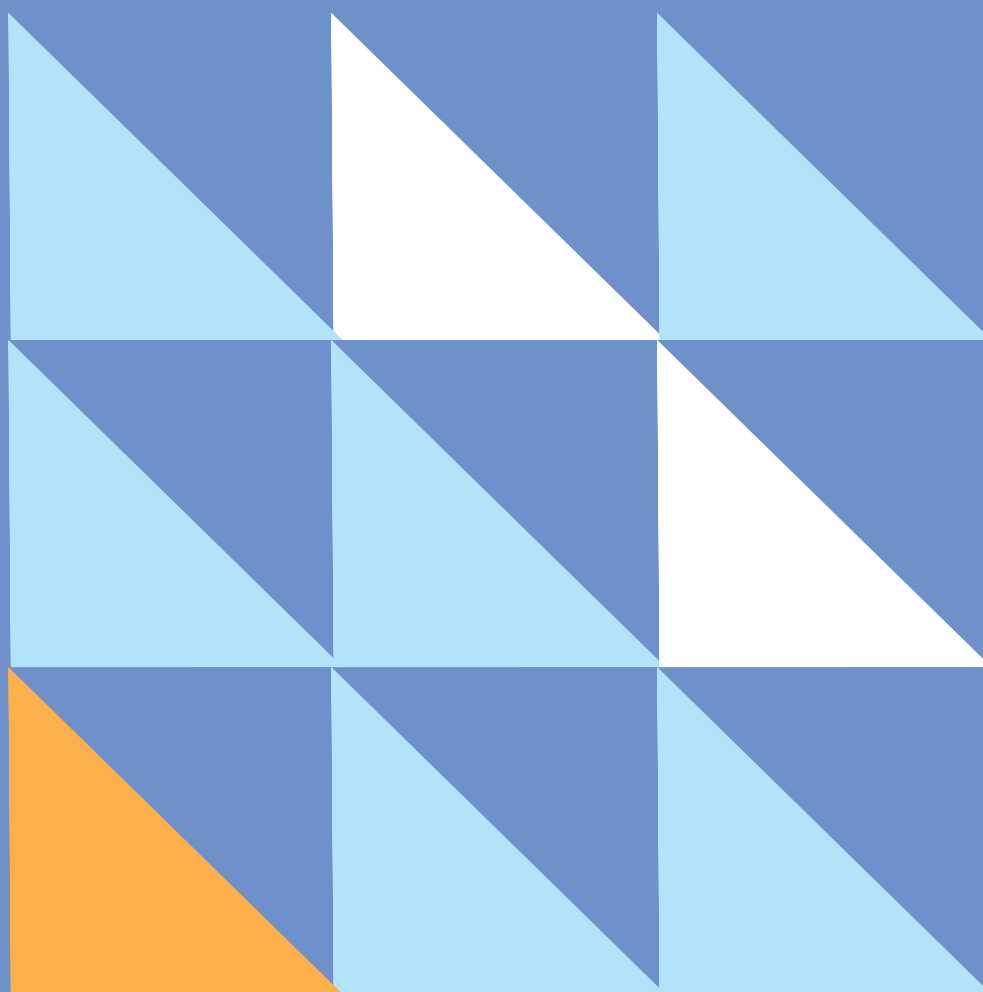


LOCAL IS ALSO PUBLIC:
**LESSONS LEARNED
FROM THE “REFORMS”**



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**LOCAL IS ALSO PUBLIC:
Lessons learned from the “reforms”**

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INTRODUCTION 4

Failure of local-level optimisation 5

Local finance: success means that taxes are being paid. 8

WHAT NEXT?.11

RECOMMENDATIONS12

REFERENCES14

INTRODUCTION

In the public administration reform process, local self-governments are lagging behind the state-level administration in the fields of accountability, transparency and human resources management. This analysis therefore seeks to look at the local self-government reform as addressed by the official strategic actions, and to indicate the gaps in the existing approach to local-level reforms.

