CORRUPTION RISKS AND MANAGEMENT PRACTICE IN LEGAL ENTITIES OF PUBLIC LAW (LEPLS) AND STATE-FOUNDED NON-ENTREPRENEURIAL (NON-COMMERCIAL) LEGAL PERSONS N(N)LPS

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OVERVIEW

The study reviews the management practice and legal basis of Legal Entities of Public Law and Non-Entrepreneurial (Non-Commercial) Legal Persons operating under the central and local government bodies; the current trends and prevailing situation are then compared to the international best practice.

When studying organizations such as LEPLs and N(N)LPs, it is important to look closely at the applicability of the existing legislation concerning a conflict of interest and corruption to this kind of organizations, as well as the existence of internal mechanisms of prevention of a conflict of interest and corruption, criteria for appointing and dismissing their heads and guarantees of their independence and various aspects of compensation and staffing policies. This report covers precisely these issues.

A significant part of LEPLs and N(N)LPs subordinated to the Government Administration, the staff of the ministries and Ministers of State, Governments of Autonomous Republics of Abkhazia and Ajaria and 12 self-governing cities[1] were selected within the framework of this study. Organizations working in the field of culture, education, sports and religion have not been studied. Correspondingly, within the framework of the study, Transparency International – Georgia requested public information from the institutions listed above and 51 LEPLs and N(N)LPs. ***In response to our requests, full or partial public information about 78 LEPLs and N(N)LPs (50 LEPLs and 28 N(N)LPs) functioning under 22 central and local government bodies was received. Due to the provision of incomplete information or failure to provide it, the data given in this report may contain some discrepancies. In a number of cases, the data are approximate but nevertheless allow identifying general trends. Most of the data are provided as of May 2017.***

1 Twelve cities had the status of a self-governing city at the beginning of the study.

MAIN FINDINGS:

- In contrast to the international best practice, the Georgian legislation does not provide for clear and straightforward criteria for founding the organizations (LEPLs and N(N)LPs) that are separate from the bodies of the central and local executive authorities;

- The legislative amendments that can be assessed as positive are the ones which require holding a simplified public competition for selecting candidates to be appointed to the positions of the head and deputy head of an LEPL as well as the ones that directly consider working at a Legal Entity of Public Law as working for the civil service and make the law "On Civil Service" and "On Conflict of Interest and Corruption in Public Institutions" fully applicable to this kind of institutions[2];

- On the other hand, it is problematic that the principles of the laws "On Civil Service" and "On Conflict of Interest and Corruption in Public Institutions"[3], including the obligation to select their heads and employees based on competition, do not apply to N(N)LPs founded by the central or local government bodies;

- The number of LEPLs and N(N)LPs founded by the central and local governments has increased between 2012 and present;

- According to the information received from the bodies selected for the study, there were 8,870 ***permanent employees*** working at 40 LEPLs and N(N)LPs in 2012. By 2017, this number increased to 12,632 employees working for 74 LEPLs and N(N)LPs;[4]

- The change in the total number of permanent employees in 2017 compared to 2012 is partially caused by the establishment of new LEPLs and N(N)LPs or by re-establishing existing public organizations in this legal form.
    - The trend of increase in the number of permanent employees is also present in the data provided by the eight self-governing entities for the 29 LEPLs and N(N)LPs operating under them.

- In 2012, there were 1,077 ***non-staff employees*** working for 38 LEPLs and N(N)LPs. In 2017, their number amounted to 7,193 in 67 LEPLs and N(N)LPs:
    - In 2012-2017, the trend of increase in the number of non-staff employees is present only in those LEPLs and N(N)LPs which were founded before 2012;

- In 2012, ***permanent employees*** of 45 LEPLs and N(N)LPs received almost GEL 77m in salaries; in 2016, this amount exceeded GEL 165m for 72 LEPLs and N(N)LPs;

- In 2012, in 28 LEPLs, GEL 71.5m were paid in salaries, GEL 2.5m in salary supplements and GEL 12m – in bonuses. In 2016, the amount of salaries paid by 44 LEPLs exceeded GEL 146m while the amount of salary supplements and bonuses in 43 LEPLs exceeded GEL 13m and GEL 17m respectively;

- In 2012, the amount of salaries and bonuses in 13 N(N)LPs exceeded GEL 5m and GEL 669,000; no salary supplements were paid by the N(N)LPs which provided us with information. According to the 2016 information, the total amount of salaries paid by 16 N(N)LPs was about GEL 19m, the amount of salary supplements in 16 N(N)LPs exceeded GEL 1m while the bonuses paid by 19 N(N)LPs exceeded GEL 2.8m;

2 Except for employment in the Legal Entities of Public Law working in the field of culture, education, science, research, sports and religion, membership-based ones and those which belong to categories defined by the laws of Georgia "On Civil Service" and "On Legal Entity of Public Law".

3 Applicable to heads of N(N)LPs only with regard to the obligation to fill out asset declaration.

4 The difference in the number of organizations is conditioned by the creation of new legal entities, while some LEPLs and N(N)LPs that were functioning before 2012 and are still operational today failed to provide us with requested information.

- In 2012**,** GEL 29.5m were paid in salaries to **non-staff employees** by 39 LEPLs and N(N)LPs; in 2016, this amount increased to almost GEL 51m for 62 LEPLs and N(N)LPs;

- In 2012, GEL 28.5m were paid in salaries to **non-staff employees** by 25 LEPLs while, in 2016, this amount increased to nearly GEL 46m for 37 LEPLs;

- In 2012, **non-staff employees** of 14 N(N)LPs received GEL 1m in salaries; GEL 251,779 were paid in bonuses by 8 N(N)LPs; no salary supplements were paid based on public information provided by 7 N(N)LPs. These indicators changed by 2016 as follows: GEL 4,900,836 were paid in salaries by 25 N(N) LPs and GEL 187,215 were paid in salary supplements and GEL 477,230 – in bonuses by 11 N(N)LPs;

- In 2012, own income of 38 LEPLs and N(N)LPs (not including grants or other funding received from international donors) amounted to almost GEL 52m. In 2016, this amount for 58 LEPLs and N(N)LPs exceeded GEL 112m. These data indicate that in the five-year period between 2012 and 2016, only 20 LEPLs and N(N)LPs of the 78 that provided us with information within the framework of the study did not have their own income;

- The organizations that were studied do not have effective internal mechanisms for preventing conflict of interest and corruption, which is particularly problematic given the fact that they are essentially operating as public institutions;

- The issue of transparency and accountability in the public sector remains problematic. Unfortunately, this study does not cover the LEPLs that are part of the Ministry of Internal Affairs and the Ministry of Justice systems or the trends that are characteristic for them as these agencies have failed to provide us with information;

- The Civil Service Bureau, the State Audit Office and the Government Administration do not have unified information about the total number and areas of activities of LEPLs and N(N)LPs under the executive central and local government bodies of Georgia, and we have not been able to receive public information we requested from the Ministry of Finance.

RECOMMENDATIONS:

- In order to efficiently prevent a conflict of interest, nepotism and corruption in the state-founded N(N)LPs, the regulating principles of civil service and anticorruption mechanisms must be applied to them, including competition-based appointment of their heads and employees, applying the regulations stipulated in the law "On Civil Service" to non-staff employees and other issues;

- In order to elaborate effective anticorruption mechanisms for the state-founded LEPLs and N(N)LPs, their internal anticorruption mechanisms need to be improved;

- The criteria for creating LEPLs and N(N)LPs must be clearly stipulated by the law, in compliance with the good governance standards;

- An unbiased and transparent process of hiring by LEPLs and N(N)LPs needs to be ensured, including, possibly, by means of amending the law;

- The problem of unjustifiably large share of contractors in LEPLs and N(N)LPs needs to be addressed;

- The spending of public funds by LEPLs and N(N)LPs needs to be effectively controlled (by the parliament, State Audit Office, relevant bodies of the central and local government);

- Relevant agencies must be collecting and proactively publishing comprehensive information about organizations that are part of the public sector, including their number, sphere of activity, structural subordination and other issues.

INTRODUCTION

Legal Entities of Public Law (LEPLs) "are hybrid entities somewhere between a government body and a private enterprise. They are wholly owned by the state but operate at an arm's length from governments."[5]

At present, LEPLs are being established in many various sectors; unlike other governmental institutions, they are more independent and can even act as commercial entities. **In addition**, in some cases, the **central and local government bodies also use** the other type of organizations – Non-Entrepreneurial (Non-Commercial) Legal Persons (N(N)LPs) – which they themselves establish. Examples include - but are not limited to - Agriculture Projects Management Agency (APMA), Tbilisi Development Fund, Rustavi Legal Aid Centre, "Special Services" of Kutaisi City Hall, Zugdidi Cleaning Centre and so on.

