



AKCIJA ZA SOCIJALNU PRAVDU



LOCAL DEVELOPMENT IN THE OVEREMPLOYMENT SHADOW



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SUMMARY

Politicization of the overall public administration in Montenegro, in central and local level represents **a major problem in the country, culminating** not only in the questionable professionalism of state and local officials, but also in **over-employment**. This directly **jeopardizes the financial sustainability**, especially **of less developed local self-governments**, whose survival depends mainly on the money they receive from the Equalization Fund, which is a legal mechanism for financial development unification of municipalities. Excessive employment is a consequence of the efforts of political structures to achieve direct political benefit in the elections through the provision of employment, i.e. by expecting support in the elections by giving a job in the administration¹.

Frequent messages come from the European Union, which supervises integration process of Montenegro as a candidate country for EU membership, **about the necessity of strong political will to provide de-politicization and optimization of public authorities**. It is also pointed out that the transparency of municipal finances and the need to spend money need to be improved. However, in practice little has been achieved and the country has been stuck in place for years, i.e. it fails to create a professional, optimal and efficient administration. **The domestic legal framework is quite solid** and guarantees the basic principles of decentralized and depoliticized local government, **but there are numerous legal deficiencies and shortcomings which give room for over-employment** and spending great budget amounts for salaries. The development of other services for meeting the needs of local population suffers due to that, such as capital investments, social and other services.

This **report targets the question of employment and budget expenditures for salaries in five local self-governments** - the Capital City **Podgorica**, as a center of the country, **Danilovgrad**, which is the seat of the author of this report, **Ulcinj** as the southernmost Montenegrin municipality, **Pljevlja**, as the northernmost Montenegrin municipality, and **Petnjica** as one of the youngest municipalities in the country.

Out of these five local self-governments, **Pljevlja, Ulcinj, Danilovgrad and Petnjica** are beneficiaries of the Equalization Fund. Also, they receive additional incomes that are usually used for capital investments, from the State Budget. This report shows that Pljevlja, Ulcinj, Danilovgrad and Petnjica, from 2017 to 2020, **generated, in average, from 19 to incredible 62 percent of the income from Equalization Fund and transfer from the State Budget**. Fiscal sustainability of these municipalities would be questionable without these funds and this is the exact financial dependence that should affect the local authorities to act rationally in spending money, especially when it comes to increasing the number of employees, which is not the case.

The **Capital City Podgorica** is not a beneficiary of the Equalization Fund and **its fiscal sustainability is significant**, which is associated with significantly higher economic acti-

¹ The leading party in Montenegro, until August 30th 2020, was Democratic Party of Socialists, which had been in power for three decades. In the parliamentary elections, on August 30th 2020, there was a change of the ruling party and its allies.

vity and the fact that it is home to a third of the country's total population. Still, **in recent years, a greater credit indebtedness of the Capital is noted.**

The report shows that **Podgorica, Pljevlja, Ulcinj, Danilovgrad and Petnjica spent, in average, in a five-year period, 16 to even 32 percent of the total budget expenditures for salaries of the employees and other personal incomes.** This is an enormous money drain and it indicates that there are no any serious shifts in management optimization. At the same time, the space for other allocations on local level is narrowing, such as capital investments, debt repayment and subventions. Further, these municipalities **enable so called "hidden employments" on the basis of temporary service contracts,** which requires additional budget money.

Local self-governments noted the increase of the employee number in local administration, but there was no increase in the total population in those municipalities. The Capital Podgorica had an average increase of employees on local administrative bodies and public services of 6.3 percent, from 2017 to 2021. Municipalities Ulcinj and Danilovgrad had an increase of over **11.6 percent**, while Petnjica had a double number of employees in administrative bodies. In general, Pljevlja achieved lower employment for the reasons of introduction of bankruptcy in one of the local companies. None of these local governments had an increase in the number of inhabitants in the observed period, which could be one of the objective circumstances for increasing the number of employees, with the aim of ensuring quality satisfaction of the needs of the local population.

The report also looks at fiscal sustainability of Petnjica through a special case study, as one of the youngest local self-governments in the country. Despite the fact that Petnjica covers a significant area and has a development potential, **it is completely dependent** on the Equalization fund money and the State Budget transfer. The Feasibility study of the establishment of this municipality predicted, at the time, that higher own incomes would be achieved and development would follow. However, that did not happen and the population number decreased.

Further, **the report also addresses the impact of the Covid 19 epidemic in five targeted local self-governments.** The Capital City Podgorica, Danilovgrad, Pljevlja and Ulcinj made decisions on helping the economy and the citizens through the epidemic, while Petnjica was the only one which did not do this. The report shows that **some of the decisions did not have a clear legal basis.** Instead, they were made ad hoc and without precise criteria on justification or justice in granting aid. That could have influenced the favoring of some economic subjects on one side, and denial of aid for those that had been in greater need for it, on the other side. Also, almost none of the decisions had been previously sent to the Agency for Protection of Competition to assess compliance with state aid law.

In the Recommendations part of this report, among other things, **the need for further improvement of the legal framework on local self-government in Montenegro is emphasized,** in order to prevent excessive and illegal employment, but only to the necessary extent, which is sufficient to meet the needs of the local population. **That is why it is necessary to clearly specify legally what is allowed and what is not allowed employment,** and to prescribe strict penalties for legal violations. It is recommended to **set limits on earnings consumption in relation to total budget expenditures,** especially for over-indebted local self-governments and those that generate the most of the income from Equalization Fund.

INTRODUCTION

This report, which focuses on employment and budget expenditures for salaries in local governments in the Capital Podgorica, Danilovgrad, Ulcinj, Pljevlja and Petnjica, has several chapters.

After the contents, there is a summary, which summarizes all the findings obtained through the analysis of public documents and data, collected through the Law on Free Access to Information. The Introduction, which explains the structure of the report in more detail, follows.

In chapter one there are international recommendations for Montenegro, when it comes to professionalization and optimization of public administration, which mostly comes from the seat of the European Union. Also, the application of the European Charter on local self-government through Montenegrin legal system is also presented.

In chapter one, a local self-government legal framework in Montenegro is analyzed and it is especially pointed out that there are deficiencies and shortcomings in legal solutions, which in practice give municipalities the opportunity for over-employment and over-spending for salaries.

Chapter two includes several subchapters. Having in mind that four out of five analyzed self-governments used the means from Equalization Fund, their fiscal dependence on the Fund is presented in the first place, with precise data on realized income on that basis for period of 2017 to 2020, as well as revenues generated from transfers from the State Budget.

Then, in Chapter two, data on budget allocations of these local self-governments for salaries and other personal incomes in the past five years are presented, followed by the part related to the growth of the number of employees in these local self-governments in the same period. The records on the growth of the number of employees included not only local government bodies, but also local public companies.

Chapter two also contains a special case study on fiscal sustainability of Petnjica municipality, as one of the youngest local self-governments in the county, with an inquiry if the decision on its founding was motivated by political or economic reasons.

Chapter three follows, which emphasizes the allocation of various benefits in five targeted local self-governments during the period of the infectious disease epidemic Covid 19. The mentioned part is called case study and it particularly emphasizes the question of the legality of the granting of those aids.

Finally, chapter four contains recommendations for improvement of the legal frame on local self-government in Montenegro, with a special focus on the need to adopt tho-

se legal solutions, which will prevent over-employment and over-spending for salaries, beyond what are real needs and justified spending.

Public sources, i.e. publicly available documentation, were used to prepare this report, while a significant part of the documentation was collected on the basis of the Law on Free Access to Information from five local self-governments and their public companies, and by central administrative bodies, to a lesser extent. Local and central authorities, as well as local public enterprises, generally provided the requested data under the Law on Free Access to Information..

1. INTERNATIONAL RECOMMENDATIONS AND LEGAL FRAMEWORK

Montenegro has laws that guarantee decentralized and depoliticized public administration, and has also ratified the European Charter of local self-government, which prohibits political interference in employment. Still, the relevant international addresses have been pointing out for years the need to depoliticize the entire public administration in Montenegro.

1.1. EC asks for de-politicization and higher finance transparency

The European Commission tells Montenegrin Government that the necessary thing for de-politicization and optimization of public authority is strong political will. Also, the transparency of municipal finances must be improved. Montenegro has accepted the European Charter of local self-government which contains a number of important principles for professional local administration.

In the reports on the progress of Montenegro, as a candidate for EU membership, the European Commission has been emphasizing for years the need for public authority de-politicization, i.e. the reduction of the number of employees, both at central and local level. In the Report on the progress of Montenegro in 2020² it is stated that the **strong political will is still necessary** for effective de-politicization of public service, optimization of the public authority and application of managerial responsibility, including delegation of making decisions³.

Also, it is emphasized in this Report that **the transparency of municipal finances and needs for spending have to improve significantly**. As one of the goals for the Montenegrin authorities in the coming period, the European Commission points out the need to adopt a new strategy for public administration reform and public financial management with realistic goals

HIGHER TRANSPARENCY OF MUNICIPAL FINANCES NEEDED

The international document **the European Charter of local self-government**⁴, which has been ratified by Montenegro, represents the most important European standard for local self-government in the states that are members of the European Council⁵. It **contains a number of principles for local self-government**, which should be applied by member states in their local systems. When it comes to **employment on local level, the principles of de-politicization, professionalization and equality have special significance**.

2 Document: "Izveštaj Evropske komisije o napretku Crne Gore za 2020. godinu", link: <https://www.eu.me/dokumenti-pregovori-o-pristupanju/#1583-1605-godisnji-izvestaji-evropske-komisije-o-napretku-crne-gore>

3 Document "Izveštaj Evropske komisije o napretku Crne Gore za 2020. godinu" has been the last one in the time of working on this publication.

4 European Charter for Local Self-Government, ETC 122, 15th Oct.1985, Strasbourg, Council of Europe.

5 Montenegro is a member of the European Council, the oldest pan-European organization.

The principle of de-politicization is the prohibition of political interference in the way of employment, decision making, adoption of administrative acts, as well as other spheres of local self-government functioning⁶. The key way to create an efficient and citizen-friendly local self-government is to respect the principle of de-politicization. The principle of professionalization is primarily seen in the impossibility of political influence on the work of local government bodies and public services, and also implies efficient, economical and effective work of local bodies, which leads to the employment of capable and competent staff. Finally, the principle of equality is explained as equality of citizens in employment in local bodies and equal access to services for all citizens, but it is also observed through equal financial development of all local communities in one country.



When it comes to the financial aspect of the local self-government, the European Charter on local self-government does not define a particular principle on local self-governments' independence. Nevertheless, it should be noted that **the principle of subsidiarity**, which is issued by the European Charter, **partly implies normative, executive, budgetary and other sovereignty of local self-government in relation to the central government**, as well as the possibility of decision making without previous consent of the state administration bodies⁷.

In addition, **a special article of the European Charter⁸ regulates the sources of financing** of local self-governments, which guarantee that, in accordance with the economic policy of the country, **they have the right to their own sources of financing and free disposal of them**.

Also, the European Charter of Local Self-Government stipulates that, in order to protect financially weaker local authorities, **methods of financial equalization between local self-governments are needed**, but that they cannot restrict the rights of local authorities, which they have within their competences. Local authorities must also be consulted on the methods for their sources of funding. Finally, in order to be able to take loans for capital investments, local governments **need to have access to the national capital market**.⁹

6 Textbook "Sistem lokalne samouprave" prof. dr. Đorđije Blažić, Faculty of Administrative and European Studies, 2011 edition, pages 111, 112.

7 Textbook „Sistem lokalne samouprave“ prof. dr. Đorđije Blažić, Faculty of Administrative and European Studies, 2011 edition, page 111.

8 Article 9 of the European Charter of local self- government.

9 Textbook "Sistem lokalne samouprave" prof. dr. Đorđije Blažić, Faculty of Administrative and European Studies, 2011 edition, page 116.

1.2. Domestic legal framework in the European spirit, but incomplete

The functioning of local self-governments in Montenegro is regulated by the Constitution and a number of laws, the most important of which are the Law on Local Self-Government, the Law on Budget and Fiscal Responsibility and the Law on Financing Local Self-Government.

In general, it can be assessed that the legal framework guarantees municipalities decentralization, de-politicization and their own sources of financing, with methods of financial equalization of less developed municipalities. Still, certain norms are widely set and give space to local governments to be able to significantly increase the number of employees and increase incomes expenditures.

The basic provisions of Montenegrin laws will be pointed out below, which include the key principles of the functioning of local governments, employment, sources of funding, budget control, with an assessment of their incompleteness or inaccuracy.

