

Assessment of the Progress Achieved under the 2018–2020 Public Administration Optimisation Plan at the Local Level

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The Ministry of Public Administration,
Digital Society and Media

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2018–2020 Public Administration Optimisation Plan at the Local Level**

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INTRODUCTION

Since the launch of Montenegro's Public Administration Optimisation Plan¹ (hereinafter: PAOP) in July 2018 until the end of May 2020, the Government of Montenegro adopted five pertinent progress reports.² The progress reports noted that local self-government units mostly respected the PAOP requirements and conducted reform measures, accompanied with a certain number of irregularities and shortcomings. The cooperation between the central and local authorities in the process showed that local self-governments did recognise the necessity to pursue the PAOP towards increasing the efficiency of local administrations. The readiness of local self-governments to pull their weight in the process was decisive, given that PAOP gives mostly recommendations in reference to thus, thus not obligating local self-governments to pursue any of the measures proposed³

For the local level, PAOP envisaged 9 short-term and 13 medium-term measures, scheduled for implementation in the second half of 2018, and the whole of 2019 and 2020. The measures aimed at downsizing staff in local self-governments by 5% by the end of 2018, and by 10% by the end of 2020.

One of the key PAOP messages is that optimisation is not primarily aimed at downsizing staff, but rather the process includes a range of reform actions. These activities, among other things, pertain to slowing down recruitment, enhancing personnel planning and upskilling, establishing optimal organisational setups in local administrations, and fostering inter-municipal cooperation with a view to increased efficiency, cutting costs, and ultimately better services for citizens. Such a narrative, although accurate, poses a challenge for the optimisation process by asking: if downsizing is not the primary aim of optimisation, how come that the progress in achieving the set downsizing targets of 5% and 10% is a precondition for sector budget support provided by the European Union for the public administration reform in Montenegro?⁴ Additionally, the targets set so high push the Government to focus primarily on their achievement, which ultimately, according to PAOP, is not the purpose of optimisation.

It is noteworthy that achieving the set target, as well as other reform goals, largely depends on the many challenges that arose before the PAOP entered into force. The challenges primarily refer to the set **staffing baseline**, and are further exacerbated by **imprecise reporting by local self-governments** on PAOP implementation. Additionally, the Ministry for Public Administration recognised the **misunderstanding** of some of the PAOP measures by the local self-governments, and the noncompliance with the provisions and the commitments stemming from the new legislative framework for the local civil service system⁵, which was partly caused by the lack of political will to pursue optimisation in some local self-governments.

1 The Public Administration Optimisation Plan 2018–2020 is a strategic document adopted by the Government of Montenegro in July 2018 with a view to strengthening public administration effectiveness and achieving its full functionality. This document builds on the Public Administration Reform Strategy 2016–2020, and the previous strategy papers setting the actions in the public administration reform domain: the PAR Strategy 2011–2016 – AURUM and the 2013 Plan for Internal Public Sector Restructuring.

2 The PAOP Progress Reports for the following periods: 01 July to 01 September 2018; 01 September to 31 December 2018; 01 January to 31 March 2019; 01 April to 30 June 2019; and 01 July to 31 December 2019.

3 Primarily the measures pertaining to restrictions on employment under fixed-term and open-ended contracts.

4 "Achieving these targets is directly linked with the transfer of two variable tranches amounting to €8 mil within the framework of the sector budget support provided by the EU", PAOP Progress Report for the period 01 January to 31 March 2019.

5 The Law on Local Self-Government (Official Gazette of Montenegro 2/2018, 34/2019, 38/2020) and the Law on Civil Servants and State Employees (Official Gazette of Montenegro 2/2018, 34/2019)

Finally, PAOP set the same measures for all local self-governments and all their services – public companies and institutions. **The same scope of measures could not have been applicable to all**, given the great variance in the size, staff breakdown and, in particular, the financial status of these entities. Moreover, given that PAOP measures are not applicable to the state-owned enterprises, it remains unclear how the same could have been applied to similar companies at the local level that enjoy a higher degree of autonomy in reference to the central government policies.

The Assessment aims to identify the challenges that pre-existed or arose during the PAOP implementation, offering recommendations and solutions, but also take stock of the positive outcomes and the lessons learned in the process.