The key strategic framework in this area consists of the 2016-2020 Public Administration Reform (PAR) Strategy, which contains a special chapter on local self-government, and the 2018-2020 Public Administration Optimisation Plan. The Strategy set eight targets related to local self-governments. Three of them envisage establishment of an HR management system, implementation of one of the forms of mandatory cooperation in 30 per cent of municipalities, and signing of 20 memoranda on inter-municipal cooperation. The remaining four targets refer to financial indicators and envisage a 65 per cent share of own-source revenues in local government budgets (against 56.5 per cent from 2016), a 2.5 per cent share of current public spending relative to Gross Domestic Product (GDP) (against 3.4 from 2016), lower share of arrears relative to GDP (from 3.4 to 1.5 per cent of GDP), and a drop in the share of municipal public debt relative to GDP from 4.8 per cent to 4 per cent. The eighth target refers to reducing staff numbers in local governments and public services founded by local governments by 10 per cent.¹

This paper will try to establish to what extent these targets have been met. More importantly, it will also try to establish whether the targets are right i.e. to what extent they are adequate for solving the problems accumulated at the local level. The main sources include available documents and official reports on employment and public finance, and documents obtained in response to the requests for free access to information, primarily municipal HR plans. Section one provides an overview of the results of the optimisation, i.e. adjustment of staff numbers at the local level to meet the targets. Section two provides an overview of local government finance, aiming to check the extent of fulfilment of the financial indicators set in the relevant strategic documents. Lastly, the paper suggests that excessive hiring and unsustainable public finance, which have been identified as burning issues in the existing strategic documents, remain priority challenges at the local level; however, on the basis of available experience, the paper highlights the lessons learned and provides recommendations for better implementation of reforms at the local level.

1 / Ministry of Interior, 2016-2020 Public Administration Reform Strategy, July 2016, available at: https://mju.gov.me/biblioteka/strategije_i_akcioni_planovi

Failure of local-level optimisation

Excessive hiring in local public enterprises, institutions and services has been one of the long-term implications of insufficient development of a number of Montenegrin municipalities, in particular those from the northern region. Since the private sector could not generate a sufficient number of jobs, the employment rate was sustained through public sector recruitment, to the point where municipalities could no longer pay the taxes and contributions to staff salaries. This was one of the reasons why 15 municipalities had to conclude tax arrears rescheduling agreements with the Ministry of Finance in 2015; the agreements required cuts in staff numbers and conditioned any new hiring with the consent of the Ministry of Finance.²

Municipalities faced similar obligations under the Public Administration Reform Strategy and the Optimisation Plan. It should be noted that implementation of strategic actions towards optimisation initially suffered from an inherent error, as the targets related to downsizing at the local level were quantified only upon the adoption of the Optimisation Plan, in June 2018. The baseline figures for the projected downsizing by 1,217 employees were, however, from December 2017 (12,174). In addition to the lack of monitoring of staff numbers during the first half of 2018, the methodology behind the baseline figures from 2017 was questionable, as it used the data provided by local governments and public institutions and public enterprises founded by local governments in their responses to the questionnaires. The breakdown of staff employed by local governments shows that the biggest share (6,606) worked in local public enterprises, followed by local governments (4,378) and institutions (1,190). Out of that number, 868 had fixed-term contracts. The issue of municipal autonomy was raised as well, since the Government had no legal means to oblige municipalities to comply with the measures; instead, the measures were formulated as recommendations.³

As a consequence, municipalities never adopted the «imposed» measures and were never properly encouraged to consistently implement them. The agreements concluded with the Ministry of Finance, however, revealed that poor management of local government finances threatened the sensitive relationship between local self-government autonomy and the need for more efficient central oversight:

2/ Ivana Bogojević, *Reforma javnih finansija i poreska tajna: Kroz prizmu opštinskog duga*, Institute Alternative, June 2018, <http://media.institut-alternativa.org/2018/07/Reprogram-i-PFM.pdf>

3/ For instance, the Government Conclusion “recommends to local self-governments to restrict recruitment based on open-ended and fixed-term contracts by 1 July 2019”. This Conclusion was adopted as a recommendation, on the basis of the argument that local self-governments cannot be explicitly imposed the obligation to optimise, as was done in the case of the authorities supervised or founded by the government. See: http://www.gov.me/sjednice_vlade_2016/84

despite the legal mechanisms, the obligations from these agreements were not complied with, and the results were consequently not satisfactory.

