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Financing Environmental Protection at the Local Level

The Planning of the Budgetary Funds

** Note: This Policy Brief is a continuation of the analysis on the topic of financing environmental protection at the local level.*

Serbia is facing serious challenges in the field of environmental protection and harmonizing its standards with those of the European Union. To overcome these challenges, it is necessary to spend at least 10 billion euros. Currently, Serbia spends less than 0.5% of its GDP on environmental protection, which is below the average sum allocated in the EU and far less than the amount allocated by the countries of Central and Eastern Europe during their accession process. Before the share of GDP allocated for environmental protection increases, it is important to have a quality system of planning and utilization of funds designated for environmental protection. This is particularly important in case of local self-governments, where, on one side, there is a large scope of competences with regard to environmental protection, and, on the other side, insufficient capacities, as well as different practices.¹

In this Policy Brief, an analysis of the use of local budgetary funds in 2015 and 2016 and a review of the approvals the ministry in charge of environmental protection has given with regard to the mentioned programs, based on official documents.² Thereby, further clarifications on the relationship between the existing practices, between the use of the budgetary funds over the past two years and the planning phase of the use of these funds will be provided.³ These data cover the past two years and will be comparatively analysed, especially in the context of amendments made to the Budget System Law of 2015, where the fees lost their dedicated purpose (earmarked nature).⁴

What are the key problems?

On Figure 1, one can see that in 2015 majority of municipalities and cities (133) adopted a program for their environmental budgetary fund, whereas this number has decreased to 126 in 2016. Simultaneously, the number of local authorities who did not have such a document grew (from 12 to 19 local authorities). next) has increased; in 2016 it reached 6.5 billion dinars.⁵

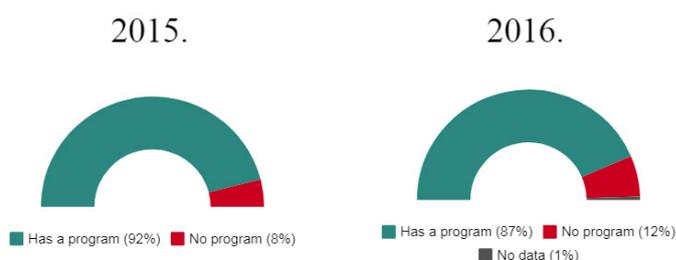


Figure 1. Percentage of local self-governments who have a program for the use of their budgetary fund for environmental protection.

The number of local self-governments who have a program for the use of their budgetary funds for environmental protection has decreased.

1. Maksimović D. Šipka S. Financing of the Environmental Protection: Relationship between Incomes and Expenditures, 2017. Policy Brief. The European Policy Centre (CEP) and The Ecological Centre "Stanište", 2017.
2. Requests for the access to information of public importance and copies of the mentioned documents have been sent to Local self-governments in Central Serbia and Vojvodina (145 in total). For the purpose of cross-checking, the program approvals for 2015 and 2016 have also been requested and obtained from the ministry in charge of environmental protection.
3. The amendments on the Law on Environmental Protection from 2009 prescribe that the local self-governments set up budgetary funds for environmental protection. The revenues from the fees for environmental protection have to be spent through a budgetary fund for environmental protection, based on the annual program for which local self-governments have to receive approval from the ministry in charge of environmental protection (in accordance with art. 85, 87 and 100 of the same Law). If the money within the fund has not been used-up during the current year, the remaining part shall be, in accordance with the Law, transferred to the next year.
4. In December 2015, the fees have lost their dedicated purpose (earmarked character), due to amendments of the Budget System Law ("Official Gazette of the RS" No. 103/2015). Collections from donations, credits, and self-contributions have a predetermined purpose, whereas fees do not have one. This change allows that incomes from environmental protection fees no longer need to be used for environmental protection via environmental protection funds, but can be given to other users and used for different purposes.
5. The existence of a document can be confirmed if the local self-government sends it after a request for the access to information of public importance. In certain cases, the existence of a document can be determined indirectly. That is, some local self-governments have not answered to requests of the research team, whilst others have answered, but neither sent a fund program, nor a clarification with regard to the existence of such a document. In these cases, the existence of a fund programme can be determined if there is an approval of such a programme by the competent ministry (which the ministry or the local authority sent). Conversely, for local self-governments who replied that they did not have a program and those who have neither sent a program, nor an explanation or approval (and neither has the ministry), it can be concluded that these do not have a program (reasonable assumption).

Out of 12 local self-governments that did not have a program in 2015, eight confirmed that they had not adopted this document (four did report on this). Out of 19 local self-governments in 2016, 13 confirmed this (four did not report this, while two did not answer this section of the request for access to information). The explanations provided by the local self-governments for not implementing these programs were the following: the local self-governments have not charged the local fees for environmental protection, the decision on environmental fees ceased to be in force, the incomes incurred via fees do no longer have to be used for a predetermined (earmarked) purpose.

