

What changes are foreseen with the new local government legal provisions in Kosovo?



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Executive Summary

In the last two years (2021–2022), the Government of Kosovo has introduced legislative agendas featuring a significant number of new draft laws or amendments to existing laws. These also included three draft laws that regulate local government, such as the Draft Law on Supplementing and Amending the Law on Local Self-Government, the Draft Law on Local Government Finance, and the Draft Law on Municipal Performance Management and Performance-Based Grant Scheme.¹

As of end of July 2022, only the Draft Law on Municipal Performance Management and Performance-Based Grant Scheme has received full approval in the Assembly of Kosovo. The Draft Law on Local Self-Government has passed the first reading in the Assembly, while the Draft Law on Local Government Finance has not yet been approved by the Government either, although respective public consultation procedures were completed in September 2021.

Based on the proposals included in these three draft laws, the local government system will undergo some substantive changes. According to the Draft Law on Local Government Finance, municipalities will benefit from three new grants, such as the Capital Project Grant, the Social Services Grant, and the Extraordinary Grant. For the Social Services Grant and the Extraordinary Grant there are no provisions on the financial values that the municipalities stand to benefit, but there are provisions establishing grant allocation criteria. Financial values are to be established by secondary legislation.

The "fourth grant for municipalities", which was an electoral promise, has been re-designated as Capital Projects Grant. The allocation of this grant will be incremental. In the first year after the entry into force of the law, the allocation will be in the value of 20%, in the second year 30%, while from the third year at least 40% of total grant value. Therefore, it can be inferred that from the first year the municipalities stand to benefit over EUR 45 million earmarked for capital investments, while from the third year, the value of this grant will be no less than EUR 104 million. The Capital Projects Grant will be allocated 80% based on the municipality's population and 20% based on its geographic size. Accordingly, the municipalities that will benefit the most are Prishtinë, Prizren, Podujevë, Pejë, Ferizaj, Gjilan, Gjakovë, South Mitrovicë, and Rahovec, because geographic size and population size make these municipalities eligible to receive more funds under the Capital Projects Grant. With the entry into force of the new rules provided in the Draft Law on Local Government Finance and the deployment of the Capital Projects Grant, ministries cannot invest in municipal capital projects.

In addition to these grants, a Municipal Performance-Based Grant is also foreseen. The value of this grant will be 2.5% of total grant value, or over EUR five million will be allocated each year to support capital projects in municipalities that score high on their performance evaluation. In addition to the State Budget, the Performance-Based Grant can also be financially supported by international donors.

While, if the proposed amendments to the Law on Local Self-Government are approved, there will be major changes in terms of the role of deputy mayors of municipalities, administrative review of acts, procedures for citizens to initiate municipal decisions or regulations, and there will be an additional paragraph in the article providing for circumstances where the Municipal Assembly will be subject to extraordinary elections.

¹ Office of the Prime Minister. Legislative Programs 2021 and 2022. Source: <https://bit.ly/3AeiODW> & <https://bit.ly/3pcQvQ6>

Introduction

The review of legal provisions for the functioning of local government was one of the actions foreseen with the Local Self-Government Strategy 2016-2026, which entered into force six years ago. According to the Strategy, the review of the legal framework is necessary for purposes of clarifying the powers exercised by the central and local government regarding public service delivery, approximating domestic legislation with common European legislation, and enhancing budgetary stability of the municipalities. In a paper produced in 2017, GAP Institute had found that out of 19 own powers under Article 14 of the Law on Local Self-Government, none are executed exclusively by the municipalities.²

The Kurti 2 Government initiated the amendment of key laws on local government. The two principal local government laws, the Law on Local Self-Government and the Law on Local Government Finance, have been subject to supplementation/amendment procedures. In addition, in 2021, the Draft Law on Municipal Performance Management and Performance-Based Grant Scheme was prepared.

In the period 2021-2022, the institutions have worked to amend several other laws that also affect the functions of local government, such as: Draft Law on Public Procurement, Draft Law on Public-Private Partnership, Draft Law on Public Peace and Order, Draft Law on Social and Family Services, Draft Law on Public Property, Draft Law on Construction Land, Draft Law on Public Officials, and Draft Law on Protection of Air from Pollution. As of July 2022, none of these draft laws have passed full approval in the Assembly of Kosovo, except for the Draft Law on Construction Land that passed the first reading.

The **Law on Local Self-Government** was approved in June 2008 and since then it has never been subject to amendment. This law constitutes legislation of vital interest, which means that its amendment can only be achieved with the votes of 2/3 of the Members holding set guaranteed seats in the Assembly of Kosovo.

The **Law on Local Government Finance** governs the procedures for municipal budget approval, spending, and management. This law does not constitute legislation of vital interest and therefore, in 2016, it went through several amendments. In the first part of 2019, the Ministry of Finance initiated procedures for another round of amendments to this law. However, the proposed amendments did not pass muster at the Assembly of Kosovo. In April 2021, procedures to amend this law were re-introduced and the current draft content provides for a significant number of changes, especially in terms of municipal revenues.

The **Draft Law on Municipal Performance Management and Performance-Based Grant Scheme** will substitute Regulation No. 02/2017 of the Ministry of Local Government Administration.³ This Regulation covered the issue of municipal performance since 2017, as well as providing for evaluation criteria and types and amounts of benefits for municipalities. According to this Draft Law, the process of municipal performance shall be statutory (becomes mandatory for municipalities), and the State shall undertake to award an annual grant, which will be allocated to municipalities, based on their performance-based ranking.

² GAP Institute. What are the real powers of local governments? Pristina, 2017. Source: <https://bit.ly/3p8s5au>

³ Official Gazette of the Republic of Kosovo. Regulation No. 02/2017 on Municipal Performance Management System. Source: <https://bit.ly/3M1tctF>

This paper highlights the proposed legal amendments in the area of local government by the Kurti II Government and the benefits that the municipalities would enjoy. The paper focuses its examination on three draft laws, namely the Draft Law on Local Self-Government, the Draft Law on Local Government Finance, and the Draft Law on Municipal Performance Management and Performance-Based Grants.

