OPEN PROCUREMENTS

PUBLIC PROCUREMENTS AND OPEN DATA IN ALBANIA

POLICY BRIEF

OPEN DATA

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Becej Youth Association – BUM and Institute for Development and Education Albania implements the project "Utilizing Open Data as a tool forgreater Competition, Participation and Reforms in the Public Procurements in the WB6 counties"which is supported by Open Society Foundations– Western Balkans
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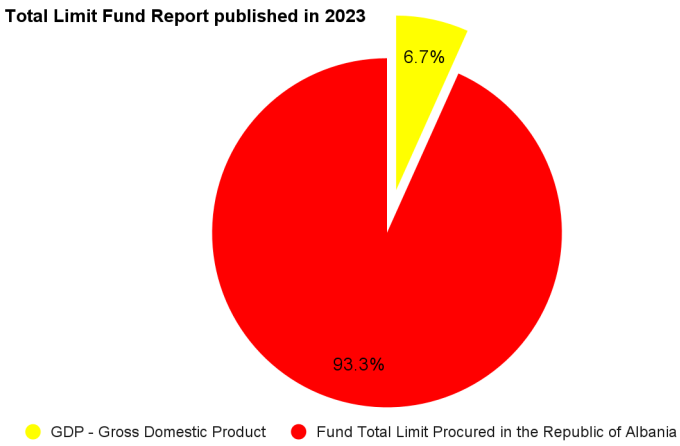
Public Procurement in Albania

The Public Procurement Agency (APP)[1] serves as the central authority overseeing the country's public procurement system, concessions, public-private partnerships, and public auctions. An electronic procurement system has been established on the dedicated page of the PPA, facilitating access to all pertinent data concerning these processes. This electronic system is designed to uphold transparency and foster an environment conducive to fair and unbiased competition among participating economic entities. Within this framework, all public procurement procedures, including those of small value, as well as the initial stages of concession and public-private partnership processes, are conducted electronically by relevant legislative mandates.

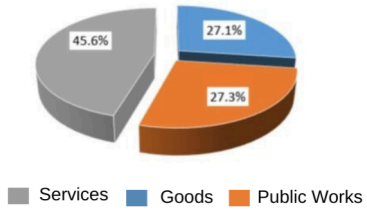
Albania's public procurement market represented about 9.4% of GDP in 2022, compared with 10.7% in 2021. In 2022, the average number of bids per tender was 2.5 (compared with 2.5 in 2021 and 2.57 in 2020) (Albania 2023 Report, European Commission).



Source: Annual Review 2022, PPA

During 2022, there are 4398 public procurement contracts for which the winner has been announced. In total, 1038 contractors were engaged, which means that on average one contractor won 4.2 tenders. In some of the tenders, only the business leading an Association of Operators has been notified (Open Data Albania)
About 2023 from the processing of the data in the Electronic Procurement System, as well as based on the preliminary data of the Ministry of Finance and Economy6 for the Gross Domestic Product (GDP), it results that, for the year 2023, the total limit of the fund occupies 6.7% of the GDP- of Gross Domestic Product (GDP) (Albania 2023 Report, European Commission).

[1] The Public Procurement Agency (APP) https://www.app.gov.al/rreth-nesh/fjal%C3%AB-hyr%C3%ABse/



Source: Agency of Public Procurement, APP

For the period January-December 2023 based on the Annual Analysis on Public Procurement 2023, the highest fund of procedures announced according to the type of contract is occupied by the fund of procedures of the "Public Works" type, which occupies 45.6% of the total fund of announced procedures, followed by "Goods" type procedures with 27.3% and "Services" with 37.1%.

Source: Agency of Public Procurement

During 2023, the largest number of winners announcements was published during the first 6 months of the year, especially in April, also as a result of the high number of procedures announced in the first 3 months of the year. as analyzed above.

Announcements of winners by type of contract January-December 2023			
Type of procedure	Services	Goods	Civil Works
Open Procedure	207	504	470
Open above the upper monetary limit	126	218	16
Open Simplified	741	1259	354
Consulting Service	96	-	-
Limited	4	2	2
Limited above upper limit	3	3	-
Limited to Reconstruction	1	-	1
Total	1,178	1,986	843

Source: Agency of Public Procurement, APP

The highest number of contract procedures with winners is for "Goods" with 1986 winners or 49.5% of the total winners, more "Services", with 1178 winners or 29.5% of winners, and "Public orks" with 843 winners or 21 % of total winners.

Public Procurement in Albania

Legal regulatory and policy framework

The legal framework governing procurement in Albania is primarily based on the 2014 Directive on Public Procurement and the procurement of municipal services, as highlighted in the 2023 report by the European Commission. Initially, the legislation on public procurement in Albania was defined by Law No. 9643, dated 20.11.2006. However, this law has undergone significant amendments over the years. Since 2020, the primary legislation governing public procurement has been Law No. 162/2020, which came into effect on March 31, 2021. This law has been aligned with various directives of the European Union concerning public procurement.

