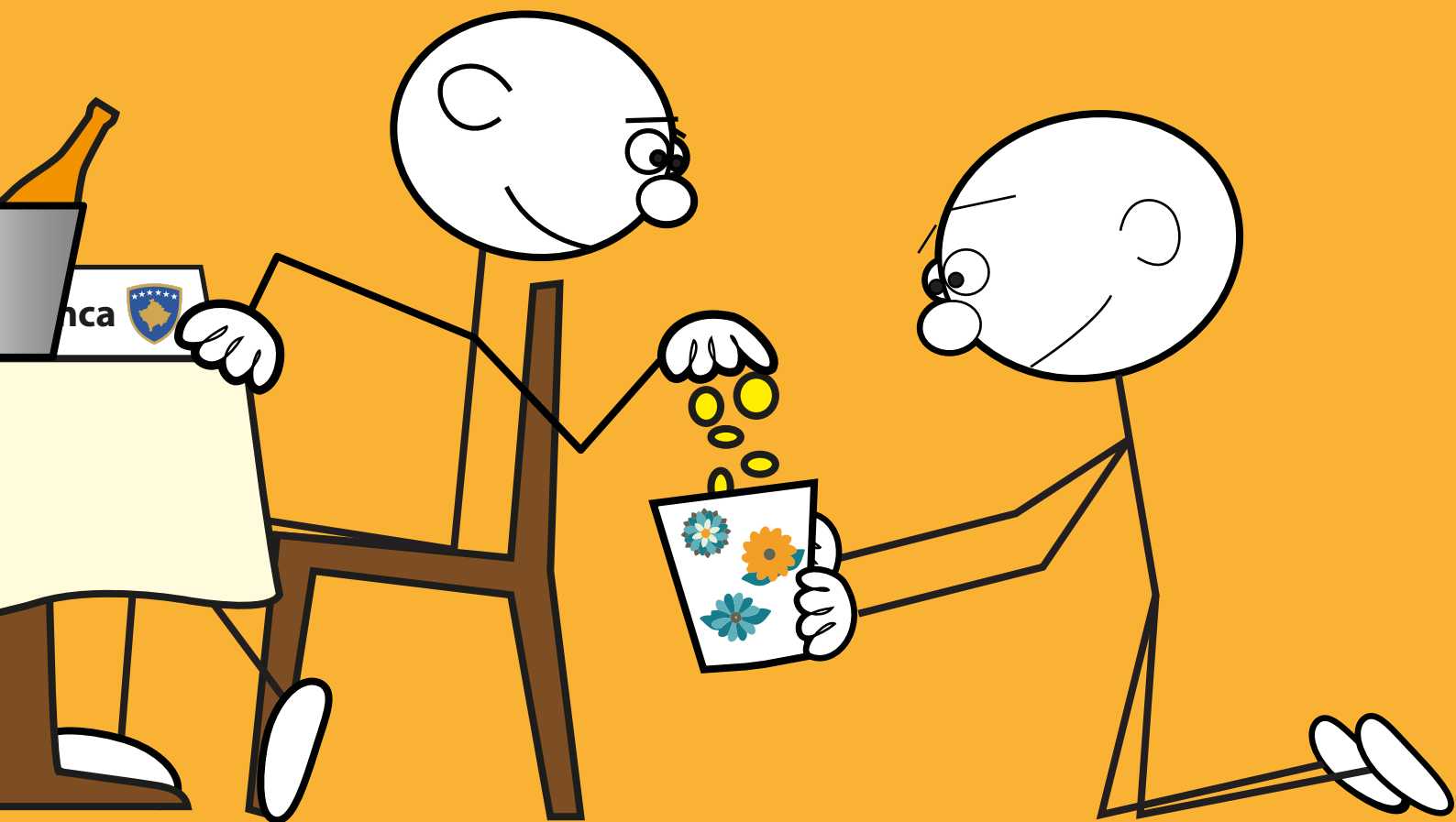


July 2017

# gap | analysis

## **Allocation of subsidies by municipalities and ministries**

**Legal basis, transparency and accountability**



## Executive Summary

One of the most problematic categories, in regards to public money expenditure in Kosovo, is that of subsidies, which in 2016 accounted for 26.9% of state budget. Subsidies are a form of financial aid, in the form of direct payments or tax reductions, given by budget organizations for institutions, groups of individuals or natural persons.<sup>1</sup> The purpose of subsidies is to ease the financial burden of any particular sector, or to provide health and social welfare assistance to people in need, being in the general interest of the public.

By allocating subsidies and transfers efficiently and by targeting the sectors or most vulnerable social groups, the government can help boost competitiveness of sectors and reduce unemployment. Therefore, the use of subsidies as a redistribution tool can be very effective if carried out properly.<sup>2</sup>

However, even though almost a third of the state budget is spent in the form of subsidies, in Kosovo there has been no progress in developing institutional capacities for controlling this state aid. According to the European Commission Report, subsidies are still provided without a proper strategy and assessment.<sup>3</sup> This paves the way for 'free riders', i.e., persons who abuse subsidies even when they are able to generate income in other ways, by directly or indirectly impairing the possibility of investing these funds in a profitable activity.

The research is focused on two ministries, the Ministry of European Integration (MEI) and the Ministry of Communities and Return (MCR); as well as seven municipalities: Gjakova, Kamenica, Ferizaj, Graçanica, Obiliq, Malisheva and Prishtina. The sample of municipalities represents seven different parties that run local government as well as different ethnic communities.

## Procedures for the allocation of subsidies

In Kosovo there is no standard legislation for all budget organizations that regulates the criteria for subsidy allocation. At the moment there is

<sup>1</sup>Example: The exemption of a group of citizens from income tax payments to a certain threshold, for example those who earn up to 3000 euros a year, may be considered for a tax reduction subsidy. This can be done through the change of fiscal policies dealing with the collection of income tax.

<sup>2</sup>International Monetary Fund, Gerd Schwartz and Benedict Clemens "Government Subsidies" <<http://bit.ly/2h4rHtk>>

<sup>3</sup>The European Commission, Kosovo 2016 Report, pg. 37 <<http://bit.ly/2INRFCl>>

a law on state aid<sup>4</sup> and a recently drafted Regulation on the Criteria, Standards and Procedures for Public Financing of NGOs by the Ministry of Finance (MoF)<sup>5</sup>. However, the first has not yet been completed with bylaws and the latter excludes other categories such as public and private entities as well as natural persons.

