

MUNICIPALITIES IN TRIAL:

BETWEEN LACK OF ACCOUNTABILITY AND PROTECTION OF LOCAL INTERESTS

SUMMARY

The subject of this study is the protection of property rights at the local level in Montenegro. The study shows that local self-governments do not estimate well the amounts needed to cover the cost of fines issuing from court proceedings against them, and often budget a few hundred thousand more or a few million euro less than they pay.

Just like the central state, local governments appear before courts more frequently as defendants than as plaintiffs. The most frequent type of charges brought against them involve work-related rights. These can also be dealt with via mediation, but information on the number of mediation cases or settlements in work-related disputes is not proactively published. Data privacy rules did not allow us to get the municipal level information from the Agency for peaceful settlement of labour disputes. Overall, there is little transparency in this area: reports on the work of municipal bodies in charge of legal representation and protection of property are not proactively published. Moreover, such report contain information on court cases, including the number of charges brought by local self-governments and the number of charges brought against them. There is also no information on the causes of such disputes, the amounts involved, total costs of proceedings including fines and court costs, expert fees and interest on unpaid dues. Finally, there is no information on the ways in which disputes were settled (in or outside court).

In the upcoming period, **Ministry of Finance** should regulate the rules for reporting on spending on court-related fines and insist on unified and transparent presentation of amounts budgeted for court-related costs as a condition for the Ministry's approval of local self-governments' budget decisions. This could be accomplished by amending Regulations on the single classification of accounts for the Budget of Montenegro, budgets of extra-budgetary funds and budgets of municipalities. **Local self-governments** should regularly published analytical cards, and **municipal bodies in charge of representation and protection** ought to proactively publish report son their work, and inform the relevant authorities in local self-governments about the state of court disputes in order to ensure timely initiation of negotiations with plaintiffs and more frequent use of alternative settlement procedures. **State Audit Institution** ought to conduct a thematic audit of expenses incurred through court proceedings by all local self-governments.



B | T | D

The Balkan Trust
for Democracy

A PROJECT OF THE GERMAN MARSHALL FUND

The study was produced as part of the project "Civil Society for Good Governance: To Act and Account!", implemented by the Institute Alternative, Bonum, Natura, New horizon and Centre for Research Journalism, and financed by the European Union within the Civil Society Facility, and the Balkan Trust for Democracy, a project of the German Marshall Fund of the U.S (GMF). The contents of the study are the sole responsibility of the author and can in no way be taken to reflect the views of the donors.

INTRODUCTION

Mistakes of the public administration mean a huge cost for the citizens of Montenegro. The state is far more often a defendant than a plaintiff.¹ According to the official figures, on average twenty million euros per year is paid out of the public budget on court-ordered fines in cases against national-level public institutions. The cost of out of court settlements is not publically available.² Even less is known about the costs incurred in this manner at the local level, due to decentralized reporting that is not always proactive. As this is one of the key indicators of the overall system of accountability and responsible management of public finances in our administration, the goal of this paper is to shed further light on the protection of property-related interests at the local level, highlighting the issues that best reveal the state of transparency and accountability:



- Who protects and represents the interests of local self-governments in disputes?
- What is the administrative burden carried by officials in charge of protection and representation of local self-governments?
- Do municipalities report responsibly and transparently on the costs of court disputes and out-of court settlements, and plan these costs accordingly?
- What are the most common mistakes paid for by municipalities?

The importance of dealing with this issue at the local level is underscored by the difficult financial situation in nearly all local self-governments in Montenegro. Debt, arrears in payments to suppliers and reliance on central government transfers are all consequences of spending that is not aligned with the financial resources of municipalities, often compounded by irrational and even illegal use of resources, as evidenced by the reports of the State Audit Institutions on local self-governments and the numerous complaints received by the State Prosecutor concerning local-level corruption.