1. Proposed amendments to the Law on Local Self-Government

The Law on Local Self-Government is the basic law on local government in Kosovo. After its adoption in 2008, the need for this law to be amended in some parts emerged. Due to the fact that this law represents legislation of vital interest, which means that its amendment requires the votes of 2/3 of the members holding guaranteed seats in the Assembly of Kosovo, its amendment has been rendered impossible by the refusal of Assembly Members from Lista Srpska to vote for this draft law, without singling out in public any reason or official request from their side.⁴ In earlier periods (during 2016–2017), the party representing Kosovo Serbs in the Assembly had conditioned their vote on the establishment of a new municipality in Kosovo, that of Prelluzha.⁵

In April 2021, the Ministry of Local Government Administration (MLGA) established the Working Group for drafting amendments to the Law on Local Self-Government.⁶

In November 2021, the Government of Kosovo approved this draft law and thus, it was passed on for consideration and approval in the Assembly.⁷ The Assembly approved these amendments in principle in February 2022 but failed in April to approve them in the second reading, due to not securing 2/3 of the votes of non-majority Assembly Members.⁸

The amendments have affected a significant part of the existing articles of this law. However, most of the proposed amendments are related to clarifications and few of them are related to radical changes in terms of powers and responsibilities currently enjoyed by the municipalities under this law.

Hence, out of the 90 articles comprising the Law on Local Self-Government, the Working Group has approved 114 comments or interventions in 43 articles of the Law. However, only four amendments represent a change from the existing substance, as the rest are clarifications or additions, but which do not change anything from the current practices.⁹

Substantial changes have been foreseen in terms of the role of deputy mayors of municipalities, administrative review of acts, how citizens can move for procedures to initiate municipal decisions or regulations, and there has been an additional paragraph introduced in the article providing for circumstances where the Municipal Assembly is considered non-functional.

4 Constitution of the Republic of Kosovo. Article 81. Legislation of Vital Interest. Source: <https://bit.ly/3LfRpnC>

5 "Zëri" Daily Newspaper. Jevtiq: Plementin – Prelluzhë, komunë e re serbe. 8 October 2017. Source: <https://bit.ly/3d98vYI>

6 Ministry of Local Government Administration. MLGA begins the process of reforming the legal framework for local self-government July 6, 2021. Source: <https://bit.ly/3w250tH>

7 The Office of Prime Minister of the Republic of Kosovo. Legislative Program 2021. Ministry of Local Government Administration. Source: <https://bit.ly/3AeiODW>

8 "Kosovapress" News Agency. Kuvendi miraton tri projektligje, deshton ai për qeverisje lokale. 14.04.2022. Source: <https://bit.ly/3Pqwdi0>

9 Assembly of Kosovo. Draft Laws. Version delivered by the Government. Source: <https://bit.ly/3a7j9xX>

On the role of deputy mayors, it is foreseen that they take on the full functions of mayors, in case the latter resign, die, or are removed 12 months before the official end of the four-year term in office. In such cases, the municipality does not go to extraordinary elections, but the function of the mayor shall be exercised by the deputy mayor.¹⁰ In cases where the position of the deputy mayor remains vacant, the ministry responsible for local government shall appoint an administrator from the ranks of municipal civil service until the election of the mayor.¹¹

However, changing the role of deputy mayor cannot be done without amending the Law on Local Elections, because it is this law that provides for the term in office and how the mayoral term in office ends and in which circumstances the municipality goes to early elections.¹² The Law on Local Elections is also part of the so-called legislation of vital interest. Currently, there aren't any initiatives to supplement/amend the Law on Local Elections.

Another radical change is foreseen in Article 70 of the Law on Local Self-Government, namely the right of citizens to undertake initiatives. According to the version of the law that is in force, it is specified that citizens may take initiative to propose regulations, under the purview of the Municipality, for adoption by the Municipal Assembly, in accordance with the applicable law. The proposed draft regulation must be signed by 15% of registered voters for consideration by the Municipal Assembly. With the proposed supplements/amendments to this law, it is provided that, in addition to regulations, citizens may also initiate projects and that such an initiative must be signed by 5% of registered voters.¹³

According to Law on Local Self-Government, the Municipal Assembly is the highest decision-making body in the municipality. This provision persists in the version provided for supplements/amendments to this law, but the list of grounds rendering the Municipal Assembly non-functional has been expanded. The additional paragraph is related to the obligation of Municipal Assembly representatives to create a quorum when the mayor-elect has to take the oath of office at the first session of that assembly. If this does not happen, then the Municipal Assembly is considered non-functional and subject to the provisions of the Law on Local Elections. The Municipal Assembly is also considered non-functional if it refuses to implement the legality of the decisions of MLGA or other relevant bodies, in addition to being considered non-functional if it refuses to elect the Deputy Chairperson for Communities according to the Law on Local Self-Government.¹⁴

Amendments are also in store for Article 81 of the Law on Local Self-Government. The language of the draft law provides that the supervisory authority (MLGA) is obliged to give an opinion on the legality of any registered municipal act, within 15 business days from its receipt; further, regarding the administrative review of acts, MLGA shall issue corresponding legal guidance. This, in case it enters into force, extends the response period by MLGA from 15 calendar days to 15 business days.¹⁵

10 Draft Law on Local Self-Government. Article 56. Item 56.4. Source: <https://bit.ly/3a7j9xX>

11 Draft Law on Local Self-Government. Article 56. Source: <https://bit.ly/3a7j9xX>

12 Official Gazette of the Republic of Kosovo. Law on Local Elections. Article 4. Source: <https://bit.ly/39p9vGd>

13 Draft Law on Local Self-Government. Article 38. Source: <https://bit.ly/3a7j9xX>

14 Draft Law on Local Self-Government. Article 33. Source: <https://bit.ly/3a7j9xX>

15 Draft Law on Local Self-Government. Article 81. Source: <https://bit.ly/3a7j9xX>

2. Proposed amendments to the Law on Local Government Finance

Supplements/amendments to the Law on Local Government Finance are foreseen in the Legislative Program of the Government of Kosovo for 2021.¹⁶ It states that the Government will approve the amendments to this law by November 2021. The draft law went out for public consultation in September 2021 but has not yet been approved by the Government.¹⁷

The Law on Local Government Finance is the second most important for the municipalities, after the Law on Local Self-Government. This law, unlike the one on local self-government, is not a piece of legislation of vital interest and its amendment does not require a double majority of votes. Since its first approval in 2008, this law has been subject to supplementation/amendment once in 2016 and procedures for another round of amendments were initiated in 2019, but the political instability in the country (frequent changes in government in that period), as well as the pandemic breakout, postponed this process until a renewed effort was introduced in April 2021.