METHODOLOGICAL CHALLENGES FOR PAOP AT THE LOCAL LEVEL

Starting premise as the chief obstacle to monitoring the PAOP progress

The information on the number of local staff provided by the local self-governments to the Ministry of Public Administration (MoPA) in late 2017⁶ was used to set the **baseline** for the downsizing the **12,174 current staff**⁷. The target was set at 5% by the end of 2018, and 10% by the end of the PAOP horizon, i.e. 2020. This means that PAOP envisages the downsizing of local staff by **1,217** persons in reference to the baseline, meaning that at the end of the PAOP timeframe, local self-governments should dispose with **10,957** staff in total.

The first methodological challenge in the optimisation process arises from the baseline thus set. In the document itself, the Government acknowledged its limited usability for two reasons: 1) **it did not contain** all the required information, 2) the data **were not furnished** for all local entities.⁸ It is noteworthy, furthermore, that in setting the baseline, the MoPA used for some entities the information held by the Ministry of Finance (MoF) for the sake of accuracy. However, the data gathering methodology of the two ministries was not identical, thus raising the issue whether such data should have been considered.

The second methodological challenge refers to the passage of time before setting the baseline and actual PAOP implementation, which were full **nine months apart**.⁹ In between, there were no reviews of the number of local staff, and the baseline remained the same in July 2018. Importantly, presidential elections took place meanwhile in 11 municipalities, which affected the changes in the number of staff.

PAOP implementation started with the baseline that was not complete or up-to-date, which made attaining the set downsize targets of 5% and 10% practically unattainable.

⁶ This information refers to the staff employed by 30 September 2017

⁷ The breakdown of 12,174 local staff is as follows: 4,378 in local administrations, 1,190 in public institutions, and 6,605 in public companies.

⁸ "The data obtained through the questionnaire are of limited usability since they do not contain all the required data, i.e. the information provided did not cover all entities, as requested." PAOP 2018–2020, p 48

⁹ The baseline was set in late 2017, taking 30 September 2017 as the reference date, while the actual implementation started in July 2018.

However, although by the end of 2018 the actual downsizing amounted to 3.9% instead of intended 5%, an Overview of the Impact of Short-term Actions in 2018 acknowledged that in the absence of the optimisation efforts the actual employment would have gone up, i.e. the PAOP actions slowed down new recruitment.¹⁰

'Local administrations, public institutions and local public companies have seen the absolute reduction in the number of staff by 475, or 3.9% (down from 12,174 in December 2017 to 11,699 in December 2018). Through net effects of optimisation on reducing recruitment by 77 new recruits, local administrations, services and companies further optimised the number of staff, and thus the cumulative net effect on reducing employment was 475. In other words, in the absence of PAOP, i.e. reduced recruitment by 817 (given the rough figure of new recruits at the end of the year of 894), the employment would not have gone down by 475 – conversely, the increase of 419 staff would have been recorded (increase by 894 – registered decrease of 475 = 419 staff). In brief, in the absence of PAOP, the employment at the local level of government would have gone up' (Overview of the Impact of Short-term Actions of the PAOP 2018–2020)

The information on progress made towards achieving the set target by the end of 2020 will be known after receiving the 2020 PAOP Progress Report.

“One size fits all” approach to optimisation as a challenge

The same downsizing target was set for all local self-governments, regardless of their financial standing, size, the ratio of staff in reference to the population, and without any assessment of the staffing needs for the given local self-government. All local self-governments were tasked with downsizing, although some had undergone optimisation before the PAOP, such as the **Municipality of Niksic**, which took a loan for the purpose of severance payments in such cases.¹¹

Importantly, one third of all local self-governments did not commence the downsizing exercise with the PAOP; rather, this goal was set by the tax debt rescheduling agreements entered into with the MoF in 2015. The commitments undertaken by local self-governments¹² through these agreements include settling the arrears in terms of payroll taxes and social contributions, but also the obligation to seek a positive opinion by the MoF for any subsequent recruitment (a control mechanism retained by the PAOP, and delivered by the Narrow Cabinet). Hence, the issues of how these municipalities carry out optimisation, whether they recruit and to what extent, and whether they settle the tax debt regularly should be the issues of concern when setting the future PAR Strategy 2021–2025. For instance, the only municipality that settled its debt under the programme was Bar.¹³ Such an outcome needs to be recognised in further optimisation processes, along with identifying the local self-governments with a high degree of tax discipline that do not accumulate any arrears in this respect.¹⁴

10 Overview of the Impact of Short-term PAOP Actions in 2018, March 2019, pp 8, available at <https://mju.gov.me/ResourceManager/FileDownload.aspx?rid=382896&rType=2>