Despite the warnings from the European Commission and the International Monetary Fund, as well as data from the Ministry of Finance and findings of the State Audit Institution, little attention has been paid to the management of finances at the local level

¹ / Milošević, Milena, Public Finances and Accountability of Administration – What does the Protector Protect? Institute Alternative, December 2016. Available at: <http://media.institut-alternativa.org/2016/12/Public-finance-and-Accountability-of-Administration.pdf>

² / Report of the Protector of Property and Legal Interests of Montenegro for 2016, June 2017.

³ / International Monetary Fund, Montenegro: Staff Concluding Statement of the 2018 Article IV Mission, available at: <https://www.imf.org/en/News/Articles/2018/03/06/ms030718-montenegro-staff-concluding-statement-of-the-2018-article-iv-mission>

Management of public finances at the local level is one of the key challenges of public administration reform in Montenegro, as has been frequently highlighted by the European Commission. In its preliminary report from March 2018, International Monetary Fund also warns against the rising indebtedness of municipalities³. Analysis of the consolidated reports on public spending for 2016 and 2017 shows that the amount spent on covering arrears from previous years amounts to about 17% of total spending at the local level.⁴

In view of all this, responsible management of resources at the local level is all the more important, as is research into the processes of planning local budgets and budgeting resources for court costs and mitigation of usual errors that result in extraordinary costs for local-self governments. At the national level, costs of disputes against individual ministries are covered by the Treasury, not by the ministries. At the local level, however, every mistake directly affects the local budget, which should be an additional reason to track all procedures properly, sanction irresponsible behavior, and prevent costly errors.

More than half of the citizens of Montenegro think the administration is mispending the budget

The key strategic document in this area, the Programme for the reform of the management of public finances 2016-2020, refers entirely to the central government and does not cover local self-governments.

Strategy for the reform of public administration 2016-2020 contains a chapter on local self-governments, and in it a section on the financial aspects of local administration. The section, however, treats the subject superficially, referring to outdated information and without identifying solutions to the key problems occupying the local self-governments.⁵

Another reason to treat this issue as a priority for further reform is the lack of trust of the citizens of Montenegro in the way their money is managed: for the second year in a row, 57% of the citizens believe that the administration is mispending the budget.⁶

The data for this research was collected mostly via requests for free access to information. In the course of the research we encountered frequent problems in the form of delayed responses to our requests. Data-collection also turned out to be exceptionally costly: Municipality Pljevlja, for

⁴ / Analysis of consolidated public spending for 2016 and 2017, Ministry of Finance

⁵ / Reform of local self-governments – without local participation? Institute Alternative, December 2015, available at (MNE) <http://mojgrad.me/vijesti/384/Reforma-lokalne-samouprave---bez-učesća-lokalnih-samouprava?>

⁶ / Ipsos Agency on behalf of Institute Alternative, Perception of Public Administration, February 2018, available at (MNE): <http://institut-alternativa.org/percepcija-javne-uprave-istrazivanje/>

Ipsos Agency on behalf of Institute Alternative, Perception of Public Administration, February 2018, available at (MNE): <http://institut-alternativa.org/percepcija-javne-uprave-istrazivanje-javnog-mnjenja/>

instance, asked for nearly EUR 1500 for giving Institute Alternative access to its analytical cards. In other words, although formally available, this information turned out to be inaccessible in practice.

We also analysed publicly available documents, such as decisions on the organization of municipalities and final accounts, in order to showcase different versions of the institutional frameworks available for the protection of property and legal interests at the local level.

In the first part of the paper, we offer an overview of the bodies in charge of representing local self-governments in court cases. The second part analyses information on the practice of budgeting for court-related expenditures, record-keeping, and reporting on court processes. Given the scope and complexity of detailed information on spending, recording, and reporting, we focused our analysis on four local self-governments: Ulcinj, Pljevlja, Kolašin, and Capital City Podgorica. We asked them for the records of all cases in which they were defendants, the amounts involved, and the court costs, in order to build a comprehensive picture of the involved spending. We also asked for the Regulations on internal organization of local government bodies responsible for representing municipalities in courts and the number of employees of such bodies, in order to estimate the size of administrative burden. Finally, we tried to obtain analytical cards for the budget lines dedicated to dispute-related expenses. The third part of the study contains recommendations to improve reporting and monitoring procedures, especially as regards record-keeping and reporting on court disputes, and to introduce a proactive approach and greater recourse to alternative dispute resolution procedures in order to reduce dispute-related expenses.