The number of local self-governments who have obtained approval from the Ministry in charge for their environmental protection funds has decreased.

The reduction of the number of local self-governments who have a program is also reflected in the reduction of program approvals given by the Ministry of Environmental Protection (Figure 2). The number of municipalities and cities who have received such approval decreased from 128 to 116 between 2015 and 2016. At the same time, the number of local self-governments that did not have such a document increased from 17 to 27.⁶ Comparing the data from Figures 1 and 2, one can conclude that beside the increase in the number of municipalities and cities which do not have a fund, there also is a rising number of local authorities who have a program but have not received approval for it from the Ministry.

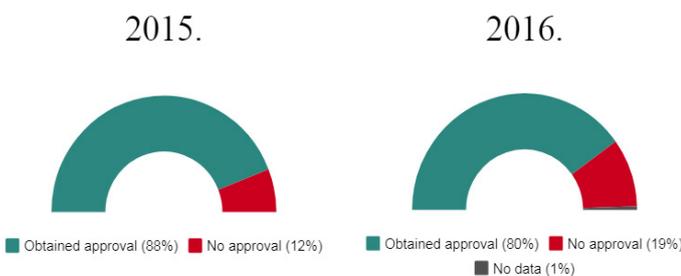


Figure 2. Percentage of local self-governments who have not received approval from the competent Ministry for a program for the use of the environmental protection fund.

In Figure 2 the funds of the local self-governments' programs for utilization of environmental protection funds are shown. If one compares the programs for the use of the funds from all local authorities, one realizes that there has been a substantial decrease in the amount of money planned to be used. This decrease is about 20% as the amount fell from 6.44 billion dinars, which was the total of the planned funds to be used collectively by all local self-governments in 2015, to 5.21 billion dinar in 2016.

For such a decrease in funds planned for environmental protection, no economic justification can be found because the amount of

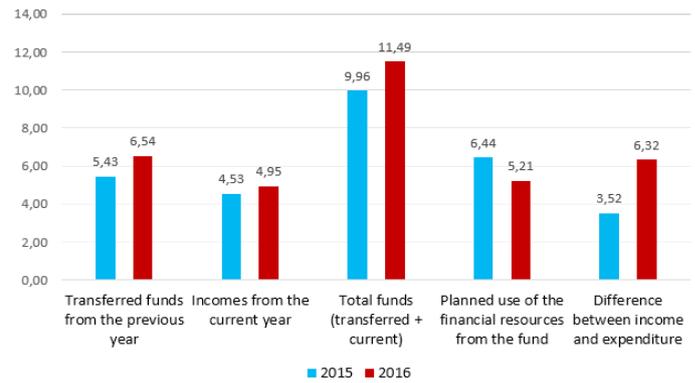


Chart 1. Planning of programs for local budgetary funds for environmental protection (in billion RSD). environmental protection fund.

incomes have noticeably increased during the same period, both through fees collected in the given year and the surplus funds that had been transferred from the last year. Therefore, one can assume that the reason for the decrease of planned use of funds is the loss of dedicated purpose of the money⁷ collected via fees for environmental protection, since these can now be used for other purposes, as well. Apart from that, some local authorities did not even fully comply with the legal obligations with regard to the dedicated purpose of the incomes from environmental protection fees in the previous period, considering that they planned and used much less funds than they had collected from the fees. In 2015, when the funds still had to be used for a dedicated purpose, the municipalities and cities "reassigned" 3.5 billion dinars already during the planning phase, while in 2016, the first year where the pertinent incomes no longer needed to be used for a predetermined purpose, this difference increased to 6.3 billion.

If one only compares current incomes (without the transferred funds) with the expenditures, one realizes that these amounts have been almost equalised in 2016 (4.95 billion dinar and 5.21 billion, respectively). In 2015, in 46 municipalities and cities, planned expenditures for environmental protection were even less than what had been collected in the current year alone (in 2016 this number grew to 54). Therefore, local self-governments have quickly started to make use of the legal possibility to utilize the incomes for other purposes and thereby further decreased planned expenditures on environmental protection. This also shows that financing environmental protection becomes decreasingly important to local authorities.

Therefore, if one looks at the amount of money which the local self-governments plan to spend on environment and compare them to total incomes, one can see that the number of local self-governments which plan to spend less than they collect was high in 2015 (85 municipalities and cities, or 58.6%), but that in 2016 it even increased (89, or 61.4%). At the same time, the number of local self-governments who planned expenditures on environment that exceeded their incomes decreased (from 42 in 2015 to 32 in 2016).

6. For two local self-governments the research team did not have access to data on these documents for 2016.
 7. Amendments of the Budget System Law from 2015.