1.2.1. Flexible Law on Local Self-Government

The **Law on Local Self-Government**¹⁰ guarantees the key principles of functioning and work of local governments, which are provided by the European Charter of Local Self-Government. Thus, local self-government in Montenegro is based, among other things, on the principles of equality, decentralization and de-politicization. It is also prescribed that **a local official, i.e. employee, performs his/her duties politically neutral and impartially**, in accordance with the public interest, and is obliged to refrain from publicly expressing his / her political beliefs

In the performance of their duties, local self-governments are independent, and their rights may not be denied or limited by acts of state bodies, except in cases prescribed by law. They provide their own business in accordance with the capabilities, interests and needs of the local population. **Local self-governments can perform the tasks entrusted to them, which are delegated to them by the central government.** Local self-governments are accountable to the central government for the legality of the entrusted tasks

The Law on Local Self-Government prescribes **establishing local government bodies for local government affairs** (secretariats, authorities and main offices). **Professional services can be established for professional affairs, and special services** for special affairs (communal police service, protection and rescue service and other services). The protection of property and legal interests is performed by a body determined by the municipality in the statute.

Furthermore, the **Law on Local Self-Government gives municipalities the freedom to determine the number of local bodies, professional and special services**, depending on the type and complexity of work, and in a way to ensure efficient, economical and effective performance of these tasks.¹¹ **This legal definition is in accordance**

10 Law on Local Self-Government (Official Gazette of Montenegro No. 02/18, 34/19 i 38/20).

11 Law on Local Self-Government, Article 70: "The internal organization and systematization of bodies and services shall be determined depending on the scope, type and complexity of work and the manner in which their efficient, economical and effective performance is ensured. Criteria for organization and systematization referred to in paragraph 1 of this Article shall be determined by the mayor, if they are not prescribed by a special law."

with the principle of decentralization, but it **remains incomplete, because no additional criteria, guidelines, principles, etc.** have been established, which would more precisely define the types and complexity of work, especially in relation to the population in a particular local government and specific needs of the population, as well as the characteristics of individual municipalities.

LOCAL GOVERNMENT BODIES		
Sort	Name	Work description
Local government bodies	Secretariat Management Main office	Local government affairs
Professional services	Undefined	Professional and other affairs
Special services	Communal police service Protection and Rescue Service Other services	Specific jobs

Table 1: Forms of organizing local government; source: Law on Local Self-Government

Regarding the above, it is necessary to point out that **the legal norm on establishment of professional services is optional and it is legally set rather broadly.** In other words, it gives the possibility to the municipalities to establish a greater number of professional services than actually needed, which directly affects the increase in the number of employees at the local level.

PUBLIC SERVICES	
Sort	Basis of establishment
Institutions Companies Others forms of organization	Performing activities is an irreplaceable living and working condition of the local population

Table 2: Public services forms; source: Law on Local Self-Government

Furthermore, besides the local government body, professional and special services, **municipalities can also establish public services.** The Law on Local Self-Government provides that, in order to provide public services, municipalities may **establish institutions, companies and other forms** of organization (public services). As stated, public services can be established if the performance of the activity is an irreplaceable living and working condition of the local population, and the satisfaction of the needs of the citizens cannot be provided in a quality and economical way by private initiative or in any other way. Therefore, **optional basis** is also prescribed here, and it **gives municipalities the opportunity to establish a larger number of public services than is actually needed,** which increases the number of employees.

1.2.2. Incompleteness of the Law on Budget and Fiscal Responsibility

Law on Budget and Fiscal Responsibility¹² is an organic law in the country which regulates issues of planning and execution of budget, fiscal responsibility, loans and guarantees for the central level, as well as the units of local self-governments.

This organic law **prescribes in a general way that the expenses of the budget must be in balance with receipts**. However, when it comes to individual budget expenditures, including especially those for salaries and other personal incomes, the Law **does not contain any restrictions on the percentage of expenditures for salaries and other personal incomes in relation to total expenditures**¹³. On the other hand, the organic budget law contains a fiscal rule for local government bodies, which stipulates that **the municipal budget deficit in a given year cannot exceed 10 percent of its revenues in that year**. Still, the Ministry of Finance can, exceptionally, approve exceeding the budget deficit above this limit.

1.2.2.1. The budget inspector controls spending

According to the Law on Budget and Fiscal Responsibility, **the budget inspector of the Ministry of Finance controls the legality and intended use of the budgetary resources of the municipalities**. The supervision covers the control of accounting, financial and other business documents.

In Croatia, that kind of control can be run based on the request of the competent central and local authorities, but also based on **the petitions of the citizens**¹⁴, Montenegrin law, nevertheless, does not define a more precise initiation of the procedure for checking the control of the spending of budget funds.

It will also be stated here that **in Croatia the organic budget law prescribes the principle of sound financial management for using budget resources** which must be managed in accordance with the principles of economy, efficiency and effectiveness. This kind of principle does not exist in Montenegrin Law on Budget and Fiscal Responsibility.

In addition, a special law **in Croatia, Law on Fiscal Responsibility**¹⁵ **prescribes the obligation of managers to submit an annual statement of fiscal responsibility**. The statement commits them to the legal, purposeful and purposeful use of budget funds, as well as the efficient and effective functioning of internal controls related to budget spending.

12 Law on Budget and Fiscal Responsibility (Official Gazette of Montenegro No. 20/14, 56/14, 70/17, 04/18, 55/18, 66/19, 70/21).

13 Law on Budget and Fiscal Responsibility, Article 6: "Expenditures include: 1) current expenses for: gross salaries and contributions at the expense of the employer, other personal income, expenses for materials and services, current maintenance, interest, rent, subsidies and other expenses; 2) transfers for social protection; 3) transfers to institutions, individuals, non-governmental and public sector; 4) capital expenditures for procurement and investment maintenance of financial and non-financial assets; 5) given loans and credits; 6) repayment of debts, guarantees and liabilities from previous years; 7) other payments, in accordance with the law."

14 Budget Law, Croatia; link: <https://www.zakon.hr/z/283/Zakon-o-prora%C4%8Dunu>

15 Law on Fiscal Responsibility, Croatia; link: <https://www.zakon.hr/z/425/Zakon-o-fiskalnoj-odgovornosti>

Before the budget is adopted, the municipality has to get the Ministry of finance opinion to the proposed level and structure of spending, income policy, capital expenditures, sources of funding, and the level of budget surplus or deficit. If the Ministry of finance opinion is negative, the municipal assembly cannot adopt the budget.

This norm can be assessed as **a significant influence (and type of control mechanism) of the central government on local self-governments in budget adoption**. However, when it comes to the **final budget account, the municipality submits it only for inspection to the Ministry of Finance**, which can be interpreted as a much weaker control mechanism in the realized budget phase, as opposed to the budget adoption phase.

Also, municipalities **can take long-term loans and provide guarantees with the prior consent of the central government**. This also applies to companies and legal entities majority owned by local self-government.

1.2.3. Local self-governments without restrictions on employee growth

The Montenegrin **Law on Financing of Local Self-Government**¹⁶ prescribes, in more detail, the sources of financing of municipalities, budget control and **the manner of financial equalizing of municipalities**, which is achieved **through the Equalization Fund**. That Fund collects funds from part of taxes and concession fees, and right to that money have municipalities, whose development index is below 100 percent of the average value of the development of municipalities in the country. The money is divided between the municipalities according to specially determined criteria, which are legally defined.

Furthermore, the Law on financing local self-governments defines more fully the procedure for the adoption of municipal budgets, execution and its control, while part of the provisions relate to borrowing by local self-governments. In that sense, it will be mentioned that that **municipalities can borrow so that the total repayment of principal and interest** on an annual basis, payments under leasing contracts and other obligations, which have the character of debt, **may not exceed 10 percent of current revenues generated in the previous year**. Above this level, a municipality may borrow only for financing capital expenditures of strategic importance for the municipality, i.e. the country, with previous consent by the Government of Montenegro.

DEBT REPAYMENT – TO 10% OF THE CURRENT INCOME

The above mentioned limitation is present only in the Law on Local Self-Government, even though the most part of Montenegrin municipalities is over debt and with a chronic liquidity problem, thus directly being depended of Equalization fund. **The Law on Local Self-Government does not contain any other limitation and prescribed upper limits for budget expenditures, such as expenditures for earnings and other personal income**. Accordingly, the municipalities can increase these expenses without restrictions, i.e. increase the number of employees at local level.

16 Law on Local Self-Government Financing (Official Gazette of Montenegro No. 03/19).

2. FISCALLY DEPENDENT AND LESS POPULATION, BUT RISE OF EMPLOYEES

According to the Law on Financing of Local Self-Government, a municipality is financed from its own incomes, legally assigned revenues, Equalization fund and the State Budget. However, **there are not any additional criteria or parameters** that would determine in more detail how much **a municipality has to provide from own source revenues**, and how much from other revenues.

Municipalities **Pijevlja, Ulcinj, Danilovgrad and Petnjica** are dependent to a great extent from the means they get from the Equalization Fund and the State Montenegro Budget. In the past few years, dependence has ranged from one-fifth to two-thirds of the total revenues of the mentioned local self-governments. Such dependence should influence local government officials to be rational in spending money and not to unnecessarily increase the number of employees. Further, **for several years now, the central government**¹⁷, through a strategic document on public administration, called the Public Administration Reform Strategy, **has been asking local authorities to reduce the number of employees in local administrations by at least 10 percent.**

However, local authorities do not meet these central government requirements, and it refers five targeted municipalities in this report. Namely, **in the past five years, all five local self-governments spent** on average **16 to as much as 32 percent of total budget expenditures on salaries of employees and other personal incomes**, which is a clear signal that there are no serious changes in optimizing the administration at the local level. **There are also so-called “hidden employments”**, which essentially represent the abuse of employment at the local level, and which are mostly realized through the conclusion of temporary service contracts. In relation to such cases of employment, very often, there are no significant controls and checks from the central level.

None of the analyzed local governments in the past five years **has had an increase in the population** in the territory of their municipalities, which is shown by populations estimates on annual levels, which is done by the state institution in charge of statistics. **Despite that**, in the capital Podgorica, Danilovgrad, Ulcinj and Petnjica, **the number of employees** in local bodies and local public companies **has increased** from 6.3 percent to over 11.6 percent on average in recent years. **Only Pijevlja shows a smaller number of employees**, but it was mostly influenced by the fact that a large local company went bankrupt, so the big question is whether there would really have been a reduction in the number of employees if it had not happened.

The degree of **fiscal dependence** on the central level is a very illustrative example of **Petnjica**, which is one of the youngest local self-governments in the country. That local self-government **realizes over 60 percent** of the total of realized revenues **from the Equalization Fund and transfers from the State Budget**. Feasibility Study for the

¹⁷ More information on the link of the Ministry of Public Administration, Digital Society and Media: <https://www.gov.me/clanak/vodic-kroz-reformu-javne-uprave>

Establishment of the municipality of Petnjica projected that, in the first years of acquiring the status of local self-government, higher own revenues will be realized and development will take place. That did not happen. On the contrary the fiscal dependence of that local self-government only deepened.

2.1. Great dependence of the Equalization Fund

The income from the Equalization Fund and transfer from the State Budget for the four local self-governments: Pljevlja, Ulcinj, Danilovgrad and Petnjica, in four-year period (from 2017 to 2020) in average was between 19 to incredible 62% in total revenues.

This indicates the huge financial dependence of these local governments on funds from the Equalization fund and transfer from the State Budget. The Equalization fund is a model for helping the less developed municipalities and for their financial development equalization.

It can be assessed that the fiscal sustainability of these municipalities would be called into question without these resources from the Equalization fund and transfer from the State Budget. Exactly such financial dependence should influence the holders of local authorities to be rational in spending money, especially not to increase the number of employees unnecessarily, which is not the case in practice.

At the same time, the capital, Podgorica, is not a beneficiary of funds from the Equalization Fund and its fiscal sustainability is significant, which is associated with significantly higher economic activity and the fact that it is home to a third of the total population in the country. However, in recent years, there has been a higher credit indebtedness of the Capital.

2.1.1. Petnjica completely dependent

From 2017 till the end of 2020, Petnjica municipality had an average income of about 62 percent from the Equalization Fund and transfers from the State Budget in total revenues¹⁸, while Ulcinj municipality had an average of about 20 percent of revenue.

Analysis of data from audit reports of **Petnjica** municipality¹⁹ shows enormous financial dependence of this municipality from the funds that it **gets from the Equalization fund and transfer** from the State Budget. This percent goes, **in average, 62%** in the period from 2017 till the end of 2020, which is presented in the table below.

¹⁸ Total revenues are all revenues achieved by a local self-government during a year. These revenues include obtained revenues from: taxes, fees, surcharges (for example, collected fines, interests etc.), donations, transfers (from the Budget of Montenegro or Equalization Fund), loans, as well as the funds transferred from the previous year.

¹⁹ Independent audit's report for the final statement of accounts proposal of Petnjica municipality for 2017, 2018, 2019 and 2020, which Action for Social Justice got on the basis of the Law on Free Access to Information (the number of the municipality Petnjica's answer is 04-UP/019/21-235/2, from July 16th 2021).

PETNJICA MUNICIPALITY					
Year	2020	2019	2018	2017	Total
Equalization fund and transfer/Budget	1.186.141	1.230.110	921.808	864.320	4.202.379
Total revenues	1.823.030	1.838.401	1.672.220	1.429.548	6.763.199
Percentage	65 %	67%	55 %	60,5 %	62 %

Table 3: Incomes from the Equalization fund and transfer in relation to the total revenues; source: independent audit's reports.

