

D.T4.2.2 Analysis of the political and legal framework and the examples Country Report Czech Republic

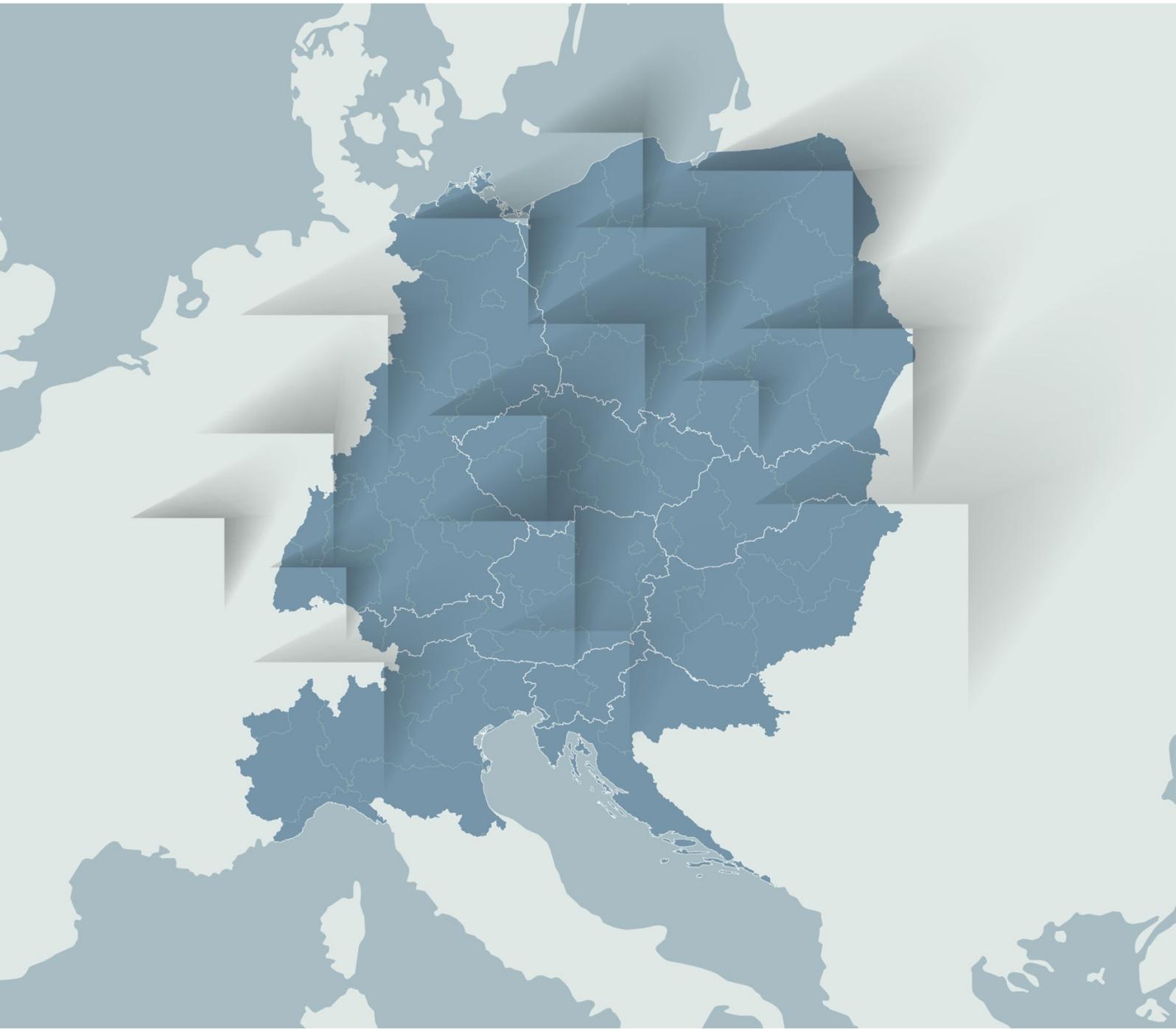
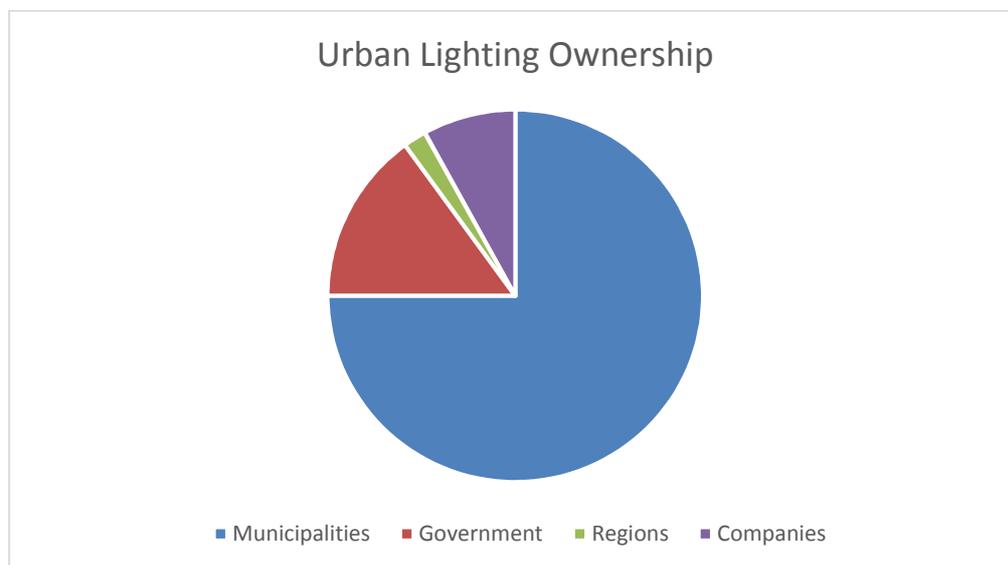