It has to be noted that, in terms of governance best practice, there is no unified, established equivalent system that is tailored exactly to fit Georgian reality but other countries do have in their public sectors similar organizations that operate separately from the government bodies.

TYPES OF ORGANIZATIONS

OECD identifies three types of organizations which are not vertically integrated into the hierarchy of the governmental institutions and are separate from the central or local executive government (core government):

- Departmental Agencies – parts of a ministry which do not have a separate legal status but whose internal administration is generally different from the administration of the rest of the ministry;
- Public Law Administrations – have a separate legal status under public law. Their internal or external administration is generally different from a ministry's administration and they may or may not have a governing board;
- Private Law Bodies which usually have a governing board and are indirectly controlled by the ministry.[6]

Despite different legal statuses, organizations of this kind represent public sector and, correspondingly, are subject to the accountability principle. According to the Legal Entities of Public Law and Civil Service Consultancy Assessment Report, "LEPLs are public whether funded directly by the parliament, a central ministry or a government department or through a sponsored commercial entity that enables the LEPL to generate its own revenue. Therefore, LEPLs are accountable to the sponsor line ministry for performance and the use of their resources. Each LEPL is accountable to parliament through the minister responsible for the department."[7]

5 Roy A. Emperingham, "Legal Entities of Public Law and Civil Service Consultancy Assessment Report and Recommendations", 2014, p. 8, see http://csb.gov.ge/uploads/25-11-06Roy_Empringham.pdf

6 Rob Laking, "Agencies: Their Benefits and Risks", ISSN 1608-7143 OECD Journal on Budgeting Volume 4 – No. 4, OECD 2005, p. 10, see https://www.oecd.org/gov/budgeting/43487848.pdf

7 Roy A. Emperingham, "Legal Entities of Public Law and Civil Service Consultancy Assessment Report and Recommendations", 2014, p. 9, see http://csb.gov.ge/uploads/25-11-06Roy_Empringham.pdf

POSITIVE ASPECTS OF SEPARATE ORGANIZATIONS

According to the OECD, this kind of organizations are most frequently set up with the aim of ensuring better management, more credible policies and greater autonomy.

- **Better management**: compared to other, traditional state institutions, these organizations have clear objectives and more freedom to make decisions.

- **More credible policy**: the aforementioned organizations are better at maintaining impartiality in decision-making, institutional autonomy and ensuring public trust.

These approaches are used when setting up regulatory agencies of economic and financial spheres, national/central banks, regulatory agencies of various industries, such as telecommunications and energy, agencies responsible for investigating human rights abuses and cases of corruptions and so on as organizations separate from state management.[8]

Transparency International – Georgia, despite its efforts, has not been able to obtain information about the total number and the areas of activity of LEPLs and N(N)LPs operating under the central and local government bodies in the course of the study. The Civil Service Bureau, the State Audit Office and the Government Administration do not have unified information about this matter.

RISKS RELATED TO SEPARATE ORGANIZATIONS

According to Legal Entities of Public Law and Civil Service Consultancy Assessment Report, the number of LEPLs operating under various ministries in Georgia exceeds 180 while the number of their employees exceeds 45,000.[9]

Given such a high number of LEPLs and N(N)LPs in performing public administration in Georgia, the risks related to the existence of an excessive number of such organizations also need to be considered. According to OECD, the existence of a large number of administration bodies separate from the central and local government poses two kinds of risks:

- Such state of affairs increases the risk that these institutions would not work together to achieve important joint objectives, and that the complex problems of public policy would be "dispersed" among responsibilities of these agencies, or that they would not have clear enough boundaries between them, which would cause an overlap in their responsibilities and jurisdictions.

- There is also a danger that a large number of this kind of institutions would complicate managing them centrally should such need arise, and management of each new organization of this kind is related to new procedures and rules.[10]

At the same time, such large-scale use of organizations such as LEPLs and N(N)LPs by the state in order to exercise public authority and deliver services naturally prompts an interest to study their management standards and anticorruption practices.

8 Rob Laking, "Agencies: Their Benefits and Risks", ISSN 1608-7143 OECD Journal on Budgeting Volume 4 – No. 4, OECD 2005, p. 16, see https://www.oecd.org/gov/budgeting/43487848.pdf

9 These data do not include 74,097 employees of 2,081 schools, 427 employees of 15 vocational colleges and 22,311 employees of 20 higher education institutions. If these numbers were included, the number of people employed by organizations enjoying the status of an LEPL would exceed 142,414.

10 Rob Laking, "Agencies: Their Benefits and Risks", ISSN 1608-7143 OECD Journal on Budgeting Volume 4 – No. 4, OECD 2005, p. 16, see https://www.oecd.org/gov/budgeting/43487848.pdf

According to Legal Entities of Public Law and Civil Service Consultancy Assessment Report, international practice shows that boards of directors oversee the organizations similar to LEPLs in most countries, and the responsibility lies with their management. "Most governments retain power and influence over the equivalent of LEPLs in areas such as appointments, remuneration for agency heads and deputy heads, and approval of plans and budgets."[11]

Considering the principles of good governance, the existence of criteria for setting up such organizations (LEPLs and N(N)LPs) by the state would also be expedient. Legal Entities of Public Law and Civil Service Consultancy Assessment Report indicates several methods of defining criteria for establishing LEPLs:

"Measuring the need against the high-level criteria first:

1. Does the LEPL perform a technical function?
2. Do its activities require political impartiality?
3. Does the LEPL need to act independently to establish facts or similar criteria tailored to the needs of Georgia?

"An LEPL passes the above test then it would be subject to more stringent second test requirements. This same filtering process could be used to assess the viability of current LEPLs".[12]

11 Roy A. Emperingham, "Legal Entities of Public Law and Civil Service Consultancy Assessment Report and Recommendations", 2014, p. 8, see http://csb.gov.ge/uploads/25-11-06Roy_Empringham.pdf

12 Ibidem, p. 9

LEGISLATION OVERVIEW

Introduction

In order to review the legislation concerning Legal Entities of Public Law[13] and state-founded Non-Entrepreneurial (Non-Commercial) Legal Persons, we need to examine the law "On Legal Entity of Public Law", Civil Code and Local Self-Government Code which regulate the issues of setting up LEPLs and N(N) LPs, their powers, control by the state, property and dissolution. With regard to anticorruption mechanisms, transparency and accountability of such institutions, we will examine the laws "On Civil Service" and "On Conflict of Interest and Corruption in Public Institutions" for LEPLs and N(N)LPs.

LEGAL ENTITY OF PUBLIC LAW: NOTION AND BASIS FOR ESTABLISHMENT

A Legal Entity of Public Law is an organization which is subordinated to the control of the state but is set up separately from the legislative and executive bodies of the state and operates independently from them. The areas of activity of a Legal Entity of Public Law include: political, state, social, educational, cultural or other kinds of public work. A Legal Entity of Public Law can be set up by a corresponding law, government decree or an administrative act of a state administration body on the basis of the law.[14] In addition, a Legal Entity of Public Law can be founded by several bodies of state authority simultaneously.[15]

According to the law, a Legal Entity of Public Law can only be set up to achieve objectives and perform functions that are not expressly within the competency of a government agency.[16] However, this definition is vague, especially in the case of LEPLs operating under ministries since there are many LEPLs in Georgia whose area of activity is directly within the competency of their supervising ministry. Correspondingly, it is unknown whether the government bodies consider this legal provision when establishing LEPLs, or how they interpret it. Transparency International – Georgia tried to clarify with the Civil Service Bureau the procedures and norms based on which a government agency's competencies are defined and what are the areas in which LEPLs can be established within ministry systems. The Bureau responded, however, that interpreting the law is not within the scope of its authority and, correspondingly, its position with regard to this issue is unknown. The Civil Service Bureau also said that, within its competencies defined by the law, it is not an entity that participates and/or supervises the process of establishing or operation of LEPLs in any way.

The Civil Service Bureau explained that the law "On Legal Entity of Public Law" provides a detailed list of legal bases for establishing a Legal Person of Public Law **but does not contain any additional criteria that the central government bodies must meet in order to set up this kind of organization**.

According to the Civil Service Bureau, there are certain legal criteria with regard to the establishment of Legal Persons of Public Law by Tbilisi Municipality since the Local Self-Government Code specifies that such organization should be established "**to address the issues that are within the competency of local government bodies". However, this wording could be too general to serve as an effective criterion.**

13 Except for Legal Entities of Public Law created with the aim of cultural, educational, scientific, research, sports and religious activities and political parties.