Although the Government claims that some progress has been made with regard to staff downsizing, data reliability is questionable, as the Government and Ministry of Public Administration (MPA) reports do not present the number of staff working in local governments at the end of any reporting period in the course of monitoring the implementation of the Optimisation Plan. The MPA itself highlighted, in the initial report on the implementation of the Optimisation Plan, that «data precision is a major challenge faced by the MPA in this process».⁴ Given the data on the trends in staff numbers, as presented for the period between September 2018 and December 2019, the number of staff in local governments declined by 544, or by less than a half of the projected target for March 2020.⁵

Even if we had reliable data on staff numbers in line with the current laws, there is a concerning tendency to deploy mechanisms that circumvent or directly breach the law to hire employees. During the second half of 2019, the number of temporary employment contracts at the local level increased by 103, even as this trend was declining. Besides the aggregate numbers of such contracts, their contents and substance may be questionable as well, as indicated by the practice thus far. Namely, conclusion of such contracts for the jobs envisaged in the job-classification schemes of local authorities – therefore jobs that reflect their permanent, rather than just temporary needs – amounts to direct breach of law. The Labour Law clearly stipulates that temporary employment contracts should be concluded for the assignments that are not envisaged in the document on internal organisation and job classification and that do not require specific knowledge and skills and are of such nature that they require up to 120 business days per calendar year. The Reports on the Implementation of the Optimisation Plan do not provide sufficient details on the reason for and purpose of such contracts, although they could increase the actual number of staff employed at the local level.

Absence of full use of the measures intended to optimise staff numbers at the local level in the long run is a particular concern. The concept of redundancy, as a review of needs for particular staff qualifications, was the least frequently stated reason for downsizing. An insufficient number of municipalities amended their respective Rulebooks on internal organisation and job classification to envisage

4 / Ministry of Public Administration, Report on the implementation of the 2018-2020 Public Administration Optimisation Plan, October 2018, available at: https://mju.gov.me/rubrike/plan_optimizacije/realizacija

5 / Reports on the implementation of the Optimisation Plan available at: https://mju.gov.me/rubrike/plan_optimizacije/realizacija

significant cuts in job positions and reduce the number of staff performing general and administrative affairs, which was one of the original objectives of the optimisation. That measure was intended to address the concerning situation, in particular in the municipal public enterprises, which employ more than a half of local government workforce. The Optimisation Plan identified that municipal enterprises had been “overstaffed for years“ and that some utility companies had “unfavourable breakdown by qualifications, with less than 50per cent involved in core business and majority involved in administrative and legal affairs, accounting, management, maintenance and support.”⁶ Still, according to the reports on the implementation of the Plan, since the beginning of its implementation 18 local institutions complied with the requirement to have up to 15per cent of staff involved in general and support activities; that number included only six municipalities. The report highlights the example of Bijelo Polje Municipality’s new job classification documents that envisaged up to 6per cent of total staff involved in general and support activities. It does not, however, state the compliance rate, i.e. the number of local institutions that did not re-organise jobs in such a way to enable optimal performance of public authorities over a longer term.⁷

Ultimately, HR planning, although stipulated as an obligation under the Law on Local Self-Government from 2017, has not taken root properly. This conclusion is supported by the detailed analysis of the adopted municipal HR plans for 2019 conducted by the Institute Alternative. The municipalities that adopted HR plans demonstrated a formalistic approach to meeting this statutory obligation, unaccompanied by detailed elaboration of the need for new recruitment or detailed information on the current situation, also relativising the data presented in the document. Thus, for instance, Tivat Municipality stated its plan to hire 60 civil servants in 2019 and 2020 (39 based on open-ended and 21 based on fixed-term contracts), in case they were needed. This indicates that the HR plan was not based on an assessment of needs. It is also concerning that the ten municipalities that adopted HR plans intended to hire 457 people.⁸

