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Gender-Responsive Public Procurement in Kosovo: Challenges and Opportunities for Effective Implementation

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Introduction

Public procurement, which in 2024 reached a value of €941 million and accounted for 9.31% of Kosovo's Gross Domestic Product (GDP)[1], represents a powerful instrument for building an inclusive economy and promoting gender equality by increasing the participation of women-owned businesses in public contracting.

Despite this potential, the current gender-neutral approach in procurement continues to sustain the deep inequalities that characterize Kosovo's economy. The formal equality guaranteed by the Law on Public Procurement (LPP)[2], which ensures equal treatment and non-discrimination of all economic operators throughout the tendering process, has not translated into substantive equality in practice. Data reveals a significant gender asymmetry in society: the poverty rate is higher among women (19%) than men (17%), while approximately 78% of women are economically inactive, compared to 44.5% of men[3]. These disparities are also evident in business ownership, where women remain significantly underrepresented; only about 18% of active businesses in the country are owned by women[4].

These structural inequalities are directly reflected in the public procurement system as well. A 2024 analysis by Democracy Plus (D+) across the seven largest municipalities in Kosovo reveals an alarming picture. Despite the considerable presence of women-led businesses in the local economy, these businesses secured only 2% of the total value of public contracts. Specifically,

1 Annual Report of the Regulatory Commission for Public Procurement for 2024. Available at: https://bit.ly/4oepMPk.
2 Law No. 04/L-042 on Public Procurement in the Republic of Kosovo, as amended and supplemented by Law No. 04/L-237, Law No. 04/L-068, and Law No. 05/L-092. Available at: https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2772.
3 Office of the Prime Minister. Agency for Gender Equality. Kosovo Gender Profile 2024. Available at: https://abgj.rks-gov.net/assets/cms/uploads/files/SHQ%20PDF%20PROFILI%20GJINOR%20I%20KOSOV%C3%8BS%202024.pdf
4 D+ "The 2% Reality – the major gender gap in the award of public contracts" (2024). Available at: https://dplus.org/publikimet/realiteti-2-hendeku-i-madh-gjinor-ne-lidhjen-e-kontratave-publike/19482/.

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Democracy Plus

out of €183.7 million spent by these municipalities, only €3.7 million went to women-owned businesses[5].

This significant gap demonstrates that formal equality, as guaranteed by legislation, has not succeeded in ensuring real equality in access and opportunities. In this context, the implementation of gender-responsive public procurement becomes essential. At the EU level, the European Institute for Gender Equality defines this mechanism as an instrument for the systematic integration of a gender perspective into public economic decision-making[6]. It aims to ensure that public spending contributes directly to reducing structural inequalities and promoting the economic empowerment of women by embedding gender considerations across the stages of the procurement cycle.

This policy brief examines the implementation of gender-responsive public procurement in Kosovo. It builds on the existing legal framework to identify opportunities for applying this concept, analyzes practical challenges, including the lack of gender-disaggregated data, and concludes with concrete policy recommendations to improve implementation.

Existing Legal Framework in Kosovo

The implementation of Gender-Responsive Public Procurement (GRPP) in Kosovo does not require fundamental legislative reforms, but rather a strategic use of the existing legal framework. The basis for affirmative measures is found primarily in the Law on Gender Equality[7], which goes beyond prohibiting discrimination and provides a clear mandate for proactive action.

This law has horizontal applicability and recognizes that formal equality is insufficient to address deep historical and structural gender inequalities. Therefore, it obliges public institutions to undertake "special temporary measures" aimed at accelerating the achievement of de facto equality where documented disparities exist[8]. The law specifies that such measures may include economic empowerment and resource redistribution.

It is essential to underline that the law clearly states that these affirmative measures do not constitute discrimination[9]. They are legitimate and temporary instruments designed to correct an existing imbalance, and must be discontinued once the equality objectives for which they were created have been achieved.

The Law on Public Procurement, as sector-specific legislation, provides the procedural mechanism to operationalize the mandate of the Law on Gender Equality. It permits the introduction of gender-related conditions, but with one important specification: these conditions are activated during the contract execution phase[10]. This means that competition is not restricted during the bidding stage; all economic operators may compete freely. Instead, such conditions are embedded as specific contractual obligations for the winning bidder, effectively transforming the contractor into an agent of social change. Although the Law on Public Procurement does not explicitly refer to the concept of gender-responsive public procurement, this provision creates the legal space for incorporating gender-related conditions into public contracts.