14 The law "On Legal Entity of Public Law", Article 2.

15 The law "On Legal Entity of Public Law", Article 5.

16 The law "On Legal Entity of Public Law", Article 9.

LEPL, in order to achieve the set objectives and fulfil the functions delegated to it, can enter into agreements and act as plaintiff in court. LEPL is also authorized to carry out activities envisaged by a relevant law, government decree or its own charter (statutes).[17] The charter defines the institution's mode of operation, area of activity, goal within the framework of the state (institutional) control, rules of appointing (electing) and competencies of an authorized representative, rules of dissolution and of amending the charter.[18]

A Legal Person of Public Law can have two kinds of structure. Specifically, it can be membership-based (corporation under public law) or can be established through the separation of state property (including the property of an autonomous republic's executive body) in order to achieve public or state objectives. In this case, an LEPL has no members.[19]

N(N)LP: NOTION AND BASIS FOR ESTABLISHMENT

"Non-entrepreneurial (Non-commercial) Legal Entity is an organized formation established for a certain purpose, having own property, which is independently liable by its ownership and assumes rights and obligations by its own name, enters into transactions and is entitled to be presented as complainant and defendant in court. Its goal is non-commercial activity."[20]

With regard to the establishment of an N(N)LP by the state, no special rules or conditions can be found in the Civil Code or the legal framework, which means that the state fulfils the same requirements when establishing an N(N)LP as the ones stipulated in the Civil Code for other legal or physical entities.

According to the Civil Code: "A Non-Entrepreneurial (Non-Commercial) Legal Person shall be registered with the Registry of Entrepreneurs and Non-Entrepreneurial (Non-Commercial) Legal Persons. An interested party shall submit to the body performing registration an agreement of founders/members and an application which must contain information obligatory for registering a legal person."[21]

With regard to registering N(N)LPs, the requirements of the Civil Code are further specified by the Local Self-Government Code when N(N)LPs founded by local government bodies are concerned. According to it, municipalities are authorized to establish Non-Entrepreneurial (Non-Commercial) Legal Persons or become their members[22] in order to coordinate their activities only within the framework of their competencies[23] and in accordance with the Georgian legislation.

This kind of a Non-Entrepreneurial (Non-Commercial) Legal Person is authorized to organize joint events within the framework of a municipality's competency, participate on behalf of a municipality in preliminary consultations and discussions of draft laws concerning local government, cooperate with government institutions, international unions (associations) of self-governing entities, also establish contacts with relevant foreign unions (associations) and international organizations in the sphere of local government.[24]

17 The law "On Legal Entity of Public Law", Article 3

18 The law "On Legal Entity of Public Law", Article 6

19 The law "On Legal Entity of Public Law", Article 4

20 National Agency of Public Registry website: https://napr.gov.ge/p/617

21 Civil Code, Articles 27 and 29, also the Law of Georgia "On Entrepreneurs"

22 Local Self-Government Code, Article 20, https://matsne.gov.ge/ka/document/view/2244429

23 Local Self-Government Code, Article 106^1

24 Local Self-Government Code, Article 21

MANAGEMENT OF LEPLS

The management of a Legal Entity of Public Law is regulated by the relevant law or government decree and by its charter. An LEPL is managed by a head who acts independently within the framework of the relevant law, government decree and charter (statutes).[25]

The head of an LEPL established on the basis of the state property is appointed and dismissed by the prime minister or the overseeing body determined by the law (including government decree).[26] In case of LEPLs established by an executive body of an autonomous republic, the same authority is exercised by the autonomous republic.

According to the amendment to the Law "On Legal Entity of Public Law" which came into effect on 1 July 2017, a simplified public competition is held to select a candidate for the position of an LEPL head. Deputy heads of an LEPL are selected in accordance with the same principle.[27]

The legal grounds for dismissing the head are also listed in the Law "On Legal Entity of Public Law". For example, the head of a Legal Entity of Public Law can be dismissed if he or she is unable to properly execute his or her authority as defined by the law, government decree or the charter (statutes) of the Legal Entity of Public Law. The head of a Legal Entity of Public Law is dismissed by an authorized official through a substantiated, individual administrative-legal act which can be appealed against in court.[28]

In addition to the position of a head of an LEPL, the law also envisages managing it through the creation of a supervisory body. The officials representing relevant government agencies can become members of a supervisory body. [29]

MANAGEMENT OF N(N)LPS

The Civil Code does not set out any special rules for the management of N(N)LPs founded by the state. According to the Code, the founder/member of a Non-Entrepreneurial (Non-Commercial) Legal Entity is authorized to determine the organization's head and representative. Its organizational structure is defined by the charter (agreed by founders/members). The execution and termination of a non-commercial legal person's directorial and representative powers is regulated by the provisions of the law "On Entrepreneurs"[30] which allow an authorized person to dismissed a registered person from the position held.[31]

As for the rule of appointing the head, N(N)LPs have no obligation to select them through a competition the way it happens in the case of LEPLs.

According to the Civil Service Bureau, currently, N(N)LPs are not regulated by the law "On Civil Service" and, correspondingly, the requirement whereby their heads and deputy heads must be appointed as a result of a competition as envisaged by the law "On Civil Service" cannot be applied to them.

25 Law "On Legal Persons of Public Law", Article 10

26 Ibidem.

27 Law "On Legal Persons of Public Law", Article 10^1

28 Law "On Legal Persons of Public Law", Article 10^1

29 Law "On Legal Persons of Public Law", Article 10

30 Law "On Entrepreneurs", Article 9

31 Civil Code, Article 35

The Local Self-Government Code specifies some issues with regard to the management of N(N)LPs founded by municipalities. According to the Code, the Tbilisi Government is authorized to approve the charters (statutes) of Entrepreneurial Persons and Non-Entrepreneurial (Non-Commercial) Legal Persons of private law; appoint and dismiss the heads of Entrepreneurial Persons and Non-Entrepreneurial (Non-Commercial) Legal Persons of private law and control their activities; also, make a decision to transfer funds or movable property into the ownership of Non-Entrepreneurial (Non-Commercial) Legal Person founded by the government.[32] In addition, in the case of Tbilisi, the powers of an executive body can be exercised by Tbilisi's relevant Legal Entity of Public Law.

According to the Code, the decision on the establishment, reorganization and dissolution of a legal person of private law of municipality/municipalities is made by the municipality's executive body with the approval from the municipality's council.

The powers of a founder/member of the municipality's N(N)LP are exercised by the municipality's city hall/ administration. As a founder/member, it is authorized to make decisions regarding the issues of transferring funds and property to the municipality's N(N)LP, in some cases with the council's approval, and also to approve the charter (statutes) of the corresponding legal person.

The decision on the appointment/dismissal or the head/representative of the municipality's legal person of private law is made by the municipality's executive body which acts as the organization's founder, in accordance with this legal person's charter (statutes).[33]

ACCOUNTABILITY/STATE OVERSIGHT OF LEPL

A Legal Entity of Public Law is subject to the control by the state, specifically, there is oversight of the lawfulness, expediency, efficiency and financial and economic aspects of LEPLs' activities. A government agency determined by a government decree, the parliament, the government or a minister of state have the authority to exercise state oversight of LEPLs. Correspondingly, they can request the materials and information they need to exercise such control. Heads of specific ministries are also responsible for overseeing the activities of LEPLs. Namely, the oversight of decisions and activities of civil servants employed by LEPLs lies within the competency of a minister[34]. Dismissing an LEPL head also lies within the ministerial competency and so does the issue of approving an LEPL head's decision regarding the appointment or dismissal of LEPL employees.[35]

An agency responsible for exercising state oversight can suspend or annul an unlawful decision of a Legal Person of Public Law.[36] In addition, an LEPL needs an approval from a state oversight agency in order to make decisions on such issues as real estate, budget, staff composition, remuneration funds and so on.[37]

A state oversight agency's refusal to issue an approval regarding the issues that require it has to be substantiated. At the same time, an LEPL head can appeal against such decision to a higher-level government agency and/or court.[38]

An LEPL's annual balance is checked by an independent auditor appointed by a state oversight agency.[39]

32 Local Self-Government Code, Article 75

33 Local Self-Government Code, Article 1061, Chapter XIII "Municipality's Property"

34 Law "On the Structure, Authority and Rules of Procedure of the Government of Georgia", Article 20

35 Law "On the Structure, Authority and Rules of Procedure of the Government of Georgia", Article 20

36 Law "On Legal Persons of Public Law", Article 11

37 Law "On Legal Persons of Public Law", Article 12

38 Law "On Legal Persons of Public Law", Article 12

39 Law "On Legal Persons of Public Law", Article 14

ACCOUNTABILITY/STATE OVERSIGHT OF N(N)LPS

Exercising state oversight of a Non-Entrepreneurial (Non-Commercial) Legal Persons' activities is possible under the circumstances clearly defined by the Civil Code – if a Non-Entrepreneurial (Non-Commercial) Legal Person essentially switches to entrepreneurial activities, the court, based on the appeal by a registering agency and/or an interested party, reviews and makes the decision with regard to the suspension or prohibition of the person's activities. Another possibility of this kind is provided by the organic law "On Suspension and Prohibition of Activities of Public Associations" when it concerns bringing down constitutional order of Georgia, infringement on the country's independence, violating its territorial integrity and other similar issues.

