

# Sustainability of Municipal Capital Investments



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This analysis was originally written in Albanian.

## Introduction

Capital investments represent one of the largest categories of budget expenditures. At the municipal level, from 2017 to 2021, an average of EUR 157 million are spent annually on capital investments.<sup>1</sup> Capital projects include investments in the construction, rehabilitation, or repair of public roads or sidewalks, schools, cultural and sports facilities, medical centers, installation of sewerage and water supply networks, arrangement of parks and public spaces.

First of all, the idea for the development of a capital project stems from the needs of the community, while its implementation largely depends on the budgetary possibilities to cover the expenses. Proper capital investments foster economic growth and help meet the needs of citizens. Therefore, involvement of citizens in decision-making during capital investment planning, accurate forecasting of project costs and budgetary possibilities to cover such costs, are essential for their successful implementation.

Demands for capital investments are always greater than the budgetary possibilities to implement them. However, despite the great need, a number of capital projects in municipalities remain for a long time unfinished, or even completed, yet unused. Such projects are already considered failed capital projects, as they are non-operationalized investments. Some of the main reasons given by municipal officials for the non-operationalization of such facilities include issues such as demographic changes and consequently lack of need for their use; lack of maintenance and damage of project facilities upon completion of investments; property disputes; lack of funds for the completion of projects, and in some cases the inability of municipalities to hire full-time staff for the management or operation of certain facilities.

In its annual reports, the National Audit Office (NAO) consistently finds shortcomings in the design and implementation of capital projects in municipalities starting from the aspect of work planning, commitment of funds, following procurement procedures through contract management. Additionally, this institution finds that in many cases the contracts for capital investments in municipalities come with lack of adequate controls, reports with unclear specifications, and lack of technical acceptance of works after project completion. In addition to the lack of proper enforcement of legal procedures, the design of ideas and the implementation of capital investments is largely accompanied by failure to involve community stakeholders that are expected to benefit from the investment.<sup>2</sup> This practice jeopardizes the viability of capital projects.

Considering the great need for capital investment and the risk of investing in other unsustainable projects, this paper focuses on examining the causes that led to the failure of certain capital projects in the past, aiming to draw lessons from such projects. According to the findings of this paper, the reasons that may lead to failed capital investments are related to, on the one hand, insufficient involvement of stakeholders during the project identification, plan design, and execution phase, and on the other hand, failure to comply in full with legally required procurement procedures starting from drafting contracts with economic operators through overseeing their implementation.

1 GAP Institute. Budget Platform. Source: <https://bit.ly/3jMf0lc>

2 Group for Legal and Political Studies (GLPS). Conducting Social Audit in Kosovo. Source: <https://bit.ly/3GMyr6F>

## Design and implementation of municipal capital investments

The initial phase of a capital project is initiated by the mayors, as principal authority, and their teams.<sup>3</sup> Ideas may also come as proposals from the community of that municipality or as a result of an electoral promise. Following a decision by the mayor and in coordination with the relevant department, the project is examined for compliance with strategies and objectives set in municipal development plans, sector strategies, or plans.

Capital projects are evaluated and introduced to the Medium Term Expenditure Framework and subsequently in the draft municipal budget for the upcoming fiscal year.<sup>4</sup> This process involves the organization of public hearings where the citizens are able to provide inputs on the entire budget, including but not limited to capital projects.<sup>5</sup> By the end of September, capital investments are recorded in the Public Investment Program (PIP), with detailed descriptions of projects and their rationale.

After budget approval by the Municipal Assembly and commitment of funds, municipal technical staff across various departments starts the process of technical evaluation and design, budget allocation, tendering, issuing of respective permits, implementation of capital project, and monitoring of works. Before initiating the procurement process, technical specifications must be designed in the Executive Project in compliance with the Rules and Operational Guideline for Public Procurement (ROGPP).<sup>6</sup> This document is subsequently attached to the Tender Dossier.<sup>7</sup>

The procurement process must be conducted in compliance with the Law on Public Procurement and the ROGPP. These two documents define, inter alia, the rules for designing and managing contracts. Contract managers assigned by the relevant municipal department engage with economic operators to ensure compliance with all contract terms and conditions, including deadlines for completion of works. They are also responsible to ensure there are no departures from the technical parameters of the project, otherwise such departures must be reported and changes must be justified.<sup>8</sup> In the event of any breach of contract, the economic operator may be subject to punishment.<sup>9</sup> In cases of co-financing with foreign organizations or central institutions, responsibilities are divided according to the Cooperation Agreement.<sup>10</sup> Unlike self-financed capital projects, investments received from international organizations for capital projects are made only after the completion of a feasibility study.