WHO PROTECTS MUNICIPAL PROPERTY?

At the national level, before courts and other dispute settlement bodies, the state is represented by the Protector of Property and Legal Interests. At the local level, every self-government has its own body protecting its property and rights. The Law on public property stipulates that the duties of protecting legal and property interest of the municipalities are delegated by the municipality to a specific body, for which purpose this body has the authority of legal representative for legal persons.



In 10 Montenegrin municipalities the body in charge of protecting its legal and property rights is a secretariat, and in another 10 it a directorate. In some of them, protection of property and legal representation is the sole responsibility of such bodies, while in others this is just one among

7 / Data from Decisions on organisation and functioning of all local self-governments.

8 / Regulation on amendments to Regulation on internal organisation of Property Directorate, Municipality Pljevlja, May 2016.

many duties. One municipality (Andrijevisa) has a special Protector of Legal and Property Interests, while in another (Petnjica) President of the municipality appoints a body or an expert individual for to such tasks as necessary. In Kolašin, Chief Administrator's Office is in charge for duties of representation of municipalities' interest and its protection.⁷

There are nine employees in the Property Directorate of the Municipality Pljevlja, of whom three are responsible for representing Municipality before courts and other dispute settlement bodies⁸. In 2017, the municipality was involved in 36 disputes⁹, which means that there were on average 12 cases per dedicated employee.

This ratio is much higher in the Podgorica Property Directorate, although the list of employees we received does not contain their job titles and descriptions, which is why we are unable to identify the exact figure of case per employee. Department for the protection of property rights and interests of the Capital City employs nine persons¹⁰, who in 2017 completed 475 court cases, resulting in a ratio of over 50 cases per employee.¹¹

Municipality of Ulcinj has nine employees, or, with 83 cases closed in 2017¹², an average of nine cases per employee. In the Chief Administrator's Office, one position is systemised and filled for these duties, while having around 50 lawsuits annually (in both 2016 and 2017). In other words, both number of cases and number of employees vary in municipalities. .

IMPRECISE BUDGETING FOR THE COSTS OF DISPUTES

Local self-governments list dispute-related expenses under different budget lines, which limits the possibility for comprehensive monitoring of these costs.

Municipalities do not budget for dispute-related costs at the level that would be in line with the real needs. Given the nature of court cases, it is of course impossible to predict with precision the number of cases or the amount of costs they will incur. Nevertheless, as court cases often last a long time, it is possible to at least estimate the amount that would be necessary to cover such costs. Improper budgeting could be an indicator of incomplete or erroneous record of disputes and complaints. Local self-governments record these expenses in different ways, which makes it almost impossible to estimate with any certainty the total amounts paid in dispute fines and fees.

⁹ / Response to request for free access to information, No. 032-200/2018-3, Municipality Pljevlja, 21 February 2018.

¹⁰ / Regulation on internal organisation of Property Directorate was adopted in 2013 and amended in 2014 and 2016 due to growing workload. It has not been amended since.

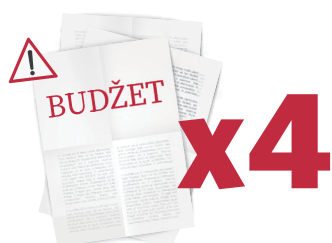
¹¹ / 2017 Annual Report, Property Directorate, Capital City

¹² / 2017 Annual Report, Secretariat for the Protection of Property, Municipality Ulcinj, March 2018.