As for the state overseeing the activities of an N(N)LP as its founder, this is possible through the charter, by the founder and by the managing/overseeing agency (for example, local administration) defined by the organizational structure.

The Local Self-Government Code envisages additional accountability mechanisms for the N(N)LPs founded by local governments. Specifically, a municipal council is authorized to include in its rules of procedure a presentation of activity report by an authorized head of the municipality's legal person of private law.

LAW "ON CIVIL SERVICE"

The provision of the law "On Civil Service" which states that the appointment to positions must occur through competition applies to Legal Entities of Public Law too.[40] The competition for the employees of a Legal Person of Public Law is held by a competition and certification commission of the relevant Legal Entity of Public Law.[41] In contrast to the previous version, the new law "On Civil Service" directly considers the work for a Legal Entity of Public Law[42] as civil service and, correspondingly, the law applies fully to this kind of institutions. The heads and deputy heads of Legal Entities of Public Law are the only exception as this law does not apply to them. According to the Civil Service Bureau, the law does not apply to the heads and deputy heads of LEPLs at this stage because of a planned reform concerning the categorization of Legal Entities of Public Law. Their position is that the law cannot apply to the LEPL heads and deputy heads until their status becomes clear. Correspondingly, the work on this issue is currently under way.

The law regulates the status of a civil servant, conditions of hiring and service of professional civil servants, issues of civil service administration; it also regulates the working and legal relations among civil servants at the central and municipal government agencies (institutions), those of autonomous republics and Legal Entities of Public Law.[43] In addition, it establishes the procedure for appointing civil servants to LEPLs through competition.

As for the state-founded N(N)LPs, the law "On Civil Service does not even mention such organizations and, correspondingly, the provisions of this law do not apply to them at all; persons employed by these organizations are not considered civil servants either. Thus, for example, announcing competition to fill a vacancy, professional evaluation of employees, defining certain rights, guarantees and responsibilities for them and other issues are not regulated for N(N)LPs.[44] Moreover, according to the Civil Service Bureau, there

40 With the exception of organizations working in the sphere of culture, education or religion as well as the rules of appointing an aide to public defender of consumer rights at the national regulatory agency.

41 Law "On Civil Service", Article 111

42 Except for the work at Legal Entities of Public Law that operate in the sphere of culture, education, science, research, sports and religion, are membership-based and which belong to categories determined by the laws of Georgia "On Civil Service" and "On Legal Entity of Public Law".

43 Law "On Civil Service", Article 2

44 Law "On Civil Service", Article

are no plans to expand the civil service framework. Their position is that applying regulations that are typical for civil service to legal persons of private law does not comply with the contemporary principles of public administration. However, on the other hand, leaving these organizations, which exercise public authority and are financed from the budget, outside the regulatory framework could be problematic, especially against the background of a trend of increase in the number of such organizations and the number of their employees.

LAW "ON CONFLICT OF INTEREST AND CORRUPTION IN PUBLIC INSTITUTIONS"

The law "On Conflict of Interest and Corruption in Public Institutions" considers the heads and deputy heads of Legal Entities of Public Law as well as the heads of Non-Entrepreneurial (Non-Commercial) Legal Persons founded by the central or local government bodies to be public officials and, correspondingly, the regulations that apply to public officials are applicable to them too.[45] This includes an obligation to fill out asset declaration of public officials.

The law "On Conflict of Interest and Corruption in Public Institutions" applies to state servants, professional civil servants and persons recruited to the public service on the basis of administrative contract as defined by the law "On Civil Service". Consequently, the law covers the relevant employees of LEPLs too. As for N(N) LP employees, since the law "On Civil Service" does not apply to N(N)LPs and their employees, the law "On Conflict of Interest and Corruption in Public Institutions" does not apply to them either. This law is only applicable to the heads of those Non-Entrepreneurial (Non-Commercial) Legal Persons founded by the central or local government bodies whose turnover for previous year exceeded GEL 100,000 according to annual profit declaration. Correspondingly, the law specifies only an N(N)LP head's obligation to fill out asset declaration in accordance with the rules established by the law and with the goals of the country's anticorruption policy.

According to the law "On Conflict of Interest and Corruption in Public Institutions", the notion of incompatibility of office applies to the heads and deputy heads of LEPLs and N(N)LPs too. Specifically, an official or his or her family member have no right to hold a position or perform any kind of work for an enterprise registered in Georgia if oversight of entrepreneurial activities of this enterprise is within the scope of authority of this official or his or her office.

In addition, a family member of a public official has no right to own shares or a share of capital in an enterprise if oversight of this enterprise's activities is within the scope of authority of this official or his or her office. Also, a public official is not allowed to appoint a close relative to a position of a civil servant on the basis of administrative or labour contract (unless the appointment occurs as a result of competition) if this position is under this official's oversight.[46]

Some issues related to the legal regulation of LEPLs and state-founded N(N)LPs are presented in the table below

45 Law "On Conflict of Interest and Corruption in Public Institutions", Article 2

46 Law "On Conflict of Interest and Corruption in Public Institutions", Article 13

	LEPL	N(N)LP
Goal/Criterion of Establishment	Can only be established to fulfil such public goals and functions whose implementation is not within immediate scope of authority of government agencies. However, this definition is quite vague and general. In addition, it is unknown whether agencies consider this legal provision and how they interpret it when establishing an LEPL. The spheres of activity are: political, state, social, educational, cultural or other public activities.	With regard to the establishment of an N(N)LP by the state, no special rules or conditions can be found in the Civil Code or the legal framework. According to the Local Self-Government Code, municipalities are authorized to establish N(N)LPs in order to coordinate their activities only within the framework of their competencies.
Law "On Civil Service"	Applies fully.	Does not apply at all.
Hiring though competition	The law "On Civil Service" applies, therefore, so does the obligation to hire employees through competition as defined by the law.	The law does not envisage this obligation.
Law "On Conflict of Interest and Corruption in Public Institutions"	Applies fully.	Applies only to the head with regard to filling out asset declaration and incompatibility of office.
Obligation to fill out declarations	Applies to head and deputy head.	Applies only to the head.
Independence	An organization that is subject to state oversight but is created separately from the legislative and executive bodies and is independent in carrying out its activities. It is managed by its head who acts independently within the framework set by the law, a relevant government decree and the charter.	This authority is given to the head of an N(N)LP by its founder. The head makes decisions on behalf of an N(N)LP within the framework of his or her authority. An organizational structure of an N(N)LP, including the issues of governing bodies and accountability and oversight agencies, are settled by its charter which is also defined by a founder of an N(N)LP.*
Appointment of head	A simplified public competition is announced to select a candidate to be appointed to the position of the head and deputy head.	The founder is authorized to appoint the organization's head and representative. There is no obligation to hire the heads of N(N)LPs founded by the central or local government agencies through competition.