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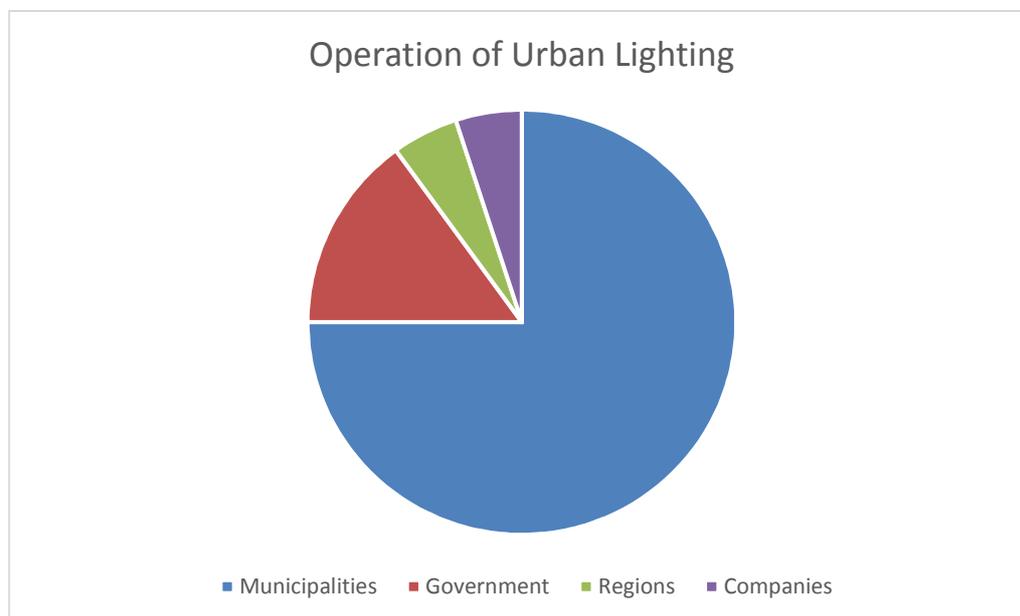
A. General aspects concerning urban lighting

