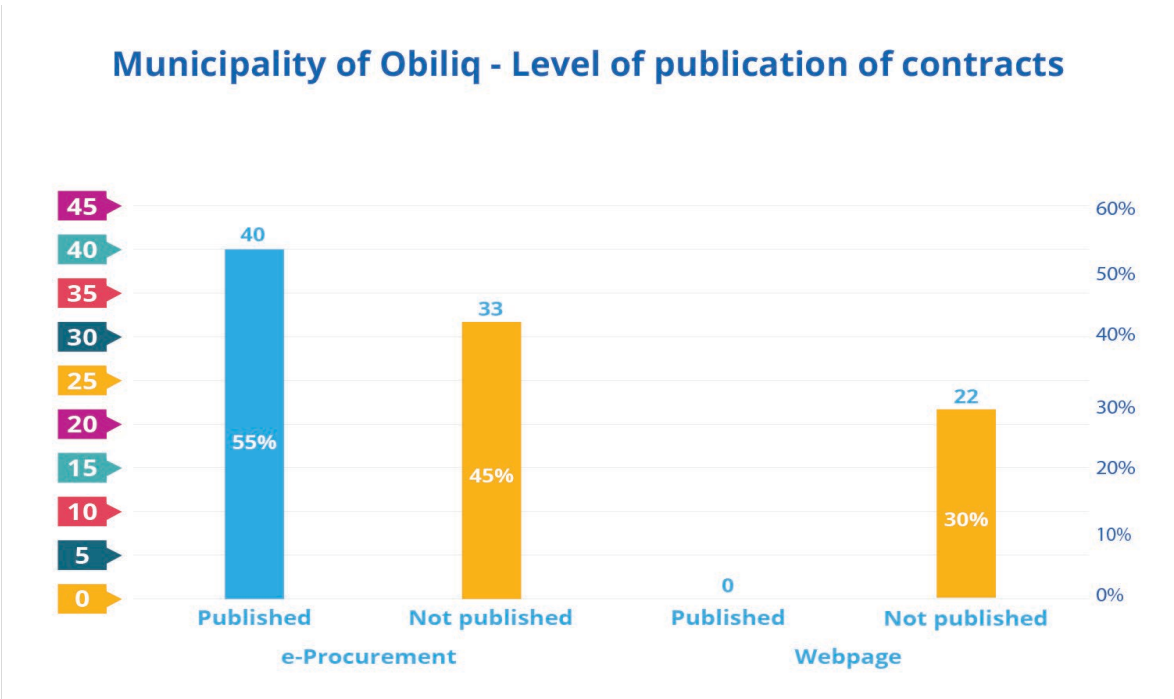


Figure 8: Level of publication of contracts in e-procurement and the website of the Municipality of Obiliq

Conclusions

Overall, publication of contracts on the e-procurement platform is at a high level. Municipalities of Kamenica and Fushë Kosova have the highest percentage of publication with 93% and 95% respectively. The municipality of Shtime is positioned somewhat worse at 85%. Municipality of Obiliq has only a little bit more than 55% of contracts published. Due to a big number of contracts published without price lists, namely 65 contracts, municipality of Podujeva stands at about 20%, with a very low number of published contracts.

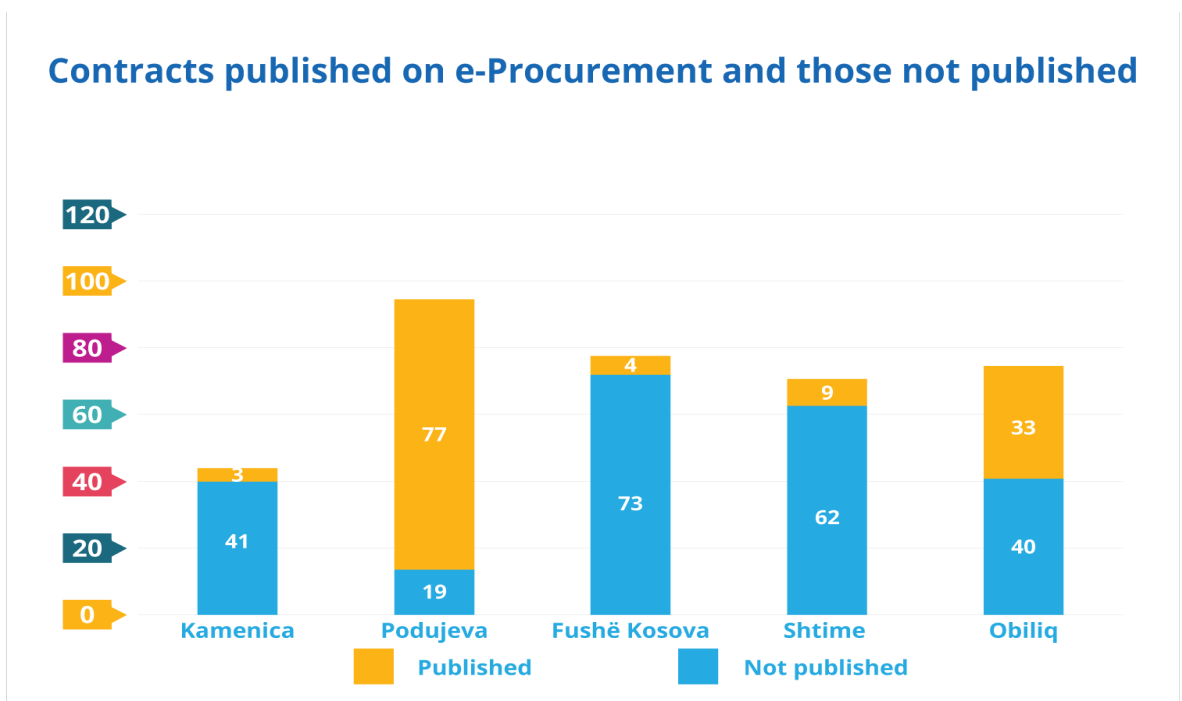


Figure 9: Number of contracts published and unpublished on e-Procurement in five municipalities