The amendments proposed in the current version of this draft law are substantive. The municipalities are provided to benefit from three additional grants: Specific Grant for Capital Projects, Specific Grant for Social Services, and an Extraordinary Grant; while the existing grants (General Grant, Specific Grant for Education, and Specific Grant for Health) will not be affected by the provided proposals and the criteria will remain the same, but the value of the General Grant will no longer be 10% of the State Budget, instead 9%.¹⁸

The Program of the Government of Kosovo 2021–2025 provides for the introduction of the so-called fourth grant for municipalities. However, during the amendment phase of the Law on Local Government Finance, this grant was designated as Capital Projects Grant.¹⁹ According to this program, it is foreseen that this grant will allow the municipalities autonomy concerning capital investments, according to established criteria, enabling the municipalities to compete with their ideas and projects for comprehensive development, in sectors such as rural tourism, innovation, sports, cultural heritage, arts, public infrastructure, district heating systems, potable water supply, remediation of damaged spaces, and waste water treatment. However, the proposed amendments to the Draft Law on Local Government Finance do not provide for the municipalities to compete for funds under the Capital Projects Grant, rather such funds will be allocated to the municipalities on an annual basis, proportionate to the number of population and geographic size. In the first year of implementation, it will be 20% of the total grant, in the second year 30%, and from the third year not less than 40% of the total grant.

The reason for a grant of this nature arose from the need for line ministries not to allocate funds for municipalities based on partisan or personal preferences. Over the years, GAP Institute has examined the allocation of such funds to municipalities, finding lack of criteria and lack of sustainable investments from ministries to municipalities.²⁰

¹⁶ The Office of Prime Minister of the Republic of Kosovo. Legislative Program 2021. Ministry of Finance. Source: <https://bit.ly/3AeiODW>

¹⁷ Public Consultation Platform. Draft Law on Local Government Finance. Source: <https://bit.ly/3wx8Fz8>

¹⁸ Ibid.

¹⁹ Government of Kosovo. Office of the Prime Minister. Government Program 2021–2025. p. 23 Fourth Grant. Source: <https://bit.ly/3Niwi5y>

²⁰ GAP Institute. Winners and losers of capital investments: A local government perspective of the 2021 Draft-Law on State Budget. Source: <https://bit.ly/3AlwZYa>

From the total budget of the ministries for 2022, about EUR 515 million are forecast in capital projects of which, about EUR 97 million (19%) will be invested in 33 municipalities. The Law on Budget does not provide any explanations for the criteria that are applied when deciding on central level investments in municipalities. About EUR 49.5 million (51%) of investments by ministries in municipalities will be covered by the Ministry of Environment, Spatial Planning, and Infrastructure (MESPI). Due to the continuation of previous projects, there was little room in the 2022 Budget for new projects. Over EUR 86.8 million or 89% of the projects of ministries in the municipalities are ongoing from previous years, while about EUR 10.3 million are new projects. During 2022, the municipalities that will benefit most from new investments are Prizren (about EUR 1.9 million), Prishtinë (about EUR 1.5 million), Podujevë (about EUR 1.2 million), and Gjakovë (EUR 1 million).²¹

According to the proposed amendments to the Law on Local Government Finance, the criteria for the allocation of the Capital Projects Grant are approximately the same as the criteria applicable to the allocation of the General Grant for municipalities.

The number of population and geographic size of the municipality will be the only criteria applicable to the allocation of this grant. Both criteria are also part of those applicable to the allocation of the General Grant. This grant will be allocated 80% based on the number of population and 20% based on the geographic size of the municipality.²²

But, unlike the General Grant, where the municipality is allowed autonomy to determine budget allocations in certain categories, this right does not exist under the Capital Projects Grant. The Capital Projects Grant may only be used for capital investments. With the enforcement of this law, the financing and/or co-financing of capital projects under municipal authority from the budget of the ministries shall be prohibited.²³

However, the implementation of this obligation is planned to be incremental. In the first year after the entry into force of this law, the municipalities will benefit 20%, in the second year 30%, while from the third year at least 40% of total grant value.²⁴ Accordingly, it follows that all the municipalities of Kosovo under the Capital Projects Grant, based on the Medium-Term Expenditure Framework 2023–2025, after three years will have more than EUR 104 million available per year.

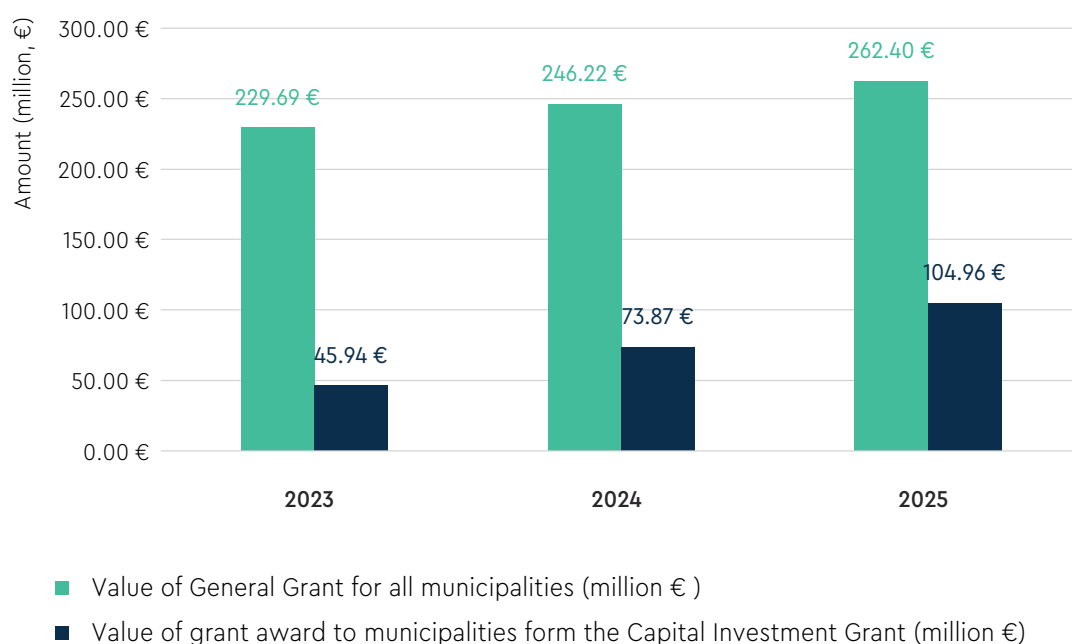
21 GAP Institute. Winners and losers of capital investments: A local government perspective of the 2022 Law on State Budget. May 2022 p. 1 Source: <https://bit.ly/3QFeS4S>