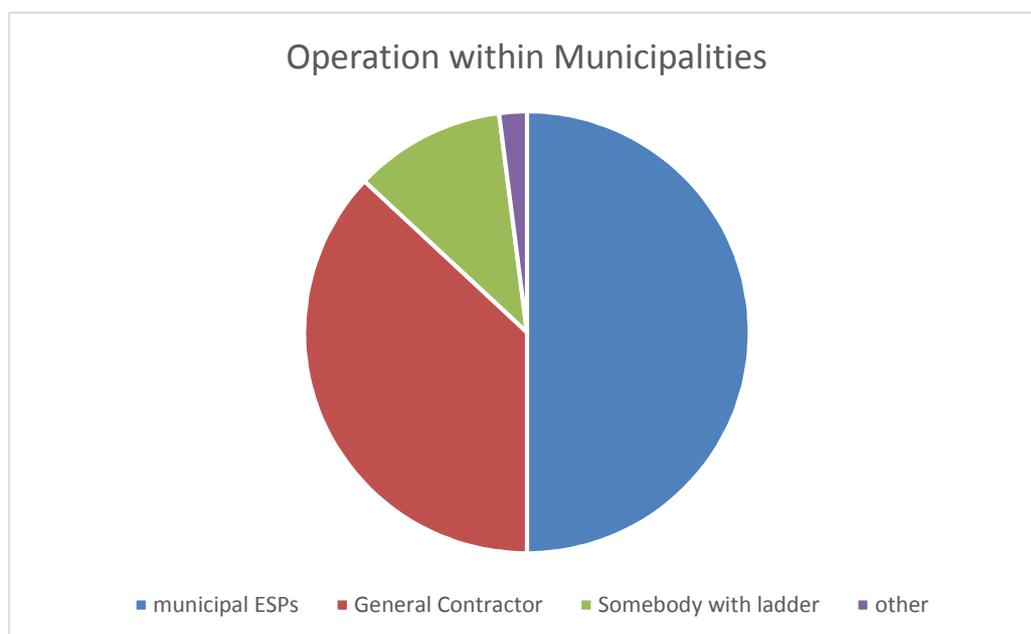
Ownership



About 75% of lighting systems are owned by municipalities, 15% by governments, 2% by regions, and 8% by companies in the Czech Republic.

Operation





The operation of urban lighting (lamps, ballasts, luminaries, posts, etc.) is carried out 75% by municipalities, 15% by government, 5% by regions, and 5% by companies. Within municipalities, 50% of the operation is carried out on their own, with 37% being commissioned to general contractors, 11% by "somebody with a ladder", and the other 2% being secured in other ways.

I. Political strategies and targets

This section highlights the political strategies, programs, and action plans on making dynamic public lighting more energy efficient and climate friendly in the Czech Republic.

Political strategies, programs, and action plans

The **National Energy Efficiency Action Plan of the Czech Republic** is the main political program seeing to it that urban lighting becomes more energy efficient and climate friendly. Its main focuses are on public lighting and on lighting in the tertiary sector

The objective of the measures are a gradual replacement of energy-inefficient light sources by austerity fluorescent and LED sources. For the public lighting, it will be the replacement of HPM and HPS by LED sources.

II. Actors and Stakeholders

In the Czech Republic, the main actors and stakeholders in the field of dynamic public lighting are Ministries, Regulatory Agencies, Manufacturers and Suppliers, Operators and Owners, as well as others that fall into varying categories. The following subsections below list the actors and stakeholders involved, as well as their respective attitudes towards dynamic lighting.

Ministries



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- Ministry of Industry and Trade

Agencies and Relevant Authorities

- Úřad pro technickou normalizaci, metrologii a státní zkušebnictví (ÚNMZ)
- Společnosti pro rozvoj veřejného osvětlení (Society for the development of public lighting)

Operator/Owner

- Municipalities

Manufacturers/Suppliers

- ELTODO
- CEZ
- E.ON

Others

- NGOs

Attitudes of respective stakeholders towards dynamic lighting

- Ministries – positive (National Program EFEKT)
- Regulatory Agencies – positive
- Operator/Owner – positive, if economically beneficial. Otherwise, okay with simple LEDs
- Manufacturers/Suppliers – positive, if municipalities are willing to have Dynamic Light
- Other Actors/Stakeholders – positive, if municipalities are willing to have Dynamic Light

III. General Legal Background

The following section describes the general legal background in the Czech Republic and the relevant guidelines referring to dynamic public lighting.

Road Traffic Law

- Act No. 13/1997 Coll., On the Road Network
- CSN 13201 - 1, 2, 3, 4, Illumination of roads
- Decree of the Ministry of Transport and Communications no. 104/1997 Coll., implementing Act No. 13/1997 Coll., On the Road Network

Civil Law

Government Regulation, No. 361/2007 determining conditions of occupational health protection



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B. Public and Private Procurement

The following sections on public and private procurement describes the various aspects involved with the procurement of dynamic public lighting facilities in the Czech Republic on international and national levels, as well as green procurement. Topics addressed are the currency used in the country, general legal aspects ranging from the EU level to the national level, national thresholds, central databases utilized and the methods in which lighting systems are acquired.

I. National Public Procurement

Currency

The Czech Republic does not use the Euro. The National currency in the Czech Republic is the Czech Koruna (CZK).

General Aspects

Laws in the Czech Republic regarding urban lighting that have been implemented due to a legal act on an EU level include Directive 2014/23/EU – on the award of concession contracts, Directive 2014/24/EU – on public procurement, and Directive 2014/25/EU – on procurement by entities operating in the water, energy, transport and postal services sectors.