11 PAOP 2018–2020, p 49

12 The municipalities on the tax debt rescheduling programme are: Nikšić, Pljevlja, Berane, Cetinje, Bijelo Polje, Budva, Bar, Ulcinj, Danilovgrad, Plav, Kolašin, Rožaje, Mojkovac, Žabljak, Andrijevica

13 More information available at: <https://mina.news/mina-business/opstina-bar-izmirila-dug-po-osnovu-reprograma/>

14 More information available at: <https://mina.news/glavna/opstine-kroz-reprogram-smanjile-dug-za-skoro-20-miliona-eur/>

The approaches at the central and at the local levels are not harmonised, given that the downsizing target refers not only to local administrations and public institutions, but also to local public companies, which is not the case at the central level. **Notably, the local public companies, although enjoying a higher level of autonomy than other entities, given that local self-governments do not exercise oversight over them, showed readiness to follow PAOP actions to a certain degree, although issued as recommendations only in their case.**

Ultimately, before setting any subsequent optimisation actions or measures, each local self-government needs to perform staffing needs assessment to set more realistic and customised downsizing targets.

The issue with the “net effect” as the optimisation performance indicator

For the purpose of monitoring the PAOP performance, the MoPA set the “**net effect**” as an indicator for measuring downsizing performance in local self-governments. To be able to assess the “net effect”, the MoPA collected quarterly, and afterwards, half-yearly, the data on the number of persons recruited by local self-governments and the ones leaving their jobs.¹⁵

Basically, the intention behind the “net effect” concept, defined as the difference between the two figures, was to indicate the recruitment trends in local self-governments. However, when calculating total local level employment, i.e. the performance achieved under the indicator, the MoPA used the “net effect”, where the positive or the negative “net effect” indicated the decrease or the increase in the number of staff, which is problematic for three reasons:

1. The “net effect” was not consistently monitored from the onset

The baseline was set in late 2017, and the MoPA introduced the “net effect” in its methodology in September 2018, following the adoption of the first Progress Report covering the period 01 July to 01 September 2018.¹⁶ During that period, the “net effect” included only the number of persons leaving the job as per the termination of their fixed-term contracts, retirement or being made redundant. With a view to increasing the accuracy of the data, in the subsequent methodology the MoPA included in its questionnaire also other grounds for leaving one’s job recognised by the law, and then it started calculating the “net effect” as the difference between the number of new recruits as per open-ended and fixed-term contracts and the persons leaving employment under any of the legally recognised grounds.

2. The “net effect” did not have the same coverage of institutions throughout the process’

The limited usability of the baseline is discussed above, given that it was set based on incomplete data, i.e. not all institutions provided the inputs. With the PAOP in place, MoPA established, in direct communication with local self-governments, the final list of all public institutions, companies and other types of local entities.

The list was updated whenever any new local public entity was established, and thus the number of institutions being monitored grew. Hence, the baseline was set based on the inputs provided

¹⁵ The questionnaires, among other things, requested the number of new recruitments as per open-ended and fixed-term contracts, and the number of persons whose fixed-term employment contracts expired, the ones who agreed to consensual termination of employment, the ones made redundant, the ones who retired, were fired or resigned or left the local administration or local civil service for other reasons ex lege.

¹⁶ Available at: <http://www.MJU.gov.me/biblioteka/izvjestaji>

by 200 institutions, while by the end of 2019 additional 20 institutions were covered by monitoring. Moreover, the staff downsizing in reference to the baseline is both difficult to follow and to achieve, given the increasing number of institutions since the commencement of the process.

3. 'The "net effect" does not include all types of employment

The final and the most significant reason why the positive or the negative "net effect" cannot reflect the decrease or the increase in staffing levels and ultimately the **total employment at local self-governments**, refers to the fact that the MoPA's "net effect" failed to account for all types of employment, i.e. it excluded the types of employment contracts not covered by the optimisation process, **such as replacements for temporarily absent staff, appointees, persons employed as per active labour market measures, or seasonal employment**. Although such employment is not affected by optimisation restrictions, it nevertheless makes part of the total employment, making the actual "net effect" on total employment unreliable.