Additionally, there are two other legal frameworks concerning procurement in specific areas:

Law No. 36/2020 regulates procurements in the field of defense and security. It outlines the subjects of procurement in this domain, including the supply of military equipment, classified equipment, related works, supplies, and services, among others.

Law No. 125/2013, dated 25.04.2013, deals with concessions and public-private partnerships (PPPs). This legislation has been updated by Law No. 50/2019, which amended the original law. Furthermore, decisions of the Council of Ministers, such as No. 10.07.2013 and No. 634 (1.10.2014), play a role in the evaluation and awarding of concessions/PPPs, particularly in sectors like national roads.

The National Public Procurement Strategy for the period 2024-2030 is fully aligned with international sustainable development objectives, EU legal frameworks, and commitments made by Albania in joint meetings with the EU. This strategy, developed with technical assistance from SIGMA-OECD, builds upon the initiatives initiated but not concluded under the previous Public Procurement Strategy 2020-2023. It also considers integration obligations and EU recommendations derived from review processes. The strategic objectives outlined in this document reflect detailed measures, engaging relevant public institutions and contributors in their implementation.

Institutional framework: Role and responsibilities of state bodies

Council of ministers

Regarding institutional framework, the Council of Ministers holds the authority to approve by-laws essential for implementing Law 125/2013. It also approves provisions for stabilizing concession/PPP contracts.

Ministry of Economy and Finance

The Ministry of Economy and Finance plays a pivotal role in overseeing, directing, and coordinating activities related to concessions and PPPs. Additionally, it oversees the

Concessions Handling Agency, which aids in project evaluation, tender document preparation, contract negotiation, and monitoring.
The Ministry of Finance is integral to the evaluation process, especially in cases requiring financial support. Approval from the Ministry is essential when contracts impact the State Budget or local bodies' budgets. It establishes rules for PPP concession fees, and in the absence of payment, the Ministry issues fee collection orders as per Albanian legislation. More information on the role of the Ministry of Finance can be found in Law 125/2013.

Concessions Handling Agency
The Concessions Handling Agency (ATRAKO), as a specialized entity, assumes the critical responsibility of aiding contracting authorities across multifarious dimensions of concession and PPP procedures. This encompasses project evaluation, the preparation of tender documents, contractual negotiations, and vigilant oversight of implementation.

Public Procurement Agency
The Public Procurement Agency (APP) is a central body, a public legal entity subordinate to the Prime Minister, financed by the State Budget. The Public Procurement Agency has some specific powers during the performance of competitive procedures, by the powers given to this agency by the public procurement legislation.

Public Procurement Commission
The Public Procurement Commission (PPC) is a central public body, subordinate to the Prime Minister, which reports annually to the Council of Ministers. The Public Procurement Commission is the body in charge of reviewing complaints against the procedures and results of tendering procedures. After receiving the complaint from the KPP, the contracting authority must suspend the continuation of the competitive procedure until a decision is made by the KPP, according to the deadlines set by law.

The Ministry of Defence, the Ministry of the Interior, and AKSIK are the main institutions responsible for procurement in the field of defense and security.

Central Purchase Operator sh.a. is a central purchasing body, subordinate to the Ministry of Finance and Economy, whose mission consists of carrying out centralized procurement procedures for goods, works, services, and budget funds with a value above the monetary limit of small value procurements, for account and for the account of the Prime Minister's Office, ministries and institutions depending on them.

Transparency and Open Data

Legal Framework

Law No. 119/2014 On the Right to Information, regulates the right to know information that is produced or held by the public. Article 3 of this law states that every person has the right to be familiar with public information, an original document, or by receiving this document or being formatted that has the right to access the information of the document.

Law no. 139/2015 "On Local Self-Governance" has Article no. 6 dedicated to transparency, consultation, and citizen participation. This law requires that every act of the local self-government bodies be published on the official website of the local unit and posted in the places designated by the unit for public announcements. Each local self-government unit is obliged to appoint a transparency coordinator and approve the transparency program, ensuring access from everyone, especially from the poorest sections of the community, by the provisions of the law in force on the right to information.

Law No. 146/2014 on Public Notification and Consultation. This law regulates the process of notification and public consultation of draft laws, draft national and local strategic documents, as well as policies of high public interest. The law defines the procedural rules that must be implemented to guarantee transparency and public participation in policy-making and decision-making processes by public bodies. This law aims to promote transparency, accountability, and integrity of public authorities.

National Action Plan for Open Government

The Albania Government has developed the 6th National Action Plan (NAP) since it joined the Open Government Partnership (OGP) international initiative in 2011. The Prime Minister Order no. 177, dated 28.10.2022 aims to contribute to a more effective implementation of standards of Open Government within the membership of the Albanian Government in the Global Initiative of "Open Government Partnership" (OGP). (National Action Plan for Open Government 2023-2025).

The National Action Plan 2023-25 for the implementation of the Open Government Partnership aims to develop new commitments in areas such as anti-corruption & beneficial owners; access to justice; digital transformation and innovation; fiscal transparency; public services; inclusiveness; the right to information, consultation and regulatory influence; open parliament.