Danilovgrad municipality is also greatly dependent in its fiscal sustainability on the funds that gets from the Equalization fund and transfer from the State Budget. This local self-government **provided**, in a four-year period, **about a third from these sources**. That is, in average, this percent was around 34% of the total revenue²⁰. The following table presents these incomes in relation to total revenue.

DANILOVGRAD MUNICIPALITY					
Year	2020	2019	2018	2017	Total
Equalization fund and transfer/Budget	2.129.401	1.968.001	2.096.292	1.961.746	8.155.440
Total revenues	5.575.633	7.159.860	5.955.837	5.208.275	23.899.605
Percentage	38 %	27,5%	35 %	37,6 %	34 %

Table 4: Incomes from the Equalization fund and transfer in relation to the total revenues; source: independent audit's reports.

When it comes to **Pljevlja** municipality, **it had in average 25% income from the Equalization fund and transfer from the State Budget** in relation to all incomes made in the period from 2017 till the end of 2020²¹. It means that this local self- government is very dependent of the money that it got form the Fund, which was established for the purpose of helping undeveloped local self-governments and of the additional transfer from the State Budget.

The following table, based on the audit's reports on financial reports of the Pljevlja municipality, shows the relation of total revenue of the municipality and funds got from the Equalization Fund and transfers.

20 Independent audit's report for the final statement of accounts proposal of Danilovgrad municipality for 2017, 2018, 2019 and 2020, which Action for Social Justice got on the basis of the Law on Free Access to Information (the number of the Danilovgrad municipality's answer is 05-037/21-up-29/2, from July 21st 2021).

21 Independent audit's report for the final statement of accounts proposal of Pljevlja municipality for 2017, 2018, 2019 and 2020, which Action for Social Justice got on the basis of the Law on Free Access to Information (the number of the Pljevlja municipality 's answer is UPI-04-037/21-34/2, from July 30th 2021).

PLJEVLJA MUNICIPALITY					
Year	2020	2019	2018	2017	Total
Equalization fund and transfer/Budget	3.131.045	3.275.936	3.857.089	3.812.440	14.076.510
Total revenues	16.209.655	13.462.919	13.351.249	12.625.777	55.649.600
Percentage	19 %	24 %	29 %	30 %	25 %

Table 5: Incomes from the Equalization fund and transfer in relation to the total revenues; source: independent audit's reports.

Ulcinj municipality made 19%, a fifth of total revenue in average, from the the Equalization fund and transfer from the State Budget in the four-year period²². Below is the table with data in detail, by year.

ULCINJ MUNICIPALITY					
Year	2020	2019	2018	2017	Total
Equalization fund and transfer/Budget	2.433.679	2.420.158	727.307	1.241.119	6.822.263
Total revenues	8.368.712	13.248.667	7.007.408	7.000.063	35.624.850
Percentage	29 %	18 %	10 %	17,7 %	19 %

Table 6: Incomes from the Equalization fund and transfer in relation to the total revenues; source: independent audit's reports.

2.1.2. The Capital increases its indebtedness

As a center of the state of Montenegro with the seat of state administration and around a third of the country's population, the capital Podgorica generates significant incomes and it is the most developed local self-government, so it does not use the funds from the Equalization fund.

The capital Podgorica had total annual revenue of around 53.3 million euros in 2017, and at the end of 2020 the total revenue was 72.5 million euros²³.

In 2017, the capital Podgorica did not have any loans. In 2018, the loans were 3 million euros, and the following year they doubled, i.e. 6 million euros. At the end of 2020, the loans were almost 10 million euros.

22 Independent audit's report for the final statement of accounts proposal of Ulcinj municipality for 2017, 2018, 2019 and 2020, which Action for Social Justice got on the basis of the Law on Free Access to Information (the number of the Ulcinj municipality's answer is 04-037/21-269/1, from September 1st 2021).

23 Independent audit's report for the final statement of accounts proposal of the Capital Podgorica for 2017, 2018, 2019 and 2020, which is available at the following link: <https://podgorica.me/sekretarijat-za-finansije-budzet/>

At the same time the **amounts for donations and transfers were increasing**. In 2017 they were less than 200 thousand euros, a year later, 600 thousand euros, in 2019 they were a bit more than 800 thousand euros and **at the end of 2020, they were 3.6 million euros**.

If we compare **the income on the basis of loans and donations and transfers** with total revenue of the capital Podgorica in the four-year period, it follows that **they made 0.3 percent of total revenue in 2017, and at the end of 2020, they were 18.6 percent**. The following chart presents the increase of the loans and donations and transfers from 2017 to 2020 in total revenue.

The following chart presents the increase of the loans and donations and transfers from 2017 to 2020 in total revenue.

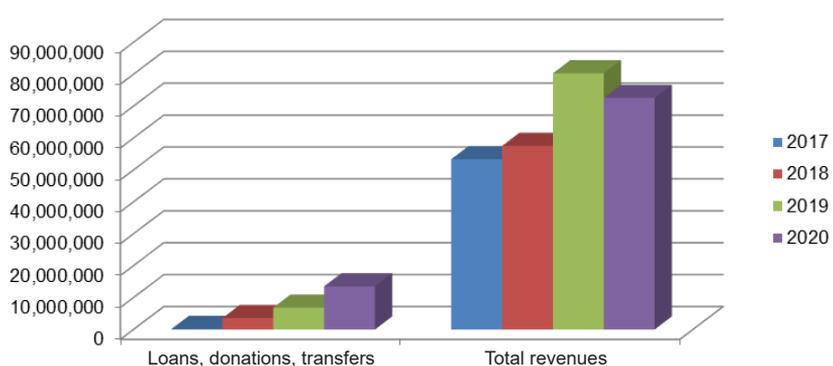


Chart 1: Relation between loans, donations and transfers with total revenues of the Capital; source: independent audit's reports.

2.2. A fifth of budget expenses for salaries

Five local self-governments: Podgorica, Pljevlja, Ulcinj, Danilovgrad and Petnjica spent on average, in the five-year period, for salaries of employees and other personal incomes, from 16 to even 32 percent of the total budget expenses.

This is a huge outflow of money and it indicates that there are no serious shifts in the optimization of management, while at the same time, the space for other allocations at the local level such as capital investments, debt repayments or subsidies, is reducing.

In addition, based on the conclusion of employment contracts, these municipalities provide so-called “hidden employment”, for which they allocate additional money from the budget.

2.2.1. Danilovgrad is leading, other municipalities are not lagging behind

Among five analyzed local self-governments, during the period from 2016 to 2020, municipality Danilovgrad had the highest average gross payout and other personal incomes in relation to total budget expenses. However, the other four municipalities have a huge share of gross earnings²⁴ and other personal income²⁵ in total expenses.

24 Gross earnings include net earnings and related taxes and contributions on employee earnings.

25 Other personal income includes various expenses, such as fees to councilors, severance pay, jubilee awards, other benefits

In the five - year period, municipality Danilovgrad set aside 8.6 million euros²⁶ for gross earnings and other personal income. In the analyzed period, this local self-government had total budget expenses of over 26.4 million euros, which means that it allocated an average of **over 32 percent of total budget expenses for salaries.**

Observed by years in the analyzed period, municipality Danilovgrad had the cost of salaries and other personal income below 30 percent of total budget expenses, **only in 2019. In other years, that percentage was always over 30 percent.** The table below shows, by year, the ratio of expenses for salaries and other personal income in relation to the total budget expenses for the five-year period.

DANILOVGRAD MUNICIPALITY						
Year	2020	2019	2018	2017	2016	Total
Gross earnings and personal income	1.721.473	1.790.178	1.821.633	1.680.497	1.621.655	8.635.436
Total revenues	5.435.021	6.316.692	5.277.258	4.734.095	4.678.696	26.441.762
Percentage	31,6 %	28,3 %	34,5 %	35,4 %	34,6 %	32,6 %

Table 7: Display of paid salaries in relation to total expenditures; source: independent auditor's reports

In a five-year period, **Petnjica Municipality** spent close to 1.7 million euros **on gross salaries and other personal income, which is over 26 per cent of total budget expenses** that were over 6.3 million euros²⁷. In 2016, this municipality had a salary cost of 33 percent of expenses, only to drop that ratio below 30 percent in the following years. The table below shows what it looked like in the period from 2016 to 2020.

PETNJICA MUNICIPALITY						
Year	2020	2019	2018	2017	2016	Ukupno
Gross earnings and personal income	413.900	388.779	349.753	304.944	213.461	1.670.837
Total revenues	1.587.813	1.553.100	1.518.756	1.065.275	630.169	6.355.113
Percentage	26 %	25 %	23 %	28,6 %	33,8 %	26,2 %

Table 8: Display of paid salaries in relation to total expenditures; source: independent auditor's reports

26 Independent auditor's reports on draft budget accounts of Danilovgrad municipality for 2017, 2018, 2019 and 2020, which Action For Social Justice got on the basis of Law on Free Access to Information (the number of the municipality Danilovgrad's reply is 05-037/21-up-29/2, July 21st 2021.).

27 Independent auditor's reports on draft budget accounts of Petnjica municipality for 2017, 2018, 2019 and 2020, which Action For Social Justice got on the basis of Law on Free Access to Information (the number of the municipality Petnjica's reply is 04-UP/019/21-235/2, July 16th 2021.).

The capital Podgorica, with an average consumption of 17.6 percent for gross earnings and other personal income in relation to total expenses, comes after Danilovgrad and Petnjica. In five-year-period, the capital set aside 54.2 million euros, out of 308 million euros, which is the sum of its total budget expenses²⁸.

In 2020, the capital Podgorica lowered the ratio of spending on gross earnings and other personal income to total expenses to less than 14 percent, but this can be directly related to the realization of a strategic capital wastewater project, which significantly affected the increase in the amount allocated for capital investments. In this regard, it should be noted that in 2016, the capital spent almost 10 million euros for gross earnings and other personal income, and in 2020, for the same purpose, it set aside 11.2 million euros. On the other hand, the total budget expenditure of the capital was EUR 51 million in 2016, and 81million euros in 2020, largely thanks to the wastewater project.

The table with comparative data for the capital Podgorica in five-year period is below.

THE CAPITAL PODGORICA						
Year	2020	2019	2018	2017	2016	Total
Gross earnings and personal income	11.252.177	11.451.750	11.008.999	10.589.891	9.948.598	54.251.415
Total revenues	81.391.526	63.981.123	56.226.959	55.557.973	51.024.325	308.181.906
Percentage	13,8 %	18 %	19,5 %	19 %	19,5 %	17,6 %

Table 9: Display of paid salaries in relation to total expenditures; source: independent auditor's reports

Average spending on gross earnings and other personal income of Ulcinj municipality in relation to its total budget expenditures, in the analyzed period of five years, is 16 percent. The data from audit reports²⁹ show that from 2016 to 2020, this local self-government allocated 7.2 million euros for salaries and additional income out of 44.8 million total expenditures.

Analysis of consumption data shows that in 2019, Ulcinj municipality had 11% of expenditures for salaries and personal income according to total expenditures. However, it was mostly influenced by the fact that in that year, the municipality had huge expenses for the repayment of previous obligations.

Also, it should be noted that Ulcinj municipality did not pay taxes and contributions for salaries in the period from May 2017 to December 2020, and those obligations on that basis were close to 4 million euros. The following table will show specific data for the southernmost municipality in Montenegro.

28 Independent auditor's reports for the proposals of the final account of the budget of the Capital of Podgorica for 2017, 2018, 2019 and 2020, which are publicly available at the link: <https://podgorica.me/sekretarijat-za-finansije-budzet/>

29 Independent auditor's reports on the proposals of the final account of the budget of the Municipality of Ulcinj for 2017, 2018, 2019 and 2020, which the Action for Social Justice received on the basis of the Law on Free Access to Information (number of responses of the Municipality of Ulcinj 04-037 / 21-269 / 1 from September 1st,2021).

ULCINJ MUNICIPALITY						
Year	2020	2019	2018	2017	2016	Total
Gross earnings and personal income	1.625.047	1.437.222	1.392.440	1.217.036	1.539.637	7.211.382
Total revenues	8.368.713	13.038.703	6.859.550	7.000.063	9.608.975	44.876.004
Percentage	19,4 %	11 %	20 %	17,3 %	16 %	16 %

Table 10: Display of paid salaries in relation to total expenditures; source: independent auditor's reports

Pljevlja municipality, like Ulcinj, had 16 percent of the average spending on gross earnings and other personal income in relation to the total gross expenses in the five-year period³⁰. In this period, the northernmost municipality in Montenegro set aside 9.6 million euros for salaries and additional income, while her total budget spending was 60.5 million euros.

It should be emphasized here that at the end of 2020, Pljevlja municipality had obligations for gross salaries and other personal income in the amount of 1.2 million euros. The following is a table with comparative data for Pljevlja municipality in the target period.