Capital City Podgorica records these expenses under Debt settlement – other obligations paid, and the Municipality Kolašin as Payments under obligations from previous years and Other. Municipality Pljevlja counts them as Expenses incurred via court verdicts and court-related costs, and Municipality Ulcinj under two different headings: Payments under obligations from previous years and Costs of court disputes.

Item lines	2016			
	Capital City Podgorica	Municipality Kolašin	Municipality Ulcinj	Municipality Pljevlja
Debt settlement – other obligations paid	2.701.616,25			
Payments under obligations from previous years			2.951.621,70	
Payments under obligations from previous years		758.636,94		
Costs of court disputes		0	14.109,20	
Expenses incurred via court verdicts and court-related costs				135.853,47

Tabular representation of cost itemization in different municipalities as part of the Final account of the local self-government budget for 2016.



In 2016, Capital City paid four times more in court-ordered fines than it had budgeted. The budget had envisaged EUR 649.000 under the budget line Debt settlement – other obligations paid, whereas at the end of the year EUR 2.910.197,86 was spent under this line, of which EUR 2.701.616,25 on court-ordered fines.¹³

While the Capital City planned less, Municipality Kolašin overestimated the on this budget line and set aside some 100 thousand euro more than was needed.¹⁴

Additionally, the response from Municipality Kolašin states that their court costs were EUR 56.000 in 2016 and nearly 44.000 in just the first half of 2017.¹⁵

Additional costs for the budget come from interest, court fees, and expert fees, but these are not reported in a transparent manner.

¹³ / Final account of the Capital City Podgorica for 2016, 25 April 2017.

¹⁴ / Final account of the Capital City Podgorica for 2016, Final account of Municipality Kolašin for 2016.

¹⁵ / Requested information included court costs, interest payments, and costs of execution of court decisions, response to the request for free access to information, Municipality Kolašin, 04-448/up-3, 20. novembar 2017.



In these two years, Municipality Kolašin and its authorities were defendants in over 90 suits, with the total value of claims of at least EUR 129.000.¹⁶

However, plaintiff's claims are only part of the costs incurred by the losing party in a court case. More often than not, the verdict also stipulates the cost of court proceedings, compound interest on the original value of claims and expert fees.

Nevertheless, the amounts spent by local self-governments on interest, court fees and additional expertise **are not clearly listed in their final reports, nor in their analytical cards.**

The State Audit Institution has warned in its audit of the final account of Municipality Pljevlja for 2016 that the largest spending item comes precisely from **payments of interest and court fees.**¹⁷

Municipality Pljevlja lists all dispute-related costs under the same budget line - Expenses incurred via court verdicts and court-related costs. These accounted for EUR 135.853 in 2016.¹⁸ From the beginning of 2016 until the second half of 2017 the total value of recorded disputes that involved Directorate for property amounted to nearly half a million euro.¹⁹

In order to further check the amounts and ways they are recorded by different municipalities, we asked local self-governments for analytical cards of all payments under budget lines Payments under obligations from previous years and Expenditure for court disputes for 2016 and 2017, alongside documents that serve as the legal basis for these payments. Unfortunately, obtaining this information proved very difficult. Municipality Ulcinj submitted the requested cards, and these without the accompanying documents. This makes it possible to estimate the spending on court-ordered fines, but not entirely, as there are many items marked as "other", "forced payments" and similar vague categories that make classification difficult.

Analysis of analytical cards of Municipality Ulcinj in this period under the line Payments under obligations from previous years shows only two forced payments worth over 8 thousand euro, and in 2017 a little over 105.000 euro.²⁰

The Capital City gave us no response, while Municipality Pljevlja asked nearly EUR 1500 for the documents.

¹⁶ / Analysis of court charges received via requests to free access to information, Municipality Kolašin

¹⁷ / Report on the audit of the Final account of Municipality Pljevlja for 2016, State Audit Institution, October 2017.

¹⁸ / Ibid.

