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For a Merit-Based Local Civil Service: What a Dedicated Law Must Address

Employment in local administrations has been largely neglected in terms of monitoring the implementation of key regulations and establishing standards in this area. Paradoxically, following the 2021 amendments to the Law on Civil Servants and State Employees, which degraded employment conditions in state administration bodies, recruitment procedures have become comparatively more advanced at the local level than in other parts of the public sector (state administration, public enterprises and public institutions).¹

However, this “comparative advantage” is highly relative, as it stems solely from loose procedures and the absence of basic safeguards for merit-based recruitment in other sectors. Additionally, there have been several attempts to align employment conditions in local administrations with those at the state level, thereby effectively weakening them.² The proposed Draft Law on Local Civil Servants and Employees partially realises these attempts, given that it offers the possibility for acting offi-

¹ A detailed overview of Risks of Undue Interference in Public Sector Recruitment is available at a dedicated website, launched by Institute Alternative: <https://mapa-rizika.me/>

² Milena Muk, “A call to prevent further undermining of local-level recruitment” Institute Alternative, 21 December 2023, available at: <https://institut-alternativa.org/en/a-call-to-prevent-further-undermining-of-local-level-recruitment/>

cial to be appointed from outside the local self-administration system, without prior checks.³

The Government, taking into account suggestions from stakeholders, primarily municipalities, initiated the drafting of a dedicated Law on Local Officials, Civil Servants and Employees in 2024. According to the Ministry of Public Administration, which is leading this process, the Draft Law aims to improve local self-government by providing a clearer definition of the status of local officials and introducing the municipal manager as a key public official. Employment conditions are aligned with those at the state level, while flexible mechanisms are introduced to allow for a more efficient response to seasonal and development needs, such as the engagement of communal police officers and experts for development of EU-funded projects. The Draft also envisages scholarships for deficit occupations, the implementation of functional analyses of job positions, and greater mobility of civil servants through an internal labour market.⁴

The Draft Law on Local Civil Servants and Employees was presented in October 2025, followed by a public consultation. Institute Alternative participated in the consultation. Below, we present an overview of our key recommendations and arguments as to why the proposed Draft Law not deliver the expected improvements unless certain procedures are more precisely defined and safeguards introduced to prevent abuse.

Avoid the pitfalls of subsidiary application that undermine the purpose of adopting a dedicated law

One of the objectives of adopting a dedicated law on local civil servants, as we understood it, was precisely to avoid the legal gaps and ambiguities that have long affected this area, largely due to the subsidiary application of regulations from the state level. However, the Draft Law retains subsidiary application for the most important segments of the recruitment process.

The Draft Law retains subsidiary application precisely where it is most difficult to implement: in the assessment of competencies during recruitment in local administration.

Paradoxically, this process has yet to begin even at the state level, particularly in terms of providing additional training and guidance for the application of the competency framework.

We have not seen any justification or impact assessment regarding additional training and resources needed for the application of this new concept in local self-government units.

³ Ministry of Public Administration, "Public Consultation on the Draft Law on Local Officials, Civil Servants and Employees," 14 October 2025, available at:

<https://www.gov.me/clanak/javna-rasprava-o-tekstu-nacrta-zakona-o-lokalnim-funkcionerima-lokalnim-sluzbenicima-i-namjesticima>

⁴ Ministry of Public Administration, "Dukaj: Montenegro is Getting Its First Law on Local Officials, Civil Servants and Employees," 3 October 2025, available at:

<https://www.gov.me/clanak/dukaj-crna-gora-dobija-prvi-zakon-o-lokalnim-funkcionerima-sluzbenicima-i-namjesticima>

Specifically, Article 50 of the Draft Law provides for the subsidiary application of regulations governing civil servants and state employees to the most important aspect of the recruitment process – the procedure for verifying the knowledge, abilities, competencies and skills of candidates who meet the requirements set out in the vacancy announcement, as well as the criteria and method of their evaluation. It is particularly concerning that such a mechanism is being introduced at a time when the Human Resources Administration and human resource management units, even at the central level, are still ill-prepared to implement the competency framework. Furthermore, the competency framework was introduced, without public consultation or an accompanying rationale, through the Decree on the Criteria and Detailed Manner of Conducting Examination of Knowledge, Abilities, Competences, and Skills for Working in State Authorities in July of 2025.⁵

It should also be noted that the Decree mainly defines general competencies (analytical skills, written communication skills, digital literacy and results orientation). In addition to these general competencies, the Decree also recognises the following:

Specific competencies – relating to a particular type of work and category of positions, and to the specific knowledge, specialised skills and abilities required for effective performance of tasks associated with that position;

Managerial competencies – relating to positions within the categories of expert-managerial staff, senior managerial staff and heads of administrative bodies, and encompassing the ability to organise work and manage human resources, as well as the capacity for strategic management.