The same goes for employment under temporary employment contracts and recruitment under special service agreements. The information on such employment is not covered by the "net effect" concept, which is quite reasonable concerning service agreements, given that it is rather a contractual relation, not employment per se. However, the persons employed under temporary employment contracts are hired under the terms of the Labour Law and as such are included in total employment. Given that such employment contracts are not included in the "net effect" calculation, the "net effect" concept obviously cannot be relevant for monitoring the actual changes in total employment.

It is noteworthy that although the MoPA excluded service agreements and temporary employment contracts from the "net effect" calculation, it dealt with such employment specifically in the PAOP Progress Reports, and warned of the increasing trend of such employment and commissioning staff. In response to that, the Government concluded there was a need to step up inspection controls concerning service agreements, tasking the Administrative Inspection with regular reporting back to the MoPA within the PAOP progress reporting.¹⁷ However, in this respect a close look should also be kept on temporary employment contracts, an option excessively used at the time of restrictions on recruitment. For instance, according to the most recent data, between July and December 2019 the total of 450 temporary employment contracts were concluded at the local self-government level.

Between July 2018 and the end of 2019, the total PAOP net effect was -728, which indicates the positive trend in terms of more people leaving than entering local public employment. This, however, does not mean the total employment at the local level was reduced by 728, since the figure does not include all types of employment contracts.

Inaccurate reporting by local self-governments on new recruitments

Inaccurate and incomplete reporting by local self-governments on new recruitment proved to be an unsurmountable challenge for the monitoring exercise. Given that, MoPA invested its utmost efforts to strengthen direct communication with local self-governments to advise on where they go wrong in furnishing the data through questionnaires. It is noteworthy that MoPA changed the questionnaire in

¹⁷ Ref.no. 07-2607, 7 May 2020.

the course of the monitoring process to respond to the needs of local self-governments, facilitate the provision of data, and address any ambiguities.

Although this mitigated the issue somewhat, it did not fully address it, given that MoPA observed irregularities in reporting in each cycle.

At the onset, MoPA established contact with the staff in the local human resource management units. The coordination of the reporting went through such contact persons towards all local public services that furnished filled out questionnaires for the given reporting period to the MoPA's Directorate for Local Self-Governments.

The role of the Directorate was vital and decisive in the process. Any information provided suspected to be incomplete, inaccurate or erroneous was verified with the submitting entity, and corrections requested. This is a demanding and tiresome process, given that reporting was done quarterly initially, and then half-yearly, and that there are 227 local institutions, and most of them made mistakes while reporting, so direct contact needed to be established in each such case to obtain accurate information.

The data gathering process stumbled over several difficulties throughout the process – the deadline was mostly not respected, leaving the MoPA waiting for the data too long and almost always needing to push for the data to be provided. The inaccurate reporting, however, was largely a result of misunderstanding the purpose of some optimisation measures, e.g. reducing the number of systematised jobs and posts, and the fact that the officers in charge of providing the data would change meanwhile, and often were ignorant about how to properly fill out the questionnaire.

The significance of the direct communication between the Directorate and local self-governments is best testified by the conclusion that the imprecision in the data would be even greater in the absence of such interactions. The coordination of the data gathering process between the local administration and pertinent local services was not equally successful in all local self-governments. This is a result of difficult communication between local administrations and services, particularly in the case of local companies which enjoy autonomy with no oversight function of local governments. Thus, the MoPA had to rely on direct communication with the staff in charge of personnel and legal matters in local public companies.

LEGISLATIVE CHALLENGES IN PAOP IMPLEMENTATION

Related application of the new civil service legal framework at the local level

Additional support to the Government optimisation efforts was provided by the legal framework governing civil service at the local level – the Law on Local Self-Government and the Law on Civil Servants and State Employees – that entered into force in January and July 2018, respectively. These laws govern the employment in local self-governments, job classification in local administrations, professional and special services, and introduce for the first time the e-recruitment. Such a legal framework intends to ensure better organisational setup in local self-governments, professionalization of staff, better control of recruitment and, by extension, greater efficacy, which is one of the primary goals of the public administration optimisation.

With the new legal framework in place, local self-governments were imposed a set of responsibilities they were obliged to comply with, that the success of optimisation hinged upon. However, although the Law on Local Self-Government entered into force in early 2018, the Law on Civil Servants and State Employees started to be applied *mutatis mutandi* at the local level concurrently with the PAOP commencement, i.e. 01 July 2018, which slowed down the pace of reforms and led to the delays in applying the new provisions by the local self-governments.