PLJEVLJA MUNICIPALITY						
Godina	2020	2019	2018	2017	2016	Total
Gross earnings and personal income	2.039.060	2.088.458	1.797.634	1.896.256	1.864.568	9.685.976
Total revenues	12.433.250	12.866.343	12.890.317	11.987.037	10.377.533	60.554.480
Percentage	16,4 %	16,2 %	14 %	15,8 %	17,9 %	16 %

Table 11: Display of paid salaries in relation to total expenses; source: independent auditor's reports

From all the previous data, it can be seen that from 2016 to 2020, **five local self-governments increased annual expenditures for gross wages and other personal income** by over 5 percent (Danilovgrad i Ulcinj), more than eight percent (Pljevlja), over 11 percent (the capital Podgorica), to as far as 48 percent (Petnjica).

This is exactly **one of the indicators that not much has been achieved in optimization in these five municipalities**, although it is one of the conditions for their better financial sustainability. This is also due to the fact that four municipalities (except the capital Podgorica) are beneficiaries of the Equalization Fund, as less developed municipalities, they are also very indebted with questionable financial stability. It should also be emphasized that the absence of any legal or by-law restrictions, or the existence of criteria and/or guidelines on how much of the total budget expenditures can be allocated to salaries, has contributed to local governments continuing to allocate significant funds for these purposes. This led to an increase in the number of employees instead of a decrease.

30 Independent auditor's reports on the proposals of the final account of the budget of the Municipality of Pljevlja for 2017, 2018, 2019 and 2020, which the Action for Social Justice received on the basis of the Law on Free Access to Information (number of responses of the Municipality of Pljevlja UPI-04- 037 / 21-34 / 2 from 30 July 2021).

2.2.2. For capital investments from six to 40 percent of expenditures

In the five-year period, five local self-governments spent an average of six percent to 40 percent of capital investment expenditures in relation to total budget allocations. Ulcinj singled out the least - six percent, and the most - close to 40 percent – the capital Podgorica.

However, in the last two years, the capital has been implementing a strategic capital wastewater project, worth 50 million euros at this stage, so this has directly affected the percentage increase in capital investment in total budget expenditures.

Of the five local self-governments analyzed, **Ulcinj municipality** had the lowest capital investment expenditures. Namely, in the five-year period, the southernmost municipality in Montenegro **allocated only 2.7 million euros out of 44.8 million of total expenditures**, or 6 percent, for capital investments. When the expenditures for capital investments are compared with the allocations for salaries, whose average is 16 percent, it follows that Ulcinj municipality allocated almost three times more for earnings than capital investments.

Pljevlja allocated less than 11.5 million euros for capital investments in relation to 60.5 million euros of total expenses, **which is about 19 percent**. Bearing in mind that this local self-government set aside 16 percent of the total expenditures for gross salaries and other personal income in the five-year period, it can be concluded that the spending of the capital budget is slightly higher than the allocations for salaries.

While the **Danilovgrad municipality** spent 32 percent of the total expenses for gross salaries and additional personal incomes in the five-year period, it **allocated** significantly less for capital **investments**, i.e. **21.6 percent of the total expenses**. Thus, in the period from 2016 to 2020, **it spent 5.7 million euros** out of 26.4 million euros for capital investments, which was the amount of its total budget expenditures in that period.

When it comes to **Petnjica** municipality, **it spent 1.9 million euros** out of 6.3 million euros of total budget expenditures **for capital investments**, which represents 30 percent. That municipality set aside 26,2 % of the total budget expenditures for salaries in the same period.

Finally, **the Capital's share of capital investment** in total budget expenditures for the past five years **is about 40 percent**. During this period, the capital Podgorica spent 122.1

MUNICIPALITY	TOTAL EXPENDITURE 2016-2020	CAPITAL EXPENSES 2016-2020	PERCENTAGE
The capital Podgorica	308.181.906	122.146.525	39,6 %
Petnjica	6.355.113	1.902.946	30 %
Danilovgrad	26.441.762	5.727.161	21,6 %
Pljevlja	60.554.480	11.489.069	18,9 %
Ulcinj	44.876.004	2.725.009	6 %

Table 12: Overview of the realization of capital expenditures in five municipalities;
source: independent auditor's reports

million euros on capital investments, while total budget expenditures were 308 million euros. The share for salaries was 18% of the total budget expenditures

However, it should be emphasized that in the past two years, **the capital is implementing a strategic capital project of wastewater**, worth 50 million euros, which **directly affected the increase** of the allocated amount for capital investments.

2.2.3. Through temporary service contracts to “hidden employment”

Data from audit reports on the spending of five local governments show that they spend part of the budget money on concluding employment contracts, often for jobs that relate to the regular activities of local authorities. This indicates that it is essentially about “hidden employments”, and the money is allocated to the budget position called “other expenses”.

Temporary service contracts are concluded for short-term work, which does not belong to the regular activities of the state or local body, while employment at the local level implies the implementation of the procedure of advertising and reception, which is prescribed by the Law on Local Self-Government.

In four years, ie from 2017 to 2020, **the capital Podgorica spent over 2.2 million euros on temporary service contracts**. Observed individually by years, in 2017 it allocated 505 thousand euros, a year later 533 thousand, in 2019 about 578 thousand euros, and in 2020 it spent over 589 thousand euros on temporary service contracts. These data indicate an increasing trend in expenditure on temporary service contracts in the Capital.

Since 2018, **Pljevlja municipality** has been showing expenses for temporary service contracts, so **in three years**, i.e. until the end of 2020, **it has allocated over 463 thousand euros** for these purposes. It will be noted here that the independent auditor’s report for 2019 states that the largest number of transactions concluded under temporary service contracts relate to the regular activities of administrative bodies. Furthermore, the report of the independent auditor for 2020 specifies that **according to the temporary service contracts in Pljevlja municipality, the average number of employees is 42 to 49 on a monthly basis**.

From 2016 to the end of 2020, **Petnjica municipality spent a total of over 60 thousand euros** on employment contracts, while limited data for **Danilovgrad municipality** show that it spent about 38 thousand euros for these purposes **in 2018 and 2020**. In other years, there were payments for temporary service contracts in Danilovgrad municipality, but no precise data were presented.

Finally, limited data for **Ulcinj municipality** show that it **paid 37 thousand euros** for temporary service contracts **in 2020**. For other years, the data are not available.

2.3. Population decrease and the growth of the number of employees

The Capital city Podgorica recorded, from 2017 to 2021, an average employee growth in the local government bodies and public services of 6.3%. Ulcinj and Danilovgrad municipalities recorded an increase of over 11.6 %, while Petnjica had double increase of the employees in the administrative bodies. Pljevlja had lower employment, generally, but this was mostly due to the introduction of bankruptcy in one local company.

None of these local self-governments in the observed period did have population increase, which could be one of the objective circumstances for increasing the number of employees, in order to ensure quality satisfaction of the needs of the local population.

2.3.1. Increase in employees by over six percent in the Capital City

The Capital city Podgorica recorded, from 2017 to 2021, an employee growth in the local government bodies and public services of 6.3%. During the same period there was no increase in the population, only decrease.

At the level of local government bodies, the Capital Podgorica had, in 2017, seven secretariats³¹, one administration and one directorate³², five special services³³ and four professional services³⁴. By the end of 2020, the Capital had another secretariat³⁵ and another four professional services³⁶. At the beginning of 2017, in local government bodies of the Capital, there were 661 employees, and by the middle of 2021, 708 employees³⁷, which is an increase for 47 employees or 6.6%.

In terms of public services, in 2017, the Capital Podgorica was a founder of 13 limited liability companies³⁸ and nine public institutions³⁹, as well as Tourist organizations of Podgorica. By the end of 2020, the Capital Podgorica had another local company⁴⁰. At the beginning of 2017, in the Capital City's public services there were 2.290 employees, and at the beginning of 2021, this number was 2.443, which is an increase for 153 employees, or 6.2%⁴¹.

Overall, at the beginning of 2017 in local government bodies and public services of the Capital Podgorica there were 2.951 employees and by the end of 2021 this number was increased for 3.151 employees. This is an increase of 200 employees, i.e. 6.3%. During this period, there was no population increase in the Capital, which could be a justi-

31 Secretariat for Local Self-Government; Secretariat for Finance; Secretariat for Spatial Planning and Environmental Protection; Secretariat for Communal Affairs and Transport; Secretariat for Labor, Youth and Social Welfare; Secretariat for Culture and Dispute; Secretariat for Entrepreneurship Development.

32 Local Public Revenue Administration; Property Directorate.

33 Communal police; Communal inspection; Protection Service; Information System Center; Internal Audit Service.

34 Mayor's Office; Chief Administrator's Office; Service Manager; Joint Affairs Service.

35 The Secretariat for Communal Affairs and Transport is divided into the Secretariat for Communal Affairs and the Secretariat for Transport.

36 International Cooperation Service; Information System Center; Public Procurement Service; Public Relations Department.

37 Decision of the Secretariat for Local Self-Government based on the Law on Free Access to Information number UPI 06-037/21-296/1 from June 14th 2021.

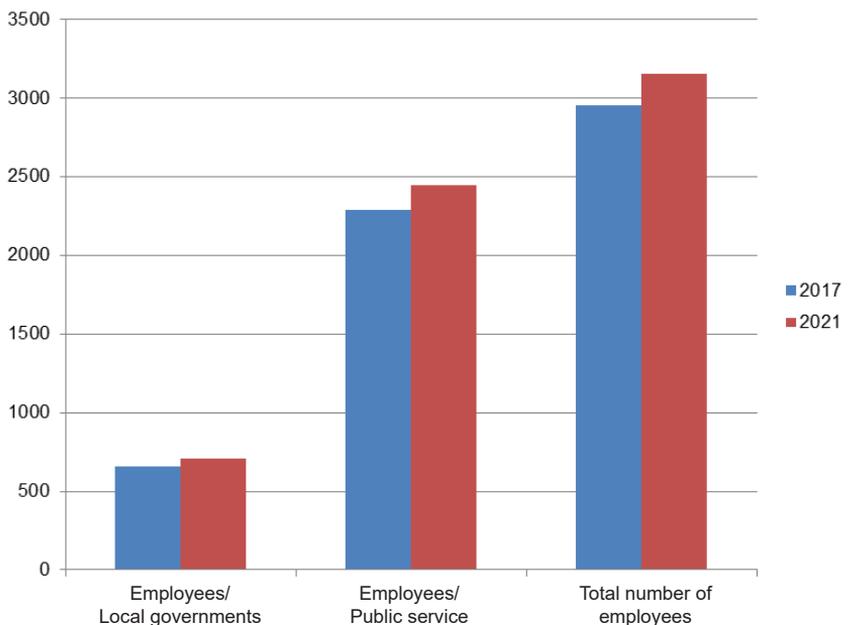
38 Construction and Development Agency; Housing agency; Parking services; Markets and markets; Roads; Landfill; Water supply and sewerage; Greenery; Funeral services; Communal services; Cleanliness; Sports objects; Regional park "Komovi".

39 Children's Alliance; Public institution for accommodation, rehabilitation and resocialization of users of psychoactive substances; Museums and art galleries; National library "Radosav Ljumović"; City theatre; Cultural Information Center "Budo Tomović"; Cultural Information Center "Zeta"; Cultural Information Center "Malesija"; Day center for children and youth with disabilities.

40 Local public broadcaster "Radio Television Podgorica".

41 Action For Social Justice got the data from the Capital Podgorica's public services on the basis of the Law on Free Access to Information (the letters numbers Action For Social Justice from 319/21 to 364/21), except for the Tourist Organization of Podgorica which did not delivered required data.

fication for increasing employment in order to meet the needs of the population. Instead, there was a decrease because Tuzi became a separate local self-government. Thus, in 2017 the population of the Capital was 197 thousand and in the middle of 2020, over 190 thousand citizens⁴².



Graph 2: Increase of the number of employees in the Capital City Podgorica 2017- 2021; source: data obtained on the basis of Law on Free Access to Information

2.3.2. Pljevlja Municipality decreased the number of employees

Pljevlja municipality decreased the number of employees in local governments and public service, from 2017 to 2020, for about 2 %, according to the partial data of the Action for Social Justice, that do not include 4 public institutions and one company.

In 2017, Pljevlja municipality had, **at the level of local government bodies**, six secretariats⁴³, two directorates⁴⁴, six special services⁴⁵ and two professional services⁴⁶. In 2020 in Pljevlja municipality there is one more secretariat⁴⁷ and one more professional service⁴⁸, and instead of the previous six special services, there were three special servi-

42 Population estimates in the Capital Podgorica, which are publicly available at the Statistical Office website; link: <https://www.monstat.org/cg/page.php?id=273&pageid=48>

43 Secretariat for General Administration; Secretariat for Finance; Secretariat for Economy; Secretariat for Spatial Planning; Secretariat for Communal Housing, Transport and Water; Secretariat for Social Activities.

44 Property Directorate; Directorate for Construction and Investments.

45 Communal police; Protection Service; Internal Audit Service; European Integration Service; Information center; Civic Bureau.