6 / Montenegro 2018-2020 Public Administration Optimisation Plan, July 2018, available at: https://mju.gov.me/rubrike/plan_optimizacije

7 / Ministry of Public Administration, Report on the implementation of the 2018-2020 Public Administration Optimisation Plan for the period 1 July -31 December 2019, available at: https://mju.gov.me/rubrike/plan_optimizacije/realizacija

8 / See: Institute Alternative, Deset opština planira da zaposli preko 450 službenika, available at: <https://institut-alterna-tiva.org/deset-opstina-planira-da-zaposli-preko-450-sluzbenika/>

Local finance:

Success means that taxes are being paid

The Law on Local Self-Government Finance was adopted in 2018. Together with the other relevant regulations, primarily Law on Utility Activities, and with the proposed arrangements for collecting utility fees, it aims to enhance municipal own-source revenues. Still, the target related to the share of own-source revenues in the total respective municipal budgets was not met in 2018: the target was 55per cent, and the actual share was 52.99per cent. The key explanation for the failure in meeting this target was the delayed implementation of the Law on Utility Activities.⁹ Despite the intention to enhance the potential for collection of own-source revenues, there is a notable long-term declining trend: between 2009 and 2017, Montenegro lost more than EUR70 per capita as a result of statutory termination of several local revenues without appropriate compensation.¹⁰

However, as stressed in the Report on the Implementation of PAR Strategy, it should be considered that revenue calculation in municipalities suffers from deficiencies. This was also identified by the State Audit Institution in its Report on the audit of allocations from the Equalisation Fund. The State Audit Institution established that the Ministry of Finance, which should set the criteria for the allocation of those resources on the basis of municipal revenues, did not verify the data it received but used, in its calculations, the figures from the tables shared by municipalities. For example, the Old Royal Capital of Cetinje reported in the tables for advance allocation that it shared with the Ministry of Finance, an average amount of personal income tax that was lower by more than 140 thousand euros than the actual one. As a consequence, the Ministry used such inaccurate data to set the amount to be allocated to the Old Royal Capital.¹¹

The Government claims that there is an upward trend in the indicators for the financial sustainability and sound financial capacity of municipalities based on balanced local revenues. According to the preliminary data from the end of 2018, municipal public debt was reduced, along with the amount of municipal arrears relative to GDP. The share of local-level current public spending relative to GDP declined to 2.93per cent. The indicator related to the share of local revenues relative

9 / Ministry of Public Administration, Report on the implementation of the Action Plan for implementation of the 2016-2020 PAR Strategy in 2018, March 2019, available at: <https://mju.gov.me/biblioteka/izvjestaji>

10 / Ministry of Public Administration, Report on the implementation of the Action Plan for implementation of the 2016-2020 PAR Strategy in 2018, March 2019, available at: <https://mju.gov.me/biblioteka/izvjestaji>

11 / State Audit Institution, Audit report on the allocations from the Equalisation Fund, April 2018.

LOCAL IS ALSO PUBLIC: LESSONS LEARNED FROM THE “REFORMS”

to GDP was not met, but it showed an encouraging trend compared to 2017, as it increased to 6.25 per cent (the target for 2018 was 6.50 per cent).¹²

Having in mind the poor baseline in these areas, the isolated upward trends have still not produced a lasting impact on the sustainability of local finance. The baseline situation was so bad that Montenegro Tax Administration data were recognised as the initial signals of stabilisation of local public finance: those data confirmed that, for the three first months of 2019, all Montenegrin municipalities paid the taxes and contributions on staff salaries, for the first time in the past decade.¹³ Meanwhile, however, the total gross wages in the budget plans for 2020 increased by more than 8.5 million euros compared to the budget execution figures for 2019, or by almost 13 million euros compared to the budget execution figures for 2018, the year of adoption of the Optimisation Plan. There were also notable increases in expenditures for short-term service contracts and other personal income.