The first obligations that stemmed from the new Law on Local Self-Government referred to the adoption of new municipal Charters, Decisions on Local Self-Government's Organisational Setup and Operation, and the Rulebook on Internal Organisation and Job Systematisation. The sample enactments were developed by the Union of Municipalities, to serve as the basis for developing such documents by the local administrations. In parallel, local self-governments were obliged to ensure personnel planning as a precondition for any future recruitment in local administrations. **Apart from the Union of Municipalities, the MoPA and the HRMA supported the process through meetings with local staff dealing with personnel matters to address any outstanding issues in implementing the new provisions.**¹⁸

However, local administrations were slow to apply the new provisions, particularly as regards the adoption of Personnel Plans. Personnel planning is critical for good budget planning for human resources, thus, poor implementation of this provision slowed down the optimisation process in a number of local self-governments. The information that eight municipalities – Plav, Šavnik, Ulcinj, Žabljak, Gusinje, Petnjica, Kotor, Berane – did not adopt their respective 2019 Personnel Plans, although some among them did recruit, is indicative of the noncompliance with the new provisions and the absence of political will to carry out optimisation in all municipalities.

The current year brought about better performance; thus, in 2020 almost all municipalities adopted Personnel Plans, although not always within the stipulated timeframe¹⁹, primarily due to the delays in adopting their Budget Decisions. The municipalities that failed to observe the deadline for adopting the 2020 Personnel Plans are: Andrijevića, Bar, Budva, Kotor, Petnjica, Rožaje, Plav, Ulcinj, Herceg Novi, Šavnik and Tuzi. The situation is particularly disconcerting in the case of Ulcinj, which has still not adopted the Decision on Organisational Setup and Operation required by the Law on Local Self-Government, hence no Personnel Plans either.

The system for e-testing of candidates was a challenging novelty introduced by the Law on Local Self-Government. Most local self-governments lacked funding for introducing the system, which prompted the MoPA, in collaboration with the HRMA and the Union of Municipalities, to launch the development **of the software** made subsequently available to local governments. The software design was funded under the Support to the Creation of a More Transparent, Efficient and Service-oriented Public Administration project, funded by the European Union, and implemented by UNDP in collaboration with MoPA. The software is open for modifications to be adapted to the local

¹⁸ The MoPA, in collaboration with the Union of Municipalities and the HRMA organised six workshops attended by local staff focusing on the "Application of the New Legal Framework to the Civil Service at the Local Level". The workshops were organised within the framework of the "Support to the Creation of a More Transparent, Efficient and Service-oriented Public Administration" project financed by the European Union, and implemented by the UNDP in collaboration with the MoPA.

¹⁹ Art 145 of the Law on Local Self-Government stipulates that the Personnel Plan is to be adopted within 30 days from the adoption of the Budget Decision.

needs, and local administrations quickly adjusted to the solution, given that it is a step forward in better control of recruitment at the local level.

Consensual termination of employment with severance payment

Aiming to cut public spending by downsizing staff in the public administration, the MoPA and the MoF put in place the assumptions for implementing the measure concerning consensual termination of employment.

With the amendments to the **Law on Staff Salaries in the Public Sector** in June 2019 and the **Decision on Severance Payment in Case of Consensual Termination of Employment** from July of the same year²⁰, the Government put in place the legal grounds for severance payment in case of consensual termination of employment, given that previously such an option existed only in case of redundancies.

According to the Decision, to be eligible for such severance payment, public administration staff are to have at least six years of service, of which the last year in the public sector. Opting for the consensual termination of employment with severance payment prevents the person from entering into public sector employment for the coming five years, and the employer is obliged to abolish the given post.

Under this Decision, by the end of 2020, **222 such agreements** were concluded, most of them in the Capital City (47), followed by Pljevlja (33), then Niksic (22) and Berane (22). Compared to the initial assessments given by the local self-governments, the agreements account for 80% of the expected number of such consensual terminations. According to the assessments made by local self-governments and furnished to the MoPA in September 2019, after the Decision entered into force and the public call was launched, the total of 277 staff were expected to enter into consensual termination of employment.