¹⁹ / Response to the request for free access to information, No. 032-1214/2017-5, 23 November 2017.

²⁰ / Analytic cards for budget items 4631 – Payment of obligations from previous periods and 4192 – Costs of court proceedings, 2017. Municipality Ulcinj.

Analysis of analytical cards shows that expenditure under these two item lines involves various categories of payments: out of court settlements, costs of foreclosures, payments of court-ordered fines etc. In some cases, similar items appear under both budget lines. Analytical cards of the Municipality Kolašin showed that the part of the expenditures, for main costs of the dispute and court costs, are recorded on the budget line *Other*.²¹

The consequences of these accounting variations are lack of transparency, lack of clear oversight, and difficulty in establishing the scope and size of the problem.

Different accounting practices are due, on the one hand, to overly general definitions of cost items specified in the Regulations on unified classification of accounts for the Budget of Montenegro, extra-budgetary funds and municipal budgets, in which definitions of all item lines used by local self-governments leave space for different interpretations.

Another cause is the lack of attention to quality and uniformity of financial reporting at the local level, by local self-governments as well as by the Ministry of Finance, which does nothing to correct the unevenness of reporting. We have already identified the practice of variable reporting of same costs in relation to another item, assignment contract²², and the reports of the State Audit Institution contain numerous other examples.

WHY DO CITIZENS SUE LOCAL SELF-GOVERNMENTS?

Just like the central state, local self-governments are far more often defendants than plaintiffs. In 2016 and 2017, Municipality Kolašin appeared as a defendant in 97 cases, and plaintiff in 9 cases.²³ Out of the total number of cases brought against the municipality, **66 concerned work-related disputes**: its employees sued the municipality most often to claim damages for unused annual leave.



The most common complaints against local self governments involve work-related disputes

Work-related disputes as well as disputes involving definition of ownership over land are the most frequent reasons for complaints against Municipality Ulcinj.²⁴

The Capital City did not submit the requested documents on cases in which the Capital City was a defendant or a plaintiff in

²¹ / Analytical cards Municipality Kolašin for budget lines 4630 - Payment of obligations from previous periods i 4199 - Other, for 2016 i 2017

²² / Bogojević, Ivana, Transparency of local transfers: How does my town spend? Institute Alternative, July 2017. Available at (MNE): <http://institut-alternativa.org/transparentost-lokalnih-transfera-kako-trosi-moj-grad/>

²³ / Analysis of court charges received via requests to free access to information, Municipality Kolašin.

²⁴ / Analysis of court charges received via requests to free access to information, Municipality Ulcinj, No. 09-437/17, January 2018.

the previous years, so it is impossible to identify the main cause of disputes. The reports of the Property Directorate of the Capital City note, however, that the majority of cases that ended with the Capital City having to pay compensation to the plaintiffs concerned **claims for expropriation of land and violation of work-related rights** in 2015 and 2016²⁵, and just **work-related disputes** in 2017²⁶. The total number of cases that involved the Capital City as one of the parties increased over the years.



	Total number of court cases	With final verdict
2017	1941	475
2016	1216	207
2015	746	137

Data from the record of the Property Directorate of Capital City Podgorica²⁷

According to the State Audit Institution there are 59 cases currently in court in which Municipality Pljevlja appears as defendant that are of little value or in which the disputed amounts have not been specified, but there is also a number of cases that involve more substantial amounts, ranging from a few thousand to a few million euro.²⁸

INFORMATION NOT AVAILABLE, RECORDS INCOMPLETE

While the central government keeps records on the cases in which the state appears as defendant and on the overall work of the Protector, no such practice exists in the local governments covered by this study.

Local government bodies that act as legal representatives of local self-governments do not have a regular, pro-active practice of reporting on their work and the progress of cases. Some directorates have reports but do not publish them, and these can only be obtained through requests for access

²⁵ / SAI found that in 2015 too the courts ordered Capital City to pay EUR 60.512,54 worth of damages to its employees on account of unpaid overtime, holiday payments and compensation of non-material damages, EUR 259.543,00 for work exceeding full working time, and EUR 190.000 in compensation for damages occurring due to irregular payment of salaries. Audit report on the Final account of the budget of the Capital City Podgorica for 2015, December 2016.