Institutions that allocate subsidies for different categories, culture, art, youth, sports, social welfare, health and other, do so by relying on their own internal regulations. Hence, the municipalities selected for this research have their internal regulations for the allocation of subsidies, which have legal basis on the Law on Local Self-Government.<sup>6</sup> Kamenica and Ferizaj adopted the regulations in 2012<sup>7</sup>, Graçanica in 2013<sup>8</sup>, Obiliq in 2014<sup>9</sup>, Malisheva in 2015<sup>10</sup>, whereas Prishtina and Gjakova have amended and supplemented the regulations in 2014<sup>11</sup> and 2015<sup>12</sup> respectively.

The content of municipal and ministerial regulations is different, where some are more detailed in terms of call-for-application announcement and up to reporting procedures by subsidy beneficiaries.

The Ministry of European Integration (MEI) has a regulation on subsidizing NGOs that have projects for promoting European Integration and the Ministry for Communities and Return (MCR) has regulations on the funding of NGO projects for community development and empowerment. MEI has adopted the regulation in 2015, whereas MCR in 2012.

<sup>4</sup>Official Gazette of the Republic of Kosovo, Law no. 05/L-100 on State Aid <<http://bit.ly/2vB0mIO>>

<sup>5</sup>Official Gazette of the Republic of Kosovo, MoF Regulation - No - 04/2017 on NGO public funding criteria, standards and procedures <<http://bit.ly/2uINcS3>>

<sup>6</sup>Article 12 of Law no. 03/L-040 on Local Self-Government gives Municipal Assemblies the right to draft acts within the scope of their competences, including municipal regulations.

<sup>7</sup>The Municipality of Kamenica, Regulation on the Allocation of Subsidies 2012 <<http://bit.ly/2vR6llw>>, opened on 10 March 2017 and the Municipality of Ferizaj, Regulation on the Allocation of Subsidies 2012 <<http://bit.ly/2eH3kBh>>, opened on 10 March 2017

<sup>8</sup>Municipality of Graçanica, Regulation on the Allocation of Subsidies 2013 <<http://bit.ly/2h1Yq2f>>, opened on 10 March 2017

<sup>9</sup>Municipality of Obiliq, Regulation on the Allocation of Subsidies 2014 <<http://bit.ly/2vQQ14t>>, opened on 10 March 2017

<sup>10</sup>Municipality of Malisheva, Regulation on the Allocation of Subsidies and Transfers 2015 <<http://bit.ly/2uYkIZe>>, opened on 10 March 2017

<sup>11</sup>Municipality of Prishtina, Decision on the criteria and procedures for the allocation of subsidies 2014 <<http://bit.ly/2uPa1aH>>, opened on 10 March 2017

<sup>12</sup>Municipality of Gjakova, Regulation amending-supplementing the regulation on the allocation of subsidies 2015 <<http://bit.ly/2eH7qZW>> and <<http://bit.ly/2tsBTxr>>, opened on 10 March 2017

The differences between the regulations can be noted starting from the very definition of the term "subsidy". The regulation of the Municipality of Gjakova defines "subsidies/transfers", while the regulations of the municipalities of Kamenica, Graçanica, Ferizaj and Obiliq define "current assistance", whereas the regulation of the municipality of Prishtina, as well as that of the MCR, do not define any of the terms related.

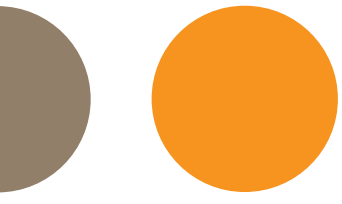
**TABLE 1.** SUBSIDY DEFINITIONS AS PER REGULATIONS

Term	Definition
<b>Subsidies/Transfers (Gjakova)</b>	One-off financial payments, allocated to the legal or natural person from the budget of the Municipality of Gjakova.
<b>Current assistance (Kamenica, Malisheva and Obiliq)</b>	Immediate cash assistance proposed by the respective committee established based on the decision of the Mayor and approved by him/her.
<b>Current assistance (Graçanica and Ferizaj)</b>	Immediate cash assistance proposed by program authorizing officials after the review of claims and after their approval by the Mayor and the Municipal Assembly.
<b>Application for subsidy (Ministry of European Integration)</b>	The application and the documents attached to the subsidy.
<b>Municipality of Prishtina and Ministry for Communities and Return</b>	No definition.

**Source:** The internal rules of procedure of the institutions selected for research

Institutions also differ in terms of application procedures for subsidy beneficiaries. In Gjakova, the request is addressed to the review committee, the mayor, or relevant municipal directorates, depending on who announced the call. In Kamenica, Graçanica, Ferizaj, Malisheva and Obiliq, such applications are addressed to mayors. In Prishtina, the applications are addressed to the relevant departments by having special forms filled out. Although the application procedures are set by regulation, during research we encountered cases when municipalities granted subsidies for the provision of services, but did not publish any calls for application, thus damaging market competition, as mentioned in the case of Graçanica, in the section dealing with violations in implementing regulations.

Whereas, in regards to the ministries, the MEI does not specify the medium through which applications are submitted, but only what should be submitted, whereas the MCR has the Policy Planning and Analysis Department which compiles the project criteria and accepts applications for subsidies.



Each institution also foresees the establishment of committees to allocate subsidies. However, the role of committees is restricted to the assessment of applications and the proposals of beneficiaries. In the end, the approval falls under the responsibility of the Mayor or the Minister. The composition of committees in some cases is foreseen to be determined according to expertise in the given field, combining internal experts of the institution with external experts. There is no legal criteria for the gender composition of evaluation committees.

Regulations of the municipalities of Gjakova and Obiliq foresee the establishment of committees by the respective directorates for the field of agriculture, education, and health and social welfare. The Regulations of the municipalities of Kamenica and of Graçanica mention only the establishment of the committee for the allocation of subsidies for natural persons, in the field of health and social welfare, within the respective directorates. In the regulation of the Municipality of Ferizaj, it is only mentioned that the amount of assistance is proposed by committees without giving details of the composition of committees. Whereas, the regulation of the Municipality of Malisheva states that the committee is established by the Mayor and is composed of municipal officials. Only in the amended regulation of the Municipality of Prishtina it is foreseen for the committee to be comprised of the relevant directorate, external experts and civil society, which enables a fair and more transparent judgment of the beneficiary projects or the persons and families in need.