Amount planned	Number of local self-governments	
	2015	2016
Planned less than what has been transferred and collected	85	89
Planned more than what has been transferred and collected	42	32
No environmental protection fund program	12	17
No data ⁸	6	7

Table 1. Number of local self-governments which have expenditures that are larger and smaller than incomes.

Planning of transferred funds	Number of local self-governments	
	2015	2016
The full amount of funds has been planned	23	23
Part of the funds has been planned	24	24
There is a plan for the transfer of funds, but no specific amount	6	4
No transfer of funds has been planned, even if these exist	65	60
There are no transferred funds	22	27
No data available on planned transfers or the existence of transferred funds	5	7
Total number of local self-governments	145	145

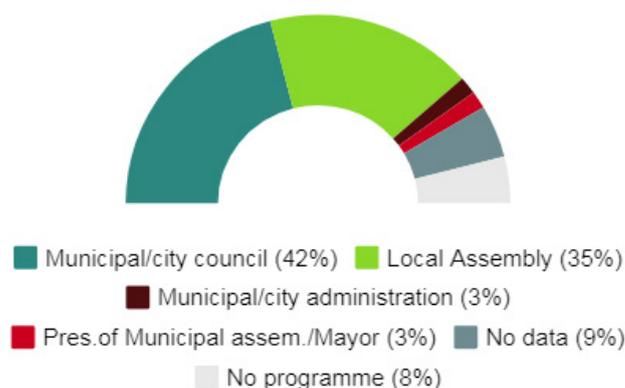
Table 2. Display of the planning of transferred funds in the programs of local budgetary funds for environmental protection.

According to the Budget System Law, funds which have not been spent are transferred to the next year, together with the activities for which they were envisaged.⁹ However, if one looks at the programs that the local authorities adopted (Table 2), one can conclude that in both years only 23 local self-governments (15.9%) transferred the full amount of the remaining funds to the next year. Moreover, 24 local self-governments (16.5%) did transfer some funds, albeit only part of what was remaining, while six and four in 2015 and 2016, respectively, indicated that a transfer was planned, while not indicating any concrete amount. For a significant number of local self-governments, activities that have not been realised in the previous year and the corresponding funds were used for other activities and projects.

The largest problem is that in 2015, 65 local authorities (or 44.8%) and 60 (or 41.4%) in 2016 did not mention and do not merge previous incomes with current ones. Because of the removal of the dedicated purpose of the environmental protection fees, remnants of the funds from the past year no longer need to be transferred to the current year's budgetary fund for environmental protection. In accordance with the Budget System Law¹⁰, the budgetary fund is established by the competent executive body of the local self-government¹¹ and is managed by the competent local administrative authority. Examination of the fund programmes (Figure 3), reveals that in most cases (61 local self-governments) the fund program is also adopted by the municipal/city council, while in a significant number of cases (50 local self-governments) this document is adopted by the local assembly. The fact that only 6 out of 50 local self-governments, in which the local assembly adopted the program, is the authority which adopts the report. This practice again points out the inadequate level of transparency, which increases the probability for mismanagement of environmental funds.

The existing legal framework (i.e. practice), according to which the municipal/city council establishes the budgetary fund and adopts the program does not provide a high level of transparency. That is, it can jeopardise responsible and informed decision making.¹² Furthermore, when the program is adopted by the local administrative body, this may lead to additional problems¹³, given that the program is initiated by another institution, which, in accordance with law, is the municipal/city council.

Figure 3. Authorities of the local self-governments who adopt the program for the utilization of environmental protection funds and their share with regard to the total number of local self-governments.



8. This category comprises local self-governments who have not replied to the request. Therefore, the research team does not have the documents (fund program, decision on the final budget account), in which one can see the amount of planned expenses, in addition to those local self-governments, which have sent fund programs, but not indicated a planned or final amount of expenses.
9. Article 54, paragraph 10, Budget System Law ("Official Gazette of the R.S." No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 – rev. 108/2013, 142/2014, 68/2015 – state law, 103/2015 and 99/2016), prescribes that, obligations taken in accordance with the approved appropriations, and which have not been fulfilled in the given year, are to be transferred and obtain the status of obligations which are taken for the next year, and are to be fulfilled via approved appropriations for that budget year".
10. Budget System Law ("Official Gazette of the RS No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 – rev. 108/2013, 142/2014, 68/2015 – state law, 103/2015 and 99/2016), article 64, paragraph 1 and article 66, paragraph 1.
11. Municipal/city council or president of the municipal assembly/mayor.
12. Local media generally broadcast sittings of the local assemblies, whereas local council sittings are rarely covered. Therefore, the local public is much better informed about the work and decisions of the assembly. In the discussions of the assembly there are also representatives of the opposition, who can better monitor the decisions and make suggestions (propose amendments) to improve decisions, whereas at the council sittings only the governing representatives decide.
13. Several representatives of the local self-governments (heads of local administration, heads of financial, budgetary and environmental divisions within local administration) have reported to the research team an existing practice that the administrative staff do not influence considerably on the decision-making concerning the content of the Fund, while, conversely, as financial orderers, they have the obligation to implement the activities, as well as their financing.

