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MINISTRIA E ADMINISTRIMIT TË PUSHTETIT LOKAL
MINISTARSTVO ADMINISTRACIJE LOKALNE SAMOUPRAVE/ MINISTRY OF LOCAL
GOVERNMENT ADMINISTRATION

**Report from the preliminary public consultation process and the Concept
Paper for the Municipal Performance Management System and the Municipal
Performance Grant Scheme**

December 2020

Introduction

Municipal performance measurement is a process applied by the MLGA since 2009. Performance measurement carries a special weight in terms of strategic importance in public administration reform. In accordance with local self-government legislation, performance measurement is done to ensure quality monitoring by the central authority with regards to municipal service delivery. Therefore as a measurement tool is used the Municipal Performance Management System (MPMS) which includes a number of legal, administrative and technical mechanisms. Currently this system counts 19 measurement areas with 119 performance indicators, including: administrative services, social services, infrastructure, environment, education, primary health, economic development, parks, roads, etc. MLGA, together with donors, in addition to the measurement also apply an incentive grant for municipalities, based on special rules which is distributed according to merit criteria.

Taking into account the importance of performance measurement and the role of the performance grant in improving public services, the MLGA has drafted a concept paper for MPMS and MPG. This concept paper identifies key issues regarding performance management and the grant, as well as provides development options that are required to be approved by the Government to advance policies in this area. The Concept Document aims to provide better alternatives for future policy development, enhancing the sustainability of the Municipal Performance Measurement System and the long-term functioning of the Municipal Performance Grant Scheme.

The Concept document was drafted by the Working Group led by the Department for Municipal Performance and Transparency within the Ministry of Local Government Administration. Members of this Working Group were also other officials from the Legal Department of the Ministry, Department for Sustainable Development, Department for European Integration and Policy Coordination, Government Coordination Secretariat, representatives from the DEMOS project, Civil Society Organizations such as BIRN, Kosovo Institute for Local Government, Municipal Performance Coordinators, the Chairperson of the Municipal Performance Forum, as well as other experts of this field.

The progress of the consultation process

The Concept Document was drafted through an extensive consultation with various stakeholders, therefore interviews were conducted with seven mayors and with 15 municipal performance officials, two consultation processes were held with the performance coordinators of 38 municipalities, one meeting with representatives of the Association of Kosovo Municipalities, a meeting with donor representatives of performance grant, as well as six working group meetings. Meanwhile, the Concept Document was sent for consultation to 38 mayors and was shared with state administration institutions during the preliminary consultation process.

The Concept Document has been uploaded on the government's electronic platform for public consultations. All citizens, organizations and other interested entities had the opportunity to comment. The consultation of this Concept Document was done in full compliance with Regulation no. 05/2016 on minimum standards for the public consultation process.

Consultation method	Date/duration	Number of participants/contributors
1. Consultation on written/electronically	15 working days	2 Contributors
2. Publication on the webpage /Electronic platform	15 working days	0 Contributors
3. Preliminary consultation	15 working days	3 Contributors

Summary of contributions received during the consultation process

Contributions for the Performance Concept Document and Performance Grant were provided during the consultation in written through the electronic format.

Other issues

All contributions received have been reviewed separately, while the detailed report with the comments received is presented in full in the Appendix no. 1 of this report.

Next steps

This Concept Document, after the completion of the public and preliminary consultation process, has been finalized and will be processed for Government approval.

Appendix – detailed table with information on contributors, justifications for accepted and rejected responses.