Regarding ministries, the committees are established by the General Secretaries of the respective ministries and are comprised of three members who evaluate applications and prepare reports for submission. As in the case of municipalities, committees acting within the ministries send reports for approval to the ministers.<sup>13</sup> However, there are cases when ministers do not respect the recommendations made by the committees. In 2014, the MEI minister made a decision contrary to the committee's proposal, subsidizing five projects rejected by the evaluation committee as they were not part of the project categories to be subsidized based on the ministry's regulation.<sup>14</sup>

Differences between the institutions are noticed also in terms of the period dedicated for the announcement of calls for subsidies and the

<sup>13</sup> Ministry of European Integration, Regulation no. 01/2015 MEI on subsidizing projects of NGOs promoting the European integration process in the Republic of Kosovo 2015 <<http://bit.ly/2upmYHj>>, opened on 10 March 2017

Ministry for Communities and Return, Regulation on subsidizing NGOs for the development and stabilization of communities 2015 <<http://bit.ly/2tDCdh1>>, opened on 10 March 2017

<sup>14</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement of the Ministry of European Integration for the year ended on 31 December 2014, pg. 20 <<http://bit.ly/2uwsyHO>>

period dedicated to review applications. Thus, the Municipality of Prishtina reviews applications at least once in every 90 days.<sup>15</sup> The Municipality of Obiliq acts in a similar way, as their applications for subsidies for health and social welfare are reviewed four times a year, although the regulation only mentions the 15 day deadline, which the mayor gives to the directorate for giving its professional opinion on the allocation of subsidies.<sup>16</sup> In the municipalities of Kamenica and Malisheva, the deadline for processing applicant complaints is 15 days<sup>17</sup>. Whereas, in the municipalities of Graçanica and Ferizaj it is 30 days, and in these cases they refer only to subsidies for health and social welfare.<sup>18</sup> The regulations of other institutions have not set a deadline for reviewing applications.

The deadline for reviewing complaints and the legitimacy of complaints is not mentioned in any of the regulations, except the Municipality of Gjakova, where it is stated that the complaints for scholarship grants are reviewed within 15 days. However, because in most institutions the allocation of scholarship grants is regulated by special bylaws, in this paper we have not focused on the allocation of scholarship grants as a subsidy category.

### **The limit of the amount of subsidies and the number of subsidies allocated to the same entity**

At the local level, except Prishtina, every municipality has limits on the amount of subsidies for legal and natural persons. Despite the fact that Graçanica is the smallest municipality in this sample and has fewer inhabitants, it has the highest subsidy limits compared to other municipalities. In the Municipality of Graçanica, legal persons can benefit a subsidy of up to 30,000 euros, while natural persons up to 10,000 euros. Up to this amount, the approval of the request is done by the Mayor, whereas for any other higher amount, it is decided by the Committee for Policy and Finance of the Municipal Assembly.

<sup>15</sup> Municipality of Prishtina, Decision on the criteria and the procedure for the allocation of subsidies 2014, Article 11, pg. 3 <<http://bit.ly/2uPa1aH>>, opened on 10 March 2017

<sup>16</sup> Interview with Mihane Mjekiqi, chair of the committee for the allocation of subsidies for 2016 in the field of health and social welfare in the Municipality of Obiliq, conducted on June 30, 2016 and the Municipality of Obiliq, Regulation on the allocation of subsidies 2014, Article 5, pg. 3, <<http://bit.ly/2vQQ14t>>, opened on 10 March 2017

<sup>17</sup> Municipality of Kamenica, Regulation on the allocation of subsidies 2012, Article 12, pg. 7 <<http://bit.ly/2vR6llw>>, opened on 10 March 2017

Municipality of Malisheva, Regulation on the allocation of subsidies and transfers 2015, Article 12, pg. 6, <<http://bit.ly/2uYklZe>>, opened on 10 March 2017

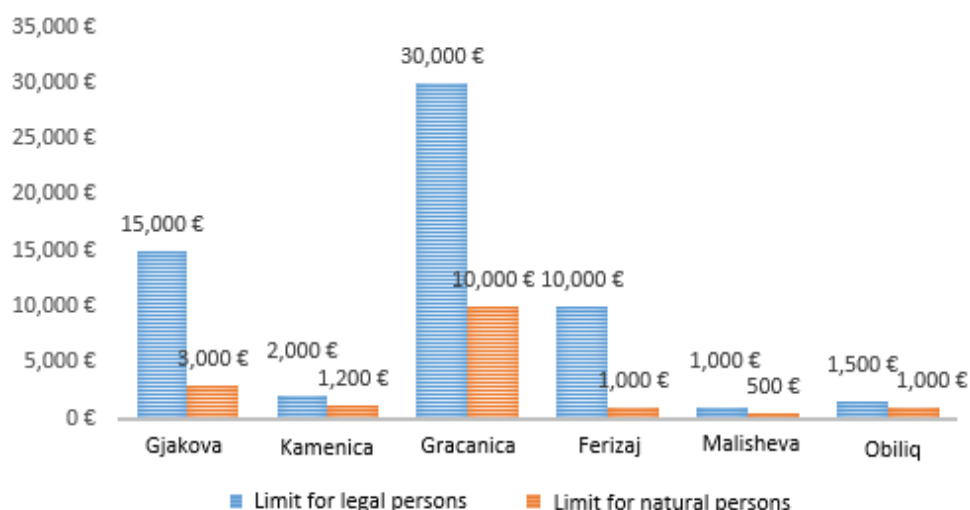
<sup>18</sup> Municipality of Graçanica, Regulation on the allocation of subsidies 2013, Article 20, pg. 7 <<http://bit.ly/2h1Yq2f>>, opened on 10 March 2017

Municipality of Ferizaj, Regulation on the allocation of subsidies 2012, Article 20, pg. 7 <<http://bit.ly/2eH3kBb>>, opened on 10 March 2017

of subsidies 2014 <<http://bit.ly/2uPa1aH>>, opened on 10 March 2017

The municipality of Gjakova, has a limit of 15,000 euros for legal persons and 3,000 euros for natural persons. The decision is made in the same manner as in the case of Graçanica. There are exceptions in the field of agriculture and education (scholarship grants allocation and the support of students with special needs), which are subsidized by a decision of the Municipal Assembly.