After the completion of a capital project, the mayors and other responsible bodies must ensure that the contract managers and the relevant committees for the acceptance of completed works shall thoroughly check whether the execution of works by the economic operator has been done in accordance with the signed contract, including payments for the project.<sup>11</sup>

3 Law on Local Self-Government. Source: <https://bit.ly/2WMrW1i>

4 Law on Public Financial Management and Accountability. Source: <https://bit.ly/3BArvX5>

5 Ibid.

6 Rules and Operational Guideline for Public Procurement, Section 20, item 10. Source: <https://bit.ly/3ldNO8g>

7 Ibid.

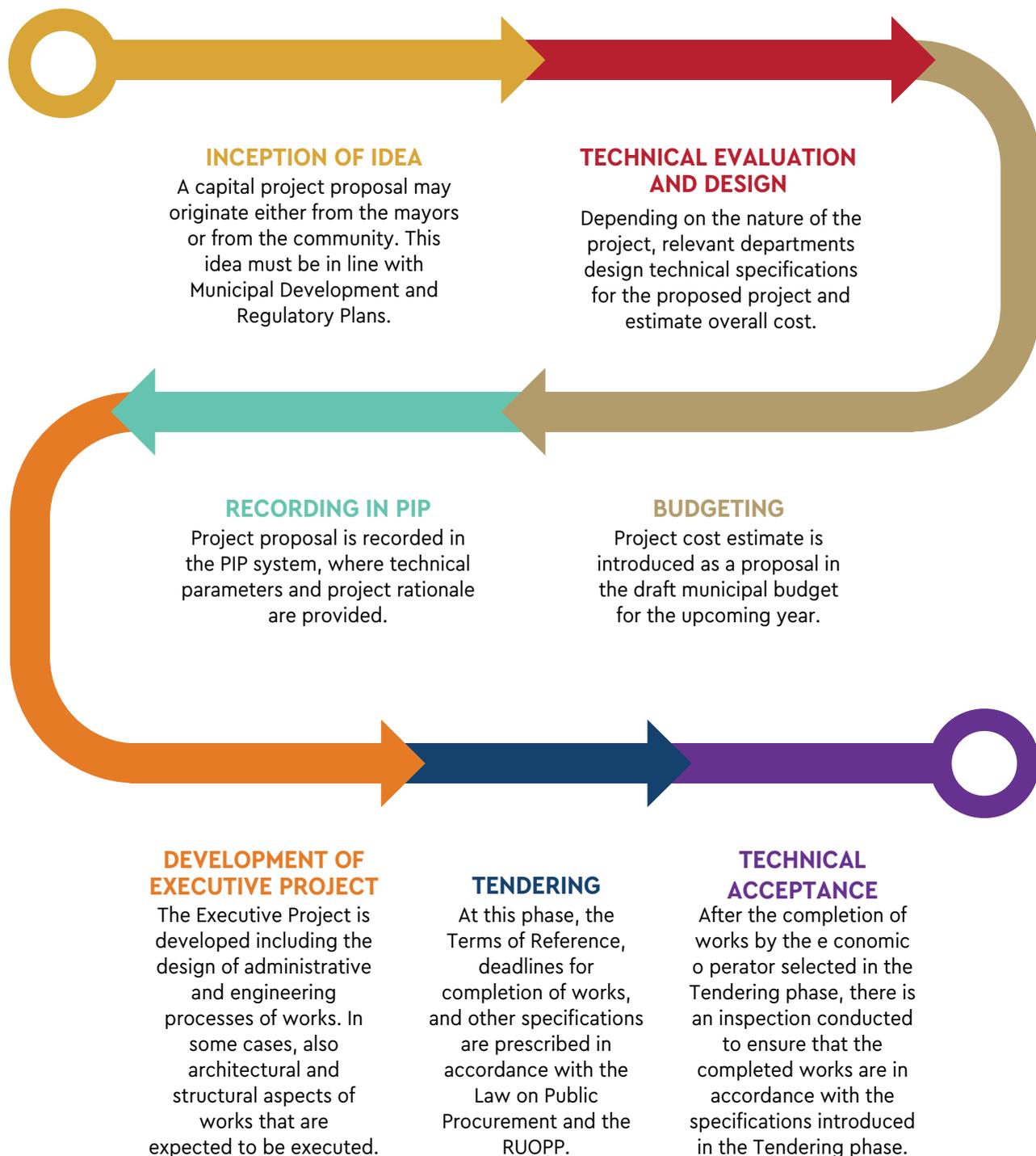
8 Ibid.