At present, there is no manual at the state level that would further define the criteria and indicators for assessing each of these competencies. Therefore, prescribing subsidiary application raises numerous questions to which we have not yet had the opportunity to hear answers, such as:

- Are members of local recruitment commissions trained to assess competencies, given that even at the state level there is still no appropriate manual or adequately trained members of commissions?
- Are the same general competencies required for both local and state civil servants?
- Was the purpose of this Law to avoid subsidiary application, only for it now to be reintroduced in the most important phase of recruitment?

Furthermore, the lack of understanding of the competency framework and its application in the context of local administration is demonstrated by the fact that, for example, the criteria for evaluating the performance of local civil servants are not aligned with the general competencies as defined by the Decree at the state level. Notably, competency-based human resource management implies that the competency framework is used not only for recruitment, but also for planning training through the identification of competency gaps, workforce planning through the assessment of current and future competency needs, and improved performance appraisal through the evaluation of behaviour in achieving defined objectives.⁶

⁵ Decree on the Criteria and Detailed Manner of Conducting Examination of Knowledge, Abilities, Competences, and Skills for Working in State Authorities, Official Gazette of Montenegro, No. 88/2025.

⁶ Regional School of Public Administration (ReSPA), Professional Requirements and Competency Frameworks in the Civil Service Administrations of the Western Balkans, August 2022, available at:

https://respaweb.eu/download/doc/Professional+Requirements+and+Competency+Frameworks_August++2022.pdf/7081381857ab65c0d825c1412bee35de.pdf

Improve reporting on competency assessments

Reliable reporting on competency assessments is crucial for building trust in recruitment processes within local self-government units, which has been significantly undermined, as indicated by all relevant public opinion surveys. Good practices in the region regarding reporting on the outcomes of recruitment procedures can be observed in Serbia and Kosovo, which proactively publish not only decisions on the selection of civil servants at the state level but also testing results, including the number of points awarded and the corresponding justifications.⁷ Given the low level of transparency and accountability in this area, we believe that the Law on Local Civil Servants and Employees should prescribe a clear structure and mandatory components for reports on competency checks, as this represents a key mechanism for enabling transparency of decisions on the selection of local civil servants.

Reduce the burden on candidates: Abolish the state exam for local civil servants

The Draft Law on Local Civil Servants and Employees completely ignores the principle of exchanging data ex officio between public authorities, as prescribed by the Law on Administrative Procedure.⁸ Specifically, Article 38 of the Draft Law, which defines the fulfilment of conditions when filling a vacancy, places the burden of collecting documentation from public registers on candidates, thereby violating this principle. The Draft Law only clarifies that the certificate confirming that a person has not been convicted of a criminal offence rendering them unfit for public office is to be obtained ex officio, but not the rest of the required documentation.

For this reason, it is essential that the principle of the exchange of data ex officio, as defined by the Law on Administrative Procedure, be fully implemented in practice and integrated across all relevant regulations. Otherwise, the principle is rendered meaningless, while obligations that should lie with public authorities are shifted onto candidates.

Similarly, prescribing the so-called state exam as an eliminatory requirement for local civil servants is unjustified. It is worth noting that, until recently, passing this exam at the state level was also subject to an exception, whereby it could be taken within the first year of employment. This exception was removed without prior discussion or justification.