In addition, in the municipalities of Kamenica, Malisheva, Ferizaj and Obiliq, the amounts of benefits that may be allocated by the mayors and the amounts that need to be approved by the municipal assemblies are clearly defined. The subsidy limits in these municipalities, with the exception of the Municipality of Ferizaj, do not differ greatly in terms of the type of the beneficiary. Of the selected ministries, the MCR has set the limit of up to 10,000 euros for subsidizing projects.



SOURCE: INTERNAL REGULATIONS ON SUBSIDY ALLOCATION OF SELECTED MUNICIPALITIES

**FIGURE 1.** THE LIMIT FOR LEGAL AND NATURAL PERSONS ACCORDING TO MUNICIPAL REGULATIONS

Regarding the limitation of subsidies for the same entity, only the regulations of the municipalities of Kamenica, Malisheva, Obiliq and Prishtina provide that families and individuals may only benefit once a year, except for extraordinary cases. At the central level, the MCR regulation states that projects which continue from previous projects that were subsidized by the ministry, are not supported.



## Areas subsidized by municipalities

The fields in which subsidies are allocated relate to culture, sport, youth, agriculture, economic development, education, civil society, health and social welfare. Whereas, in regards to the allocation of subsidies aligned with the governing program, only the Municipality of Gjakova states that the criteria are related to the work plan of the municipal directorates, more specifically for youth projects and subsidies for natural persons.

In the field of culture, subsidies are allocated for activities promoting cultural values, gender equality and the integration of women and girls.

In the field of sport, the criteria for subsidies are related to sport popularization activities, the inclusion of youth in sports, the advancement of sports clubs, the implementation of short-term development policies, support for associations of physical education pedagogues, and so forth.

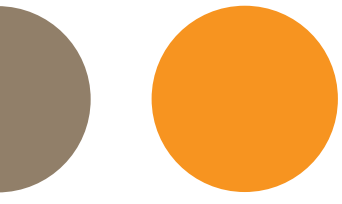
As far as agriculture is concerned, subsidies are mainly allocated for livestock, vegetable cultivation, fruit cultivation, forestry, poultry, beekeeping and spring and autumn planting. The criteria for subsidizing agriculture are not detailed nor set clear by any of the municipalities included in this research. Moreover, the Municipality of Malisheva has no criteria for subsidizing agriculture, whereas in Prishtina they are a part of rural economic development.

These obscurities have contributed to the irregular allocation of subsidies for this category. Representatives of municipalities believe that the allocation of subsidies has not resulted in the increase of agricultural production and therefore the current practices should be changed. Instead of subsidizing farmers per unit of planted surface area with, for example, grain, subsidies should be allocated per yield in order to stimulate production, and not subsidize equally farmers who have increased production and farmers who have only planted the surface area but did not have any increase in production. Similarly, when subsidizing milk production the criteria for subsidy to be considered should be the quantity of milk delivered to the dairy factories not the number of livestock.<sup>19</sup>

The Ministry of Finance has drafted a regulation on the criteria, standards and procedures for NGO public funding. Among the main provisions is that funding in money or other forms should be carried out for projects and programs that are in line with the priorities of Kosovo and have an added value in increasing the quality of life or

<sup>19</sup> Comments by representatives of the Agriculture Directorate of the Municipality of Prishtina, following the round table meeting held for commenting the draft analysis on the allocation of subsidies





stimulating community development. The regulation also foresees the advertisement of calls for application, a competitive character, the establishment of evaluation and complaints committees, the provision of a two-step handling process for the applicants' complaints as well as the prevention of funding for political parties, as well as many other important provisions on the efficiency of the allocation of public funds. However, the provisions of this regulation do not apply for supporting programs or projects that exceed 5% of the total budget allocation of budget programs up to 100,000 euros, 2% of budget programs from 100,001 - 1,000,000 euros and 1% of budget programs over 1,000,000 euros. Special contracts are to be drafted for these cases.<sup>20</sup>

So far in practice, NGO subsidizing mainly occurs in regards to the organization of activities related to informal education, employment of youth, the strengthening of youth organizations through training and capacity building courses, the integration of marginalized groups and the promotion of volunteering. The field of education is mainly subsidized by awarding scholarships for pupils and students, for training, competitions, and the like. The municipalities of Prishtina, Obiliq and Malisheva have issued special regulations for granting scholarships. In the regulations, these municipalities specify the criteria for granting scholarships. The municipalities of Ferizaj and Graçanica issue special orders for granting scholarships.

Subsidies in the field of health and social welfare are allocated very often by the offices of Mayors. In the regulations adopted by the municipalities, these subsidies are mainly allocated by the Directorate for Health and Social Welfare. In order to be eligible for subsidies, this category of citizens is required to prove its economic situation, medical expenses or natural disasters through documentation. Current assistance approved by the mayor is also allocated for this field.

The criteria for subsidies by the ministries are very general and mainly relate to the activities of the ministries. The MEI subsidizes projects related to European integration and the MCR subsidizes projects related to community reintegration; sustainable return and the promotion of dialogue, tolerance and coexistence in Kosovo.

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<sup>20</sup> The Official Gazette of the Republic of Kosovo, MoF Regulation - No - 04/2017 on the criteria, standards and procedures for NGO public funding <<http://bit.ly/2uINcS3>>

## Receiving subsidies, reporting and penalization

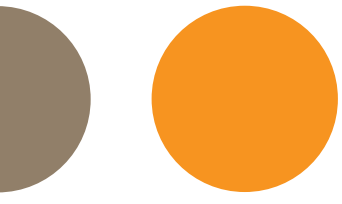
In the regulations of most institutions there is no explicit reference to having agreements signed with the beneficiaries. In practice, agreements such as that in the form of a Memorandum of Understanding, are signed with relevant directorates or ministries. However, all regulations specify which documents need to be attached to subsidy requests for projects or for health and social welfare.