* Civil Code, Article 35 https://matsne.gov.ge/ka/document/view/31702

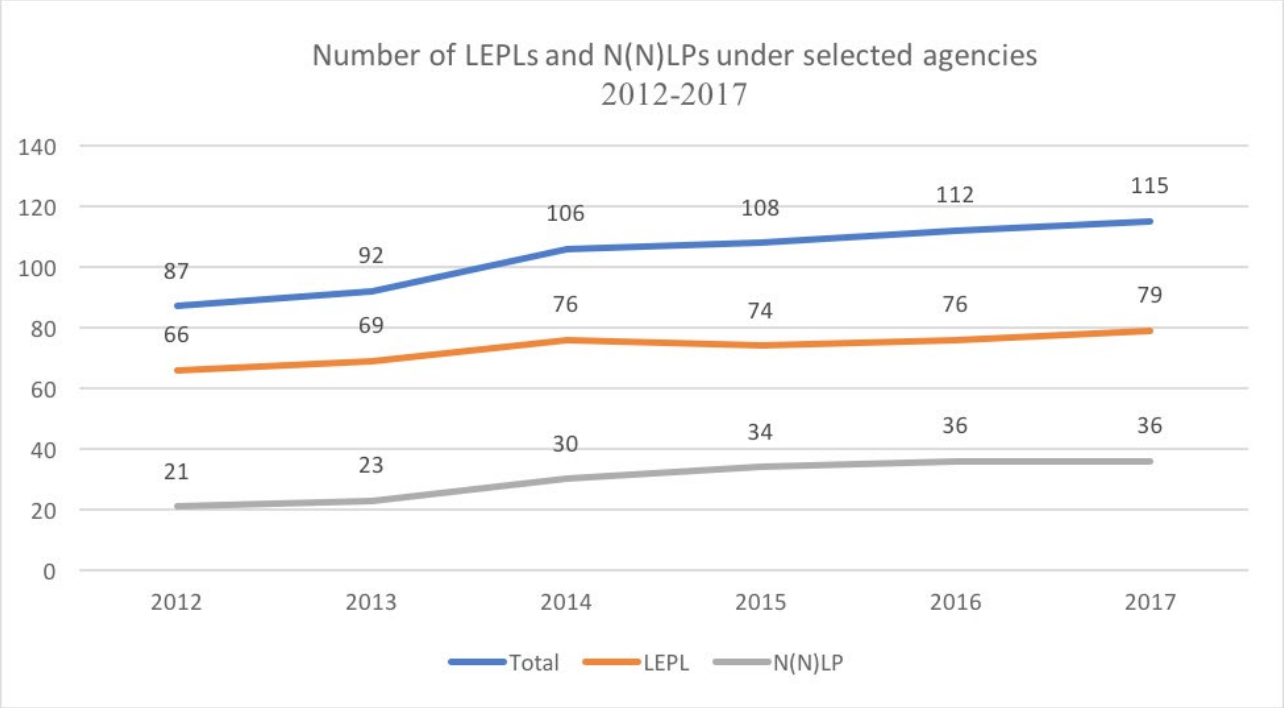
Dismissal of head	Legal grounds for dismissal are listed in the law "On Legal Entity of Public Law".	The provisions of the law "On Entrepreneurs" govern the appointment and dismissal of N(N)LP heads, allowing an authorized person to dismiss the registered person. There are no legal grounds or criteria defined at the legislative level.
Accountability / State Oversight of Organization	Is subject to state oversight, namely, oversight is exercised over the lawfulness, expediency, efficiency and financial and economic aspects of LEPL activities. The relevant agencies can request materials and information required for exercising oversight.	The state can exercise oversight of an N(N)LP as its founder on the basis of the charter, through governing/oversight bodies envisaged by the founders and the organizational structure. The issue of accountability before the founders can be envisaged by the organization's charter. In addition, a municipality council is authorized to include in the council's rules of procedure a presentation of activity report by a municipal N(N)LP head.
Issues to agree with a body exercising state oversight	An agency exercising state oversight is authorized to suspend or annul an unlawful decision of a Legal Person of Public Law.* In addition, an LEPL needs an approval from the agency exercising oversight in order to make decisions on such issues as real estate, budget, staff composition, remuneration funds and others.	The role of the central government or municipalities as founders can be included as such into the organization's charter.

* Law "On Legal Entity of Public Law, Article 11

LEPLS/N(N)LPS: EXPENDITURES AND TRENDS

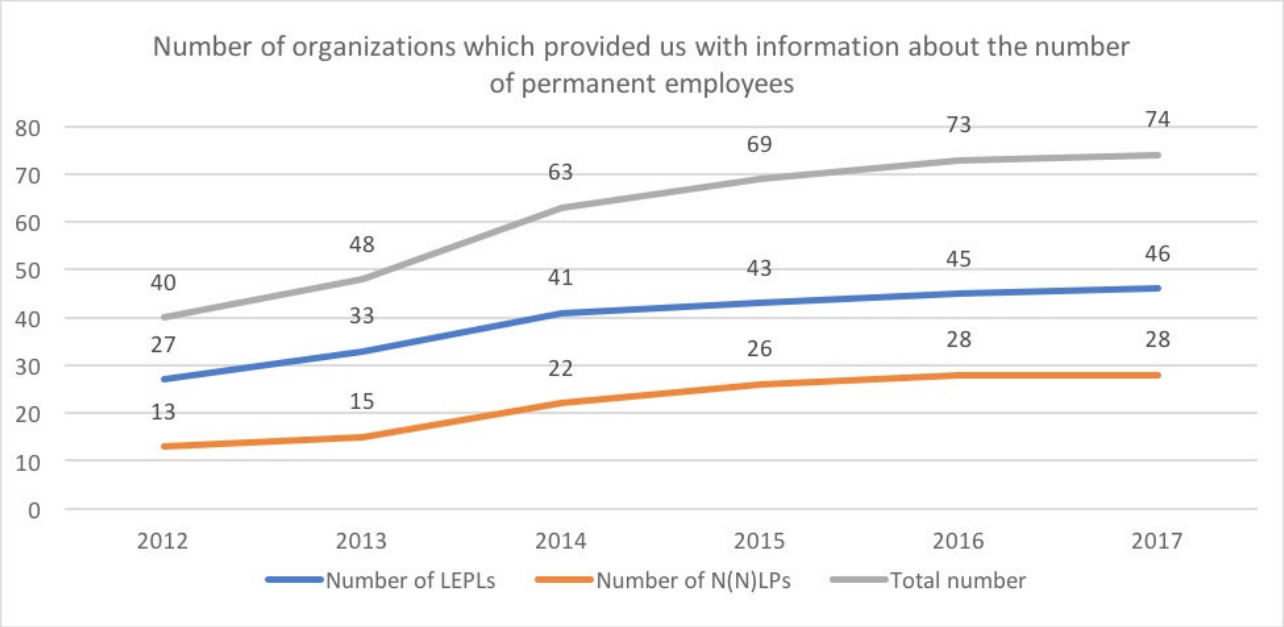
Number of LEPLs/N(N)LPs

In 2012, there were approximately 87 LEPLs and N(N)LPs operating under the agencies selected within the framework of this study (except for organizations created for conducting activities in the sphere of culture, education, sports and religion). According to the data from 2017, the number of LEPLs and N(N)LPs within the same selection of agencies increased to at least 115 (approximately by 32 percent).

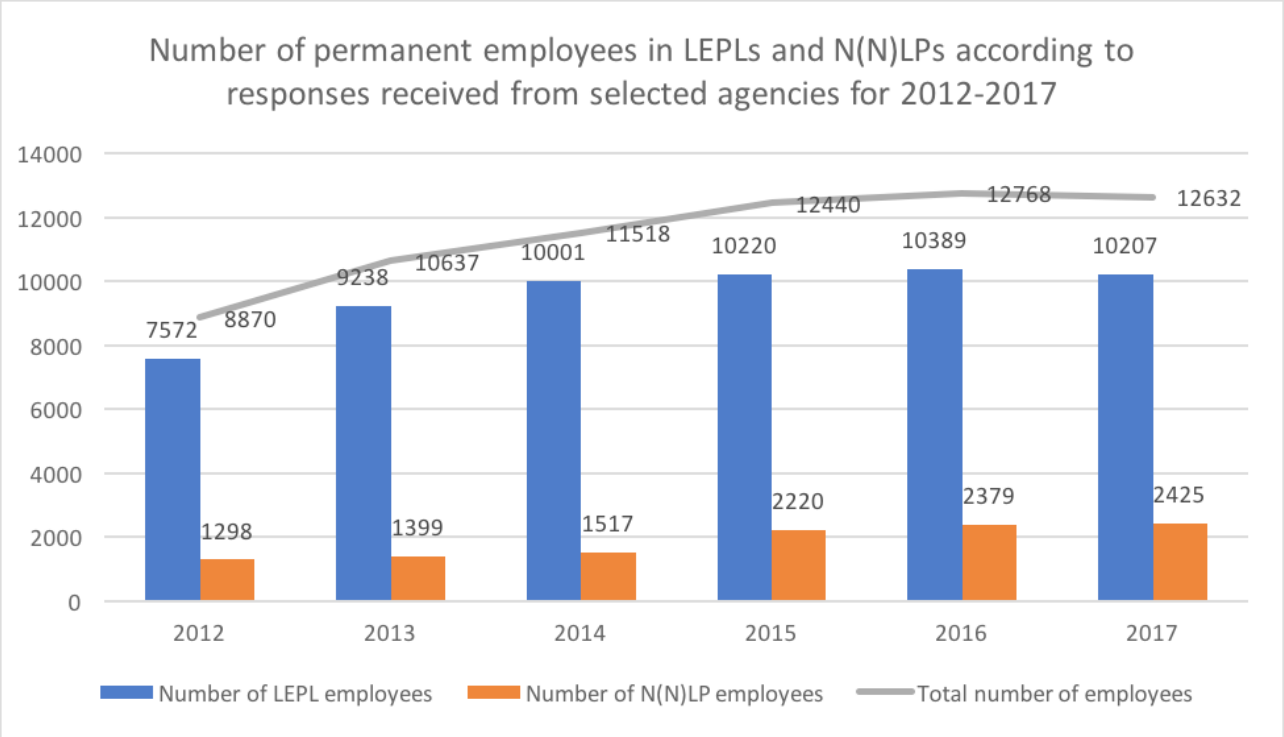


Number of permanent employees

Transparency International - Georgia tried to identify the number of permanent employees of LEPLs and N(N)LPs operating under the selected agencies in the period covered by the study.