Fewer than expected such terminations could be the result of **lack of funds** that the local administrations and services are obliged, under the provisions of the Decision, to provide from their budgets.²¹ This is confirmed by the fact that six local self-governments approached the MoPA and the MoF for financial support in the process, requesting **EUR 818,302.34** in total. These include: the Old Royal Capital Cetinje, Bijelo Polje, Berane, Plav, Ulcinj and Pljevlja, the local self-governments concurrently on the tax debt reschedule programme. In this regard, the Government provided the support worth EUR 350,000 to Bijelo Polje, Pljevlja and Cetinje, as the best performing local self-governments in terms of PAOP.²²

On the other hand, over a very short period of time the Decision was **revised three times**, with the most recent revision obligating employers to **abolish the posts** subject to consensual termination of employment.²³ This provision perhaps had a major role in curbing the interest of employers to respond positively to any demands for consensual termination of employment.

20 The Law on Staff Salaries in the Public Sector (Official Gazette of Montenegro 16/16, 83/16, 21/17, 42/17, 12/18, 39/18, 42/18 and 34/19) Decision on Severance Payment in Case of Consensual Termination of Employment (Official Gazette of Montenegro 41/19, 55/19 and 61/19)

21 Art 9 of the Decision on Severance Payment in Case of Consensual Termination of Employment

22 https://www.gov.me/sjednice_vlade_2016/193

23 The first Decision was adopted in July 2019, and was amended in November and December of the same year, Art 6 of the Decision on Severance Payment in Case of Consensual Termination of Employment (Official Gazette of Montenegro 41/2019, 55/2019, 61/2019)

Finally, the fact that 72% of consensual terminations of employment at the local level did not lead to the post being abolished poses an additional challenge for rationalising public administration spending. **Thus, 160 agreements out of 222 in total were concluded under the July or November versions of the Decision, which did not require the posts subject to consensual termination of employment to be abolished subsequently.**

In this respect, the MoPA was supposed, in collaboration with the MoF and the Tax Administration, to perform the **follow-up monitoring to check the actual number of posts abolished at the local level.**

The MoPA keeps an internal database of agreements for consensual termination of employment, posting some of that information on their webpages.²⁴ However, some agreements contain personal data, such as the unique citizen civil registry number, so there is a need to come up with a model to **subsequently trace these people in the labour market.**

Finally, although the institutions are obliged to provide MoPA all agreements entered into under the Government Decision, a number of them did so in retrospect, being unaware of the obligation, which raises the issue of whether the MoPA is up-to-date with the actual number of such agreements, and the monitoring should respond to that.

LESSONS LEARNED

Resolve whether optimisation is mandatory or recommended only

Overall, local self-governments did implement the PAOP. They participated in the PAOP monitoring efforts by providing information through questionnaires, and in case of any queries or doubts concerning any of the PAOP actions, they approached the MoPA for assistance and clarifications. Looking at both the short and the long term PAOP measures, local self-governments responded best to those that were mandated by legal provisions, such as the introduction of the e-testing of candidates or personnel planning. As noted above, local self-governments were rather slow-moving in the process, but were also cognisant of a set of legal provisions to be complied with before being able to pursue their personnel planning policies.

A distinct challenge for full PAOP implementation is posed by the European Charter of Self-Government which guarantees the autonomy of local authorities, which may not be “undermined or limited by another, central or regional, authority except as provided for by the law”.²⁵ Hence, the Government could not have mandated local authorities to comply with PAOP, just recommend to pursue its measures, which **does not ensure their enforcement.**

This is best illustrated by the example of the so-called “**moratorium**”, i.e. limiting recruitment as per fixed term and open-ended contracts. The Narrow Cabinet, composed of the representatives of the MoPA, the HRMA and the MoF, in coordination with the National Employment Office, controlled recruitment in public administration, both at the central and the local levels. This implied the local level entities wishing to recruit new staff under fixed term or open-ended contracts, which

²⁴ http://www.MJU.gov.me/rubrike/plan_optimizacije/otpremnine

²⁵ Art 4(4) of the European Charter of Local Self-Government: “Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law”.

the Employment Office was to advertise, were to procure the Narrow Cabinet's consent for the recruitment. Aware of their autonomy, however, most local self-governments failed to procure the consent of the Narrow Cabinet, providing only Mayor's consent for recruitment. The Narrow Cabinet's, i.e. MoF's consent was mandatory for the municipalities in the tax debt rescheduling programme, where such consent is one of the undertakings under the agreement. Most local administrations, but also other entities, particularly local public companies enjoying a higher degree of autonomy, asked for Mayor's consent or no consent at all.