When it comes to transparency with respect to the beneficiaries of subsidies, in municipalities of Kamenica, Gračanica, Ferizaj, Malisheva and Obiliq, the committee establishes a list of potential beneficiaries before handing it over to the Mayor for approval, but there is no indication as to whether the list of beneficiaries should be published or not. Whereas, the MEI should publish key information on the beneficiaries and the purpose and main activities of the project. In the Municipality of Prishtina and the MCR, the publication of the lists is not mentioned at all.

However, there is a phenomenon which has caused some concern among the representatives of the legislative branch and that is the fact that the Ministry of Finance allocates certain amounts for the subsidy category and allocates them to all state institutions, which subsequently spend them on ad-hoc projects. Having no internal capacities to implement projects, institutions then use the subsidy category to contract NGOs for implementing various projects, covering their operational costs as well. In addition to this, for the majority of the expenditure there are no feedback reports on the achievement of the objectives and the progress achieved, so there are no performance measurements.<sup>21</sup>

In regards to auditing the use of funds, the regulations of the municipalities of Gjakova, Kamenica, Gračanica and Ferizaj indicate that invoices, participant lists and other evidence, as needed, should be provided for different events. However, the regulations do not specify the deadline during which the beneficiaries are required to provide evidence of expenditure related to the project or the event for which the subsidy has been allocated. The absence of such a deadline leaves room for misuse by beneficiaries who have received subsidies. The data sent by the municipalities indicate that there are cases where within one calendar year, an individual or association has been subsidized for more than 3-4 times.

<sup>21</sup> Comments by representatives of The Assembly of the Republic of Kosovo, following the round table meeting for commenting the draft analysis on the allocation of subsidies



With respect to penalizations, in the regulations of the municipalities of Kamenica, Graçanica and Ferizaj it is stated that if the beneficiaries do not validate their expenses with evidence, the Mayors will request the return of the funds through legal proceedings. However, none of the regulations foresee any method of quality control through audits or visitations.

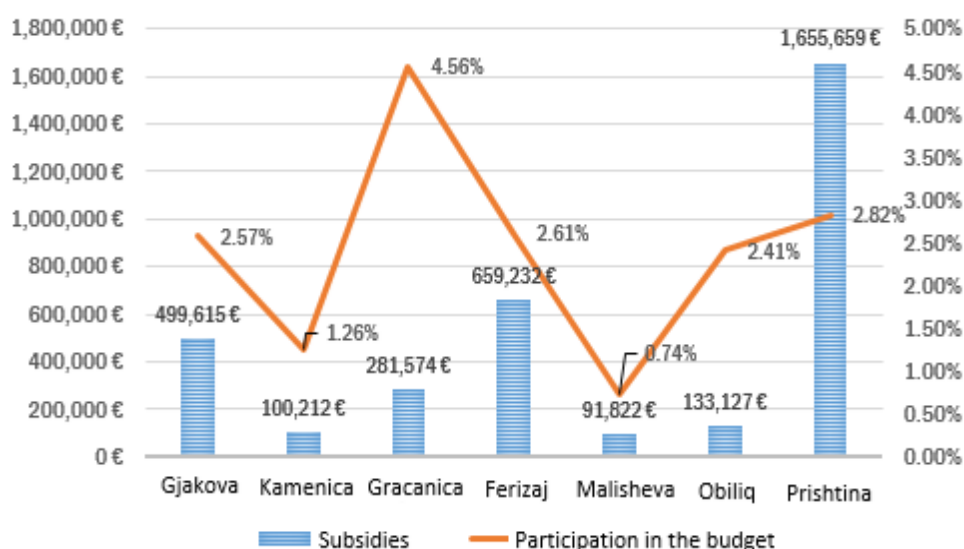
In regards to the central level, the regulation of the Ministry of European Integration states that the ministry may at any time request reports from NGOs that are beneficiaries, which in turn have to submit the report within ten days. After the completion of the project, the beneficiaries are obliged to submit financial, narrative and tabular reports within 30 days. In the Ministry for Communities and Return, the Project Implementation Monitoring Committee requires monthly and quarterly financial and narrative reports. In cases of frauds and violations, the beneficiaries of the MEI subsidies are banned from applying for subsidies for four years and are subject to the legal provisions that fall under the Criminal Code of the Republic of Kosovo. In similar cases, the MCR terminates the agreement and may initiate court proceedings against the offenders.

**TABLE 3. MATRIX OF MUNICIPAL AND MINISTERIAL REGULATIONS**

	Gjakova	Kamenica	Graçanica	Ferizaj	Malisheva	Obiliq	Prishtina	MEI	MCR
Month when the regulation was adopted	5		3	9	9	7	5	6	3
Year of entry into force	2015	2012	2013	2012	2015	2014	2014	2015	2012
The Law on Local Self-Government	x	x	x	x	x	x	x	Regulation no. 02/2011 on the Areas of Administrative Responsibility of the Office of the PM and Ministries	Article 58 of the Constitution of Kosovo; Law no. 03/L-189 on the state administration of the RKS; Regulation no. 02/2011 on the Areas of Administrative Responsibility of the Office of the PM and Ministries; etc.
Definition of subsidy	x	x			x	x		x	
Sending a request	x	x	x	x	x	x	x	x	x
Deadlines for reviewing applications with no call		x	x	x	x	x			
Deadlines for reviewing applications with a call							x		
Deadlines for reviewing complaints	x								
Evaluation Committee	x	x	x	x	x	x	x	x	x
The Evaluation Committee's legal power	x	x	x	x	x	x		x	x
Agreement between the institution and the beneficiary	x							x	x
Reporting by the beneficiaries (invoices, lists)		x	x	x				x	x
Penalties		x	x	x				x	x
Record of beneficiaries/requests	x	x	x	x	x	x		x	
Issue of web transparency-publication								x	
Minutes									
Gender equality in Committees									
Bank payment (payment method)									
Obligation for announcing call to applications	x					x	x		
The subsidy limit for legal entities	x 15,000 EUR	x 2,000 EUR	x 30,000 EUR	x 10,000 EUR	x 1,000 EUR	x 1,500 EUR	x no limit		x 10,000 EUR
The subsidy limit for natural entities	x 3000 EUR	x 1,200 EUR	x 10,000 EUR	x 1,000 EUR	x 500 EUR	x 1,000 EUR	x no limit		
The alignment between the criteria and the governing program	x						x		
Sectoral criteria	x	x	x	x	x	x	x	x	x
Criteria for physical entities	x	x	x	x	x	x	x		
Business criteria	x						x		
Restrictions in the number of benefits from the same entity		x			x	x	x		x

## Subsidy Expenditures

Based on the financial reports audited by the Office of the Auditor General in 2016, different amounts in subsidies were allocated to a number of selected municipalities (see figure 2).<sup>22</sup> However, in proportion to the total budget, Gračanica sets aside about 4.6% of its budget for subsidies, while Prishtina, as the capital, spends about one percentage point less. Other municipalities spend at least 0.7%, and at most, 2.6%, of their total budgets for subsidies. None of the municipalities exceeded the final budget amount for subsidy expenditures.