According to the data received as a result of request for public information, 8,870 people were employed by 40 LEPLs and N(N)LPs in 2012. By 2017, this number increased to 12,632 people employed by 74 LEPLs and N(N)LPs.[47]

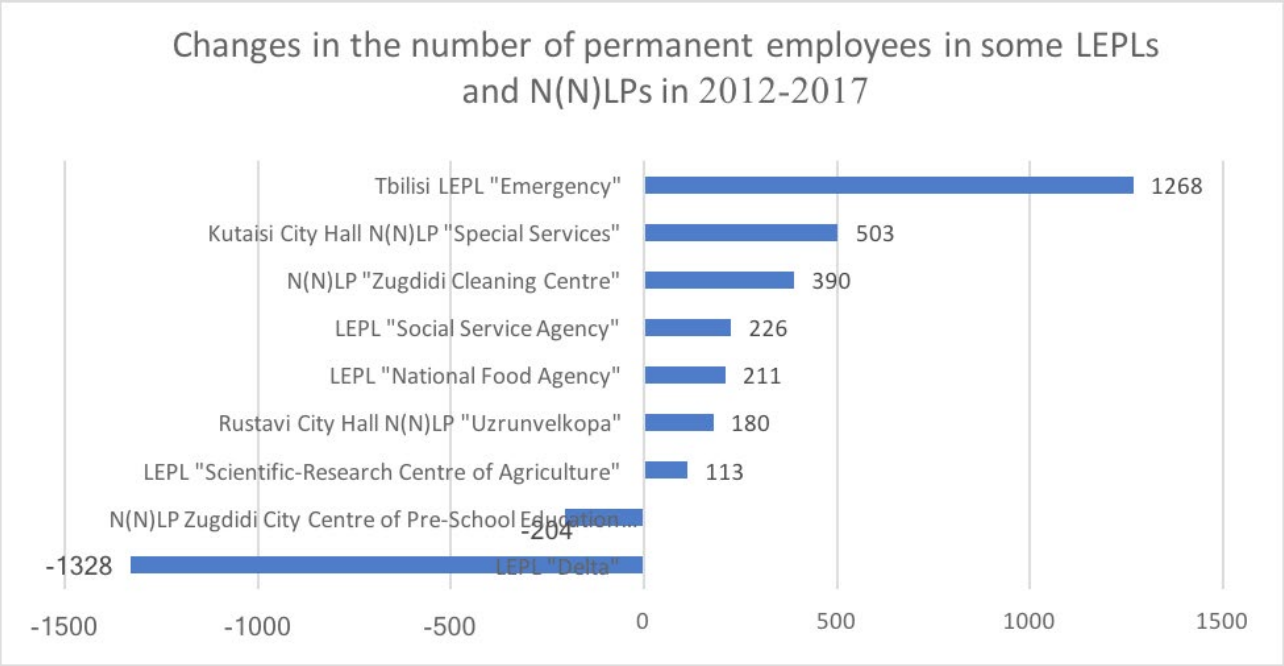


47 The difference in the number of organizations is conditioned by the establishment of new legal entities; we have not been able to obtain information about some LEPLs and N(N)LPs that existed before 2012 and are still in operation.

Thus, in 2012, there were 7,572 permanent employees in 27 LEPLs and, in 2017, there are 10,207 people employed by 46 LEPLs.

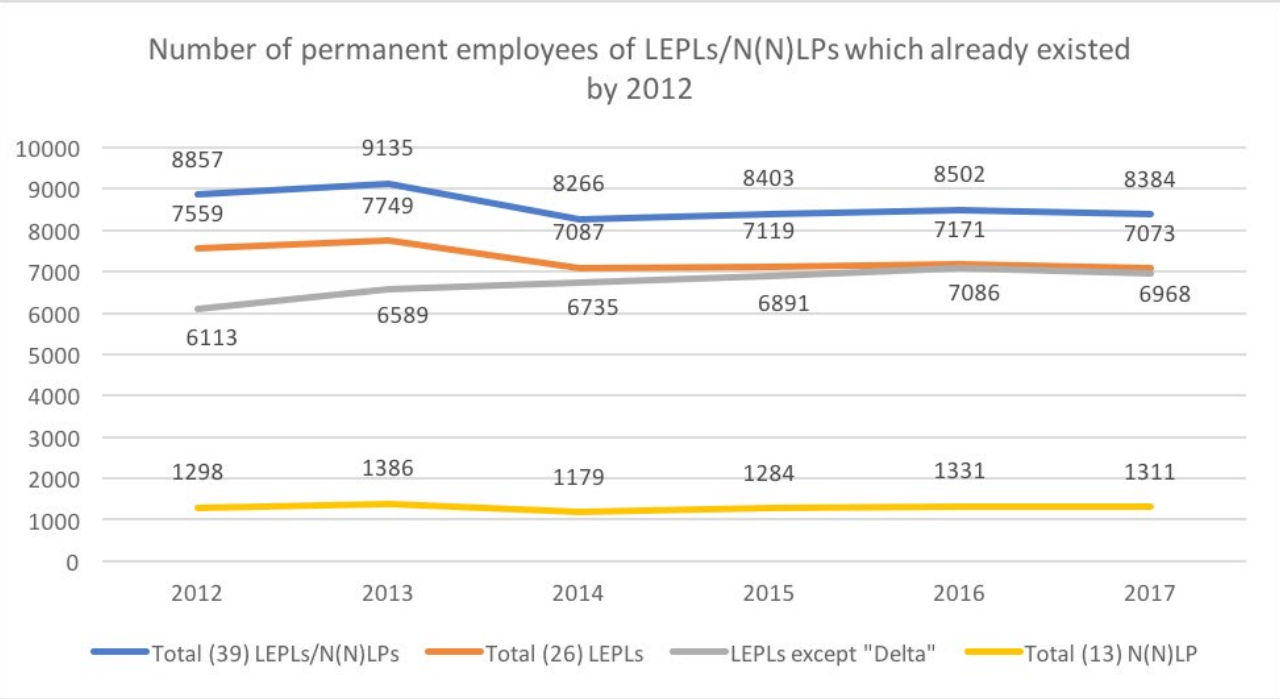
As for N(N)LPs, in 2012, there were 1,298 permanent employees working at 13 N(N)LPs while in 2017, there are 2,425 people working at 28 N(N)LPs.

The demonstrated change in the total number of permanent employees in 2017 compared to 2012 is partially caused by the creation of new LEPLs and N(N)LPs or establishment of an existing public organization under this legal form. In the table below, Tbilisi Centre of Emergency Medical Assistance (from 2014), Kutaisi City Hall N(N)LP “Special Services” (from 2015), LEPL “Scientific-Research Centre of Agriculture” (from 2014) can serve as examples.



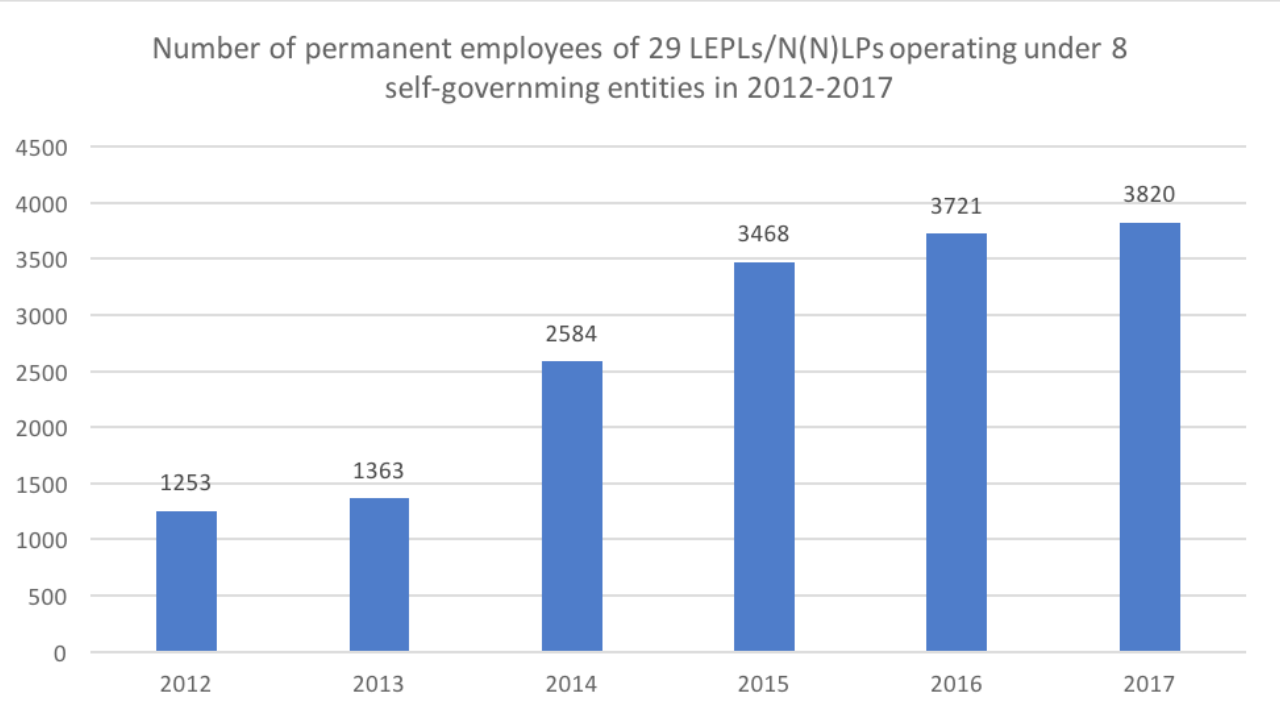
At the same time, a significant increase in the number of permanent employees in some institutions in the comparable period is noteworthy. Examples include LEPL “Social Service Agency”, LEPL “National Food Agency”, Rustavi City Hall N(N)LP “Uzrunvelkopa”.