Table 1: Montenegrin municipalities' expenditures for gross wages, 2015-2020¹⁴

	2020	2019	2018	2017	2016	2015
Andrijevića	585,004.00	545,676.76	472,124.35	391,560.27	352,065.52	352,619.49
Bar	3,346,100.00	2,957,537.89	2,846,823.09	2,751,913.60	2,895,966.55	2,580,609.78
Berane	2,720,700.00	2,269,437.62	1,857,790.40	2,349,951.20	2,387,512.78	3,280,040.64
Bijelo Polje	1,988,600.00	1,405,639.28	1,389,719.00	1,044,544.49	1,677,113.35	2,074,865.49
Budva	5,875,300.00	5,554,965.08	4,834,092.01	4,668,875.07	3,969,332.55	4,756,314.04
Danilovgrad	1,597,946.00	1,749,676.75	1,636,041.71	1,516,294.57	1,418,438.91	1,428,245.84
Gusinje	673,250.00	429,060.11	408,912.03	309,157.91	279,351.41	171,154.16
Herceg Novi	3,805,000.00	3,950,626.93	3,751,991.41	3,700,119.46	3,523,735.76	3,215,524.23
Kolasin	1,114,910.00	859,515.53	733,008.55	546,492.45	638,207.17	807,288.28
Kotor	3,496,015.00	3,274,194.15	3,227,561.90	3,342,779.26	3,150,228.73	2,536,088.13
Mojkovac	856,250.00	757,475.63	724,146.50	705,991.83	694,901.96	643,441.35
Nikšić	6,678,894.00	4,874,777.95	4,710,951.15	5,023,138.55	4,414,413.12	4,384,828.40
Petnjica	435,000.00	372,419.17	343,384.13	281,537.45	208,781.64	156,441.77
Plav	1,167,560.00	954,751.14	1,088,960.84	1,166,978.99	632,526.11	585,908.18
Pluzine	549,800.00	441,545.28	464,719.92	474,003.96	464,846.28	415,805.92
Pljevlja	2,833,048.00	1,828,518.15	1,704,702.45	1,807,266.36	1,778,304.53	2,880,055.98
Podgorica	10,966,900.00	10,555,898.97	10,273,342.35	9,881,924.46	9,247,364.67	8,643,729.26
Rozaje	1,454,260.00	983,808.59	737,269.79	1,350,033.82	1,350,033.82	1,691,169.58

12 / Ministry of Public Administration, Report on the implementation of the Action Plan for implementation of the 2016-2020 PAR Strategy in 2018, March 2019, available at: <https://mju.gov.me/biblioteka/izvjestaji>

13 / Radio Tivat, Mugoša: Sve crnogorske opštine uredno platile poreze i doprinose, April 2019, available at: <https://radiotivat.com/mugosa-sve-crnogorske-opstine-uredno-patile-poreze-i-doprinose/2019/04/>

14 / Planned expenditures shown for 2020; data on budget execution shown for all the remaining years.

LOCAL IS ALSO PUBLIC: LESSONS LEARNED FROM THE “REFORMS”

Tivat	3,390,050.00	3,020,369.75	2,825,399.03	2,635,763.52	1,957,204.84	1,648,547.91
Ulcinj	2,499,350.00	1,347,278.00	1,312,846.11	1,146,849.18	1,447,196.54	973,638.88
Cetinje	1,928,610.00	1,915,987.54	1,192,799.39	1,108,616.55	1,392,454.63	2,569,597.56
Zabljak	710,400.00	669,306.97	661,717.30	651,225.80	685,474.42	584,805.21
Savnik	550,000.00	495,890.59	521,316.81	520,026.82	491,455.85	468,382.06
Tuzi	910,246.00	481,213.45				
Total	60,133,193.00	51,695,571.28	47,719,620.22	47,375,045.57	45,056,911.14	46,849,102.14

This is the reverse side of the failed optimisation described in the previous section of this report. The Ministry of Finance did not make efficient use of its oversight mechanisms, or kept records on public sector wages, which it was obliged to do under the Law on Public Sector Wages. Budget Inspectorate is still not operational to date, as no inspectors have been hired to work in this organisational unit of the Ministry of Finance.