22 Draft Law on Local Government Finance. Capital Projects Grant. Article 14. Source: <https://bit.ly/3wx8Fz8>

23 Ibid.

24 Ibid.

Chart 1. Minimum municipal allocation from the Capital Projects Grant for three years (2023–2025)



Source: Ministry of Finance. Medium-Term Expenditure Framework 2023–2025 Amount of the General Grant for all municipalities and calculation of allocations for all municipalities based on the percentage provided in the proposed supplements/amendments to the Law on Local Government Finance

The amount of the General Grant (for all municipalities) according to the proposals set out in the Draft Law on Local Government Finance is 9% of the total amount of the State Budget. The 9% value remains the same for each year, while the amount changes, depending on the budget growth at national level (minus inflows from international loans and from the sale of assets).²⁵

Table 1. The amount that municipalities are projected to receive for 2023–2025 from the General Grant and the amount of funds they will receive from the Capital Projects Grant for the next three years according to the percentage provided in the amendment to the Law on Local Government Finance

| Municipality | General Grant 2023 | General Grant 2024 | General Grant 2025 | Capital Projects Grant – First Year 2023 (20%) | Capital Projects Grant – Second Year 2024 (30%) | Capital Projects Grant – Third Year 2025 (minimum 40%) |
|--------------|--------------------|--------------------|--------------------|--|---|--|
| Deçan | 5,026,625.43 € | 5,386,949.99 € | 5,739,429 € | 1,076,132.25 € | 1,730,388.28 € | 2,458,730.91 € |
| Gjakova | 11,883,453.07 € | 12,749,260.52 € | 13,596,215 € | 2,447,408.75 € | 3,935,359.62 € | 5,591,803.00 € |
| Drenas | 7,042,785.88 € | 7,551,922.17 € | 8,049,972 € | 1,440,873.87 € | 2,316,881.83 € | 3,292,087.13 € |
| Gjilan | 10,872,861.88 € | 11,664,436.60 € | 12,438,775 € | 2,192,563.42 € | 3,525,576.00 € | 5,009,536.19 € |
| Dragash | 5,334,661.39 € | 5,717,074.63 € | 6,091,161 € | 1,063,890.52 € | 1,710,703.94 € | 2,430,761.19 € |
| Istog | 5,300,879.74 € | 5,681,209.30 € | 6,053,257 € | 1,194,280.32 € | 1,920,366.82 € | 2,728,673.86 € |
| Kaçanik | 4,147,797.21 € | 4,443,362.66 € | 4,732,492 € | 867,999.50 € | 1,395,717.07 € | 1,983,192.30 € |
| Klinë | 4,915,689.42 € | 5,267,788.96 € | 5,612,222 € | 1,055,713.53 € | 1,697,555.59 € | 2,412,078.52 € |

²⁵ Ibid.