The fact that the increase in the number of permanent employees is related mainly to the creation of new LEPLs/N(N)LPs or the re-establishment of already existing organizations under this legal form is demonstrated by the figure below.

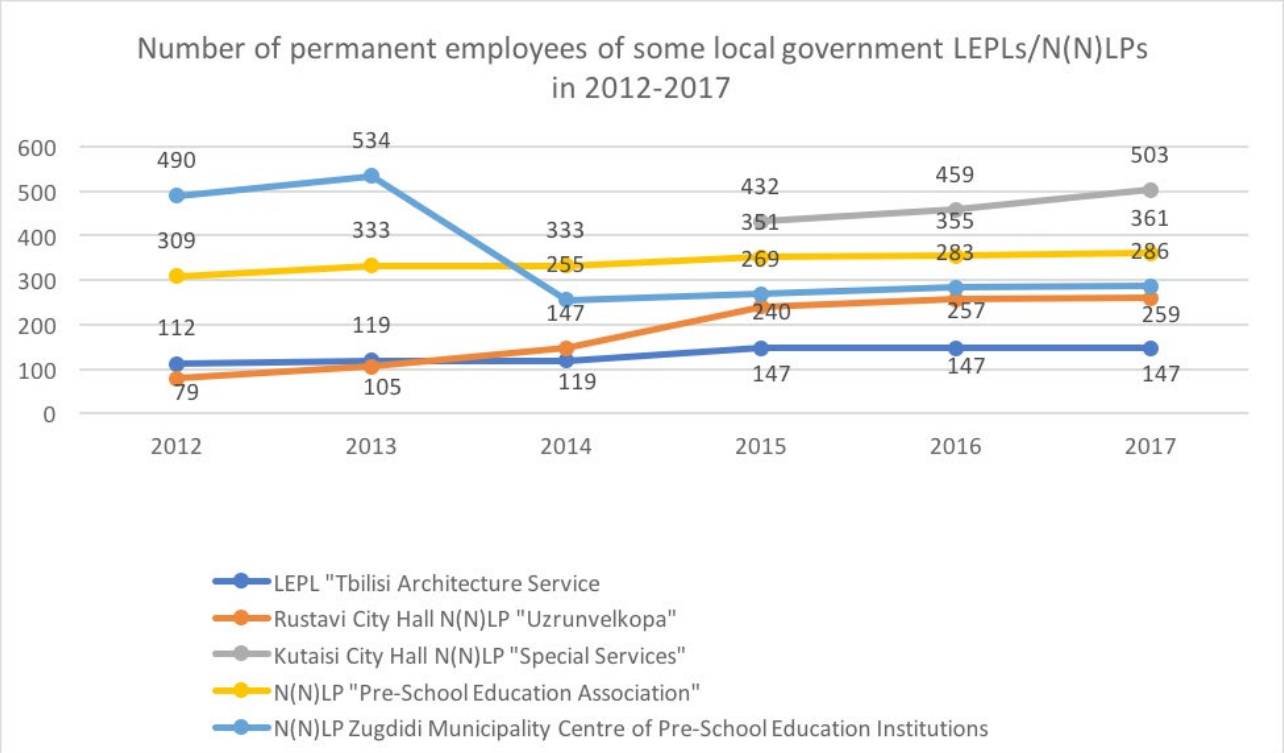


If we analyse the data only for those organizations which already existed by 2012, we will see that, by 2017, there is a minor increase in the number of N(N)LP permanent employees while the number of LEPL permanent employees has slightly decreased. The latter is conditioned by the fact that, compared to 2012, the number of permanent employees of LEPL “Delta” decreased by 1,328 in 2017. The total number of permanent employees of LEPLs other than “Delta” would have shown an increase by over 840 in 2017 compared to 2012.

The trend of increase in the number of permanent employees is also present in the data provided by eight self-governing entities about 29 LEPLs/N(N)LPs operating under them.



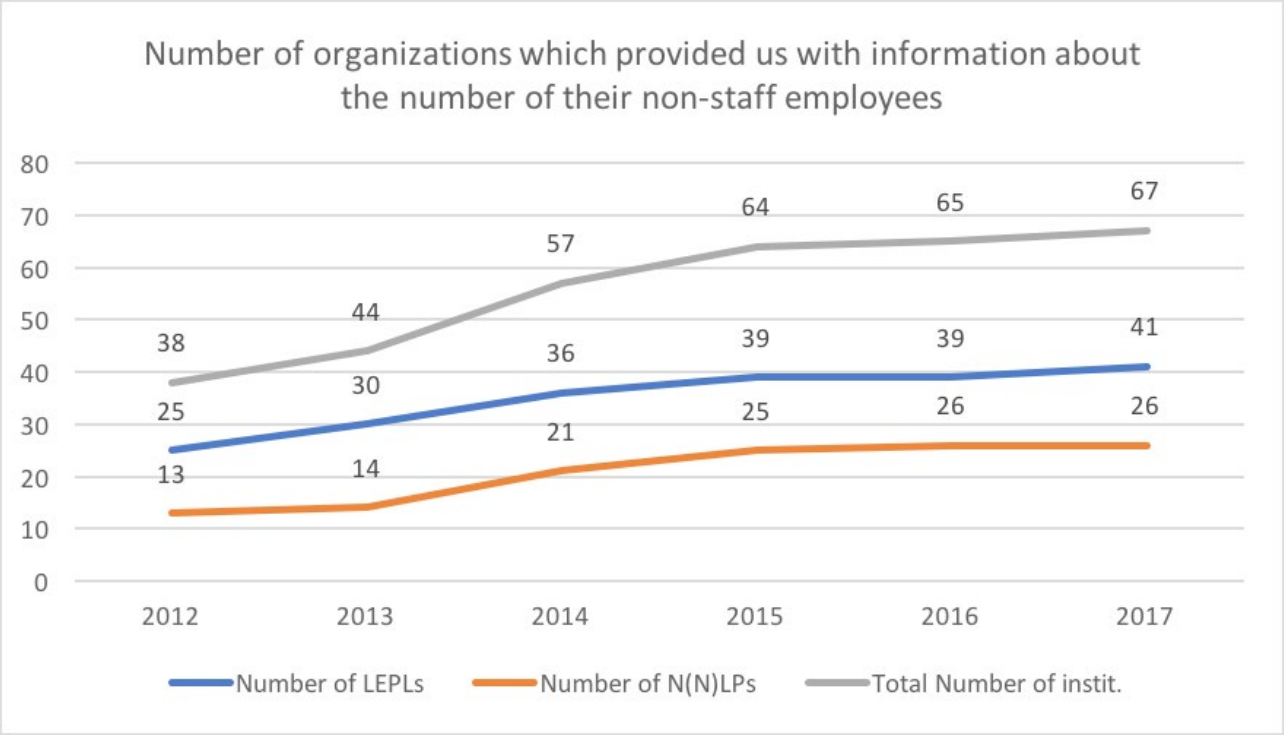
The increase in the number of employees is partially conditioned by the municipalities establishing new N(N)LPs[48] although the figure below also demonstrates that the increase in the number of permanent employees in some N(N)LPs in 2012-2017 is quite significant notwithstanding this reason. For example, the number of permanent employees of Kutaisi City Hall N(N)LP "Special Services" has increased by 71 since 2015, the number of Rustavi City Hall "N(N)LP "Uzrunvelkopa" has increased by 180 compared to 2012 and so on.