9 Ibid.

10 Law on Local Self-Government. Source: <https://bit.ly/2WMrW1i>

11 Rules and Operational Guideline for Public Procurement, Section 20, item 10. Source: <https://bit.ly/3ldNO8g>

**Chart 1. Overview of the Capital Investment Process**



These legal procedures have been established to ensure transparency and sustainability of capital investments. However, considering that a number of capital projects have failed to achieve the expected result, this paper aims to examine whether legal procedures are applied in the implementation of municipal capital investments and whether such procedures are enough to ensure investment sustainability.

## Shortcomings in municipal capital investments

### Failed capital investments

At the municipal level, there is a significant number of capital projects which have never been operationalized or have never achieved the planned result or designation. As a result, despite the great need for investment, millions of euros of taxpayer money have been spent on the construction of various facilities which have not been used. In some cases, constructed facilities fell to disrepair due to not having been used.

Table 1 provided below lists some of the capital projects which are considered failed. Among the most common reasons given by municipal officials for the failure to operationalize the facilities are demographic changes, property disputes, problems with economic operators, maintenance, failure in proper budget planning, and other reasons.

For example, in 2011, the Municipality of Prizren allocated about EUR 84 thousand for the construction of the Cultural and Sports Center in the village of Mushnikovë.<sup>12</sup> By 2014, a major part of this project was yet to be constructed. The Procurement Office of this municipality stated that the economic operator did not perform according to the contract plan and description. After reviewing the budget, in 2014, an additional EUR 48 thousand were requested for this project. Similar delays occurred also with the other Sports Hall facility in the village of Medvec of the Municipality of Prizren, where from 2012 to 2014 the project remained uncompleted due to failure to implement the contract.<sup>13</sup>

The Municipality of Dragash allocated about EUR 2 million for the construction of a modern school facility. This project was finished in 2016, however it remains non-operational even after five years. The municipalities of Podujevë and Deçan allocated thousands of euros for the construction of Civil Registry Offices which have never been operationalized either. Such failed projects and the reasons for their non-operationalization are presented in Table 1.

<sup>12</sup> Ec Ma Ndryshe. Poorly Planned Capital Projects Harming the Municipal Budget. Source <https://bit.ly/3FKhkka>

<sup>13</sup> Ibid.

**Table 1. Failed Municipal Capital Projects**

Municipality	Nature of Project	Year of Investment	Reasons for Non-Operationalization/ Failure	Amount of Budget Expenditure (€)
Dragash	Secondary School	2016	Construction on unsuitable terrain	2,000,000
Podujevë	Civil Registry Office	2005	Damaged before operationalization and left unrepaired	
Deçan	Civil Registry Office	2004	Property disputes related to construction site	40,000
Fushë Kosovë	Two Sports Halls	2018	Litigation initiated by Economic Operator for breach of contract by Municipality	300,000
Kaçanik	Family Medicine Center in Dubravë	2020	Lack of Physicians	
Prizren	House of Culture in Zhur	2009	Litigation initiated by Economic Operator for breach of contract by Municipality	850,000
Prizren	Cultural and Sports Center in Mushnikovë	2011	Facility construction abandoned halfway because the Economic Operator pulled out from the contract.	84,000
Prizren	Sports Hall in Medvec	2012	Facility construction abandoned halfway because the Economic Operator pulled out from the contract.	240,000
Prishtinë	Underground waste container	2011	After completion, it was concluded that the company "Pastrimi" lacks adequate trucks for waste collection from the underground container system	230,000
Prishtinë	Local Community Office in Hajvali	2016	Inability to hire additional staff	11,000
Prishtinë	Rehabilitation of riverbed	2014	Lack of maintenance. Riverbed in total disrepair.	77,000
Podujevë	Multipurpose Facility in Batllavë	2005	Inability to hire full-time staff and adjusting the statute of this facility.	2,000,000
Podujevë	Emergency Services Facility	2020	Construction in inadequate location.	800,000
Kaçanik	Family Medicine Center in Shtrazë	2017	Lack of Physicians	15,500
Kaçanik	Family Medicine Center in Ivajë	2016	Lack of Physicians	21,000
Fushë Kosovë	Family Medicine Center in Henc	2016	Inability to hire staff	57,000
Deçan	Civil Registry Facility in Izniq	2004	Non-decentralization of services	7,800
Drenas	School Facility in the villages of Abri, Gjergjicë and Godanc	2016	Lack of students	2,000,000
Hani i Elezit	Water supply network in the village of Gorancë	2018	Lack of connection to water source	142,000
Skenderaj/ Srbica	Extension of water supply network, but without potable water, in the following villages: Qubrel, Klodernicë, Kopiliq i Epërm, Kopiliq i Poshtëm, Kostërc, Rakinicë, Tushilë and Vajnikë	2018	Lack of connection to water source	
Prishtinë	Green Market in the Kodra e Diellit Neighborhood	2006-2007	Construction in inadequate location.	