| Municipality | General Grant 2023 | General Grant 2024 | General Grant 2025 | Capital Projects Grant – First Year 2023 (20%) | Capital Projects Grant – Second Year 2024 (30%) | Capital Projects Grant – Third Year 2025 (minimum 40%) |
|-----------------|----------------------|----------------------|----------------------|--|---|--|
| Fushë Kosovë | 4,428,038.54 € | 4,744,203.97 € | 5,053,485 € | 788,862.26 € | 1,268,466.77 € | 1,802,380.72 € |
| Kamenicë | 4,827,343.62 € | 5,172,805.40 € | 5,510,745 € | 1,102,405.50 € | 1,772,634.87 € | 2,518,759.64 € |
| Leposaviq | 3,378,310.67 € | 3,616,161.33 € | 3,848,833 € | 739,141.01 € | 1,188,516.50 € | 1,688,778.35 € |
| Lipjan | 7,208,957.38 € | 7,730,179.39 € | 8,240,052 € | 1,474,124.81 € | 2,370,348.33 € | 3,368,058.37 € |
| Obiliq | 2,787,987.41 € | 2,983,231.77 € | 3,174,225 € | 533,100.34 € | 857,209.30 € | 1,218,019.70 € |
| Rahovec | 6,841,551.84 € | 7,335,800.40 € | 7,819,287 € | 1,394,750.82 € | 2,242,717.35 € | 3,186,705.87 € |
| Pejë | 12,218,374.53 € | 13,108,815.97 € | 13,979,868 € | 2,499,374.78 € | 4,018,919.44 € | 5,710,534.21 € |
| Podujevë | 10,895,679.02 € | 11,688,799.73 € | 12,464,651 € | 2,360,943.93 € | 3,796,326.80 € | 5,394,249.47 € |
| Prishtinë | 23,380,893.75 € | 25,090,923.88 € | 26,763,719 € | 4,540,072.07 € | 7,300,299.27 € | 10,373,088.93 € |
| Prizren | 22,834,779.45 € | 24,504,867.90 € | 26,138,591 € | 4,178,531.25 € | 6,718,952.50 € | 9,547,045.84 € |
| Skenderaj | 6,309,356.51 € | 6,764,290.11 € | 7,209,318 € | 1,365,145.47 € | 2,195,112.84 € | 3,119,064.01 € |
| Shtime | 3,421,367.71 € | 3,663,358.57 € | 3,900,080 € | 677,137.16 € | 1,088,816.18 € | 1,547,112.89 € |
| Shtërpcë | 1,427,756.53 € | 1,522,448.61 € | 1,615,079 € | 352,945.13 € | 567,525.16 € | 806,403.78 € |
| Suharekë | 7,315,229.65 € | 7,844,379.03 € | 8,362,006 € | 1,537,126.18 € | 2,471,652.64 € | 3,512,002.96 € |
| Ferizaj | 13,000,772.30 € | 13,949,326.05 € | 14,877,225 € | 2,533,603.22 € | 4,073,957.74 € | 5,788,738.84 € |
| Viti | 5,756,352.72 € | 6,170,557.65 € | 6,575,743 € | 1,197,943.15 € | 1,926,256.53 € | 2,737,042.63 € |
| Vushtrri | 8,457,482.97 € | 9,070,916.59 € | 9,670,993 € | 1,733,778.78 € | 2,787,864.11 € | 3,961,311.90 € |
| Zubin Potok | 1,840,974.58 € | 1,965,864.21 € | 2,088,034 € | 417,733.00 € | 671,702.09 € | 954,430.12 € |
| Zvečan | 1,700,973.21 € | 1,815,686.70 € | 1,927,902 € | 258,271.84 € | 415,293.35 € | 590,095.66 € |
| Malishevë | 6,642,527.52 € | 7,122,103.19 € | 7,591,236 € | 1,385,708.18 € | 2,228,177.05 € | 3,166,045.37 € |
| Novobërdë | 1,348,858.50 € | 1,437,764.05 € | 1,524,734 € | 310,734.03 € | 499,650.97 € | 709,960.47 € |
| Mitrovica North | 2,480,184.30 € | 2,652,242.03 € | 2,820,553 € | 259,075.87 € | 416,586.20 € | 591,932.67 € |
| Mitrovica South | 8,746,257.59 € | 9,380,960.71 € | 10,001,843 € | 1,763,932.07 € | 2,836,349.68 € | 4,030,205.66 € |
| Junik | 913,788.47 € | 970,826.73 € | 1,026,623 € | 188,085.42 € | 302,435.70 € | 429,734.76 € |
| Hani i Elezit | 1,299,162.05 € | 1,384,628.48 € | 1,468,234 € | 263,959.41 € | 424,438.78 € | 603,090.51 € |
| Mamushë | 1,221,458.35 € | 1,300,956.74 € | 1,378,724 € | 140,341.22 € | 225,664.46 € | 320,649.52 € |
| Graçanicë | 2,491,670.78 € | 2,664,447.85 € | 2,833,463 € | 330,646.33 € | 531,669.35 € | 755,455.80 € |
| Ranillug | 951,047.54 € | 1,010,648.63 € | 1,068,952 € | 137,698.90 € | 221,415.69 € | 314,612.40 € |
| Partesh | 507,015.01 € | 533,988.43 € | 560,375 € | 61,700.74 € | 99,212.93 € | 140,972.93 € |
| Kllokot | 530,093.51 € | 558,811.08 € | 586,903 € | 72,064.95 € | 115,878.27 € | 164,652.91 € |
| Totali | 229,689,000 € | 246,222,000 € | 262,395,000 € | 45,937,800 € | 73,866,600 € | 104,958,000 € |

* The amount of the General Grant is allocated based on population size, geographic size, number of minorities living in the respective municipalities, as well as the municipal sustainability factor. These data do not include the Capital City Grant and dividend revenue for Obiliq. While the Capital Projects Grant will be allocated 80% based on the number of population and 20% based on the geographic size of the municipality.

In the current version of the Draft Law on Local Government Finance, it is foreseen that the municipalities will have another grant available, namely the Social Services Grant.²⁶ According to the Draft Law, the Specific Grant for Social Services is used to fund the cost of providing the minimum standard level of social services in the territory of the municipality. The Specific Grant for Social Services is determined by taking into account the following criteria:

1. Number of centers for social work, number of residential centers, and number of daily centers according to standards defined by the central level.
2. Number of social workers in proportion to the number of inhabitants and the number of cases.
3. Number of children on the basis of age groups and adults affected or at risk.
4. Number of victims of domestic violence, trafficking, and abuse.
5. Number of persons with special needs according to the degree of disability.
6. Number of elderly persons over the age of 65.
7. Number of families benefiting from social assistance in relation to the surface area of municipal territory.

The value of the Social Services Grant is not determined by the Draft Law, but it is stated that this will be stipulated by secondary legislation which must be approved by the Office of Prime Minister.²⁷

According to the proposed Draft Law, the municipalities may also benefit from another grant, designated the Extraordinary Grant. This grant is not allocated on an annual basis and is not available for all municipalities and further is not subject to annual evaluation by the Grants Committee. In case of extraordinary situations such as natural disasters or epidemics, the Government shall award an Extraordinary Grant for purposes of providing relief to the municipal budget in dealing with such events, if the municipality's resources are insufficient. For purposes of awarding an Extraordinary Grant, the ministry responsible for finance must accept the request from the relevant municipality and the assessment from the relevant institution on the natural disaster or epidemic, concerning the relevant amount of the requested grant and further proceedings shall be conducted according to the legislation on public finance management.²⁸

Table 2. Municipal Own Source Revenues (Euro)

| Municipal Revenues | 2023 | 2024 | 2025 |
|---------------------------------------|-------------|-------------|-------------|
| Own Source Revenues | 98,519,259 | 102,526,781 | 106,872,444 |
| General Grant | 229,689,000 | 246,222,000 | 262,395,000 |
| Education Grant | 201,201,039 | 216,184,204 | 217,096,457 |
| Health Grant | 70,531,502 | 74,058,077 | 77,760,981 |
| Capital City Grant | 15,310,000 | 16,410,000 | 17,490,000 |
| Funding under the Law on Obiliq | 5,000,000 | 5,000,000 | 5,000,000 |
| Funding under the Law on Hoça e Madhe | 25,279 | | |

²⁶ Draft Law on Local Government Finance. Capital Projects Grant. Article 13. Source: <https://bit.ly/3wx8Fz8>

²⁷ Ibid.