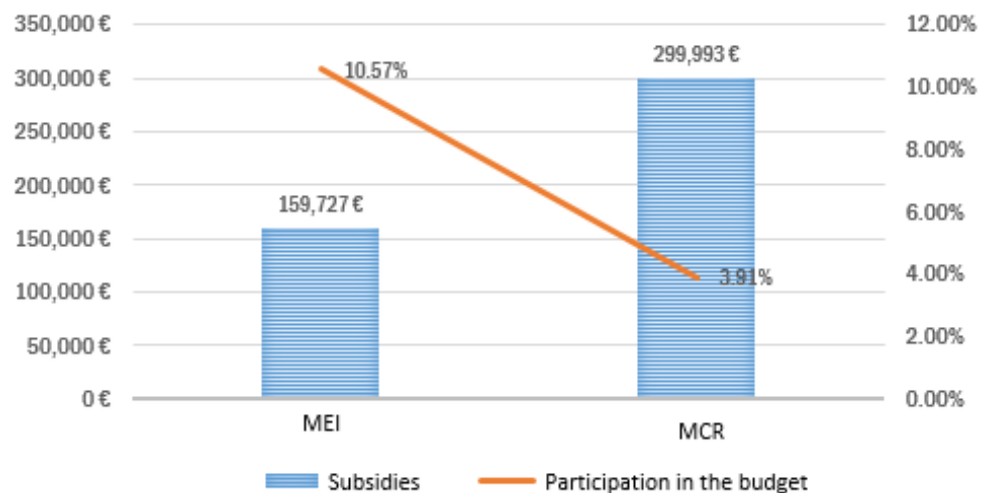
**SOURCE:** AUDIT REPORTS OF THE FINANCIAL STATEMENTS OF THE MUNICIPALITIES SELECTED FOR 2016, THE NATIONAL AUDIT OFFICE

**FIGURE 2.** LOCAL SUBSIDY ALLOCATION FOR THE SAMPLE SELECTED FOR 2016

The Ministry of European Integration and the Ministry for Communities and Returns, have spent 100% of their budgets. The total amount of subsidy expenditures that make up the overall MEI budget was about 10.6%, while for the MCR, it was about 3.9% of the total budget.<sup>23</sup>

<sup>22</sup> The Selected Municipalities, Reports on the Allocation of Subsidies by Selected Municipalities 2016

<sup>23</sup> The Selected Municipalities, Reports on the Allocation of Subsidies by Selected Municipalities 2016



**SOURCE:** AUDIT REPORTS OF THE FINANCIAL STATEMENTS OF THE MINISTRIES SELECTED FOR 2016, THE NATIONAL AUDIT OFFICE

**FIGURE 3.** CENTRAL SUBSIDY ALLOCATION FOR THE SAMPLE SELECTED FOR 2016

Through the mayor's office or the administration, as it is classified in several municipalities, there were allocated about 7% of subsidies in Gjakova, 45% in Kamenica, 74% in Graçanica, 7% in Ferizaj, 72% in Malisheva, 15% in Obiliq and 16% in Prishtina.

By allocating large sums through the mayor's office, there is room for giving out subsidies without criteria in certain areas, such as the two cases above where we see that more than 50% of the subsidies were given through this office, for which there are no set criteria in these regulations. This can lead to the preferential treatment of institutions or individuals without violating the regulation. Hence, it is vital that the regulations also contain provisions on subsidies, with clear criteria, that may be granted through the office of the mayor and other departments.

## Violations noted during the allocation of subsidies

Although regulations set maximum limits for subsidy amounts and prohibit multiple subsidies granted to the same entity within a year, audit reports have found violations of this nature.

In the municipality of Gjakova, the National Audit Office (NAO) gave its remarks regarding the weak monitoring of financial statements by the beneficiaries. When the Municipal Assembly allocated 200 thousand euros in subsidies, exceeding the subsidy limit set by the regulation, for the revitalization of the heating plant in Gjakova, the municipality did not have any reports that would confirm that the funds granted were

used for the given destination.<sup>24</sup> Even from our analysis of the data related to beneficiaries, it turns out that Gjakova exceeded the limit in three other cases, in one of which the assistance provided to NTP "Fatoni" by the municipality, exceeded the limit by 25 thousand euros.

The Municipality of Kamenica also granted greater amounts in subsidies in 14 cases, during the year 2016, exceeding the limit for more than 1,000 euros for natural entities and 3,000 euros for legal entities. Although lawful, the provision of subsidies beyond the limit allowed to 14 beneficiaries, could signal the need for amending the regulation by increasing the margins for granting subsidies upon the mayor's approval. Besides this, the Regulation of the Municipality of Kamenica does not allow subsidizing one entity more than once a year. Whereas, the list of beneficiaries contains the same names for payments made in different months during the year. For example, the NGO Fortesa and Handikos Kamenica, received subsidies twice a year and received subsidies exceeding the amount of 2,000 euros, with the mayor's approval, although the maximum limit allowed was 2,000 euros.<sup>25</sup>