## Identified problems in capital investments

According to the individual municipal audit reports, the biggest weaknesses identified in the field of capital investments relate to resolving expropriation issues, lack of executive projects, addressing community needs, budget planning, and overseeing the implementation of contracts with economic operators, as presented in Table 2 for each municipality.<sup>14</sup> Such problems to great extent are in relation to the implementation of Law on Public Procurement and the RUOPP. In addition to procedural compliance, there are also quality related issues in the implementation of the rules. In many cases, contract managers and procurement officers lack adequate knowledge of legally prescribed procedures.<sup>15</sup> Consequently, they are often unable to oversee the implementation of the contract signed with the economic operator.

In some cases, contract management is accompanied by inadequate controls, reports without clear specifications, and lack of technical acceptance of performed works. In other cases, the Tender Dossier fails to provide a detailed description of the project and related works. This phenomenon adds another layer of challenges in terms of project planning, accurate commitment of funds, and ultimately overseeing the fulfillment of the economic operator's obligations. Other shortcomings identified by the National Audit Office (NAO) relate to capital projects where tendering procedures are initiated without resolving expropriation issues or projects that do not correspond to the needs of the community. Key weaknesses as identified by the NAO across municipalities in the last two years are presented in Table 2.

<sup>14</sup> National Audit Office of Kosovo. Municipal Reports. Source: <https://bit.ly/3ml6nd9>

<sup>15</sup> National Audit Office of Kosovo. Municipal Reports. Source: <https://bit.ly/3ml6nd9>

**Table 2.** Weaknesses identified by NAO in municipal capital investments for period 2019–2020

	Conflict of Interest in Procurement	Expropriation Issue	Lack of Executive Project	Inaccurate Planning of Works before Tendering	Failure to Justify Community Needs	Poor Budget Planning	Exceeding Certain Positions above Contract Limits	Weaknesses in Project Implementation Oversight
Istog			x	x	x	x		
Kamenicë				x				
Prishtinë	x	x		x		x	x	x
Prizren			x			x		x
Mamushë		x				x	x	x
Deçan				x				x
Glllogoc			x	x			x	x
Novobërdë	x		x		x			x
Pejë			x		x	x	x	x
Ferizaj				x		x		x
Graçanicë						x		
Malishevë			x					x
Obiliq	x		x					
Rahovec				x		x		
Hani i Elezit			x					
Kaçanik			x					
Vushtrri	x			x		x		x
Mitrovica e Veriut								x
Suharekë	x							x
Fushë Kosova	x							x
Gjakovë						x		
Podujevë			x				x	x
Dragash			x					
Mitrovica e Jugut			x			x		x
Skenderaj		x				x	x	x
Shtime								x
Klinë	x		x	x				x
Lipjan				x				
Ranillug				x				
Gjilan				x		x		x

Source: Individual Municipal Reports by the National Audit Office (NAO) for 2020<sup>16</sup>

16 GAP Institute collated the weaknesses in capital investments from individual municipal reports published by the National Audit Office (NAO) for 2020. Source: <https://bit.ly/3gLWUxM>

Shortcomings in the implementation of capital projects have also been identified in the Public Finance Management Reform Strategy (PFMRS) of Kosovo 2016–2020.<sup>17</sup> This paper highlights issues related to poor planning of capital projects where budget organizations fail to provide complete and accurate details of projects as required by the PIP system. Such issues include lack of cost-benefit analysis of projects exceeding EUR 1 million, inaccurate project cost estimates, incorrect forecasting of construction costs and operational costs.<sup>18</sup>

The shortcomings identified by the NAO, PFMRS, and those presented in Table 1, provide for the implementation of unsustainable capital projects. Nevertheless, following legal procedures is necessary, however, not enough to ensure sustainability of capital investments. Inclusion of citizens, who stand to benefit from the investment, starting from the initial idea design process through the implementation of the project, remains essential for the sustainability of capital investments.