²⁸ Draft Law on Local Government Finance. Extraordinary Grant. Article 26. Source: <https://bit.ly/3wx8Fz8>

| Municipal Revenues | 2023 | 2024 | 2025 |
|---|------------|------------|-------------|
| Funding for Historical Center of Prizren and Zymi i Hasit | 44,810 | | |
| Performance-Based Grant | | 5,052,250 | 5,295,000 |
| Capital Projects Grant | 45,937,800 | 73,866,000 | 104,958,000 |
| Social Services Grant | * | | |
| Extraordinary Grant | * | | |
| Revenues under items 1 and 31 for northern municipalities | | 8,000,000 | 8,000,000 |
| Funding for professional theaters | 903,235 | | |
| Funding for residential (social) centers | 4,236,000 | 4,655,000 | 5,040,000 |

Source: Medium-Term Expenditure Framework 2023–2025 and Law on Budget of Kosovo 2022.

*The value of revenues that municipalities will receive under the Social Services Grant and the Extraordinary Grant has not been specified; there will be a piece of secondary legislation drawn up to determine the values.

3. Municipal benefits and obligations under the Law on Municipal Performance Management and Performance-Based Grant Scheme

In 2017, MLGA initiated the process of measuring municipal performance, in terms of the level of efficiency in exercising functions related to their own powers. Initially, this process started as a pilot project, to be transformed into an annual process, based on a regulation drawn up by MLGA.²⁹ This process was technically covered by MLGA together with the DEMOS project³⁰, while countries such as Switzerland, Sweden, and Norway contributed financially in addition to MLGA.³¹

In the past, MLGA attempted to include this process in the framework of supplementing/amending the Law on Local Government Finance, but it was shown to be impossible, considering that the Law on Local Government Finance governs the issues of financing and not performance. Against this backdrop and supported by donors, MLGA started to drive the option of drafting a special law that would address and govern the process of evaluating and managing municipal performance.

Accordingly, MLGA included drafting and proceeding this law at the Government level in the legislative agenda for 2021. By the end of 2021, it was approved by the Government³² and passed further consideration and approval in the Assembly, which adopted this law in July 2022.³³

According to the Draft Law on Municipal Performance Management and Performance-Based Grant Scheme, an amount of up to 2.5% of total grant value received by municipalities will be allocated each year from the State Budget.³⁴

29 Official Gazette of the Republic of Kosovo. Regulation No. 02/217 on Municipal Performance Management System. Source: <https://bit.ly/3M1ctF>

30 DEMOS is an acronym for the "Decentralization and Municipal Support" project, supported by the Swiss development organization HELVETAS.

31 Ministry of Local Government Administration. Municipal Performance Report 2020. p. 4 Source: <https://bit.ly/3PhqPHz>

32 The Office of Prime Minister of the Republic of Kosovo. Legislative Program 2021. Ministry of Local Government Administration. Source: <https://bit.ly/3AeiODW>

33 Ministry of Local Government Administration. Notice. Source: <https://bit.ly/3b4L81M>

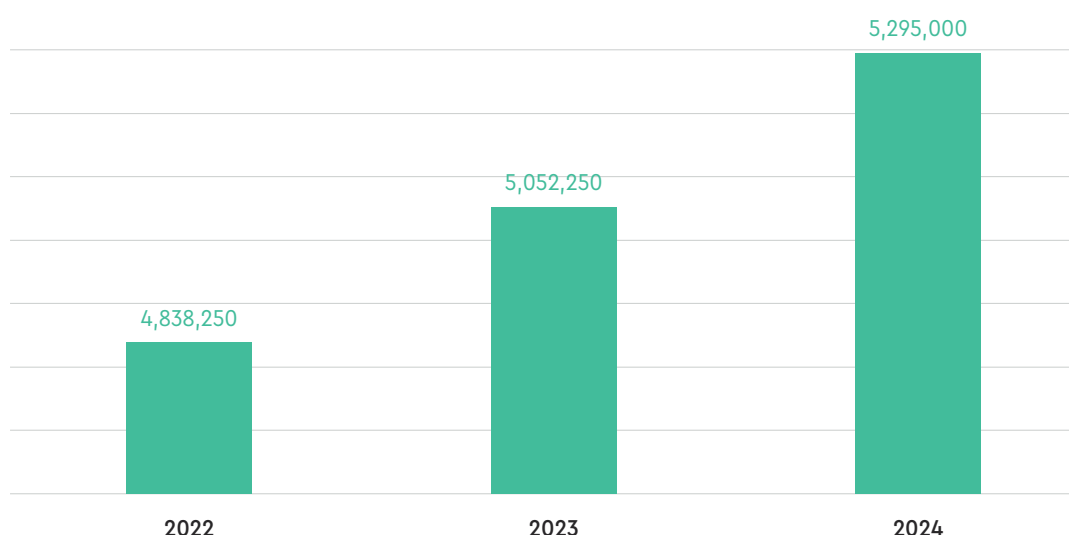
34 Assembly of Kosovo. Draft Laws delivered to the Assembly. Draft Law on Municipal Performance Management and Performance-Based Grant Scheme. Article 27. Source: <https://bit.ly/3sE3sV4>

The funds that the municipalities receive under the Performance-Based Grant are based entirely on the municipalities' ranking by performance, and the received funds cannot be spent in any other category, except for capital investments. The Municipal Performance-Based Grant constitutes a special form of financial support to municipalities from the Kosovo Budget and is open to other contributor or donor funds.³⁵

Ninety percent of the grant is allocated based on the performance of each municipality, measured according to the Municipal Performance-Based Grant indicators, while 10% of the total amount of the Municipal Performance-Based Grant is allocated as an additional reward to the municipalities ranked as top three best performers. First place receives 5% of total grant amount, second place receives 3% of total grant amount, and third place receives 2%.³⁶

The Municipal Performance-Based Grant award must be spent within the fiscal year in which it is allocated. In case of failure to spend the grant within the fiscal year, the remaining funds shall be handled in accordance with the Law on Public Financial Management and Accountability.

Chart 2. Amount of funds (EUR) that municipalities will benefit from the State Budget based on performance



Source: Financial Statement delivered to the Assembly of Kosovo by the Ministry of Finance regarding the financial impact of the Law on Performance Measurement System and Performance-Based Grant Scheme for 2022-2024.