In the municipality of Graçanica, the NAO found some irregularities, where the transport service expenses were paid for students of the territory of Graçanica and Mitrovica through an agreement with a non-governmental organization. In this case, the selection of the service provider has not been recorded and it was not ensured that the price for the provision of services was at market price. Also, in one case a municipality ended up paying an individual business for its employees, food, beverage and veterinary expenses, which is in contradiction with the regulation that does not foresee any support for businesses.<sup>26</sup> Even according to the list of beneficiaries, Graçanica has subsidized the same beneficiaries several times a year which raises concerns for favored treatment of the same group of beneficiaries, despite the fact that the regulation does not specify the number of times the same entity may receive subsidies from the municipality. For example, the Youth Council of Graçanica (OCD) and the Graçanica Tourist Organization (TOG) received subsidies up to seven times in one year, amounting to a total of approximately 14 thousand euros and 51 thousand euros respectively.<sup>27</sup>

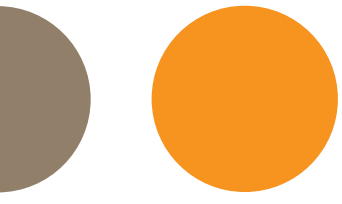
<sup>24</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Municipality of Gjakova for the year that ended on 31 December 2016, pg. 22  
<<http://bit.ly/2slx9aM>>

<sup>25</sup> These examples were taken from the list of beneficiaries of subsidies provided by the Municipality of Kamenica, upon the request of GAP Institute.

<sup>26</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Municipality of Graçanica for the year that ended on 31 December 2016, pg. 22  
<<http://bit.ly/2ssS6SM>>

<sup>27</sup> These examples were taken from the list of beneficiaries of subsidies provided by the Municipality of Graçanica





In the municipality of Ferizaj, the NAO came across the wrongful classification of expenditures as they placed payments for supplying farmers with raspberry seedlings and irrigation systems under the category of subsidies, which should have been placed under capital transfers, a mistake resulting in an untruthful presentation of the expenditures within this category.<sup>28</sup> The tendency for multiple beneficiaries can also be noted in Ferizaj's case, where the Association of Figurative Artists "Zef Kolombo" benefited five times with a total amount of about nine thousand euros.<sup>29</sup>

In the municipality of Malisheva, the NAO found that the mayor had approved subsidies in excess of the amounts allowed upon his approval without taking such requests to the Municipal Assembly for approval, thus jeopardizing transparency in the allocation of subsidies.<sup>30</sup> The municipality of Malisheva also allocated subsidies twice for the women's association Fatjona during 2016, although its regulation prohibits subsidizing an entity more than once a year.<sup>31</sup>

The Municipality of Obiliq in 2016 allocated subsidies to three businesses, as evidenced in the list of beneficiaries of the municipality, despite that the internal regulation does not foresee the subsidization of profitable and private entities. This is implied by the suffix Ltd (limited liability company) which shows the type of entity. The companies referred to were Fresh Fruit Pr, Mitrix Culture and Alfa Com, of which, the first two were subsidized up to three times in one year, accumulating subsidies of about 25 thousand euros and 1,500 euros respectively, which represents yet another breach of the regulation that does not allow the subsidization of the same entity more than once a year.<sup>32</sup>

Representatives of the Municipality of Obiliq explain that their cooperation with Mitrix Culture was aimed at supporting the youth in the field of acting and that the total amount given in subsidies was 1,500 euros, but that it had to be divided into three parts and given out from three budget lines due to budgetary constraints.<sup>33</sup> Still, this case shows

<sup>28</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Municipality of Ferizaj, for the year that ended on 31 December 2016, pg. 27  
<<http://bit.ly/2spJfKS>>

<sup>29</sup> These examples were taken from the list of beneficiaries of subsidies provided by the Municipality of Ferizaj

<sup>30</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Municipality of Malisheva, for the year that ended on 31 December 2016 pg. 19  
<<http://bit.ly/2tjlo8n>>

<sup>31</sup> These examples were taken from the list of beneficiaries of subsidies provided by the Municipality of Malisheva

<sup>32</sup> These examples were taken from the list of beneficiaries of subsidies provided by the Municipality of Obiliq

<sup>33</sup> Comments by representatives of the Municipality of Obiliq, following the round table meeting to comment the draft analysis on the allocation of subsidies

that there was poor planning when it comes to the budget, since the youth had to be supported in part by subsidies from the directorate of Agriculture and that of Economics, Finance and Development, which is not part of their objectives.

The payment in the case of the Alfa Com Company was stopped because the municipality made the payment mistakenly. Meanwhile, the Fresh Fruit Pr case has to do with subsidy allocations to raspberry farmers, whose products are then sold through this company, whereas the payment was made twice for seasonal reasons of growing the seeds.<sup>34</sup>

In the municipality of Prishtina, the NAO encountered problems similar to those found in Gjakova, where there were two cases - the subsidization of the music festival "21 Qershori" and that of the artistic directorate of the mimic theater which lacked financial and narrative evidence to show that the allocated funds were spent for the given purpose, thus risking accountability in the proper use of the funds of by departments and programs.<sup>35</sup> The municipality of Prishtina is the only municipality that did not set the limit for the allocation of subsidies approved by the President, but has limited the number of subsidies that an individual or institution is entitled to during one year. Based on the list of beneficiaries, subsidies were given to the same persons in Prishtina on several occasions, twice to natural persons and once to the NGO Oda, which received an amount of 2,500 euros twice.<sup>36</sup>

The NAO found cases of mismanagement of subsidies in the Ministry of European Integration (MEI) and the Ministry of Communities and Return (MCR). Regarding MEI, the beneficiaries did not provide financial reasoning with relevant evidence in three cases, and, what is more, there was not made any agreement in terms of the period when the projects must be implemented. MEI also lacks the legal basis to ask for evidence about the implementation of the project risking the misuse of funds by the beneficiaries.<sup>37</sup> Based on the list of beneficiaries, the MEI allocated funds amounting to three thousand euros for the same NGO "New Opportunities on Education" twice.

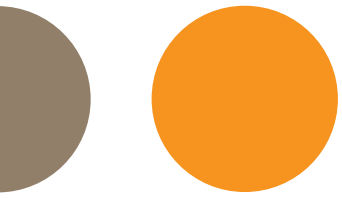
With respect to the MCR, the evaluation committee for subsidizing declared that one NGO met the requirements but the National Audit

<sup>34</sup> Ibid.