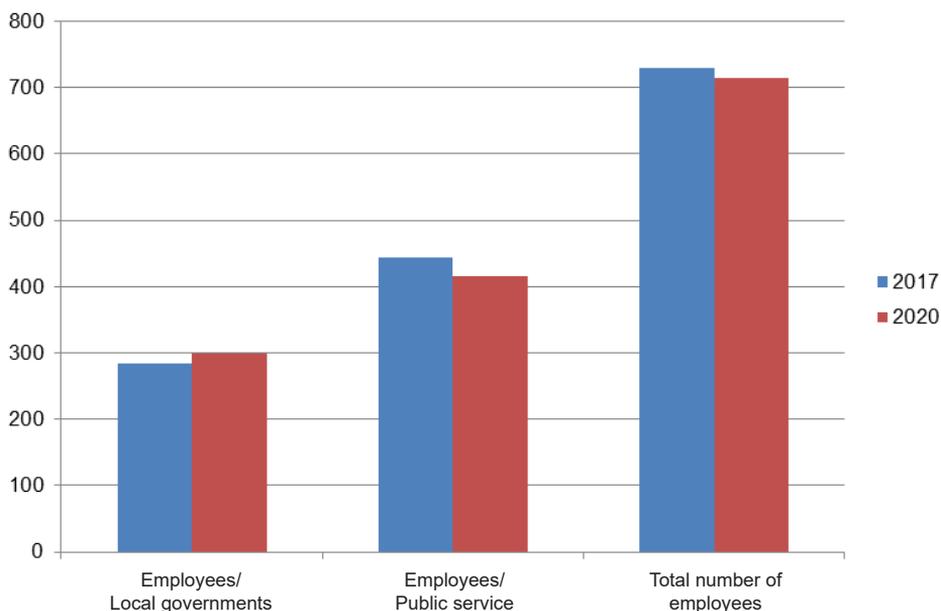
46 Cabinet of the President of the Municipality; Office of the Chief Administrator.

47 Secretariat for Inspection Affairs.

48 Service Manager.

ces⁴⁹. **At the beginning of 2017, Pljevlja municipality had 285 employees and by the end of 2020 that number was decreased to 251 employees⁵⁰. However,** it should be noted here that the auditor’s report of the Pljevlja Municipality showed that, **during 2020 it engaged up to 49 people on the basis of temporary service contract**, which is often used for so called “hidden employments”, so **we can practically talk about a larger number of employees, up to 300 employees**, which is more for 15 employees, i.e. the increase is for about 5 percent.

When it comes to **public services, Pljevlja municipality** was, in 2017, **a founder of eight limited liability companies** (Cleanliness, Heating, Local roads, Water supply, Agency for housing and business fund, Center for sports and recreation, Local public broadcaster Radio Television Pljevlja), **four public services** (National library “Stevan Samardžić”, Homeland Museum, Art gallery “Vitomir Srbljanović”, Day care center for children with disabilities and adults with disabilities) as well as **tourist organizations** of Pljevlja. That number of companies and public institutions also existed in 2020, while at the end of that year, the Center for Culture was established as a public institution.



Graph 3: Total reduction in the number of employees in Pljevlja municipality 2017-2020; source: data obtained on the basis of the Law on Free Access to Information

Partial data of the Action for Social Justice obtained on the basis of the Law on Free Access to information, because they do not include four public institutions and one company, for which no information has been submitted⁵¹, show that **at the beginning of 2017 there**

49 Communal police; Protection and Rescue Service; Internal Audit Service.

50 Decision of the Secretariat for General Administration based on the Law on Free Access to Information numberUPI-03-037/21-121/2 from July 29th 2021).

51 Action For Social Justice got the data from Pljevlja municipality public services on the basis of the Law on Free Access to Information (the letters numbers of theAction for Social Justice from 428/21 to 453/21), except for the National library osim za “Stevan Samardžić”, Homeland Museum, Art gallery “Vitomir Srbljanović”, Day care center for children with disabilities and adults with disabilities i Local Public broadcaster Radio Television Pljevlja, who did not provide data.

were 444 employees, and at the end of 2020, that number was 415, which is less for 29 employed or for over 6 %. Bankruptcy proceedings against one local company predominantly contributed to the decline in the number of employees, due to which there were fewer employees by about 30 workers⁵².

Therefore, these available data show that in the period from 2017 to 2020 **Plijevlja municipality reduced the number** of employees in local government bodies and public services from 729 employees to 715 employees, that is **14 employees**, which is a **decrease for about 2%**. In the middle of 2017, Plijevlja municipality had around 28.1 thousand citizens, in the middle of 2020, around thousand and a half less, that is, something over 26.5 thousand citizens.

2.3.3. Ulcinj increased the number of employees for 10 percent

The total number of employees in Ulcinj municipality in local administration and public services was increased in the period from 2017- 2020 for around 10 percent, even though this local self-government is in the status of reprogramming of tax liabilities and with impaired financial sustainability.

In 2017 and 2020, Ulcinj municipality had seven secretariats⁵³, in local government bodies, three special services⁵⁴, one center⁵⁵ and four professional services⁵⁶. **At the beginning of 2017**, it showed that **it had 197 employees**, while by the **end of 2020** that number was increased for 47 new employees, so that, at the end of that year **it employed 244 people**⁵⁷. That was an increase for 19.2 percent in local government bodies.

At the same time, Ulcinj municipality was, at the end of 2020, a founder of five limited liability companies Water and Sewerage, Utilities, Parking Service (founded in 2020), Local Public Broadcaster Radio Television Ulcinj and Construction and Development Agency of Ulcinj), three public institutions (Center for Culture, Public Enterprise for Breeding and Protection of Wildlife and Public Institution Daily Center for Children and Youth with Disabilities "Sirena") and tourist organizations of Ulcinj. **At the beginning of 2017, in these services there were 375 employees, and by the end of 2020 total number of the employees** was increased for 18, so there were 393 employees⁵⁸, in total, which is **an increase for 4.5 percent**.

Therefore, in local government bodies and public services of the Ulcinj Municipality there were **a total of 572 employees at the beginning of 2017 and at the end of 2020 there**

52 It is about the local company "Communal services", in which bankruptcy proceedings were initiated in 2020.

53 Secretariat for Administration and Social Activities; Secretariat for Finance and Budget; Secretariat for Spatial Planning and Sustainable Development; Secretariat for communal activities and environmental protection; Secretariat for Economy and Economic Development; Secretariat for Property Protection; Secretariat for Housing.

54 Communal Police, Protection Service; Internal Audit Service.

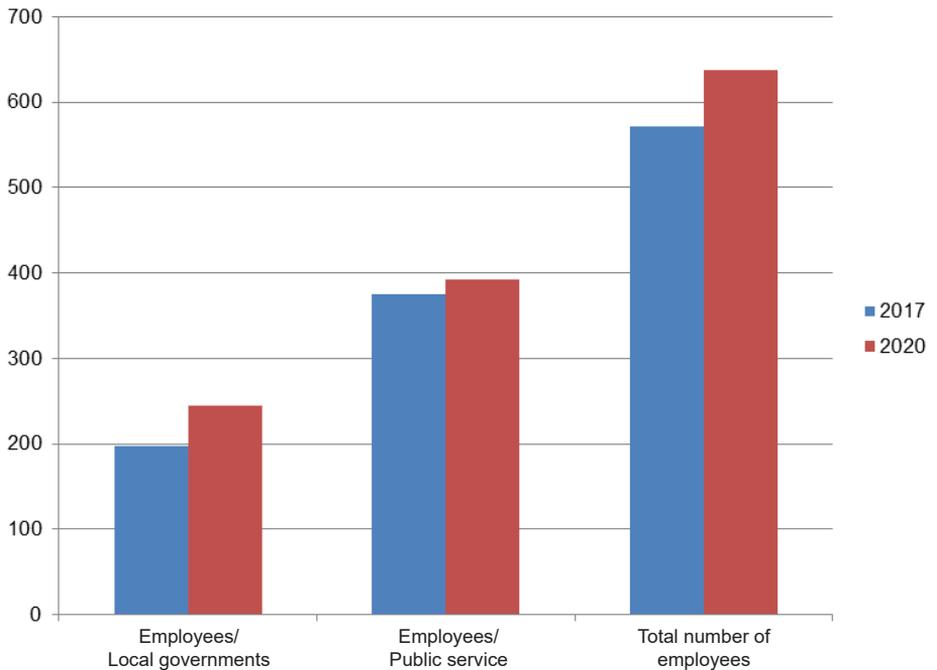
55 Information System Center.

56 Cabinet of the President of the Municipality; Office of the Chief Administrator; Joint Affairs Service; Office of the Chief City Architect.

57 Decision of the Secretariat for Administration and Social Activities based on the Law on Free Access to Information number 03-037/21-29/2 from July 29th 2021).

58 Action For Social Justice got the data from Ulcinj municipality public services on the basis of the Law on Free Access to Information (the letters numbers of the Action for Social Justice from 378/21 to 395/21), except for the Public Company for Game Breeding and Protection, which did not submit the requested data, so the information on the number of employees for that local company was used from its publicly available financial reports on the website of the Revenue and Expenditure Administration.

were **637 employees**. This means that in this period, **the number of employees increased** by 65 people, which is **about 10 percent**. The previous data show that **the largest number of employee growth** was recorded in **local government bodies**, although **there was no formation** of new bodies or services, but also **an increase in the number of inhabitants** in Ulcinj municipality, so that the growth of employees could possibly be justified by increasing the number of inhabitants, whose needs needed to be met. Namely, Ulcinj municipality had a uniform population – about 20 thousand inhabitants⁵⁹.



Graph 4: Increasing the number of employees in Ulcinj municipality 2017-2020; source: data obtained on the basis of the Law on Free Access to Information and public data

2.3.4. In Danilovgrad employee growth by 11.6 percent

The total number of employees in Danilovgrad municipality in local administration and public services was increased in the period from 2017- 2021 for 11.6 percent. This local self-government is also in the status of reprogramming of tax liabilities and with impaired financial sustainability.

In 2017, Danilovgrad municipality had four secretariats⁶⁰, three special services⁶¹ and four professional services⁶². In 2020, there were five secretariats, because one was split

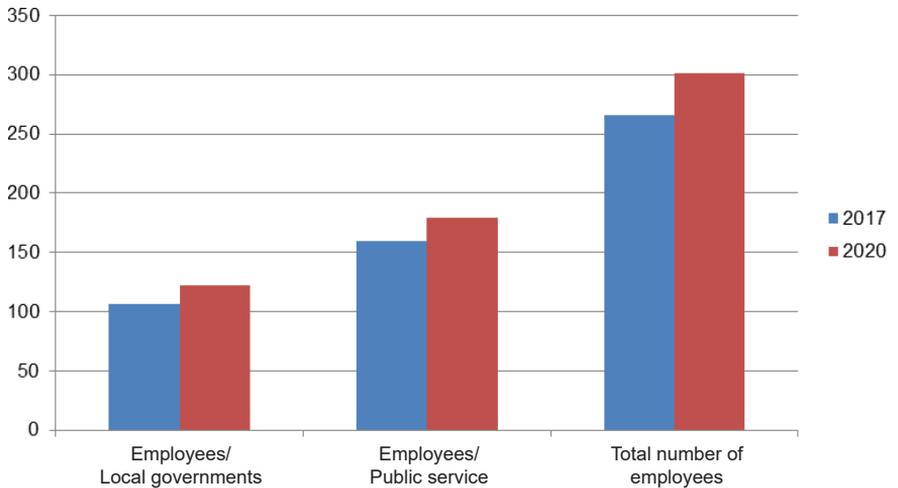
59 Population estimates in Ulcinj municipality, publicly available at the Statistical Office website; link: <https://www.monstat.org/cg/page.php?id=273&pageid=48>

60 Secretariat for Administration and Social Activities; Secretariat for Finance and Economic Development; Secretariat for Urbanism, Communal, Housing, Transport and Environmental Protection; Secretariat for Property and Investment.

61 Communal police; Protection Service; Internal Audit Service.

62 Office of the President of the Municipality; Joint Affairs and Information Technology Service; Project Management Service; Office of the Chief Administrator

in two⁶³, the same three special services were kept, while instead of four professional services their number was reduced to two professional services⁶⁴. Nevertheless, **although there was a decrease in the total number of local government bodies, an increase in the total number of employees was recorded** in this period. Namely, in 2017 there were 106 employees, while by mid-2021 there were 122 employees⁶⁵, in local administrative bodies of Danilovgrad, which is an increase **for 16 employees, or 13 percent**.



Graph 5: Increasing the number of employees in Danilovgrad municipality 2017-2020; source: data obtained on the basis of the Law on Free Access to Information and public data

At the same time, when it comes to public services, Danilovgrad municipality was a founder of four limited liability companies, in 2020, (Utilities, Water and Sewerage, Local public broadcaster Radio Danilovgrad and Society for breeding, protection and hunting of game and fish), three public institutions (Art Colony, Cultural Center and Day Care Center for Children with Developmental Disabilities and Adults with Disabilities), and it is the founder of a tourist organization in Danilovgrad. In 2017 there was not only one institution, that is Day care center for children with disabilities and adults with disabilities. **At the beginning of 2017 in public services of Danilovgrad there were at least 160 employees**, and this number **increased up to 179**, which is 19 employees more, **or over 10 percent**⁶⁶.