The nationally implemented laws regarding urban lighting which have been implemented is Act 134/2016 of April 19 2016 on Public Procurement, which transposes the EU directives into national law without neatly any changes.

National Public Procurement rules for values above the EU thresholds

When awarding a contract in the higher threshold areas, the contracting authority may apply an open procedure as well as, provided that the conditions stipulated below are fulfilled, a negotiated procedure with prior publication, a negotiated procedure without prior publication, a competitive dialogue procedure or an innovative partnership procedure.

National Public Procurement rules for values below the EU thresholds

Small scale public procurement limits entail that limits to exclude the application of the Act are EUR 77,880 (CZK 2,000,000) for supplies and services and EUR 233,629 (CZK 6,000,000) for construction work. The contracting authority is not obliged to use the procurement procedure for the awarding of a small scale public contract, however, when awarding a small scale contract, the contracting authority must comply with the principles of procurement such as transparency and in an appropriately proportionate manner.

Public contracts below-threshold means that a contracts estimated value is below the threshold number and also exceeds the values for exclusion from the Act. The choice of procurement procedures are either to award a public contract below-threshold, meaning the contracting authority must apply a simplified procedure, with the exception of a contracts whose value exceeds



EUR 1,946,916 (CZK 50,000,000), or type's above-threshold procedures; in which case the contracting authority shall proceed pursuant to above-threshold procedures.

Relevant National Laws in regard to general obligations and procurement

- **Regulation no. 169** – on determining the scope of documents required for public works contracts and inventories of works, supplies or services including statements of measures.
- **Regulation no. 170** – on establishing the lump sum for the costs of proceedings to review the actions of the contracting authority during the awarding of public contracts.
- **Regulation no. 248** – on elements of the application for a prior contract and on modification of the contractual obligation pursuant to the Act on Public Procurement.
- **Government Decree no. 172** – on the determination of thresholds and amount for the purposes of the Act on Public Procurement.
- **Government Decree no. 173** – on determining binding award criteria of public contracts for the acquisition of road vehicles.

Legal Protection below threshold values

Objections may be filed by the economic operator who has been harmed or is at risk of being harmed by the practices of the contracting authority, connected to the awarding of below-threshold or above-threshold public contracts, including concession contracts, with the exception of small-scale concessions. The objection must be filed in writing and may be filed against: all actions or omissions made by the contracting authority during the procurement procedure as well as against all wrongdoings, including the settling of the award criteria; the selection of the type of the procurement procedure; and/or the practices of the contracting authority aimed at the awarding of a public contract outside of the procurement procedure contrary to the Act. Objections concerning the contracting authority's actions or omissions other than the settling of the award criteria, the selection of the type of the procurement procedure, the regime of the public contract and the practices aimed at awarding the public contract outside of the procurement procedure may only be filed by a participant.

Central, National, and Regional Databases for Public Procurement

There are no central national databases in the Czech Republic; each authority provides information on an individual bases.

Method of Lighting System Acquisition

Most lighting systems are acquired via the method of public contracts.

II. Regional Procurement

There are no differences in regional procurement standards or thresholds from the EU and National procurement rules of the Czech Republic.



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III. International Procurement

The Czech Republic, as a member of the World Trade Organization (WTO), ratified the Agreement on Government Procurement (GPA), and follows the EU rules which are both wider and stricter than national legislation. Additional international procurement rules that apply in the Czech Republic are of the Public Procurement Network (PPN) and the E-CERTIS Information System.

IV. Private Procurement

There are no rules governing how procurement must be carried out by private companies; the simple general rules of **Law no. 89/2012 coll. Civil Code** apply determining contract rules. There have been no experiences of legal or political barriers with regard to private procurement of lighting systems in the Czech Republic.

V. Green Procurement

The Ministry of Environment prepared rules applying environmental requirements in procurement and purchases of state and local governments which the Government approved by **Resolution no. 465/2010**. CZE follows methods which The European Commission has drawn up to facilitate the environmentally friendly procurement.



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c. Development of Lighting Facilities

The following section and its subsections on planning and authorization, refinancing sources/mechanisms, construction, and cost relevant aspects with regard to dynamic public lighting in the Czech Republic describes the relevant aspects in respect of law, the general planning process before official administrative processes begin, technical standards, the authorization process, the role of land use plans, opportunities for public, civil and other stakeholders' participation in administrative processes, and the possibilities to review authorizations once they have been granted.