## Sustainability of municipal capital investments

An important feature that has been shown to be key to success in various developed countries and in several pilot projects in Kosovo supported by UN-Habitat, is community involvement from inception of idea through capital project design and its implementation.<sup>19</sup>

This can be achieved in two ways: active involvement of members of the community and civil society in the earliest planning processes, or civic activism in monitoring the implementation of projects. These two ways foster transparency in the process, better planning, and development of a sense of project ownership by citizens as a result of community involvement from the initial planning phase.

Six steps that have been proven successful in implementing a sustainable capital project are community involvement in project identification, design and budgeting, tendering, monitoring, and implementation, and impact assessment upon completion.

17 Ministry of Finance. Public Finance Management Reform Strategy (PFMRS) of Kosovo 2016–2020. p. 36  
Source: <https://bit.ly/3rxvd0s>

18 Public Finance Management Reform Strategy (PFMRS) of Kosovo 2016–2020. Source: <https://bit.ly/3rxvd0s>

19 A Guide to Managing Capital Investment Projects. Source: <https://bit.ly/3rG0MVR>

1. Key among stages for developing a capital investment project is the Identification phase. This period entails the start of searching for project ideas/proposals which must be in accordance with municipal regulatory plans. The mayor and his/her associates must identify the stakeholders that will benefit from the investment. In identifying this community group, it is important to ensure diversity in terms of gender, age, profession, or other backgrounds depending on the nature of the project.<sup>1</sup> Otherwise, citizens and local civil society organizations need to organize and assert themselves in the planning process. The identification of citizens or stakeholders allows to ensure proper consideration of their demands, while the diversity of this group provides for variety of proposals or ideas.
2. The second phase involves making changes or modifications to the project as a result of discussions conducted during the first phase. Criteria to be considered in designing the final version of the project should be the cost-benefit analysis for the community in question, including economic and environmental sustainability or feasibility study for large projects. At this time, aiming to establish community consent to avoid any potential property disputes, there should also be a survey of project area. This is followed by the technical design of the project conducted by relevant municipal offices and with the involvement of external experts, if required. This process provides detailed specifications of all project related works, measurements, quantities, and necessary expenditures. The final project must have the general approval of stakeholders before initiating the tendering process.
3. One of the most critical phases of successful and transparent implementation of a capital investment project is the Tendering process. Especially due to the fact that in this process, the NAO has encountered numerous violations of legal procedures by both procurement offices and project managers. Firstly though, it must be ensured that the relevant departments have completed their obligations starting from the Department of Urban Planning for issuing permits, Department of Budget for committing funds, designing the Executive Project with detailed work specifications, and other requirements deriving from the Law on Public Procurement, the RUOPP, and other rules. In addition to the Tender Dossier, a dynamic plan with time limits to be met by bidders must be attached. Negligence at this stage can create many challenges to success in project implementation and completion. Omissions of details in the Tendering phase have given rise to some unsustainable capital investment projects such as those presented in Table 1. Therefore, to ensure full compliance with legal procedures and public confidence, this stage requires transparency and community involvement.
4. Upon completion of the Tendering phase, a capital investment project enters its Implementation and Monitoring phase. If the previous phase was conducted properly, then municipal officials and community representatives can play the role of project implementation monitors in relation to the selected economic operator.<sup>1</sup> Contract managers who are aware of legal procedures and Terms of Reference of the contract, require compliance with the specifics described in the contract. Involving the community from the beginning of the process and keeping them informed of project details enables them to engage as monitors of the economic operator during the implementation of works. The lack of a dynamic plan with time frames or the non-involvement of citizens makes it difficult to monitor the construction of the capital investment project. Further, it allows the economic operator to deviate from the project plan penalty-free.
5. Upon completion and operationalization of capital investment project, the municipality should have a project maintenance plan and assess the community impact of the project. This assessment could help document the strengths and weaknesses of the whole process.