From the previous data, it follows that **in local government bodies and public services** of Danilovgrad municipality, **at the beginning of 2017, there were 266 employees and at the end of 2020, 301 employees**. This means that in this period the number of employees was **increased for 35 people, which is 11.6%**. Not even this local self-govern-

63 Secretariat for Spatial Planning and Environmental Protection; Secretariat for communal, housing affairs and traffic.

64 Office of the President of the Municipality and the Office of the Chief Administrator.

65 Decision of the Secretariat for Local Self-Government and Social Activities based on the Law on Free Access to Information number 04-037/21-602/1 from July 23rd 2021.

66 Action For Social Justice got the data from Danilovgrad municipality public services on the basis of the Law on Free Access to Information (the letters numbers of the Action for Social Justice from 408/21 to 423/21), except for the Public Institution Art Gallery, for which an estimate of five employees was taken, based on publicly available (albeit limited) data from the Art Colony website; link: <http://www.vajarska-kolonija.co.me/organizacija%20kolonije.html>

ment in the five-year period did record an increase in population. Instead it had an average population of about 18.300⁶⁷.

2.3.5. Petnjica doubled the number of employees in local authorities

Petnjica municipality increased the number of employees in local administrative bodies from the beginning of 2017 till the end of 2020, for even 58 percent.

When it comes to public services, in 2017 Petnjica municipality had a Secretariat for Local Government which included four departments⁶⁸ and two offices⁶⁹, two special services⁷⁰ and two professional services⁷¹. The same number of services is recorded at the end of 2020.

At the beginning of 2017 in local authorities of Petnjica, there **were 20 employees**, and **by the end of 2020**, this number was **increased to 48 employees**, which is an increase of as much as 58 percent.

When it comes to **public services**, Petnjica municipality is a founder of one institution **Center for Culture**, one limited liability company – Communal services (according to public data, at the end of 2020 there were 13 employees in this company) as well as the **Tourist organization of Petnjica**, but Action for Social Justice does not possess precise data on employees in these public services. In the last five years, an average of 5.2 thousand inhabitants lived in this local self-government⁷².

2.3.5.1. Case study: Political or economic decision about Petnjica municipality

Petnjica got a status of a local self- government in 2013⁷³ and it is one of the youngest municipalities in Montenegro. In spite of the fact that it has got a significant territorial area and the potential for development, this local self-government cannot provide the financial sustainability on its own and it depends on the means from the Equalization fund and transfer from the Budget.

2.3.5.1.1. The study on the foundation does not confirm fiscal sustainability

Feasibility Study for the establishment of the Petnjica municipality showed that this area has got territorial surface and historical tradition to become an independent local self-government, but its financial sustainability is more than questionable.

67 Population estimates in Danilovgrad municipality, publicly available at the Statistical Office website; link: <https://www.monstat.org/cg/page.php?id=273&pageid=48>

68 Department of General Administration and Social Affairs; Department of Finance and Economic Development; Department of Spatial Planning, Environmental Protection, Housing and Communal Affairs and Traffic; Department of Agriculture and Rural Development.

69 Office for Youth and Gender Equality; Office for Cooperation with the Diaspora.

70 Communal police; Protection Service.

71 Office of the Mayor; Office of the Chief Administrator.

72 Population estimates in Petnjica municipality, publicly available at the Statistical Office website; link: <https://www.monstat.org/cg/page.php?id=273&pageid=48>

73 More at this link: <http://www.petnjica.co.me/o-petnjici/petnjica-nekad-i-sad.html>

The Petnjica area is also known as Bihor and it is situated in the north of the country, between Montenegro and Serbia. In the Feasibility Study for the establishment of this local self- government, from 2011⁷⁴, it is noted that during socialist Yugoslavia it had a local self-government status, which was later revoked⁷⁵. This study indicates some of the key parameters of the area of 173 km², such as demographic, historical and economical.

On the census in 2011, at the Petnjica area, with 28 settlements (villages and hamlets), there were 6.713 citizens, unlike the 2003 census when there were 9.760 citizens here. This means that in the period of eight years, **the population decline** was even one third.

The Study shows that, in 2011, there were 373 employees in Petnjica area. There were 148 employees in several elementary and one secondary school (the total of all students was 797). In other institutions (kindergarten, health station, local office, regional police) there were 37 employees, in the economy 152, in catering 10 and in trade and service activities 26 employees.

However, it is interesting that the Feasibility **Study** for the establishment of the Petnjica municipality also **shows the employees from this area in other Montenegrin cities and abroad**, as an evaluation of the employees in agricultural holdings, even though, in the course of things, it should not have any impact on the sustainability of the fiscal capacity of a local self-government. About that, it is explained that 140 people were employed in other municipalities, between 1.5 and 2 thousand abroad, while 1.137 agriculturists were engaged in agricultural holdings

An excerpt from the Feasibility Study for the establishment of Petnjica municipality is below and it contains these data, that is, a presentation of the number of employees at the very area of Petnjica, as well as the number of employees in other local self-governments in Montenegro and abroad. The source of these data was not given in the Feasibility Study.

km.

III.15 ZAPOSLENOST / NEZAPOSLENOST (zbirni podaci)

Ukupno zaposleni po sektorima:

- Privreda: 152
- Ugostiteljstvo: 10
- Trgovina i uslužne djelatnosti: 26
- Javne ustanove (škole): 148
- Ostale državne i opštinske ustanove: 37
- Zaposleni u Beranama: 20
- Zaposleni u Bijelom Polju: 5
- Zaposleni u Rožajama: 10
- Zaposleni u PG: 60
- Zaposleni u Baru: 30
- Zaposleni u drugim Opštinama: 15
- Poljoprivreda: 1137 poljopr. gazdinstva
- Zaposleni u inostranstvu: 1500 – 2000(?)

III. PARAMETRI DALJEG RAZVOJA

Područje Petnjice (Gornji Bihor) je dio limske doline koja predstavlja značajnu regiju Crne Gore u njenom sjeveroistočnom dijelu. Ovaj kraj ima iznimno važan demografski i strateški značaj na dugi rok. On je najuslovnija prirodna...

Image no 1: The number of the employees in Petnjica, source: Feasibility Study for the establishment of the Petnjica municipality

74 The document on Feasibility Study for the establishment of the Petnjica municipality, December 2011, which Action For Social Justice got on the basis of the Law on Free Access to Information (the number of the response of the Ministry of the Public Administration, Digital Society and Media: UPI 01/2-037/21-1462/2, from August 6th 2021).

75 The status of Petnjica municipality was revoked in 1957, when it became a local community.

As **one of the important factors for restoring the status of local self-government**, the Study suggests the infrastructural, economic, social and every other **neglect of this area**. Therefore, it is suggested that the natural resources of the area could be used only after the return of this status. The Study emphasizes that the area has a huge agricultural land that can be cultivated, large forest potentials for the wood industry, processing of herbs, forest fruits, fruits and vegetables, opportunities for tourism development, home crafts, water management.

The Study also suggested **the assessment of the assumed frame of Petnjica municipality of 24 employees**, of which 19 is in local administration, including one public institution for culture and sport and one public enterprise for communal and housing activities. Additional 5 employees are related to political officials in local self-government, that is, the mayor, the chief administrator, President of the Municipal Assembly, the secretary and the manager.

About fiscal capacity, which implies the ability of the area to provide the regular financing of the work of interest for local population from the available public incomes, the Feasibility Study assessed that **around 1 million euros was necessary from the first year of local independence**. Of this amount, 650 thousand euros would be donations and transfers from the State, including the means from Equalization Fund, and the rest would be its own incomes. Hence, for the fiscal sustainability of the Petnjica municipality, **65% of the income is necessary to provide from the ceded legal revenues**, and only 35 % can be provided from its own incomes, which indicates its **great financial dependence** as a local self-government **from the Montenegro State**.

Just this fact opens the question **if the requests of the Petnjica area**, which indisputably has got a significant territory and historical tradition, **for getting local independence**, as well as the later decision on the municipality proclamation, **were primarily of political and not economic nature**. This is, in particular, because the Feasibility Study suggests that, in years after gaining local independence, the Petnjica budget would be significantly increased and there would be an increase in economic growth.

2.3.5.1.2. Seven years later – less population, greater dependence

The Feasibility Study for the establishment of the Petnjica municipality projected that, in the first years of local independence its own source revenues and development will be achieved, but it has not happened. At the same time, the population decreased in this area.

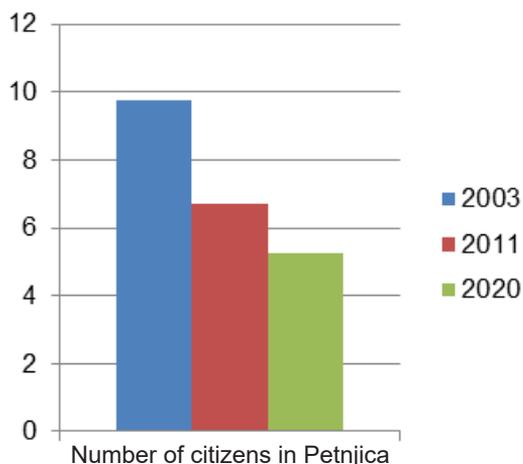
At the end of 2020, or seven years from the regained local self-government status, **Petnjica Municipality had 67.2% so called legally assigned revenues** (from the Equalization fund and from the State transfer), while the rest were its own source revenues⁷⁶. It indicates a huge financial dependence of this municipality on the central government.

Namely, at the end of 2020 Petnjica Municipality had total incomes from 1.823.030 euros, from which donations and transfers were 1.226.741 euros, which represents **67.2% from the total incomes**.

⁷⁶ Independent auditor's reports for the proposal of the final account of Petnjica municipality in 2017, 2018, 2019 and 2020, which the Action For Social Justice got on the basis of the Law on Free Access to Information (the number of the answer of Petnjica municipality 04-UP/019/21-235/2, from July 16th 2021).

YEAR 2020		
Type of income	Assigned revenues	Own source revenues
Amount	1.226.741	1.823.030
Percentage	67,2 %	32,8 %

Table 13: The relation of the assigned and own revenues; source: independent auditor's reports



Graph 6: Population decline in Petnjica

At the same time Petnjica noted another **decrease of the population by the middle of 2020**. In that time in this local self-government lived 5.245 citizens⁷⁷. **That is 1.468 citizens less than in 2011**, when the Feasibility Study for the establishment of the Petnjica municipality was made. This fact, also shows that there is no fulfillment of estimates that the local independence of this area will lead to an increase in population. At the same time, when the average number of employees, from the middle of 2020, is compared to the population in 2003, when there were 9.760 citizens, it is obvious that there is a decline in population of 4.515, which is 46 %.

⁷⁷ Source: Statistical Office of Montenegro; at link <https://www.monstat.org/cg/page.php?id=273&pageid=48>

3. CASE STUDY: COVID AID WITH NON-COMPLIANCE WITH REGULATIONS

Covid 19 global epidemic in Montenegro was officially proclaimed in the middle of March 2020, and it had a huge impact on total economy in the country, and it was a particular challenge for local self-governments, especially less developed ones.

Out of the five analyzed local self-governments in this report, four of them were making decisions on helping economy and the citizens during the epidemic. Only Petnjica did not do this.

Some of the decisions did not have a clear legal basis. Instead, they were made ad hoc and without precise criteria on justification or justice in granting the aid. This could influence the preference of some economic subjects in one hand, and the denial of aid to subjects that were in greater need for it, in the other hand.

Also, almost none of these decisions had been previously sent to the Agency for Protection of Competition to assess compliance with the Law on State Aid.

3.1. The aid had to be in compliance with the State Aid rules

The emergence of Covid 19, with a great impact on economic and social system, was a crisis that had to be quickly dealt with by the authorities. Also, they had to make timely decisions in public interest, but they had to be based on legal regulations.

Even though the **Law on Local Self-Government states the municipalities' authorization in regular circumstances** by name, there are not any detailed definitions of crisis and local self-governments' authorization in exceptional circumstances. However, if we have in mind that Covid 19 stopped the economy to a great extent, **central and local authorities had a challenge in providing for natural and legal persons everything that, by its legal nature, is a state aid.**

In another words, the aid caused by Covid 19 had to comply with State Aid legislation. In that sense, the **Rulebook on the list of state aid rules⁷⁸, is of special significance**, which is an accompanying part of the Law on Protection of Competition, as an umbrella law, which regulates the issue of granting the State Aid⁷⁹. The Rulebook on the list of state aid rules is based on European guidelines on state aid and it stipulates the permitted types of aid. At the same time, the **Law on Protection of Competition stipulates the procedures of granting state aid**, and there is the obligation to report the aid to the Agency for Protection of Competition in charge.