As publication on the website is not obliged with the law, thus transparency is low. Municipalities of Fushë Kosova and Obiliq have changes the dates of publication and this manipulation of data may not be considered as transparency, thus they were not included in the above figure. Municipality of Kamenica has the highest level of publication at 45%, however it also has the biggest delays in terms of days of publication. Municipality of Shtime has a lower level with only 21% of published

contracts, however it publishes them very promptly and usually on the same day of publication. Meanwhile, for the municipality of Podujeva it has been calculated that the level of publication stands at only 15% due to contracts without price lists not being considered as published contracts.

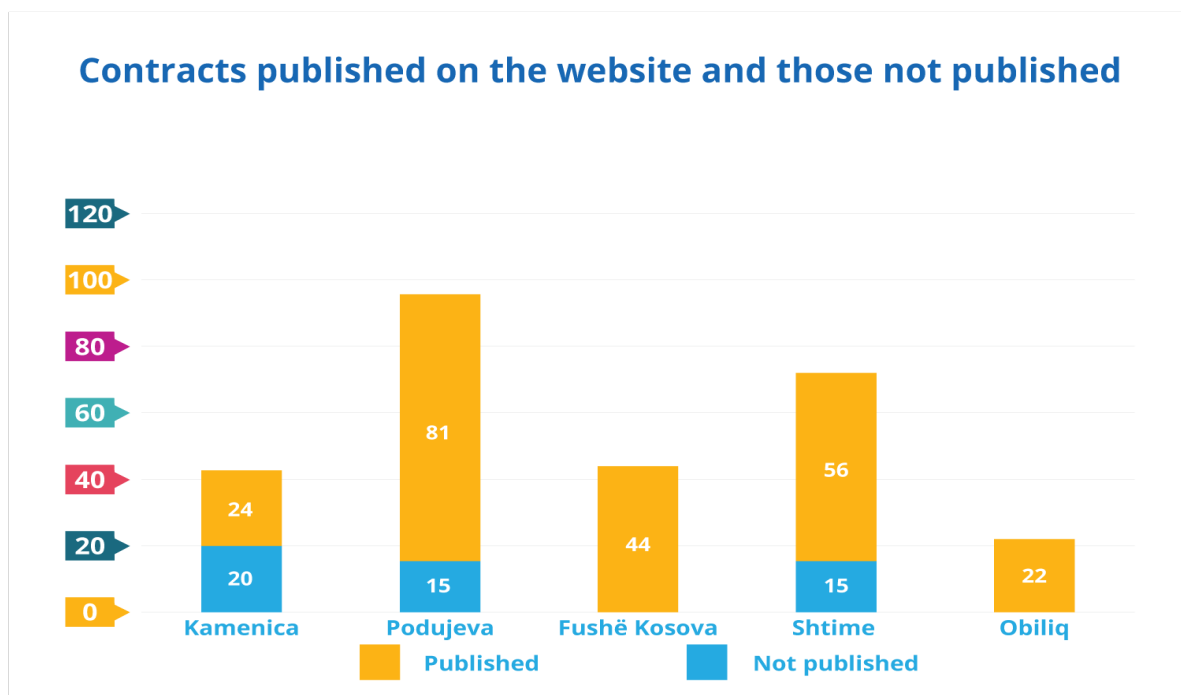


Figure 10: Number of contracts published and unpublished on the website in five municipalities

Unpublished contracts, those published very late and those with changed dates of publication in two municipalities, may be attributed to the lack of communication between the procurement offices, which is responsible to forwards contract to the IT Office that manages the website of the municipality. However, publication on e-procurement platform is the responsibility of the procurement office itself, as the latter prepares all other documents in the platform (contract notice, tender dossier etc.).

Recommendations

- All municipalities must ensure publication of contracts in e-procurement and the website within two days of signature.
- Municipalities must pay more attention to publication on the website, in order not to allow differences between the two platforms.
- Municipalities of Shtime and Obiliq must name the contracts published on the website with the name of the procurement activity. While in the e-procurement platform, search may be made with the name of the tender or other features, on the website the exact name is required to enable the search.
- The municipality of Podujeva must include price lists in the contract, as apart from being a legal obligation, publication of the contract without price lists is worthless to the interested parties.
- The municipality of Kamenica must publish contract in the website more promptly, as in some instances, it was noted that the contract had been completed by the time it was published.

Democracy Plus (D+) is an independent, non-profit and nonpartisan organization, officially registered in March of 2016. D+ strives the development of a democratic society through increasing civic participation in political process, generating greater public accountability and influencing decision-making. We integrate information technology in of all our efforts as we try to utilize the power of Internet, which plays a\n important role for democratizing a society.

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