Consultation Subject	Comments	Who has commented	Status of the comments - accepted, partially accepted, not accepted	Comments (commenting on partial acceptance and non-acceptance of comments is mandatory)
<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>The language of the Concept Document is in many cases limited and quite technical requiring a level of institutional memory to understand it. Also, the structure looks irregular and lacks coherent content. Furthermore, the costs of the options addressed are not given at all, by presenting in the text only the expression “To be completed after public consultation”.</p> <p>We consider that the presentation of costs should be done before putting it for public consultation. This way, third parties, including us as a society organization, would have a clearer picture of the costs and we could elaborate further our comment.</p>	<p>Institute for Development Policy (INDEP)</p>	<p>Reviewed</p>	<p>The Concept Document contains sufficient information about performance management and performance grant. It also provides detailed explanations of the problem identified. The document has been drafted in accordance with the Government Instruction (manual) for drafting Concept Documents.</p> <p>The cost of options is not required to be drafted before the public consultation process, but at the end of the process. The financial cost at this stage is only for the process of drafting the new policy and not its impact.</p>
<p>Concept Document on Municipal Performance</p>	<p>Municipal Performance Measurement should move to another stage: that of the inclusion of Sustainable Development Goals (SDGs).</p>	<p>Institute for Development</p>	<p>Reviewed</p>	<p>MPMS is designed in the spirit of the Sustainable Development Objectives. A significant part of the indicators of this system remain within the</p>

Management System and Municipal Performance Grant Scheme		Policy (INDEP)		framework of the SDG, until it is gradually expected to expand with other indicators in the future.
Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme	We consider the statement in the Concept Document unfair that "There is a risk in the process of drafting laws when changes are made, when draft laws are submitted to the Assembly of Kosovo for approval, since that affects how the problems and consequences are addressed as set in this Concept Document."	Institute for Development Policy (INDEP)	Reviewed	This part of the Concept Document addresses a future condition or circumstance which is assumed to happen during the review of the draft law by the Assembly of the Republic of Kosovo. So, regardless of the content of the draft law that can be processed by the Government, the Assembly is the last authority that can change its content. Such an assumption is based on the past practice of the legislative activity of the Assembly.
Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme	The main disadvantage of this document is often the technical language and a missing list of abbreviations that would make it easier for other parties to comment on the document. The Concept Document, in this sense, is written in a language that is almost exclusively technical. In the absence of a Qualitative Consultation Document, we consider this to be a discouraging factor for civil society organizations to contribute to the public consultation process.	Institute for Development Policy (INDEP)	Reviewed	The Concept Document contains sufficient explanations for the abbreviations used. Since it is a professional type of document, technical language is inevitable.

<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>In the current version, the Consultation Document is only partially in line with the Government Regulation on Minimum Standards for Public Consultation Process. In future versions, we recommend to the government body to address the issues in greater and the political background of the issue to be discussed in during the consultation process. In the current version there is no clear explanation about the current issue and why the current policy cannot stand and therefore this review is needed. Thus, we recommend to the Government that in future versions of public consultations, more attention be paid to the Consultation Document.</p>	<p>Institute for Development Policy (INDEP)</p>	<p>Reviewed</p>	<p>The explanatory document of the public consultation provides basic explanations for the content of the published Concept Document. The Concept Document published on the platform provides detailed explanations about the problem and optional policies.</p>
<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>General Comments: <input type="checkbox"/> <i>The draft Concept Document should be reviewed to address gender concerns.</i> Legal framework for gender equality, namely Law no. 05 / L-020 on gender equality provides that the principle of gender equality and gender mainstreaming be applied in all planning, budgeting and implementation of legislation, policies, etc. In addition, in order to prevent and eliminate gender discrimination and achieve gender equality, Article 5 (General measures for the prevention of gender discrimination and ensuring</p>	<p>OSCE</p>	<p>Reviewed</p>	<p>The Concept Document regulates a concrete policy of the ministry for assessing the level of achievements of municipalities in many areas of their competencies, including gender equality. The Municipal Performance Management System, which aims to be strengthened with future legal support, addresses the required gender criteria through a specific area of “gender equal representation”, as well as through indicators in other areas by incorporating gender elements.</p>