²⁶ / Annual Reports of Property Directorate for 2015, 2016, and 2017, Capital City Podgorica. Response to request for free access to information no. 113-067/18-133, 1 March 2018.

²⁷ / Ibid.

²⁸ / Report on audit of the Final account of the budget of Municipality Pljevlja for 2016. State Audit Institution, October 2017.

to information. In other municipalities the only way to obtain information was to consult individual complaints against the municipality. We also found discrepancies between the information cited in the reports and that which appears in the court documents. The municipalities also do not keep a record of costs incurred in past disputes, and the reports of the bodies in charge of legal representation of municipalities fail to include a range of information that is necessary for the monitoring of their work and for developing strategies to reduce the number of disputes and improve accountability.

Municipality Ulcinj sent us the legal charges raised against the Municipality as well as those brought by the municipality, but the information differs from that available from the reports of the Secretariat for the protection of municipal property. According to the court documents, in 2017 Municipality brought charges against 5 legal and physical persons, most of them due for failure to pay utility charges. In the same year the Municipality was sued 37 times, with most charges concerning work-related rights and ownership of land. According to these documents, the total value of claims on Municipality Ulcinj from these disputes amounted to at least EUR 168 077, while the claims brought by the municipality involved a similar amount: EUR 140 657.²⁹

At the same time, the Report on the work of the Secretariat for the protection of municipal property claims that there were 121 charges against the municipality in 2017, and 10 cases brought by the municipality before court. The disputes are not described in detail, and the report contains just basic information on the identity of the plaintiff and the general cause for complaint (debt, compensation, etc.) which makes it difficult to determine the most common reason for complaints.

	Plaintiff	Defendant
2017	10	121
2016	12	44
2015	3	35

Number of cases in which Municipality Ulcinj appeared as party to the dispute, 2015-2017³⁰

Municipality Kolašin gave us information on the amounts of court costs incurred in this period³¹, but not the information on the amounts of claims involved in these disputes, due to **absence of record** on the cases themselves.³²

²⁹ / Analysis of court charges obtained from Municipality Ulcinj through request for information no. 09-437/17, January 2018.

³⁰ / Reports of the Secretariat for the protection of property for 2015, 2016, and 2017, Municipality Ulcinj.

³¹ / Requested information included court costs, interest payments, and costs of execution of court decisions.

³² / Response to request for free access to information, Municipality Kolašin, no. 04-448/up-3, 20 November 2017.

Capital City Podgorica, which has a separate Directorate in charge of property and is facing significant cost from disputes – over 2 million euro just in 2016 – does not have comprehensive record of the cases it is involved in. According to the official response we received from the Directorate³³ it was not possible to tell us how many cases have been recorded in 2016 and 2017 in which the Capital City was one of the parties, nor how much the City had to pay in court-ordered fines in the same period, as this information is not readily available, i.e. the directorate would have to process the documents anew for the purposes of our request.

Annual work reports of the Property Directorate have not been proactively published on the website of the Capital City, and had to be requested through special requests for access to information. The reports are incomplete, and are missing a wide range of data that could be used for a comprehensive analysis and monitoring of this area. There is no mention of the number of charges raised in courts by the Capital City, nor of the number of charges against it – not even the most basic information on the identity of plaintiffs, cause of dispute, amounts involved, court-related expensive, interests and expert fees. The biggest problem of these reports, however, is that they **do not contain any information on the total amount spent on court disputes** against the Capital City.

PEACEFUL RESOLUTION OF WORK-RELATED DISPUTES – A MISSED CHANCE

Despite high costs of court processes, local self-governments did not give us information on the frequency of recourse to alternative dispute resolution. Due to data protection regulations, we were also unable to obtain this information from the Agency for peaceful settlement of labour disputes.