The draft law stipulates that MLGA is the institution responsible for measuring municipal performance. In addition, this Ministry is responsible to draft by-laws and policy documents for the efficient implementation of the provisions of this law, as well as develop sufficient internal and municipal capacities ensuring a smooth reporting and performance evaluation process.³⁷

The draft law provides a number of obligations for municipalities too. While according to the 2017 MLGA regulation, the process of including municipalities in performance evaluation was not mandatory, with the Draft Law this process becomes mandatory.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Assembly of Kosovo. Draft Laws delivered to the Assembly. Draft Law on Performance Measurement System and Performance-Based Grant Scheme. Article 28. Source: <https://bit.ly/3sE3sV4>

Under this obligation, municipalities are responsible to cooperate with MLGA for purposes of building, developing, and implementing the municipal performance measurement system. Municipalities are also obliged to designate officials responsible for communication and reporting regarding the performance process. The draft law stipulates that the mayors are the persons leading the process at the municipal level and all the data and documents that are forwarded to MLGA by the municipality must be signed by the mayor, otherwise the data or the documents shall be considered invalid.³⁸

In the event that during the verification process if it established that a municipality has reported inaccurate data compared to the reference documents resulting in higher performance, the performance of that municipality in the area for which the data are incorrect shall be declared invalid. If it is established that a municipality has intentionally reported inaccurate or fictitious data which affect enhanced performance outcomes in the Performance-Based Grant indicators, that municipality shall be excluded from the right to benefit from this grant in the year of allocation.³⁹

Table 3. Summary of proposed amendments to the legal provisions on local self-government

| Current legal provision | Proposed amendments |
|--|--|
| Law on Local Self-Government | |
| Deputy mayors assist mayors in exercising executive functions. | The deputy mayor assumes the functions of the mayor if he/she resigns, dies, or is removed 12 months before regular local elections. |
| The Ministry (MLGA) has no role in the selection of staff in municipalities. | The Ministry (MAPL) may designate an administrator in the municipality who will exercise the functions of the mayor in cases where the municipality does not even have a deputy mayor to exercise public functions in the last 12 months before regular local elections. |
| The citizens may take initiative to propose regulations, under the purview of the Municipality, for adoption by assembly or by a vote of the citizens in accordance with the applicable law. The proposed draft regulation must be signed by 15% of registered voters for consideration by the Municipal Assembly. | In addition to regulations, citizens may also initiate projects and that such an initiative must be signed by 5% of registered voters. |

³⁸ Assembly of Kosovo. Draft Laws delivered to the Assembly. Draft Law on Performance Measurement System and Performance-Based Grant Scheme. Article 10 & 11. Source: <https://bit.ly/3sE3sV4>

³⁹ Assembly of Kosovo. Draft Laws delivered to the Assembly. Draft Law on Performance Measurement System and Performance-Based Grant Scheme. Article 12. Source: <https://bit.ly/3sE3sV4>

Current legal provision

A municipality is considered as non-functioning if it:

- a) fails to elect a Chairperson thirty (30) days after it is duly constituted;
- b) fails to adopt its statute within sixty (60) days from the day it is duly constituted;
- c) fails to adopt the budget within the time limit determined by the law; or
- d) fails to hold a meeting for a period of more than six (6) months.

The administrative review of any registered act is conducted within 15 days from the day of its receipt by the municipality

Proposed amendments

Additional provisions that render a Municipal Assembly non-functional relate to the obligation of Municipal Assembly representatives to create a quorum when the mayor-elect has to take the oath of office at the first session of that assembly. If this does not happen, then the Municipal Assembly is considered non-functional and subject to the provisions of the Law on Local Elections. The Municipal Assembly is also considered non-functional if it refuses to implement the legality of the decisions of MLGA or other relevant bodies, in addition to being considered non-functional if it refuses to elect the Deputy Chairperson for Communities according to the Law on Local Self-Government.

The administrative review of any registered act is conducted within 15 business days from the day of its receipt by the municipality.

Law on Local Government Finance

The value of the General Grant is 10% of the State Budget (excluding revenue from the sale of assets, other extraordinary revenue, dedicated revenue, and proceeds from borrowing).

The value of the General Grant is 9% of the State Budget (excluding revenue from the sale of assets, other extraordinary revenue, dedicated revenue, and proceeds from borrowing).

Operating Grants for municipalities are: General Grant, Specific Grant for Health, and Specific Grant for Education

Operating Grants for municipalities are: General Grant, Specific Grant for Health, Specific Grant for Education, Capital Projects Grant, Social Services Grant, and Extraordinary Grant.

Current law does not prohibit the possibility for ministries to forecast capital investments in municipalities.

With the proposed supplements/amendments to the Law on Local Government Finance, ministries can neither plan nor allocate budget for capital investments in municipalities.

The Capital Projects Grant is allocated based on the formula whereby 80% is determined according to municipal population size and 20% according to geographic size. In the first year, the value of the grant will be 20% of total grant value or about EUR 46 million for all municipalities. In the second year, 30% of total grant value or about EUR 74 million and in the third year, not less than 40% of total grant value or about EUR 105 million for all municipalities.

The Specific Grant for Social Services is used to fund the cost of providing the minimum standard level of social services in the territory of the municipality and is based on seven criteria.

In case of extraordinary situations such as natural disasters or epidemics, the Government shall award an Extraordinary Grant for purposes of providing relief to the municipal budget in dealing with such events, if the municipality's resources are insufficient.

Current legal provision

Proposed amendments

Current MLGA Regulation

Law on Municipal Performance Management and Performance-Based Grant Scheme.

The Municipal Performance Grant is determined by the annual Law on Budget and the Medium-Term Expenditure Framework.

The Municipal Performance Grant is 2.5% of the total municipal grant and is allocated on an annual basis.

The distribution of the grant is based on municipal performance ranking.

Ninety percent of the grant is allocated based on the performance of each municipality, measured according to the Municipal Performance-Based Grant indicators, while 10% of the total amount of the Municipal Performance-Based Grant is allocated as an additional reward to the municipalities ranked as top three best performers. First place receives 5% of total grant amount, second place receives 3% of total grant amount, and third place receives 2%.