	<p>gender equality) of the law in question provides that all institutions at all levels be responsible for: <i>“1.3. the inclusion of gender mainstreaming in all policies, documents and legislation; 1.5. the inclusion of gender budgeting in all areas, as a necessary instrument to ensure that the principle of gender equality is respected in the collection, distribution and allocation of resources;”</i></p> <p>Therefore, we recommend that gender concerns be considered and integrated into the Draft Concept Document. For example, we suggest including a reference to the criteria of <i>gender responsive budgeting</i> and <i>gender mainstreaming</i> as part of the municipal performance measurement, as we consider that instead of relying solely on the criterion of equal representation, all levels of gender equality need to be assessed.</p>			<p>Gender budgeting at this stage of drafting the Concept Document is not a legal obligation, as it does not anticipate the future financial impact of the proposed new policy.</p>
<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>Chapter 1: Defining the problem</p> <p>Comment: In this part the problem should be identified as a basic element for the further development of the Concept Document. The problem is not understood from this text.</p>	<p>Legal Office (PMO)</p>	<p>Reviewed</p>	<p>The comment was accepted by the working group. In this chapter a text has been added which enables the identification of the problem.</p>

<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>“Given the large number of municipal competencies, which are monitored through this system, it should be well regulated and have legal certainty. This system is quite complex, due to the organizational, content, functional and financial aspect. From the organizational point of view, a large number of local and central level officials are engaged in measuring performance.”</p> <p>Comment: Clearly specify all mechanisms</p>	<p>Legal Office (PMO)</p>	<p>Reviewed</p>	<p>The comment was accepted and addressed in the document</p>
<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>“The content of the measurement objectives is developed in accordance with the own competencies of the municipalities, defined in the law on local self-government, sectoral laws and bylaws which regulate the responsibilities of municipal bodies.”</p> <p>Comment: List the entire legal framework</p>	<p>Legal Office (PMO)</p>	<p>Reviewed</p>	<p>The comment was accepted and addressed in the document</p>
<p>Concept Document on Municipal Performance Management System and Municipal</p>	<p>“In addition, the system of legal norms should clearly regulate the status of performance officers, the functions of all structures responsible at the local and central level dealing with performance, the obligation to perform this responsibility conscientiously, professionally, effectively, regularly, in time and without pressure or political influence.”</p>	<p>Legal Office (PMO)</p>	<p>Reviewed</p>	<p>The Concept Document sufficiently elaborates on the shortcomings of the existing legislation, regarding the functioning of the performance system.</p>

Performance Grant Scheme	Comment: In the legislation shortcomings, data should be provided on what are the difficulties for implementation, so that then in the recommended option are presented proposals for the improvement of the relevant provisions of the law or certain bylaws.			
Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme	Comment: Objectives should be described based on very clear goals. This means setting clear indicators for changes to occur. This should reflect the improvement and modernization of services. Review this part and complete it according to the guideline.	Legal Office (PMO)	Reviewed	The comment was accepted. The objectives are described in more detail as recommended.
Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme	Chapter 3: Options Comments: At this stage it is a bit difficult to provide comments as there is no proper clarity about the options and the recommended option has not been elaborated. Therefore we recommend that the text of the Concept Document should be reviewed and restructured.	Legal Office (PMO)	Reviewed	It is estimated that the main (recommended) option is sufficiently emphasized

<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>Option 3.3.3: Amendment-Supplement of the Law on Local Self-Government (hereinafter referred to as “LLSG”) and the Law on Local Government Finance (hereinafter referred to as “LLGF”)</p> <p>Comment: This Article as well as the two above to be clarified and elaborated- justified as options of this Concept Document. In order to be harmonized with the point below where the comparison of options is done.</p>	<p>Legal Office (PMO)</p>	<p>Reviewed</p>	<p>The comment has been addressed</p>
<p>Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme</p>	<p>“ Out of 25 coordinators interviewed for this, 19 of them emphasize that this function should be exercised by an official who has a special position within the administration who has the primary task of implementing the performance system, due to the large volume of engagement and the importance of measuring performance”</p> <p>Comment:” Or to find a form to stimulate you, by paying for the extra work you do”</p>	<p>Language Commissioner (PMO)</p>	<p>Reviewed</p>	<p>The comment has been addressed</p>
<p>Concept Document on Municipal Performance Management System and Municipal</p>	<p>“ Impacts on fundamental rights “</p> <p>Comment: I think that with the introduction of the implementation of the Law on the Use of Languages, poor performance would affect</p>	<p>Language Commissioner (PMO)</p>	<p>Reviewed</p>	<p>The comment has been addressed</p>