78 Rulebook on the list of state aid rules, including all amendments; link at Agency for Protection of Competition website: http://www.azzk.me/dp/index.php?option=com_content&view=article&id=10&Itemid=110&lang=srp

79 Law on Protection of Competition; link at Agency for Protection of Competition website: <http://www.azzk.me/jml/index.php/about/zakon>

Right after Covid 19 pandemic began, **the European Union expanded the list of permitted state aid**. The European Union indicated that the Covid 19 pandemic was a serious public health crisis, that affected citizens and societies, and it made a huge impact on world and European economy. That is why the coordinated economic intervention of the state members and European Union's institutions are crucial for mitigation of consequences on the economies of European countries.

Following this practice **the Government of Montenegro made amendments of the Rulebook on the list of state aid rules** five times during 2020, and thus it extended permitted types of aid. The rulebook was expanded for the first time on April 15th 2020⁸⁰, when it was published in the Official Gazette of Montenegro, and it was amended again ten days later⁸¹. In June 2020, the Rulebook on the list of state aid rules was amended again⁸², then in September⁸³, and at the end of December 2020.⁸⁴.

3.2. The Capital's decision without assessment of the legality of state aid

The first decision on granting of Aid for Covid 19 epidemic, the Capital Podgorica made without the assessment of the Agency for the Protection of Competition in charge, for the compliance of the decision with the Law on state aid. Furthermore, at least one adopted measure on aid did not have legal basis in the Rulebook on the list of state aid rules and it was illegal as such.

In the middle of April 2020, the mayor of Podgorica made the first decision on mitigation of financial consequences of Covid 19 epidemic in the Capital **that stated different types of measures for aid**. This decision stated that it came into force on the day of its adoption, and it was published in the Official Gazette of Montenegro a month later, i.e. May 20th 2020⁸⁵.

The measures for mitigating the financial consequences of Covid 19 epidemic were related to postponing tax liabilities on the natural persons' income, reduction of utility bills and fees for taxi stands, reduction of fee for the use of commercial facilities, postponement of procedures for forced collection of tax liabilities, reduction of basis for determining real estate tax... **These decisions had legal basis in the Rulebook on the list**

80 Rulebook on amendments of the Rulebook on the list of state aid rules (Official Gazette of Montenegro number 33/20, from April 15th 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={2987FB73-0E00-4F62-A5D9-BE565D5200E8}>

81 Rulebook on amendments of the Rulebook on the list of state aid rules (Official Gazette of Montenegro number 38/20, from April 25th 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={83A7F80F-07D2-4AED-90B8-5871A22C5459}>

82 Rulebook on amendments of the Rulebook on the list of state aid rules (Official Gazette of Montenegro number 53/20, from June 5th 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={677A67FF-04A5-4971-8FB4-8E3374E0DDE5}#>

83 Rulebook on amendments of the Rulebook on the list of state aid rules (Official Gazette of Montenegro number 98/20, from September 30th 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={6D71209A-CE-AD-4AE8-AC8C-D74CAC003C9A}#>

84 Rulebook on amendments of the Rulebook on the list of state aid rules (Official Gazette of Montenegro number 130/20, from December 31st 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={0E-6DA25E-037C-49A7-92C9-C5A28930BDD1}>

85 Decision on mitigating the financial consequences of the corona virus in the Capital, (Official Gazette of Montenegro, municipal regulations number 16/20, from May 20th 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={886B5ECD-C429-4952-B29A-86632B231E86}#>

of state aid rules, that were extended twice in April 2020, but **there also had been an obligation for previous deliverance of the decision to the Agency for the protection of Competition**, in order to assess its compliance with the Law on Protection of Competition, which had not been done.

At the same time, **at least one measure did not have legal basis by the Rulebook** on the list of state aid rules. The measure is that the Agency for construction and development of Podgorica should pay the contractor **5% of the contracted value of works in advance, for the started construction of the facilities**. The measure was explained by the need for maintaining liquidity and the continuity of works, but it was not explained any further. Having in mind that the contractors got these works by tenders, which means that they had to have provided means for realization of works, it could be noted that this measure was a **direct favoritism of the chosen constructors** through the payment in advance.

At the same time, the Capital's local secretariat for finance was in charge of preparing analysis about the possibility of forming a special fund for aid for small and medium-sized businesses, for preserving work places and supporting the most endangered population groups.

In July 2020, the mayor of Podgorica made a new decision about the support of the economic activities⁸⁶ in the Capital because of Covid 19 epidemic, which was published in the Official Gazette of Montenegro in August 2020⁸⁷. Unlike the previous decision, it is stated in this one that it would be delivered to the Agency for Protection of Competition and that **it came into force at the day of adoption of the Act by the Agency for compliance of state aid with the law**.

At the end of **February 2021, the mayor of Podgorica made the third decision** because of the Covid 19 epidemic, relating to the reduction of communal fees and charges⁸⁸. **The Agency for Protection of Competition assessed**, at the end of March 2021, **this decision of a state aid had been in accordance with the law**⁸⁹.

3.2.1. The mayor made decisions instead of the Parliament

All decisions on the Covid 19 epidemic aid were made by the mayor of Podgorica, referring to the Government of Montenegro's measures and on the provision of the Law on Local Self-Government, which gives mayors the opportunity to temporarily pass acts within the competence of the Municipal Assembly if the assembly is not able to meet or its work is disabled, and their non-adoption would endanger the lives of citizens or property of greater value⁹⁰.

86 The support referred to the reduction of local communal taxes.

87 Decision on support to economic activities in the Capital (Official Gazette of Montenegro, municipal regulations, number 29/20, from August 5th 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={52AD624D-3C53-4B32-9C3E-18FE11272FF9}#>

88 Decision on reduction of local utility taxes and fees number 01-018 / 21 from February 25th 2021. Although the response to the Action for Social Justice from the Capital on the basis of the Law on Free Access to Information (Decision of the Service for Carrying out the Executive Function of Mayor No. 01-037 / 21-47 / 1 from June 22nd 2021) states that it was published in Official Gazette of Montenegro, Municipal Regulations, No. 08/21, in that issue of the Official Gazette it cannot be found by public search (search conducted in October 2021). Therefore more about the Decision on the reduction of local utility fees at the following link: <http://skupstina.podgorica.me/odluke/>

89 Decision of the Agency for Protection of Competition number UPI-05-430 / 21-24 / 7, from March 29, 2021.

90 Article 59 paragraph 1 of the Law on Local Self-Government.

The Law on Local Self-Government obliges that **such decisions are submitted** to the local parliaments **for confirmation** at the next session. While in the spring of 2020, when there was a large movement restriction in Montenegro, such decisions could be justified, it is unclear why the same procedure was approached in early 2021, when local parliaments could sit, at least electronically, and there was no movement restriction, as the previous year.

According to the Action for Social Justice data, **the Capital Podgorica has not made any analysis or acts on the assessing the effect of the adopted measures** for the aid to the economy and citizens due to the Covid 19 epidemic, and thus no special criteria for its distribution. As the Capital explained, based on inquiries under the Law on Free Access to Information, **the Capital made decisions according to the socio-economic package measures**, which were adopted by the Government of Montenegro, on several occasions in 2020, in order to provide adequate support to the economy and citizens⁹¹.

3.2.2. Case study: Secret donor contracts of the Capital

The Capital, Podgorica, refused to reveal donors contracts concluded during the last two years, including the one with “Bemax” from Podgovrica, a company that had income of 13.7million euros during the three years of the current city management’s mandate.

That sum of 13.7 million euros is higher than for the previous nine years, before the current city authorities’ mandate, when “Bemax” had had and income of 11.5 million euros from the Capital.

Action for Social Justice initiated an appeal procedure at the Agency for protection of the personal data and Free Access to Information because the Capital, Podgorica, refused to deliver concluded donor contracts.

3.2.2.1. The Capital called for privacy of donation

The Capital, Podgorica, has not delivered the donors’ contracts because of the privacy of donation, as they explained. Still, they have not explained which data needed the protection and why.

For the purpose of following the local self-government, **Action for Social Justice** has, on the basis of the Law on Free Access to information, **asked for the decisions about granting** various aids of the Capital due to Covid 19 epidemic, but also the donors contracts, in order to analyze donors aids to the Capital during the huge health crisis. The required data referred to the last two years and a special requirement was sent for the donors contracts with the “Bemax” company from Podgorica⁹², which has been observed to have a higher number of donors contracts.

91 Response of the Secretariat for Finance of the Capital City of Podgorica, based on the Law on Free Access to Information to the Action for Social Justice, number 05-400 / 21-3688, from July 23rd 2021.

92 Request for free access to information of the Action For Social Justice, number 370/21 from July 16th 2021.

From the Capital, Podgorica, they refused to deliver donors contracts concluded with “Bemax” company⁹³. As stated in the decision, the request for the access to information was denied due to the protection of privacy from the disclosure of data provided by the law governing data protection, but without more detailed explanation which data need the protection and why.

According to the Action for Social Justice data, the **“Bemax” company had income of 13.7million euros during the three years of the current city management’s mandate**, from Podgorica. That sum of 13.7 million euros is higher than for the previous nine years, before the current city authorities’ mandate, when “Bemax” had had and income of 11.5 million euros from the Capital⁹⁴. So, this is a company that generates significant revenues from the Capital, through jobs it won in tenders.

The most important jobs that “Bemax” realized in the Capital in the last several years are **the construction of the South-western bypass**⁹⁵, whose body is designed as a connection point for a future wastewater treatment plant, as well as **the construction of the primary collector**. The collector is a part of a total project of wastewater treatment, estimated at around 30 million euros, and for which the selection of contractors is expected in the autumn of 2021.

There is a **larger number of “Bemax” donation information at the Capital City’s website**, such as **the remediation of the landfill in Zlatica**⁹⁶, the place where this company stored construction waste during the construction of Smokovac loop, as a part of the free way Smokovac – Matesevo. Exactly this company is the biggest subcontractor of the free way, financed by the Montenegro State, and it has contracted jobs worth 234 million euros.

“Bemax” company also donated the **Rogame river bank**, worth 200 thousand⁹⁷. This river bank had previously been used for storing the material for the reconstruction of the road towards Spuz, a job that was paid 3.5 million, by the State. Not far from Rogame, the company helped the Capital **the reconstruction of the road in Piperi**, with less than 200 thousand euros⁹⁸, which was made official in pre-election summer of 2020. There is, also, a donation for the construction of **the sports and recreation zone in Tolosi**⁹⁹, worth 800 thousand euros, as well as a signed **contract on landscaping of the Njegos’s park and the Moraca promenade**¹⁰⁰.

3.2.2.1.1. The greatest donation to the schools in Tolosi

The Bemax company’s greatest donation in Podgorica is a school construction in Tolosi¹⁰¹, which was announced to be worth seven million euros, but the Capital is not the signatory of the contract. Still, the Capital’s officials were present at the contract signing¹⁰².

93 Decision of the Service for Exercising the Executive Function of Mayor of the Capital City Podgorica, number 01-037/21-54/1 from July 7th 2021.

94 Decisions of the Secretariat for Finance of the Capital City Podgorica, numbers 05-037/21-8/2 from May 12th 2021.

95 More information at the Capital City Podgorica’s website; link: <https://podgorica.me/vijesti/1549>

96 More information at the Capital City Podgorica’s website; link: <https://podgorica.me/vijesti/1548>

97 More information at the Capital City Podgorica’s website; link: <https://podgorica.me/vijesti/998>

98 More information at the Capital City Podgorica’s website; link: <https://www.gov.me/clanak/227276--zavrse-na-nova-saobracajnica-u-piperima-vrijedna-pola-miliona>

99 More information at the Capital City Podgorica’s website; link: <https://podgorica.me/vijesti/277>

100 More information at the Capital City Podgorica’s website; link: <https://podgorica.me/projekti/292>

101 More information at the Capital City Podgorica’s website; link: <https://podgorica.me/vijesti/588>

102 The mayor of the capital city, Podgorica, Ivan Vuković, attended the signing of the donation contract.

A week before the election of a new Government, that contract was signed by the then Minister of Education¹⁰³, for whom the Anti-Corruption Agency subsequently determined had been in a conflict of interest because he had been elected deputy and he also worked as a Minister of Education to a full extent.

3.2.2.2. Appeal for misapplication of law

Action for Social Justice appealed to the Agency for protection of Personal data and Free Access to Information because of refusal for delivering the donation contracts of the Capital, Podgorica, and it asked the Anti-Corruption Agency to assess if there were any violations of the public interest in those contracts.

At the beginning of August 2021, Action for Social Justice appealed to the Agency for Personal Data Protection and Free Access to Information to deliver the donation contracts for the previous two years¹⁰⁴. Among other things, it is pointed out in this appeal that it is not explained, not in one word, what kind of data in these donors contracts were in question, and whose privacy was necessary to protect. In this way, **the substantive law is misapplied and the factual situation is incompletely established.**

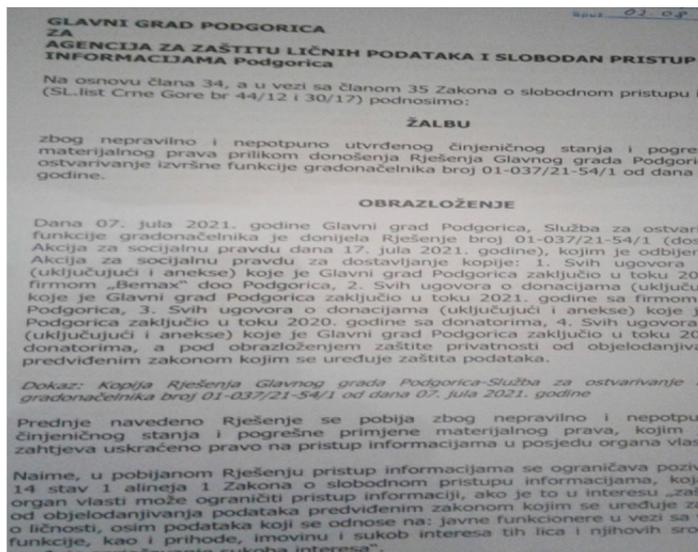


Image 2: An excerpt from the Action for Social Justice appeal on the refusal for delivering the donors contracts.