The SAI report on the use of Equalisation Fund pointed to problems related to calculation of wages at the local level that hinder efficient oversight of public finance, and indicated a lack of technical preconditions for more efficient public finance management. For instance, it was established that Bijelo Polje Municipality calculated the total gross wages bill manually. Bijelo Polje and Rozaje did not share accurate data on wages. Rozaje even presented a calculation of wages that was by almost half a million euros lower than the amount established in the audit.

SAI also established that the programmes used by Berane, Bijelo Polje, Danilovgrad, Kolasin, Rozaje and Cetinje to calculate and record local revenues could not generate the report on the calculated and collected local fiscal revenues, or single out the revenues that referred to previous years and were collected during the current year; instead, these operations were carried out manually, on the basis of supplementary records.¹⁵

Several agreements on inter-municipal cooperation were concluded over the previous period; this is one of the reform objectives that achieved progress.¹⁶ However, there is no systematic information on the extent to which performance of certain activities, such as protection and rescue, improved service delivery in the given area and led to specific savings.

15 / State Audit Institution, Report on the audit of the allocations from the Equalisation Fund, April 2018.

16 / Ministry of Public Administration, Report on the implementation of the Action Plan for implementation of the 2016-2020 PAR Strategy in 2018, March 2019, available at: <https://mju.gov.me/biblioteka/izvjestaji>

WHAT NEXT?

The integral local self-government reform has proven to be a major challenge. Despite the attempts at systemic solutions, such as the new Law on Local Self-Government Finance, the method of work and operation vary from one municipality to the next, even in some rudimentary aspects such as calculation of revenues and wages, which affects the overall situation in this field.

The objectives of local-level optimisation lacked a solid basis. This is best illustrated by the inappropriate method used to set the baseline staff numbers, which led to imprecisions in reporting and ultimately to failure in achieving the key results of the Optimisation Plan at the local level. The key oversight mechanisms, primarily the inspections performed by the Administrative and Budget Inspectorates, have not been sufficiently deployed, which led to the lack of effective implementation of key strategic documents and insufficient compliance with laws, illustrated by the misuse of the concept of temporary employment contracts.

Excessive recruitment and unsustainability of public finance remain priority challenges at the local level. Therefore, although local self-government should not be exempt from other public administration areas (accountability and transparency, service delivery, civil service relations, policy making and coordination) the focus on optimisation should remain going forward, as it essentially implies the stage of rationalisation, with measures to generate short-term savings without major functional, organisational and structural changes, but also a re-organisation stage that refers to major changes in terms of structure, activities and functions, resources, management systems, internal and external relations and business processes.¹⁷

17 / Moderna država – racionalna država, Ministry of Public Administration and Local Self-Government, Republic of Serbia, 2015.

01

MUNICIPALITIES SHOULD DEVELOP THEIR HR PLANS WITHIN THE STATUTORY TIMELINE, MINDFUL OF THE NEED TO RATIONALISE PUBLIC SPENDING;

02

MUNICIPALITIES SHOULD ALIGN ADOPTION OF ANNUAL HR PLANS AND ACCOMPANYING EXPLANATORY NOTES WITH THE LONG-TERM OBJECTIVES OF PUBLIC ADMINISTRATION OPTIMISATION, TO ENSURE THE SUSTAINABILITY OF THE EFFORTS TO REDUCE THE WAGE BILL AND TO IDENTIFY THE NEEDS FOR RE-ORGANISATION OF SPECIFIC ADMINISTRATIVE AUTHORITIES, SERVICES ETC.;

03

THE FINANCIAL ASPECT OF ALLOCATIONS FOR HUMAN RESOURCES SHOULD SERVE AS ONE OF THE KEY INDICATORS OF RATIONALISATION OF LOCAL-LEVEL RECRUITMENT: GIVEN THE UNRELIABLE METHOD OF GATHERING INFORMATION ON STAFF NUMBERS FROM THE QUESTIONNAIRE, CALCULATION OF AND PAYMENTS AS PER SHORT-TERM SERVICE CONTRACTS AND TEMPORARY EMPLOYMENT CONTRACTS AND PAYMENT OF OTHER PERSONAL INCOME SHOULD SERVE AS THE KEY INDICATOR IN THIS FIELD;