As a matter of fact, most recruitments that took place from the moment the limitation was introduced until the end of 2019 were done with the approval of Mayors or the Narrow Cabinet, or 858. Nevertheless, as many as **271 persons were recruited over the same period with no approval from any party**, both per fixed term and open-ended contracts. Half of all recruitments that took place since the PAOP started to be implemented is accounted for by recruitments in public companies, where approved and unapproved recruitments are of an equal measure. For example, from the moment "moratorium" or the control of recruitment by the Narrow Cabinet was introduced until the end of 2019, public companies had 251 approved and **210 unapproved recruitments**.

Local self-governments expressed their readiness to partake in optimisation, but experience has shown that local authorities cannot be obligated to such optimisation by strategy papers alone. Although the Government adopted a set of laws that reinforce optimisation in local self-governments, such as the Law on Staff Salaries in the Public Sector, the Law on Local Self-Government, and the Law on Civil Servants and State Employees, it did not invest enough efforts to engage public companies in the process, although they were covered by the PAOP and its targets. The legal framework conducive to optimisation is not necessarily the stipulating personnel policies in public companies.

Going forward, thus, the Government needs to respond to the following question: how can optimisation be designed in the legal framework to ensure its implementation by all local level entities? In advance of the task, all local level entities need to conduct functional reviews to assess the quality and quantity of their staff and, ultimately, plan recruitments reasonably based on actual needs and with a view to rationalising costs.

Communication between the central and local authorities is to be fostered even beyond the PAOP

PAOP monitoring resulted in more vigorous and efficient interactions between the MoPA and all entities at local self-government level. During the PAOP implementation, the MoPA's Directorate for Local Self-Government assumed the role of a coordinator in such interactions, becoming the focal point for all interested local entities in need of clearing their doubts in implementing both the PAOP and the new set of laws governing the work of local self-governments.

Such interactions are particularly strong in direct meetings and joint work of the MoPA and the representatives of local authorities, i.e. human resource officers. From the beginning of the PAOP implementation until February 2020, MoPA in cooperation with the HRMA and the Union of Municipalities, organised [six workshops](#). The workshops were delivered under the Support to the

Creation of a More Transparent, Efficient and Service-oriented Public Administration project, funded by the European Union, and implemented by the UNDP in cooperation with the MoPA. The workshops aimed for the central Government to familiarise local authorities with the PAOP measures, but also to assist them in implementing the measures. Moreover, local self-governments had the opportunity to resolve any doubts arising from the new legal framework governing the civil services at the local level, particularly regarding personnel planning as a new provision, but also the matters arising from the development of efficient e-government at the local level, such as the Law on E-Government and the Decree on Office Operations. Following the workshops and the meetings, MoPA published the conclusions and the responses to all the questions raised for easy reference by local self-governments, which proved to be a good practice.

Experience has shown dialogue as indispensable, and it should be fostered going forward, both between the central and local governments, but also among the Government, local administrations and public services, particularly public companies.

Revision of the PAOP baseline required

Since the onset of the PAOP implementation, local self-governments started implementing most of the actions envisaged, with some already fully implemented. Out of the nine short-term measures envisaged for implementation by the end of 2018, the least effective was the **adoption of new job systematisation acts to reflect actual staffing needs**. According to the last available PAOP Progress Report for the period 01 July to 31 December 2019, since the PAOP started to be implemented in total 92 new job systematisation rulebooks were adopted. This means that 40% of all institutions revised such acts, although PAOP envisaged all institutions to do so by the end of 2018.

Notably, these revisions do not necessarily mean downsizing systematised job posts by 10–30% compared to the previous acts, as set by the measures. MoPA had to exercise caution during monitoring since most local self-governments mistakenly reported the number of jobs systematised as the number of actual staff occupying those posts. Hence, it is difficult to assess the actual reduction in the number of systematised posts since the beginning of the PAOP implementation.

Progress was particularly missing in reference to **reducing the number of systematised posts for general and support tasks**, given that not more than 8% of institutions complied with the requirement to reduce by 15% or more the number of posts for support services. One of the reasons behind it stems from misunderstanding of the category of general and support tasks, and the significance of reducing the number of posts envisaged for such tasks in the overall staff breakdown.²⁶

The above points to the conclusion that local self-governments, public services in particular, fail to implement the measure concerning systematising posts to reflect actual needs due to lack of understanding of its true purpose or lack of political will to rationalise human resource costs. Hence, this measure is in need of revision.