We also note that the manner of taking this exam is not precisely defined, particularly with regard to the sequence of its components, which may represent a barrier to employment.⁹ The financial and time costs imposed on prospective local civil servants, which includes paying examination fees and travelling from their place of residence, represent a disproportionately high administrative barrier with no valid

7 Think for Europe Network (TEN) / WeBER, Western Balkan PAR Monitor: Public Service and Human Resource Management 2024/2025, available at:

<https://weber-new.s3.us-west-2.amazonaws.com/wp-content/uploads/2025/12/16130918/PSHRM-WB-report-2024-202-1.pdf>

8 Law on Administrative Procedure, Official Gazette of Montenegro, No. 56/2014, 20/2015, 40/2016 and 37/2017.

9 Decree on the Programme and Manner of Taking the Professional Exam for Work in Public Service Bodies, Official Gazette of Montenegro, No. 23/2024.

justification. We have also raised the question of the justification for this exam at the central level, where it is often taken out of turn, thereby undermining the integrity of the recruitment process. We therefore propose removing this requirement and improving the framework for theoretical assessment of prospective local civil servants.

Prevent abuses in the transfer of civil servants

The transfer of employees is, in practice, susceptible to abuse. Following an initiative by Institute Alternative requesting an inspection of the procedure for filling the position of director in a company with majority state ownership, the Labour Inspection determined that there were no irregularities in the case where Nikola Rovčanin was transferred by mutual agreement from Vodovod Pljevlja (translator's note: local water management company), and appointed Executive Director of Elektroprivreda Crne Gore (translator's note: national energy company) without a prior public announcement. The explanation provided was that directors enjoy the same status as other employees in this regard, and that any different interpretation, which would exclude directors from the possibility of moving from one company to another on the basis of a transfer agreement, would constitute selective application of the Labour Law.¹⁰

However, the Draft Law does not provide safeguards to ensure that, during the transfer process, employees' experience, performance appraisals or any other merit will be taken into account. It does not introduce restrictions on the use of this mechanism, nor does it link it to the process of public sector optimisation, i.e. to regular human resources planning processes, which should form the basis for making all key decisions on recruitment, redeployment and transfer of employees. For this reason, we consider it necessary to introduce the following restrictions and transparency safeguards in order to prevent abuses in this area:

- An employee may be transferred only where filling vacancies through transfer is envisaged in the staffing plan of the institution or company;
- When transferring an employee to a position, account is taken of performance results, work experience and the needs of the institution or company taking over the employee;
- The employee transfer agreement is published on the websites of the local self-government unit and the relevant institution or company;

It should not be possible to carry out a transfer to managerial positions (positions whose job description includes managing organisational units within a public institution).

¹⁰ Institute Alternative, "Public Sector Under the Labor Inspectorate's Scrutiny: Fewer Inspections, More Initiatives," July 2025, available at:

<https://institut-alternativa.org/en/public-sector-under-the-labor-inspectorates-scrutiny-fewer-inspections-more-initiatives/>

Improve and expand the scope of human resources planning

Institute Alternative's analyses show that, although an increasing number of municipalities adopt staffing plans, their scope and quality, particularly in terms of prior analyses and assessments, remain unsatisfactory. Even where, in a small number of cases, staffing plans include justifications, these tend to provide details on the positions that need to be filled, without clearly indicating why recruitment is needed, i.e. whether there has been a change in competences, an increased workload, and the like.¹¹

In addition to strengthening the analytical basis for staffing plans, which the Draft Law recognises through the obligation to conduct functional analyses in the field of human resources, their scope should also be expanded. In particular, plans should also cover needs for temporary engagement on the basis of service contracts, contracts for temporary and occasional work, and consultancy services, as well as needs related to redeployment and the transfer of employees. Redeployment, transfer and forms of temporary engagement can respond to certain needs of local self-government units; accordingly, their use should be grounded in law, and the needs clearly set out through staffing plans.

Introduce appropriate sanctions

The Draft Law provides for an overly narrow set of penal provisions in relation to the rights and obligations it introduces. For example, it contains no penal provisions for extending acting appointments, even though it introduces an explicit restriction of this mechanism. Given the extent of abuses related to extending acting appointments within the public administration system to date, clear sanctions for breaches of obligations are necessary. In principle, the provision of the law introducing penal provisions should be reviewed in detail so that penal provisions are expanded to cover breaches of all key rights and obligations.

¹¹ Jelena Radulović, "Some local administrations plan to hire more than 50% of the current workforce: No justification for new waves of hiring," Institute Alternative, 1 October 2025, available at: <https://institut-alternativa.org/en/some-local-administrations-plan-to-hire-more-than-50-of-the-current-workforce-no-justification-for-new-waves-of-hiring/>

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