04

THE GOVERNMENT SHOULD MAKE MORE EFFICIENT USE OF AVAILABLE MECHANISMS, PRIMARILY INSPECTIONS, TO TIMELY DETECT AND PREVENT EXTENSIVE CIRCUMVENTION OF STRICTER RULES FOR LOCAL-LEVEL RECRUITMENT THROUGH ABUSE OF CONCEPTS SUCH AS TEMPORARY EMPLOYMENT CONTRACTS;

05

THE GOVERNMENT SHOULD REPORT ON THE NUMBER OF TEMPORARY EMPLOYMENT CONTRACTS CONCLUDED, DURING THE IMPLEMENTATION OF THE OPTIMISATION PLAN, FOR THE ACTIVITIES THAT FALL WITHIN THE STANDARD JOB DESCRIPTION OF LOCAL AUTHORITIES OR SERVICES;

06

THE MINISTRY OF FINANCE SHOULD ENHANCE ITS OVERSIGHT OF THE RECORDS ON LOCAL REVENUES AND WAGES, IN PARTICULAR BY PUTTING IN PLACE THE PRECONDITIONS FOR A FULLY OPERATIONAL BUDGET INSPECTORATE;

07

THE GOVERNMENT AND MUNICIPALITIES SHOULD PUT IN PLACE THE TECHNICAL PRECONDITIONS FOR MORE EFFICIENT CALCULATION AND RECORDING OF REVENUES AND WAGES BY DEVELOPING A UNIFORM PROGRAMME TO BE USED BY ALL MUNICIPALITIES.

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[Institute Alternative \(IA\)](#) is a non-governmental organization, established in September 2007 by a group of citizens with experience in civil society, public administration and business sector.

[Our mission](#) is to contribute to strengthening of democracy and good governance through and policy analysis as well as monitoring of public institutions performance.

[Our objectives](#) are to increase the quality of work, accountability and transparency, efficiency of public institutions and public officials; to encourage open, public, constructive and well-argument discussions on important policy issues; raising public awareness about important policy issues, strengthening the capacity of all sectors in the state and society for the development of public policies.

[The values](#) we follow in our work are dedication to our mission, independence, constant learning, networking, cooperation and teamwork.

We function as a [think tank](#) or a research centre, focusing on the overarching areas of good governance, transparency and accountability. The areas of our work and influence are structured around the following five main programmes: public administration; accountable public finance; parliamentary programme; security and defence, and social policy.

On the basis of our five programmes, we monitor the process of accession negotiations with the EU, actively participating in working groups Public procurement (5), Judiciary and Fundamental rights (23) and Financial control (32). Our flagship project is the Public Policy School, which is organized since 2012, and in 2018 we organized the first Open Budget School.

So far we cooperated with over 40 organizations within regional networks in the Western Balkans and with over 100 organizations in Montenegro. Institute is actively engaged in regional networks: Think for Europe (TEN), Pointpulse, SELDI, WeBER, UNCAC Coalition, Global BTAP, PASOS and The Southeast Europe Coalition on Whistleblower Protection.

The results of our research are summarized in 107 studies, reports and analyses, and the decision-makers were addressed 1036 recommendations. Over four thousand times we communicated our proposals and recommendation to the media for better quality public policies.

We started three internet pages. [My town](#) is a pioneer endeavour of visualization of budgetary data of local self-administrations. [My Administration](#) followed, which serves as an address for all those citizens that have encountered a problem when interacting with public administration and its service delivery system. The newest internet portal, [My Money](#), provided national budget data visualization.

Institute Alternative regularly publishes information about finances, projects and donors that support the work of the organization. For this reason, the Institute have five-stars rating third year in a row, according to a survey conducted by the international non-profit organization Transparify, which evaluates transparency for over 200 research centers.

President of the Managing Board is Stevo Muk, and our organization currently has ten members.