<sup>35</sup> These examples were taken from the list of beneficiaries of subsidies provided by the Municipality of Prishtina

<sup>36</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Municipality of Prishtina for the year ended on 31 December 2016, pg. 26  
<<http://bit.ly/2x0Ec0F>>

<sup>37</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Ministry of European Integration for the year ended on 31 December 2016, pg. 16  
<<http://bit.ly/2tkfTY5>>



Office (NAO) found that this NGO did not meet the criteria to develop a budget specifying all their activities and prices. In another instance, the beneficiary did not provide additional evidence on the use of subsidies other than the financial report and in another case yet, the MCR purchased furniture for the families in need, although it was in violation of the internal regulation.<sup>38</sup> The MCR never subsidized anyone more than once, but it did provide transport for the displaced persons in Zoçishte and Gjakova, amounting to about 1,500 and 3,000 euros, through the category of subsidies.

## Conclusions and Recommendations

The Law on Local Self-Government gives Municipal Assemblies the right to draft acts within the scope of their competences, including municipal regulations.<sup>39</sup> As a result, the allocation of subsidies is regulated by the internal regulations of municipalities. However, based on the law on local self-government "all municipal acts must be in accordance with the constitutional and legal systems of the Republic of Kosovo." Hence, failing to incorporate some basic criteria in these regulations, such as the one aimed at preventing the distortion of competition through subsidies, is in discordance with existing relevant laws (see the Law on State Aid).

This GAP Institute report highlights some of the main problems related to the content and implementation of municipal regulations on subsidies. Some of the main problems with respect to regulations are, the lack of a definition for subsidies, or the fact that there are different definitions in the various municipal and ministerial regulations, as well as the fact that there are no requirements for publishing calls for applications for subsidies, be it on websites or through other media.

Another important factor is the fact that each municipality has different deadlines for reviewing applications and most of them do not even set deadlines for reviewing complaints by potential beneficiaries.

With respect to the composition of evaluation committees, the number of members is not set and equal gender representation is not promoted and in many cases, they do not even consider the participation of external experts, only that of municipal officials, hence minimizing transparency in the allocation of subsidies.

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<sup>38</sup> The National Audit Office (NAO), Audit Report on the Annual Financial Statement for the Ministry of Communities and Returns for the year ended on 31 December 2016, pg. 20 <<http://bit.ly/2tjPnOL>>

<sup>39</sup> Official Gazette of the Republic of Kosovo, Law 03/L-040 on local self-government, Article 12 <<http://bit.ly/1CulaKA>>

Besides, some of the regulations do not oblige institutions to draft agreements between beneficiaries and the institution, even though this has been noted in practice. Furthermore, there is no requirement to publish the names of beneficiaries and the amounts received.

And, although all regulations define specific fields through which they allocate subsidies, the criteria within the field frequently have more resemblance to a sub-category than a criterion, thus making room for more subjective judgments. Besides this, the maximal subsidy thresholds are not set by any specific criterion.

There are restrictions to the number of times the same beneficiary may apply during a one-year period in some municipalities, but in some cases that only implies beneficiaries of health and social welfare, then again, this is not specified in detail. While, on the other hand, some municipalities have no such limitations which leaves room for concentrating subsidies towards the same entities.

The main problems in practice were noted in the failure to fully implement regulations, as, in some cases, there was no collection of the financial reports made by beneficiaries to ensure that the money was used for the purpose intended; or subsidies were approved by mayors even in cases where the maximal threshold was exceeded for natural and legal persons; or cases where the same entities benefited by gaining large amounts, several times, or frequently, as well as instances of businesses being subsidized although not foreseen by regulation.

Based on these findings, GAP Institute makes the following recommendations:

### **Recommendations regarding the content of regulations**

- There should be a uniform definition for subsidies, in the financial and contextual aspects and special definitions based on the type of subsidy;
- They should demand the advertisement of calls for application for subsidies on the official websites of institutions;
- The composition of the Committee should be specified based on the number of members, expertise, gender and participation as members of the institution or external experts and, at the same time, there should be committees that deal with the issue of the misuse of subsidies or for measuring the economic impact of the subsidies provided to different sectors;
- It should seek the justification for allocating funds to individuals, groups and organization, based on the amount;

- It should determine the criteria for setting the maximum and minimum thresholds for allocating subsidies;
- There should be a clear division between the sector and sectoral criteria – such as, for example, for planting in spring in the field of agriculture, a criterion could be the type of fruit or vegetable that is lacking, while for forestry, the criterion could be planting trees that are most endangered from damage, etc.;
- There should be monitoring committees to track the beneficiaries of subsidies and grants and there should be set a time frame for monitoring each type of activity;
- It should specify the types of subsidies that may be provided through the office of the mayor and other directorates;
- It should seek the preparation of special forms of application depending on the field and type of beneficiary and demand their publication on the official websites of institutions;
- It should require the publication of the names of the beneficiaries and the amounts received on the official websites;
- It should define subsidy limits for the same entity for each category.

### **Recommendations regarding the implementation of regulations**

- The official websites should be used for announcing calls for application and publishing the names of beneficiaries and amounts;
- The descriptions of beneficiary projects and justification for subsidizing should be published on official websites;
- Financial and narrative reports should be collected by the institutions, namely the directorates, which allocate subsidies, in order to make sure that they were spent for the proposed activities;
- The rule that demands the approval of subsidies by the municipal assembly should be applied when the amount exceeds the threshold set for the approval by the mayor.

### **General recommendations:**

- The internal regulations at the institutional level should be unified and bear no great discrepancy from one institution to the next;
- A national regulation should be approved on subsidies, grants and donations including allocations for all types of entities and categories for subsidization;
- Each Budget Organization (BO) should enter a contractual relationship with the beneficiaries of subsidies in accordance with the budgetary possibilities, and the budget allocations for that BO should not be allowed to be exceeded in any way.



The GAP Institute is a Think-Tank established in October 2007 in Kosovo. The main goal of GAP is to attract professionals in order to create an environment of professional development and research, which is encountered in similar institutions in western countries. This also provides the opportunity for the people of Kosovo to research, develop and implement projects with the aim of advancing the Kosovar society. The priority of this Institute is to mobilize professionals in addressing the economic, political and social challenges of the country. The main goals of GAP are to fill the gaps between the Government and the citizens, and also fill the gaps between problems and solutions.

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