In cases where the data is inaccurate or incomplete, the municipality will not receive corresponding scores in the area of evaluation, i.e., the data shall be invalid.

If it is established that a municipality has intentionally reported inaccurate or fictitious data which affect enhanced performance outcomes in the Performance-Based Grant indicators, that municipality shall be excluded from the right to benefit from this grant in the year of allocation.

Conclusion

The amendment of the laws related to local government in Kosovo has been imperative. This ongoing process, if completed with the proposed amendments, will make the municipalities more efficient and will significantly increase their revenues, especially in terms of capital investments.

The legal amendments initiated in the area of local government may not pass at the Assembly of Kosovo, because the Law on Local Self-Government, as a basic law for municipalities, represents legislation of vital interest, therefore requiring the votes of 2/3 of the Assembly Members representing non-majority communities. In the past, such procedures have caused several other legislative initiatives to fail, due to the lack of political consensus in the Assembly of Kosovo.

This is not expected to happen with the Law on Local Government Finance and the Law on Municipal Performance Management and Performance-Based Grant Scheme, as laws that are not listed as legislation of vital interest.

With the proposed amendments to the Law on Local Government Finance, in addition to their own source revenues, the General Grant, the Specific Grant for Education, and the Specific Grant for Health, the municipalities will also have three new grants, the Capital Projects Grant, the Social Services Grant, and the Extraordinary Grant.

Various ministries have consistently planned and allocated funds for municipalities, primarily based on local or party preferences. This practice has been duly noted, including in papers published by GAP Institute, as harmful and one that created inequality between municipalities leading to the use of public funds in favor of the interests of one or several municipalities. In order to put an end to such practices, a Capital Projects Grant has been introduced in the Draft Law on Local Government Finance. In the first year of implementation, this grant will be 20%, in the second year 30%, and in the third year not less than 40% of the total grant. This means that the municipalities, after this grant is deployed, will have over EUR 45 million available in the first year, over EUR 73 million in the second year, and not less than EUR 104 million from the third year. This grant will be allocated to the municipalities based on two criteria, number of population and geographic size.

The process that started in 2017 for measuring municipal performance in the exercise of individual powers will become mandatory for municipalities and at the same time this process will be governed by a special law. To date, this process has been financially covered by international donors and the budget of MLGA. With the approval of the Law on Municipal Performance Management and Performance-Based Grant Scheme, the budget for municipalities based on performance will be allocated on an annual basis from the State Budget and its value will be 2.5% of total grant value, or over EUR 5 million. The Draft Law has left open the possibility that even international donors can make financial contributions to this process. But, technically, the process of monitoring, evaluating, and allocating the Performance-Based Grant will be the responsibility of MLGA.

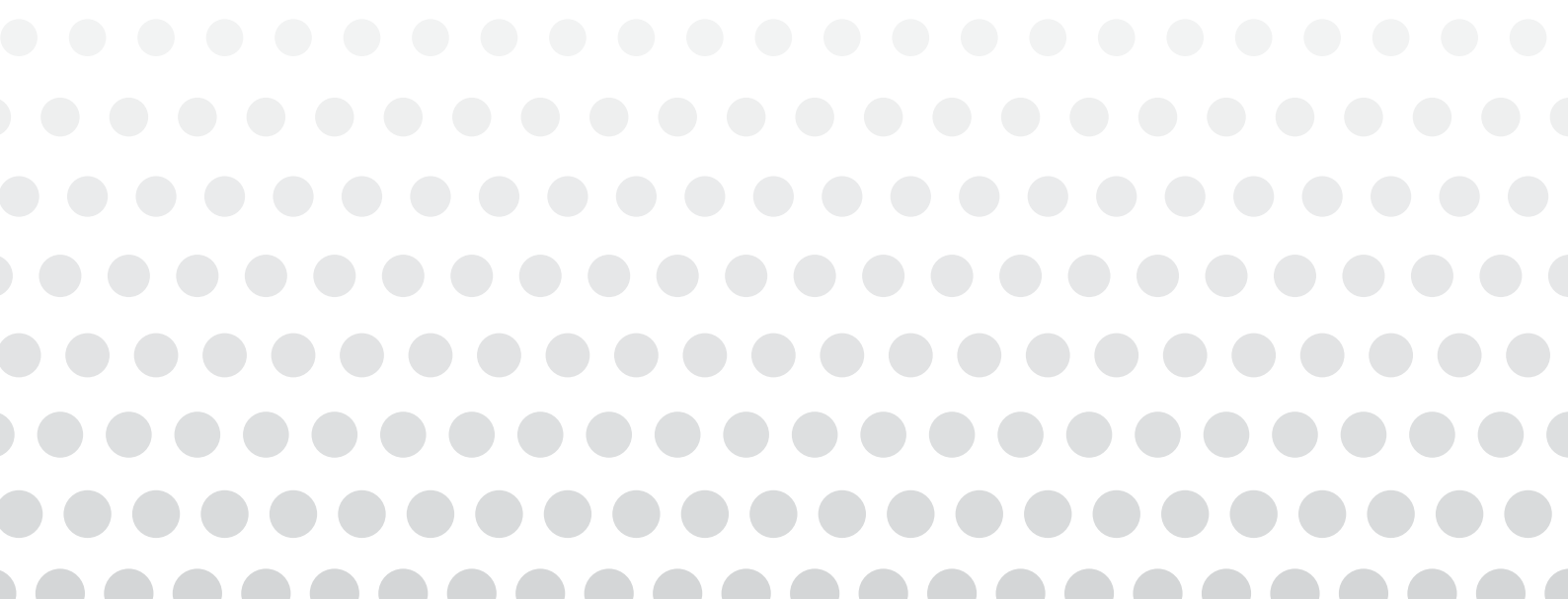
GAP Institute is a Think Tank established in October 2007 in Kosovo. GAP's main goal is to attract professionals to create an environment of professional development and research, as seen in similar institutions in Western countries. This also provides Kosovars with opportunities to research, develop 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.

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What changes are foreseen with the new
local government legal provisions in Kosovo?