The data we were able to collect – sparse reports of the bodies in charge of legal representation at the local level, copies of court charges, and reports of the State Audit Institution – nevertheless testify that work-related disputes constitute the bulk of legal disputes against municipalities.

Earlier findings of Institute alternative revealed that local-level public employment is weakly regulated, as reflected in problems such as publication of calls for already covered positions, and failure to implement skills tests. We also highlighted the role and importance of Inspectorate for Administration. Unfortunately, despite the fact that the inspectorate a very broad mandate and a huge number of unresolved complaints every year, its capacities remain limited, which prevents effective control at the local level.³⁴

³³ / Response of the Property Directorate of the Capital City no. 13-067/17-233, 1 December 2017 to the request for information submitted by Institute Alternative on 1 November 2017.

³⁴ / Đurđić, Ana, Between party patronage, nepotism, and corruption: Employment at the local level in Montenegro. Institute Alternative, October 2017, available at: <http://institut-alternativa.org/en/between-party-patronage-nepotism-and-corruption-local-sector-employment-in-montenegro/>

Nevertheless, despite numerous complaints and damages that have amounted to hundreds of thousands of euro, it is impossible to know whether local self-governments have even tried to use alternative possibilities for resolving work-related disputes in order to lower the costs. Capital City Podgorica rejected our request for access to this information, as it would require compiling a new document. Municipalities Pljevlja and Ulcinj simply failed to address this part of our requests while they submitted information on other points requested in the requests. Municipality Kolašin answered that it has not submitted proposals for peaceful resolution of work-related disputes.³⁵

Agency for peaceful settlement of labour disputes gave us tables with information of cases in which local self-governments appeared as one of the parties. Due to the secrecy of procedure before the Agency, information concerning parties to the dispute has been eliminated, and it is impossible to tell which municipalities have been using this opportunity.

	Number of cases before the Agency for peaceful settlement of labour disputes
2017	180
2016	28
2015	68

Number of processes before the Agency for peaceful settlement of labour disputes³⁶

The new Law on local self-government introduced a novelty concerning work-related rights: officials and employees of local-self governments will from now on be obliged to refer their case to the Agency for peaceful resolution of work-related dispute before bringing charges to court, and their employer is obliged to accept mediation. Only if mediation fails the employees of local self-governments may submit their cases to court. This provision could lower court-related costs in the future, although the possibility of using mediation existed before and could have been used more proactively by local self-governments.

³⁵ / Reponse to request for free access to information, No. 04-205/up-3, Municipality Kolašin.

³⁶ / Response to request for free access to information no. 1-324/18-1, Agency for peaceful settlement of labour disputes, 13 February 2018.

CONCLUSION:

Information on the number of court cases against local self-governments is not proactively published. Getting information on these issues takes a lot of time and shows how difficult it is for the outside actors, including citizens, non-governmental organisations and media, to monitor one of the basic indicators of accountability of local self-governments in Montenegro.

Even our efforts to collect data through requests for free access to information were not enough for a comprehensive assessment of the situation. This means that **basic information on the amounts lost every year in disputes is not available**, nor is other information necessary for further analysis and evaluation of accountability of local self-governments, such as information on court costs (separate from the court-ordered payment of damages to plaintiffs), or amounts paid in out-of-court settlements.

To assess adequately the administrative burden on employees representing municipalities in legal and property-related cases it would be necessary to conduct a separate analysis taking into account the number and complexity of cases relative to the number of employees, as well as employee effectiveness.

Variation in the practice of reporting dispute-related costs has been caused by, on the one hand, **overly general definitions of budget lines** specified in the Regulation on the uniform classification of accounts for the Budget of Montenegro, extra-budgetary funds and local government budgets, which leave too much scope for interpretation. The consequences of these accounting variations are lack of transparency, **lack of clear oversight, and difficulty in establishing the scope and size of the problem**.