Continuous monitoring of public contracts and procurement practices shows that contracting authorities have not utilized this legal possibility. To date, social and gender-related clauses have

5 Ibid.
6 European Institute for Gender Equality. "Gender-Responsive Public Procurement." Available at: https://eige.europa.eu/gender-mainstreaming/tools-methods/gender-responsive-public-procurement?language_content_entity=en.
7 Law No. 05/L-020 on Gender Equality. Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923.
8 Law No. 05/L-020 on Gender Equality. Article 6. Available at: https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923.
9 Ibid.
10 Law No. 04/L-042 on Public Procurement in the Republic of Kosovo, as amended and supplemented by Law No. 04/L-237, Law No. 04/L-068, and Law No. 05/L-092. Article 31. Available at: https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2772.

not been applied, leaving the significant legal potential to advance gender equality largely untapped in practice.

According to the LPP, these measures, designed to promote gender equality, may take various forms depending on the nature of the contract. Some concrete examples include:

- Employment and Training: A requirement to employ a certain percentage of women, or to provide professional training programs in which women constitute a significant share of participants.
- Ensuring Equal Working Conditions: Operators must demonstrate that men and women engaged under the contract receive equal pay for equal positions.
- Gender Reporting During Contract Execution: The economic operator is obliged to submit periodic reports on the gender composition of the staff involved in implementing the contract, including the number of women in technical and support roles, the distribution of responsibilities, and any changes occurring during implementation.

In practice, the process would look like this: a contracting authority announces a tender for the maintenance of public spaces and includes in the technical specifications a condition stating that "the winning economic operator is obliged, during the implementation of the contract, to employ five women from the municipality's unemployment register." All companies submit their bids while accepting this condition. The evaluation of bids is then carried out based on price or other standard criteria. After the contract is signed, fulfillment of this social requirement becomes a legal obligation, and the contract manager, on behalf of the contracting authority, is responsible for verifying its implementation. In this way, the LPP provides a mechanism that respects competition while leveraging the state's purchasing power to achieve clear social objectives.

The Concept of Gender-Responsive Public Procurement

Deep gender inequalities in the economy, evident in public procurement and reflected in women's low levels of active participation in the labor market, demonstrate that a gender-neutral approach does not ensure equal opportunities. In practice, formal neutrality reproduces existing structural barriers and limits the transformative potential of public spending.

In the context of contemporary reforms, public procurement is increasingly viewed as a strategic instrument for promoting inclusive development, in which the integration of the gender dimension is a central component. The concept of Gender-Responsive Public Procurement has been developed precisely as a tool for integrating the gender perspective to ensure that procurement policies and practices contribute to the advancement of gender equality[11].

GRPP entails the systematic integration of a gender perspective into all stages of the procurement cycle, from planning to drafting technical specifications, setting contract conditions, evaluating bids, and monitoring implementation. Its objective is for public expenditure to generate not only value for money, but also social value, by reducing structural inequalities and fostering women's economic empowerment.

Countries that have advanced GRPP have implemented it through a gradual process that begins with the establishment of legal equality obligations, continues with the development of data-col-

11 European Institute for Gender Equality. "Gender-Responsive Public Procurement." Available at: https://eige.europa.eu/gender-mainstreaming/tools-methods/gender-responsive-public-procurement?language_content_entity=en.

lection and reporting systems disaggregated by gender, and culminates in the integration of gender-related requirements into specific phases of procurement, such as contract conditions, evaluation criteria, or social clauses.

However, the implementation of GRPP is not without challenges and requires a carefully considered approach. GRPP does not imply favoring women, but addressing existing structural inequalities so that competition can unfold under genuinely equal conditions. The integration of objectives aimed at increasing gender participation must be balanced with the core principles of public procurement, such as open competition, transparency, and efficiency[12]. A central concern is designing gender-related criteria in a way that does not transform them into discriminatory barriers for other economic operators. It must also be ensured that affirmative measures do not undermine service quality or disproportionately increase the cost of public contracts.

Moreover, GRPP should not be viewed as a universal solution, as its effectiveness depends on institutional capacities to design, implement, and monitor complex contracts, as well as on market readiness to respond to these new requirements. Therefore, a successful GRPP strategy requires not only political will but also investment in technical capacities and continuous dialogue with the private sector.