## Conclusions and recommendations

Capital investment projects foster economic growth and help meet community needs. For this reason, municipalities are constantly faced with demands by the citizens for capital investment projects. However, due to limited budgetary possibilities, a small number of such demands manage to come through.

Such budget constraints require that capital projects be selected on a priority basis, contingent on best community benefit outcomes. However, despite the great need, a significant number of capital projects fail to achieve the expected outcome or designation. There are some among them that have never become operational. The main reasons provided by municipal officials for the non-operationalization include, inter alia, property disputes, misunderstandings with economic operators, and demographic changes. Consequently, millions of euros have been spent for the construction of various capital projects that remain unutilized.

In addition, the National Audit Office (NAO) has, in examining the period 2019-2020, identified systematic shortcomings in capital investment planning and implementation across municipalities. Issues of concern that are highlighted in their reports include commitment of funds, following procurement procedures, managing contracts, property disputes, and lack of Executive Projects. A general weakness is the lack of applicable knowledge of municipal officials who are responsible for procurement procedures, including lack of knowledge of the Law on Public Procurement and the RUOPP. Another weakness, that comes into play in planning capital investments, is the rationale for the investment and failure to account for the needs of the community.

In addition, the municipalities are not required by law to undertake feasibility studies for capital investment projects. Moreover, according to the Public Finance Management Reform Strategy (PFRMS), despite advancements, municipalities still fail to provide clear and complete information in the Public Investment Program (PIP) system. There are also shortcomings in conducting cost-benefit analysis for large projects. Other problems relate to budget planning, where projects are initiated without sufficient funds and consequently there are delays in the completion of works. On the other hand, contract managers who are responsible to ensure contractual compliance, lack adequate knowledge and skills to preempt any departures from contract provisions by economic operators. Throughout the implementation process of capital investment projects, community involvement is limited.

Adherence to laws and rules during the implementation of capital projects is necessary to ensure sustainable capital projects, however, that in itself is not enough. Involvement of citizens and stakeholders from the initial design of ideas for capital investment projects through the tendering and monitoring phase, remains essential for the sustainability of capital investments.

Therefore, to allow for greater success and sustainability of capital investments, various developed countries and several pilot projects in Kosovo recommend following certain specific steps in the implementation of capital projects. This report outlines six phases of project development, where the role of citizens and local civil society is essential. All parties should monitor and contribute alongside municipal officials during the phase of project identification, design and budgeting, tendering, implementation, monitoring, and evaluation of project success upon completion.

Based on these findings and for purposes of improving public policies, the GAP Institute recommends the following:

- When supplementing/amending the Law on Local Government Finance, introduce a provision which obliges municipalities to conduct feasibility studies for projects exceeding EUR 1 million.
- Mayors should ensure that Procurement Officers and Contract Managers have full knowledge of legal and technical procedures.
- Municipal Officials should ensure that there are no property disputes before initiating the Tendering phase and that there is general consensus among the community on area where the capital project is expected to be implemented.
- Municipal leadership should ensure that the identified stakeholders are aware of project details, allowing them to monitor whether economic operators are performing the works provided in the contract and according to contractual time limits.
- Completed and unutilized capital projects should be redesignated to meet any other needs of community members. This redesignation should be done in coordination and with prior consent of the community.
- Mayors and their teams must ensure accurate planning of budget expenditures related to the entire capital project. This means entering into tender procedures only where there are funds for the project and greater accountability for timely execution of payments to operators. Delays or departures from the contract that could give rise to litigation or failure and prolongation of projects should be avoided.



GAP Institute is a Think Tank established in October 2007 in Kosovo. GAP's main goal is to attract professionals to create an environment of professional development and research, as seen in similar institutions in Western countries. This also provides Kosovars with opportunities to research, develop and implement projects in order to advance the Kosovo society. Priority for this Institute is the mobilization of professionals to address the country's economic, political and social challenges. GAP's main goals are to fill the gaps between government and citizens, and between problems and solutions.

[www.institutigap.org](http://www.institutigap.org)

Sejdi Kryeziu, Blloku 4, Nr. 4, 10000 Prishtinë

Tel.: +383 38 609 339

[info@institutigap.org](mailto:info@institutigap.org)

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