Digital Reform Transformation & Open Data

Since 2015 the Government of Albanian has taken a strong commitment towards supporting and promoting digital initiatives as a powerful tool that leads to modernized governance, increased know-how for a society that is more open, and a sustainable economic development for its citizens. (EITI Albania Policy on Open Data)

e-Albania (https://e-albania.al/)

The e-Albania governmental portal is connected to the Governmental Interoperability Platform (Government Gateway – GG), which is the core architecture that enables the interconnection of electronic registers with each other and the exchange of real-time data safely and reliably, guaranteeing electronic services for citizens, businesses and public administration.

Open Data Portal

Albania's Open Data Portal (https://opendata.gov.al/) currently provides open data from several sectors – for example: health, treasury, customs, education, business etc. Currently, the portal provides more than 91 datasets in the fields of health, treasury, budget, customs, education, business, and much more. (Action Plan)

Ask the State (Pyet Shtetin) https://www.pyetshtetin.al/

The electronic system of requests and responses for the right to information offers the opportunity to any citizen and/or any interest group to send requests to the responsible state institutions in a simple electronic way, as well as to send complaints in case of refusal to request information to the Commissioner for The Right to Information and Protection of Personal Data.

Electronic Register for Public Notices and Consultations (https://www.app.gov.al/e-prokurim/)

The National Agency of the Information Society (AKSHI) based on law no. 119/2014 dated 18.09.2014 "On the right to information" as well as the law no. 146/2014 dated 30.10.2014 "On public notification and consultation", built this system which will serve as a place of consultation between citizens and decision-making institutions in Albania.

Open Data Albania (https://ndiqparate.al/?page_id=8471&lang=en)

Open Data Albania (ODA) is an ongoing project implemented by the Albanian Institute of Science, which is a non-profit, nonpartisan organization established in 2011 in Albania. The mission of AIS is to promote research activities that offer solutions to socio-economic problems, increase transparency, and strengthen civic engagement.

Open Data & Public and Private Partnership

Law No. 119/2014 On the Right to Information presents categories of information that are provided free of charge. One of them is the information on the procurement or competition procedures of public concessions/partnerships, private connections, according to the procedures of law no. 9643, dated 20.12.2006, "On public procurement", and Law no. 125/2013, "On concessions and Public Private Partnership", which are carried out on behalf of the public authority, including: i) the list of concluded contracts; ii) the contracted amount; iii) the contracting parties and the description of the contracted services or goods; iv) information on contract actions and monitoring, as well as various policy instructions.

All official communications regarding public procurement, including notices, tender documents, manuals, and instructions, are readily accessible on the official website of the Public Procurement Agency (www.app.gov.al). Since 2009, Albania has embraced electronic procurement procedures through the Electronic Procurement System (SPE), ensuring transparency and the efficient allocation of public funds. A pivotal stride towards transparency is the inception of the Electronic Register for Concessions and Public-Private Partnerships (PPPs), housing all relevant contracts since 2019. Moreover, the introduction of a streamlined electronic complaints system by KPP in 2021 ensures accessibility for all concerned parties. The Open Data Project, spearheaded by the Albanian Institute of Science, hosts a dedicated portal enabling citizens not only to track ongoing contracts but also to scrutinize budget allocations for public programs. Each tender call is accompanied by comprehensive details including project specifics, deadlines, bidder count, selected offers, project status, financial clauses, contract durations, and payments facilitated by the State Treasury Office. Additionally, robust risk assessment mechanisms and a red flag index are embedded within procurement processes for enhanced oversight and accountability (https://openprocurement.al/en/index/redflag).

Recommendations

- Encourage active involvement from public bodies to make their data available on the government's open data portal. More commitment is needed to bring all public bodies on board to contribute to the pool of open data.
- Greater promotion of the open data portal among potential users is essential to foster its utilization and expand its reach. This includes educating public institutions on the importance and benefits of open data and encouraging them to contribute relevant datasets.
- Address the lack of transparency between ministries by promoting collaboration and understanding of open data principles. Public institutions should work together to define and prioritize the most useful data for the open data portal, fostering a culture of transparency and cooperation.
- Enhance the accessibility and usability of the Open Data Portal through redesign and upgrades. A more user-friendly interface will encourage increased usage and engagement with the available datasets.
- Emphasize transparency, public participation, and legislative oversight in the budget development process. This ensures better results, improved citizen access to fiscal documents, and increased accountability over budget decisions and expenditures, ultimately preventing waste and corruption.
- Develop awareness activities for budget institutions related to asset management to improve financial and operational performance. This includes ensuring compliance with regulations and standards, addressing infrastructure challenges, and enhancing transparency and accountability.
- Implement measures to increase transparency in public procurement procedures, such as systematic publication of concession and PPP contracts in the relevant registers. Encourage the use of electronic complaints systems and foster cooperation with civil society to promote open governance standards for public contracts
- Encourage contracting authorities and economic operators to learn from past mistakes to avoid repetition. This involves increasing the capacities of all parties involved in the procurement process through training and knowledge-sharing initiatives.

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