The Data Gap as an Obstacle to Evidence-Based Policymaking

One of the fundamental obstacles to addressing gender inequalities in public procurement is the absence of gender-disaggregated data. Public institutions in Kosovo, including the central ones, do not systematically collect or report gender-related indicators, an omission that prevents meaningful analysis and the development of evidence-based policies.

The most comprehensive statistical report in the field of public procurement is the Annual Report of the Public Procurement Regulatory Commission (PPRC), which is submitted to the Assembly of Kosovo. However, this report contains no gender indicators[13]. For example, the 2024 report, which notes that 10,012 public contracts were awarded in Kosovo with a total value of €941.7 million, analyses the types of procedures and the average number of bidders, yet provides no information on how many of these contracts were awarded to women-owned businesses. The report also lacks any gender breakdown for the 18,100 active businesses registered on the electronic procurement platform (e-procurement).

This lack of data directly limits the state's ability to design effective policies. International experience shows that successful monitoring systems go beyond minimum reporting requirements and integrate clear gender-disaggregated indicators. Several EU countries, such as Spain, France, and Belgium (Flanders), have established advanced mechanisms for collecting and reporting gender data in procurement. These include information on the gender composition of economic operators' workforces, gender pay gaps, and indicators of equality at the managerial level, all of which form the basis for systematic monitoring and the design of targeted policies[14].

Therefore, strengthening capacities for identifying, collecting, and reporting gender indicators in public procurement is not merely a technical step. It is a fundamental precondition for the planning and implementation of any affirmative measure and an essential instrument for enhancing transparency and accountability in the use of public funds.

12 OECD (2021-12-06), "Promoting Gender Equality through Public Procurement: Challenges and Good Practices", OECD Public Governance Policy Paper No. 09, OECD, Paris. http://dx.doi.org/10.1787/5d8f6f76-en.

13 Annual Reports of the Public Procurement Regulatory Commission. Available at: https://e-prokurimi.rks-gov.net/Home/ClanakItemNew.aspx?id=349.

14 EIGE. "Data Collection on Gender-Responsive Public Procurement in the EU: Methodological Report." Available at: https://eige.europa.eu/publications-resources/publications/data-collection-gender-responsive-public-procurement-eu-methodological-report?language_content_entity=en.

RECOMMENDATIONS

Despite the potential of public procurement as a driver of economic development, the current gender-neutral approach has resulted in substantial inequality, with only a very small share of public contracts awarded to women-owned businesses. This situation is reinforced by the systematic absence of gender-disaggregated data, which prevents the development of evidence-based policies. Nevertheless, the existing legal framework, supported by the affirmative action obligations under the Law on Gender Equality and the procedural space for social considerations under the Law on Public Procurement, provides the necessary basis for implementing Gender-Responsive Public Procurement (GRPP).

In this context, and considering the opportunity to use procurement as a tool for women's economic empowerment, D+ recommends:

- Contracting authorities should implement the affirmative measures foreseen in the Law on Gender Equality and the Law on Public Procurement by integrating gender-related conditions into public contracts. These may include: the obligation to employ a specified number of women during contract execution; requiring bidders to submit a gender equality plan; ensuring equal working conditions and equal pay for men and women engaged under the contract; and submitting periodic reports on the gender composition of the contracted workforce.
- Institutions responsible for gender policy and public procurement oversight should adopt an active and coordinated approach to integrating affirmative measures across all contracting authorities. This includes ensuring that gender equality objectives are systematically reflected in procurement practices at both central and local levels.
- The PPRC should introduce mandatory gender indicators in its annual and semi-annual reports, including data on the number and total value of contracts awarded to women-owned and men-owned businesses.
- The PPRC should initiate the development of a detailed guideline for contracting authorities, providing models and instructions for formulating social and gender clauses in public contracts, in accordance with Article 31 of the Law on Public Procurement.
- Training should be organized for procurement officers and contract managers at both central and local levels, focusing on the design, incorporation, and monitoring of gender-responsive contract conditions.
- The PPRC should include a dedicated module in its regular training programs for procurement officers on measures designed to promote gender equality and other forms of diversity.
- The new Public Procurement Law should explicitly introduce the concept of Gender-Responsive Public Procurement and include affirmative provisions that enable its practical implementation, ensuring that gender equality is integrated into public procurement processes.
- A technical link should be established between the Electronic Procurement Platform (e-procurement) and the Business Registration Agency (BRAK) to automatically collect gender-disaggregated data regarding the gender of primary business owners.