Steps towards overcoming these problems could be the regulatory change, whereby the fund programme would have to be adopted by the municipal/city assembly, while its implementation would be the responsibility of the president of the municipality or the mayor (in case of cities).

Finally, the law does not prescribe the way the fund program for environmental protection should be prepared or what its content ought to be. Thus, there is a large variety with regard to the form/template of the document. Consequently, the transparency of the planning of the use of the funds collected through the fees has been decreased and a comparative analysis has been made more difficult (given that the amount of information available and display vary), of which the research team has become convinced during this research. Apart from that, the lack of such regulations opens the possibility that the funds are used to finance activities which are not related to environmental protection. Even though the intent of the proponents of the amendments of the Law on Environmental Protection from 2009 was to prevent non-environmental related expenditures by introducing approvals to the fund program, this was not achieved and potentially produced the opposite effect, given that in the past period approval was also given to activities that were not connected to environmental protection or where their connection to this area was disputable.

Next Steps

The analysis of programs for local budgetary funds for environmental protection shows that the problem of lesser expenditures for environmental protection than the amount of revenues occurs already at the planning stage. This is already evident from some of the fund programs that municipalities and cities plan to invest less money than they plan to collect. In 2015, local self-governments planned smaller expenses than the total income and thereby assigned part of the funds, which should, by law, have been assigned to the fund program, to other users and purposes. In most cases, the local self-governments did not plan the transfer of the remaining funds from the past year to the current year. Already in 2016, local self-governments significantly decreased the amount of money in the budgetary funds compared to 2015, while using the legal possibility which was given to them by removing the designated purpose of the environmental protection fees. At the same time, long-standing problems like the absence of planning of the remaining funds from the previous year into the next year's budgetary fund and the diversity of the manner in which programmes are being

prepared are still present.

From the aforementioned analysis, one can conclude that lesser spending on environmental protection pertaining to revenues within the environmental protection budget funds has a strong legal-constitutional context. Such a state of play cannot positively contribute to the solutions of many environmental problems, for which the local self-governments have a large share of competences. At the same time, the financial difficulties of the Republic of Serbia are continuing to exacerbate with regard to the harmonisation process with EU standards as part of Chapter 27 along with ongoing negative practices. Having all this in mind, it is necessary to take steps in the following direction:

- **Change the Budget System Law to bring back the designated purpose of the environmental protection fees.** The changes to the Law from December 2015, which removed the designated purpose (earmarked nature) of these fees, legalised the current state of play, whereby many municipalities and cities assign the income from environmental protection fees to other users and utilize these funds for programmes and activities which are not related to environmental protection. Returning a predetermined purpose for this income is the first step to change this practice, which must be accompanied by stronger control of the compliance with regulations in the sector of environmental protection and public finances.
- **Amendments to the aforementioned law, so that the local self-governments' assemblies establish the budgetary fund for environmental protection and adopts the program for this fund, whereas the responsibility for its execution should lie with the president of the municipal assembly or the mayor (in case of cities) - for the sake of increasing the transparency of the whole process and responsibility of the decision makers);**
- **Determine measures that are to be taken in cases where local self-governments plan smaller expenditures than the amount that they collect through environmental protection fees** (e.g. limit the eligibility scope for the calls for applications of the competent ministry, temporary suspension of transfers, etc.)
- **Pass a by-law on the preparation and criteria for the content of the program of the use of the local budgetary fund for environmental protection.** This would contribute to removing the existing practices of diverse methods of program preparations by the local authorities, which negatively influences transparency and comparability, and thereby, potentially, also the responsibility of the preparation and use of the programs which the municipalities and cities adopts.

European Policy Centre - CEP - is a non-governmental, non-profit, independent think-tank, based in Belgrade. It was founded by a group of professionals in the areas of EU law, EU affairs, economics and public administration reform, with a shared vision of changing the policy making environment in Serbia for the better – by rendering it more evidence based, more open and inclusive and more substantially EU accession driven.

For more information, please visit: www.europeanpolicy.org

Ecological Centre "Habitat" is a non-governmental, non-profit organization, established in Vršac in 2007, with a mission of improving the relations of local communities towards the environmental protection. The goal of the organisation is to help local communities in Serbia with its knowledge and skills, in order to solve these problems.

For more information, please visit: <http://staniste.org.rs/en/>