Performance Grant Scheme	especially the fundamental rights, which lead to environmental and social rights.			
Concept Document on Municipal Performance Management System and Municipal Performance Grant Scheme	<p>I have happened to read comments from different parties regarding this concept document and in principle I think that every official/institution that makes comments, should make them in accordance with the mandate it has as an institution and not to comment on aspects for which he is not entitled.</p> <p>As a Budget Department, within the MFLT - a Ministry responsible for public finances in Kosovo, with regards to this principle, I would like to highlight that the MPL has no legal right to deal with this issue, as I consider that this issue falls in the field of public finances. According to this Concept Document, the ministry responsible for finance is obliged to allocate additional obligatory funds to the municipalities for each year, similar to other municipal grants. I also consider that, if, however, the Government deems reasonable this type of mandatory grant, then, this should be done within the Law on Local Finance and fall within the authority of the Ministry of Finance.</p> <p>I would also like to inform you that the position of the working group for the Draft Law on Local</p>	Salvad or Elmazi (Direct or of the Budget Department , MFLT)	Reviewed	<p>The Performance Concept Document does not only regulate issues that have an impact on public finances. The basis for the Concept Document and the recommended policy is the Municipal Performance Management System and the Performance Grant Scheme. Measuring the performance of municipal services is the legal mandate of the MLGA. The basis for this is the Law on Local Self-Government. Also, Regulation 02/2021 on Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries, Article 9.5 has defined that the Ministry of Local Government Administration, among other issues, is responsible for "Supervising the quality of municipal services".</p> <p>In accordance with this, MLGA has drafted Regulation no.01 / 2020 on the Municipal Performance Management System and the Performance Based Grant Scheme.</p>

	<p>Government Finance has been that the municipal performance grant scheme should be regulated through the LPFMA in the future, i.e. based on the assessment of the need for such a thing. Moreover, in the government program it is mentioned that the orientation of the government is to make the fourth grant for the municipalities, which makes us think whether there is a real need for such a scheme.</p>			<p>As for the annual budget planning as part of the Municipal Performance Grant, such a policy is currently in place. The definition in the future of a consistent value expressed in% in the performance law that would be planned as part of the Municipal Performance Grant, does not affect the competencies of the Ministry of Finance.</p> <p>It remains for the performance law (proposed policy) to guarantee the long-term financial viability of the Performance Grant, so that grant management procedures will be addressed during the review of the law, in consultation with all stakeholders.</p> <p>The definition of the Performance Grant in a special law does not violate the Law on Local Government Finances, as there are also other laws currently in force, such as the Law on Capital City and the Law on Obiliq, which define special additional funding schemes for municipalities.</p>
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			<p>Members of the MLGA and the DEMOS project represented in the Working Group for the draft Law on Local Government Finances, even though they insisted in having the Municipal Performance Grant included in this law, they have not found an understanding with other members of the group, who rejected the idea of this grant.</p> <p>The Law on Public Financial Management and Accountability is a general law that regulates aspects of public financial management, not providing for any specific scheme for any institution, including municipalities. Therefore the Performance Grant cannot be regulated by this law.</p> <p>The concept of the Fourth Grant for Municipalities is not in line with the purpose of the Municipal Performance Grant. While the first considers the options for financing municipalities on a need basis, the Performance Grant takes into account the merit principle,</p>
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				thus it is a grant that is won and not allocated as a direct form of regular annual government funding.
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