Also, **Action for Social Justice submitted the initiative to the Anti-Corruption Agency to determine whether there was a violation, in any way, of the public interest¹⁰⁵.**

¹⁰³ The Minister of Education at the time was Damir Šehović, a member of Social Democrat party.

¹⁰⁴ Appeal due to incorrectly and incompletely established factual situation and incorrect application of substantive law, number 370/1/21 from August 2nd 2021.

¹⁰⁵ Initiative of the Action For Social Justice number I-I-14/21 from July 30th 2021.

by concluding donor contracts. According to the Law on Prevention of Corruption, a public official may not enter into a sponsorship agreement or receive donations on behalf of the public authority in which he holds public office, which affect or could affect the legality, objectivity and impartiality of the work of public authorities¹⁰⁶. Until the completion of this report, Action for Social Justice has not received any response from the Anti-Corruption Agency.

3.3. The municipalities did not ask for the approval of the Agency for Protection of Competition

The municipalities Pljevlja, Ulcinj and Danilovgrad made decisions about support to the economy and citizens due to Covid 19 epidemic, but they did not submit them to the Agency for Protection of Competition for the purpose of assessing their legality as state aid. The Petnjica municipality did not make decisions on helping the economy and the population during the Covid 19 epidemic.

The Municipal Assembly of Pljevlja passed a Decision on measures to reduce the negative economic consequences for the citizens and economy of Pljevlja due to the Covid 19 epidemic, in the middle of June 2020¹⁰⁷. This Decision was published in the Official Gazette of Montenegro in the same month and it contained a set of stimulative measures for the protection of the population and the economy, part of which related to **fiscal relief**. These were measures to defer the payment of surtax on income tax, real estate tax, exemption from the payment of communal taxes or fees for the use of commercial facilities or, for example, a measure to suspend the procedures of forced collection.

On the other hand, the measures, which referred to **different types of subventions**, for which the local self-government defined precise amounts of aid, were also adopted. Thus, for subventions in agriculture it allocated 100 thousand euros, for subventions for heating 30 thousand, water bills 60 thousand, for subventions for salaries of employees in local companies, who were on paid leave, as well as the costs of waste collection bills and office space lease fees, the amount of 85 thousand, for assistance for public works 25 thousand euros, additional 20 thousand euros was allocated for subventions to entrepreneurship, and another 25 thousand euros as assistance to the Red Cross for one-time social assistance. This means that the **total amount allocated for subventions was 345 thousand euros**.

PLJEVLJA MUNICIPALITY ALLOCATED 345 THOUSAND EUROS FOR SUBVENTION DUE TO COVID 19

106 Article 21, paragraph 2 of the Law on Prevention of Corruption (Official Gazette of Montenegro, numbers 53/14 i 42/17).

107 Decision on accepting the Measures of the Municipality of Pljevlja in order to reduce the negative economic consequences for citizens and the economy caused by the epidemic of infectious disease Covid 19, number 22-016 / 20-131 / 1 from June 16th 2020 (Decision of the Secretariat for Finance of the Municipality of Pljevlja, based on the Law on Free Access to Information to the Action for Social Justice, number UPI-01-037 / 21-377 / 7 from August 9th 2021).

It is not stated anywhere in the Decision that it would be delivered to the Agency for Protection of Competition, as the body in charge for assessing the legality of the aid granted due to the Covid 19 epidemic.

The mayor of Ulcinj made the Decision on the Program of Economic Support Measures for the Citizens and Businessmen of Ulcinj due to the Covid 19 epidemic in May 2020¹⁰⁸. The decision was published in the Official Gazette of Montenegro two months later¹⁰⁹ after it had been confirmed by the local parliament. **The program of economic support measures** included a number of stimulative measures, such as deferring the payment of surtax on income tax, real estate tax, exemption from communal fees, real estate tax or fees for the use of commercial facilities.

The mayor of Ulcinj made The Decision on the Programme of Economic Support referring to the article of the Law on Local Self-Government, which refers to the regular competencies of the mayor¹¹⁰, although in particular case it was a matter of exceptional circumstances and deciding on taxes, fees and revenues of local self-government, which is the responsibility of local parliaments. Further, **it is not clear from the Decision whether the consent of the Agency for Protection of Competition was required**, in order to assess whether the Program of Measures had been in compliance with the Law on State Aid.,

At the end of 2020, the local authorities in Ulcinj made the new decision on reducing the price of rent for temporary facilities for the following two years, as a measure of economic support due to the Covid 19 epidemic¹¹¹. **This Decision, also, does not contain an assessment of the Agency for Protection of Competition** about its compliance with the Law on state aid..

When it comes to Danilovgrad municipality, the mayor of this local government made the decision on measures to mitigate the financial consequences due to Covid 19 epidemic in the middle of April¹¹². **The support measures were similar** to those already mentioned for previous local governments, such as the postponement of the payment of surtax on income tax and real estate, the exemption from the collection of real estate tax on agricultural producers ... The new decision was made at the end of the same year when the measure of exemption from the payment of fees for commercial facilities was established.

In adopting support measures, **the mayor of Danilovgrad** (just like the Mayor of the Capital Podgorica) referred to the article of the Law on Local Self-Government, which refers **to the right that mayors can temporarily make decisions within the competence of municipal assemblies**, if the assembly is unable to meet or its work is disabled, and their non-adoption would endanger the lives of citizens or property of greater value. Also, it should be noted that in the decisions of Danilovgrad local government for support to the

108 Decision on the adoption of the Program of measures of economic support for citizens and businessmen of Ulcinj during the pandemic caused by the corona virus, number 01-680 / 20-2 from May 5th 2020 link: <http://www.ul-gov.me/Prva-sjednica-prvog-redovnog-zasijedanja/4886/Materijal-za-prvu-sjednicu-prvog-redovnog.shtml>

109 Decision on confirmation of the Decision of the Mayor No. 01-680 / 20-2 of 5 May 2020 on the adoption of the Program of economic support measures for citizens and businessmen of Ulcinj during the pandemic caused by the corona virus (Official Gazette of Montenegro, No. 27/20, dated July 27, 2020); link: <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={5132A3DE-A705-44B2-8C9E-E07801638A1F}>

110 Article 58 of the Law on Local Self-Government.

111 Decision is on the following link: http://www.ul-gov.me/cms/view.php?id=1133&startfrom=20&start_snippet=40

112 Response of the Municipality of Danilovgrad, Office of the President, based on the Law on Free Access to Information to the Action for Social Justice (Decision No. UP 01/037 / 21-18 / 2 from July 22nd 2021).

economy and citizens due to the Covid 19 epidemic, **there is no statement that they have been submitted, or should be submitted to the Agency for Protection of Competition**, in order for the Agency to assess their compliance with state aid legislation.

Regarding the Petnjica Municipality, the local self-government **did not make decisions on helping the economy and citizens** during the crisis periods of 2020 and 2021, due to the Covid 19 epidemic¹¹³.

113 Response of the Office of the President of the Municipality of Petnjica based on the Law on Free Access to Information to the Action for Social Justice (Decision No. 01 UPI 056 / 21-233 / 2 from July 15th 2020).

4. RECOMMENDATIONS

Based on the analysis of the legal framework and individual examples of targeted local governments on the quantity of employment and budget expenditures for salaries, and their fiscal dependence from the Equalization Fund and transfers from the State Budget, the Action for Social Justice provides the following individual recommendations for improving the legal framework for local self-government:

1 It is necessary to prescribe clear criteria and standards for the establishment of local self-governments in the Law on Local Self-Government, whereby obligatory criteria should be defined not only the territorial area of an region, number of settlements or population, but especially fiscal sustainability of that area in order to provide self-sustainability;

2 Despite the fact that the principle of decentralization of local self-government is legally guaranteed, in those municipalities, which are beneficiaries of the Equalization Fund and which are highly indebted, it is necessary to consider the possibility of legal prescribing the highest limit, expressed in percentages, which these local governments can allocate annually for salaries and other personal incomes in relation to the total current budget expenditures;

3 It is necessary to legally prescribe as a sanction that the competent Government department has the right to suspend money from the Equalization Fund and transfers from the State Budget, and to those local self-governments which are in reprogramming of tax liabilities, and which violate the tax liabilities reprogramming program, over-employ or exceedingly allocate budget funds for salaries and other personal incomes;

4 It is necessary to prescribe a clear legal obligation for audit reports on the final accounts of local self-government budgets to include financial reports of limited liability companies and public institutions, whose founders are local governments and for their activities they allocate funds from the budget, because it is the only way to get a complete picture of the state of finances in a certain local self-government;

5 It is necessary to amend the Law on the State Audit Institution in order to determine on an annual basis the obligation to control the final accounts of local self-governments budgets for a larger number of local self-governments than it is now;

6 Despite the fact that the principle of decentralization of local self-government is legally guaranteed, it is necessary to prescribe the obligation of prior and immediate subsequent control of the preparation of annual budgets for those municipalities, which are in the reprogramming of tax liabilities;

7 It is necessary to clearly prescribe by laws or bylaws criteria, standards or norms regarding the real needs of local government bodies and local public services for employees, whereby the population in the territory of a certain local self-government will be taken as an objective circumstance;

8 Due to frequent abuses of the obligations institute of temporary service contract, which is illegally used for employment in central and local administrations, it is necessary to legally clearly prohibit the possibility of employment at that institute for what are regular and systematized jobs in state and local government bodies, as well as state and local public services;

9 It is necessary to legally specify situations when it is allowed to conclude contracts on temporary and occasional jobs in local government bodies and local public services, as well as at the central level, which can only be related to exceptional situations, such as increased work during the season etc. and in order to avoid in practice the abuse of this institute for regular and systematized tasks in the administration;

10 It is legally necessary to specify those situations (at the level of exceptions) when it is allowed that local public companies can hire employees on the basis of employment agencies, and in order to avoid abuse of this institute for regular and systematized work in local public services;

11 In order to achieve real independence of local self-governments, it is necessary to completely exclude the possibility of giving approvals for employment at the local level by the Inner Cabinet of Government of Montenegro, because it gives the possibility of political influence on employment;

12 For those local self-governments, which are the beneficiaries of the Equalization Fund, and especially if they are in the status of tax liabilities reprogramming or highly credit indebted, it is necessary to prescribe the obligation for the competent Government body to approve acts on systematization of these local self-governments in order to achieve greater control over the defining the actually required number of employees;

13 It is necessary to legally prescribe stricter disciplinary and misdemeanor policy for violating legal restrictions regarding employment and budget allocations for salaries, but also for violating the Public Administration Optimization Plan, as a document arising from the Public Administration Reform Strategy adopted by the Government of Montenegro;

14 It is necessary to prescribe a clear legal or bylaw obligation for local self-governments to submit data on the number of employees in local public services to the competent Government department when drafting the Public Administration Optimization Plan, because in this way complete data on the actual total number of employees in local self-governments will be obtained;

15 For local and civil servants whose employment in the state or local sector has been stopped due to severance pay, it is necessary to digitally import data from the Revenue and Customs Administration, the Ministry of Finance and other central and local authorities, in order to prevent those people to re-employ in central or local authorities in the time period when such employment is legally prohibited;

16 In order to increase the transparency of spending at the local level, it is necessary to legally prescribe that all budget expenditures should be proactively published on a monthly basis on local self-government websites, which is now an obligation that exists only in election campaigns, and that such data should be published in a readable form;

17 In order to increase the transparency of spending at the local level, it is necessary to legally prescribe the obligation for local self-governments to publish complete auditor's reports on the final accounts of local self-government budgets on their websites;

18 In order to increase the transparency of employment at the local level, it is necessary to legally prescribe continuous publication of data on the number of employees in all local government bodies and local public services, which will be published quarterly on local self-government websites;

19 In order to increase the transparency of employment, it is necessary to form a single database for engagement on temporary and occasional jobs both at the local level and at the central level, which will be publicly available, with the aim of preventing possible abuses of this institute through greater visibility;

20 It is necessary to prescribe legally and more clearly the competencies of the Budget Inspection, and when it comes to controlling the preparation, implementation and realization of local self-government budgets, especially those that are beneficiaries of the Equalization Fund and/or are highly indebted and/or are in reprogramming of tax liabilities.



AKCIJA ZA SOCIJALNU PRAVDU



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