26 For instance, certain local administrations and public services understood that the total number of systematised posts for general and support tasks equals the total number of systematised posts, thus putting the heads of authorities and services under this heading. Notwithstanding the additional communication and explanations to that effect, it cannot be established with any certainty whether the figures provided are accurate”, one of the findings from the PAOP Progress Report for the period 01 July to 31 December 2019.

When it comes to medium-term measures, two of them were poorly implemented or not at all. This refers to **establishing an optimal organisational setup in local self-governments**. According to last available information from late 2019, out of 220 institutions, only two municipalities changed their internal setup by abolishing some bodies.

In late 2019, the Municipality of Kotor abolished the Centre for Information System, whose staff were absorbed by the Mayor's Administrative and Professional Service. The same was the case in Ulcinj.²⁷

In pursuit of this measure, all institutions need to do functional reviews to assess actual staffing before embarking on changing their organisational setups. Given that PAOP did not envisage such an activity, any future strategy and legal frameworks need to obligate local self-governments to do so.

One of the measures which is essential for overseeing optimisation refers to stepping up **audits of municipal budgets and spending by the State Audit Institution (SAI)**. The issue that is problematic concerning this measure is that it was introduced through amendments to the SAI Law, obligating SAI to audit the final accounts of local budgets each year or of at least five municipalities each year. Before any such measure could have been adopted, the actual audit and financial resources of SAI should have been considered first. This is confirmed by the fact that since the beginning of PAOP implementation SAI performed 5 audits altogether in the following municipalities: Kolašin, Ulcinj, Plav and Berane.

Independent audit of budget spending in local self-governments is crucial, and the SAI resources need to be strengthened for the measure to become fully implementable.

Make data gathering sustained

The methodological flaws mentioned above, incomplete and inaccurate reporting by local self-governments concerning the number of staff call for a different approach to gathering data on recruitment within local authorities.

MoPA recognised the shortcomings and started addressing the issue. An initiative was launched in March 2020, in collaboration with the Tax Administration, to design a web-based application to use the relevant data from the Central Register of Taxpayers and Insured Persons to monitor PAOP progress by allowing MoPA access to accurate data on the numbers of local staff. This actions is pending, and expected to be completed in 2021.

Apart from collecting data form local self-governments or having direct access to Tax Administration database, there is another method for determining the number of staff and updating personnel records for local self-governments, namely to use the Central Personnel Records. The Law on Local Self-Government (Art 148) envisages that local self-governments are to provide ex officio the data on their personnel records to the HRMA, the CPR manager. Thus, the legal assumptions for a control mechanism for local recruitment is in place. However, this has

²⁷ PAOP Progress Report for the period 01 July to 31 December 2019

not applied as yet, since the Central Personnel Records are still not used at the local level, but the software solution is currently being developed.

In this regard, putting in place the assumptions for implementing this provision of the Law on Local Self-Government should be accelerated to enable tracking such data and cross-referencing them with the data held by the Tax Administration to ensure accuracy.

Recommendations

- ▶ The Government is recommended to consider the adoption of the Law on Public Administration Optimisation to obligate local self-governments to comply with the optimisation measures.
- ▶ The MPADSM is recommended to set the new employment baseline based on the Tax Administration and Central Personnel Records data.
- ▶ The HRMA is recommended to enable local self-governments to enter data in the Central Personnel Records as soon as doable.
- ▶ Local self-governments are recommended to conduct functional reviews to assess personnel needs and propose new downsizing targets accordingly.
- ▶ Local self-governments are recommended to align their actual personnel needs with their internal job systematisation to prevent any misuse of staffing capacities in terms of increasing staff numbers.
- ▶ The MPADSM is recommended to set, in cooperation with local self-governments, the MoF, the Tax Administration and the Union of Municipalities, the new staff downsizing targets customised for each local self-government, taking into account their size, budget and number of staff.
- ▶ The HRMA and the Tax Administration are recommended, based on their own personnel records, to set up a control mechanism to help the Government monitor the optimisation progress within local self-governments.
- ▶ The MPADSM and the MoF are recommended to set up a control mechanism to monitor the enforcement of the Decision on Consensual Termination of Employment with Severance Payment in all local self-governments as soon as possible.
- ▶ The MPADSM is recommended to establish, through Administrative Inspection, a stronger control mechanism for compliance with the new legal framework for the local level civil service system.
- ▶ The Government is recommended to revise the PAOP measures that proved to be ineffective.
- ▶ Government is recommended to consider amending the legal framework to foster inter-municipal cooperation.