I. Planning and authorization

Relevant aspects in respect of law

- Act No. 13/1997 Coll., On the Road Network
- CSN 13201 - 1, 2, 3, 4, Illumination of roads
- Decree of the Ministry of Transport and Communications no. 104/1997 Coll., implementing Act No. 13/1997 Coll., On the Road Network
- Government Regulation, No. 361/2007 determining conditions of occupational health protection

General planning process before the official administrative processes

Municipalities are mainly responsible for the development of urban lighting according to the regulations mentioned above. The divisions of responsibility are dependent upon the owners of the urban lighting structures and systems.

If new urban lighting is planned, the project must first be prepared and then it must be implanted into the spatial/municipal plan, with construction works finally coming at the end of the process.

Restoration of poles and street light luminaires are, unfortunately, often only renewed if their state is of disrepair (without any action plans or systematic solutions).

Opportunities for public civil and other stakeholders' participation in the administrative process

Public participation in the regulatory framework is found in BUILDING ACT NO.183/2006 COLL. (mostly in case of building permit) and the Aarhus Convention (on access to information, public participation in decision-making and access to justice in environmental issues in the EU). Every offended stakeholder is entitled to participate, and it is dependent upon the type of project, but in most cases developers, building authorities, and the local authority are responsible for ensuring participation.

Technical Standards



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In the Czech Republic, public lighting design and location is fully already determined by the existing electricity grid; public lighting must follow technical standards as well as existing electricity grids. The technical standards in place follow the EU principles.

Authorization

A building permit is necessary to take steps forward in the building of lighting facilities in public spaces, and owners out to follow EU measure EN 13201 for any further restrictions and guidelines. There is however no so called "concentration effect" in the law which enables one permit to include aspects of other permits conclusively, because it is too complicated to be centralized.

Land Use

The role of general land use plans is very crucial in the Czech Republic, as it is the basic document for grid development. Spatial and municipal plans include various types of properties and also outline the basic rules for their usage. In the case of private property being acquired, expropriation is the method used and often times the recipients of compensation receive a greater value for what their property's market value was initially (2-3 times higher than market value).

Land use plans are also very critical in the authorization process, as all projects must be in accordance with spatial and municipal plans. The average timeframe to be considered as realistic for the authorization process depends on the type of project, but can be between 1 and 5 years. Costs arising from the administrative process are carried by the developer.

Opportunities for public civil and other stakeholders' participation

Every offended stakeholder is entitled to participate in the administrative process according to Act no. 183/2006 Coll. Building Act which touches on building permits and the Aarhus Convention which describes the ability for citizens to have access to decision-making and access to justice in environmental issues in the EU.

The appropriate building authority is to announce the initiation of the planning permission procedure and shall order a public hearing 15 days in advance, and information must be made available immediately after the ordering of a hearing via the web or other forms of posting.

Possibilities to review the once granted authorization

All participants of planning permission procedures or public hearings have the ability to review an authorization. Against planning decisions, participants can appeal a decision within the statutory period of 15 days from the day when it is delivered. The driving reason that motivates parties to challenge permits is when the project is being conducted against their will or conviction.

II. Refinancing sources/mechanisms

The developer or public authority (municipality), carries the costs arising from the construction of a permitted facility.



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There are other ways of supporting incentives for projects, and it depends on the situation. In most cases, CZE is available National program EFEKT, with public funding available for projects using LED.

III. Construction

Existing spatial/municipal plans and environmental protection are the main obstacles/risks when it comes to building new infrastructure. The timeframe set for the completion of construction is determined by the building authority and in general there is a 2 year building permit, but this can vary in accordance with different projects. Construction work must be started up to 2 years after the issuing of a building permit.

Building approval is the control mechanism that ensures there is compliance with the terms and conditions of the authorization in execution.

IV. Cost relevant aspects

There is no regulatory framework concerning investments designed in the context of urban lighting infrastructures; it mainly is dependent upon municipal budgets, with approximately 1-4% of the budget being spent towards public lighting. The payment of cost overruns linked to construction are dependent upon the project and the building contractor; if the costs are simply justified, payments are the responsibility of the municipality, and if not, they belong to the building contractor.

In general, missed deadlines have monetary impacts on responsible parties. In most cases, building contractors carry the financial risk associated with technical standards not being met. If the basis for a public contract are wrong and the building contractor follows them fully, the municipality then carries the financial risks. When a lighting facility shows technical defects during its service, especially with regard to the connection point, it depends on the exact type of technical defect, but in most cases the cost are borne solely by the building contractor.



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