The significant amounts currently spent on court litigation will not be reduced unless local bodies in charge of legal representation implement a more transparent and proactive record-keeping. It is worrying that they have not already been asked to do so by the heads of local self-governments, who should be dealing with the root causes of irrational and unnecessary spending and holding accountable those whose negligence costs municipalities significant amounts in court-related expenses.

In addition to reporting dispute-related costs under different item lines, **local self-governments do not break the costs down into relevant categories**, such as the main cost of dispute, interest, court costs, expert fees.

The large number of work-related disputes against local self-governments suggests irresponsible management of human resources or inadequate implementation of work-related legislation.

Insistence on accountability for negligence or misdemeanors which produce complaints against local authorities should be a priority for the heads of local self-governments as well as

for the Ministry of Finance, which is responsible for supervision in this area, in order to improve management of local administrations. At the moment, lack of transparency and sporadic reporting is preventing all interested parties, including civil society, media, and local parliaments, as well as the heads of local self-governments, from adequately addressing the problem and preventing situations whose ultimate result is waste of citizens' money.

RECOMMENDATIONS:

THE MINISTRY OF FINANCE OUGHT TO:

Amend the Regulation on uniform classification of accounts for the Budget of Montenegro, extra-budgetary funds and municipal budgets, to specify rules of financial reporting of detailed expenses related to the court disputes. Such instructions should contain mandatory reporting in the following categories of court-related expenses:

- Main costs of the dispute
- Interest
- Court costs
- Expert fees

In the process of issuing its binding opinion on local budgets, demand that the local self-governments present the expenses planned for court-related costs in a uniform and transparent manner.

Suggest amendments to the Law on state property that would introduce obligatory public reporting by bodies in charge of legal representation at the local level. These reports should contain:

- Description of all charges
- Identity of the plaintiff
- Cause of dispute
- Amount claimed

- Deadline by which the local authority must respond to the complaint and other relevant deadlines
- Employee in charge of handling the case

LOCAL GOVERNMENT BODIES IN CHARGE OF LEGAL REPRESENTATION AND PROTECTION SHOULD:

Introduce mandatory proactive publication of their reports in a tabular, machine-readable form on the websites of local self-governments.

Regularly report to their superiors in local administration on the state of disputes in order to facilitate timely initiation of alternative dispute-settlement procedures

LOCAL GOVERNMENTS

should introduce the practice of regular publication of analytical cards throughout the year, i.e. irrespective of the timeline set by the Law on financing of political subjects and electoral campaigns.

STATE AUDIT INSTITUTION

should conduct a thematic audit of expenses incurred through court disputes in all local self-governments.

SOURCES:

- Analytic cards for budget items 4631 – Payment of obligations from previous periods and 4192 – Costs of court proceedings, 2017. Municipality Ulcinj
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Publication title:

Municipalities in Trial: Between Lack of Accountability and Protection of Local Interests

Publisher: **Institut alternativa**

Bulevar Džordža Vašingtona 57, Podgorica, Montenegro

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Editor: **Stevo Muk**

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Layout and design: **Ana Jovović**

Podgorica, May 2018

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We function as a think tank or a research centre, focusing on the overarching areas of good governance, transparency and accountability. Our research and advocacy activities are structured within following programme strands: Public Administration, Accountable Public Finance, Parliamentary Programme, and Security and Defence. On the basis of our programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups for chapters 23 and 32. Our flagship project is the Public Policy School, which is organised since 2012. Institute Alternative was granted with the licence to conduct research activities in the field of social sciences by the Ministry of Science in 2013.

The project "Civil Society for Good Governance: To Act and Account!" is financed by the European Union within the Civil Society Facility and the Balkan Trust for Democracy project, the German Marshall Fund USA (GMF) project, and implemented by Institute Alternative, Bonum, Natura, New Horizon and Center for Investigative Journalism. The objective of the project is to advance good governance practices in public administration of Montenegro.

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