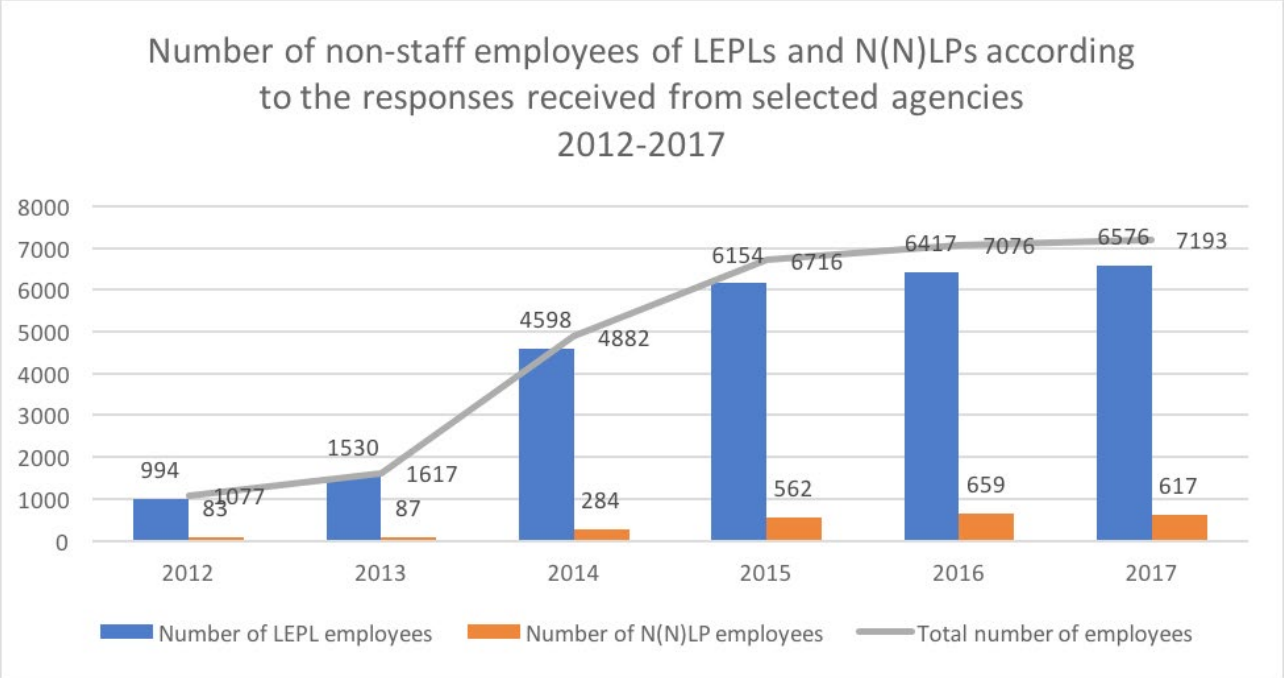
48 Including on the basis of amendments to the Local Self-Government Code that came into effect after the 2014 Local Government Elections.

Number of non-staff employees

According to the information received from the agencies selected for the study, 1,077 non-staff employees worked at 38 LEPLs and N(N)LPs in 2012. In 2017, their number increased to 7,193 in 67 LEPLs and N(N)LPs.

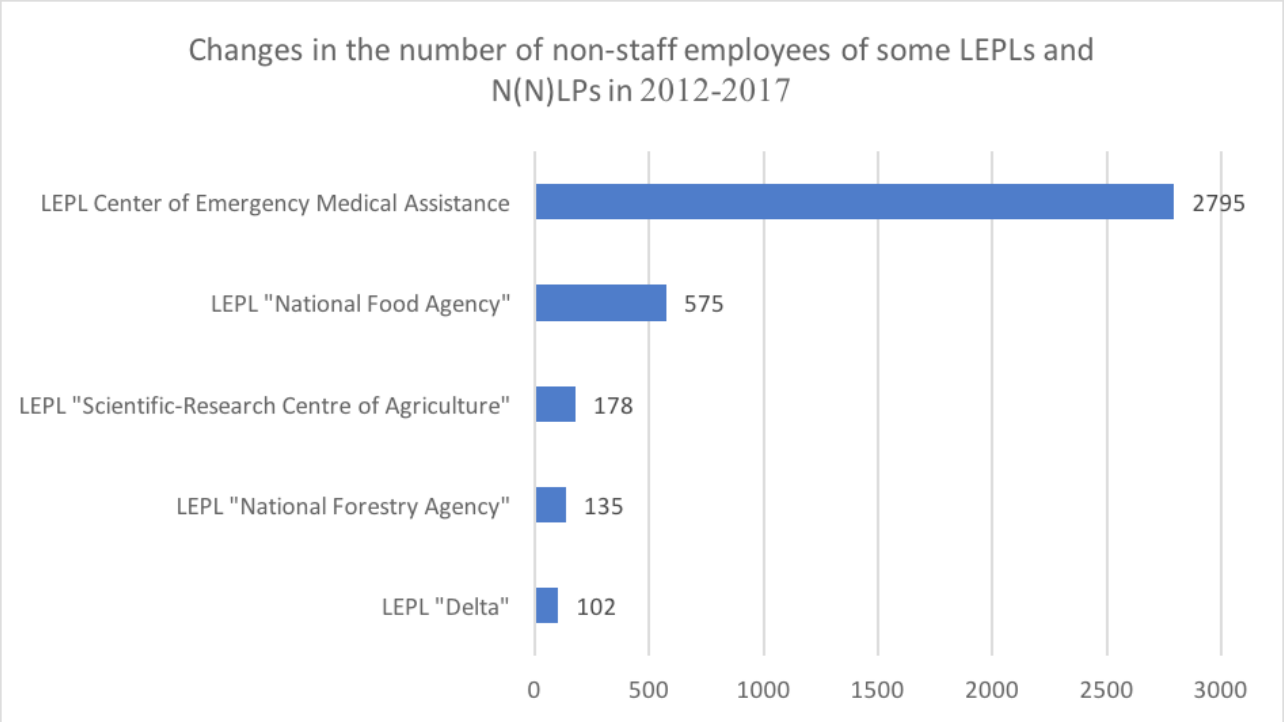


To be more specific, among the agencies that provided us with information, there were 994 non-staff employees in 25 LEPLs in 2012 while in 2017 their number increased to 6,576 in 41 LEPLs.



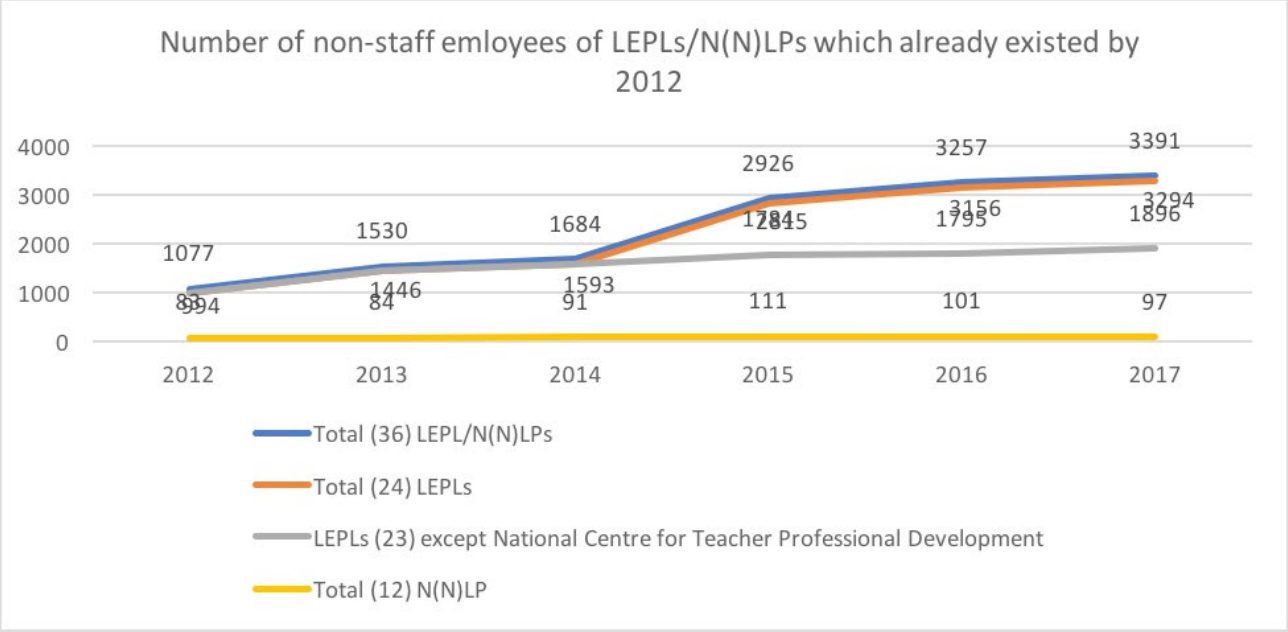
The trend of increase in both the number of organizations and the number of non-staff employees is also present in case of N(N)LPs. If in 2012, there were 83 non-staff employees working in 13 N(N)LPs, in 2017 their number is 617 in 26 N(N)LPs.

In 2017, compared to 2012, the increase in the number of non-staff employees within the framework of the selection of agencies for the study has been partially caused by the creation or transformation into LEPLs of organizations which did not exist in 2012 or operated under different legal form or within a different organization. LEPL “Centre of Emergency Medical Assistance”, LEPL “National Forestry Agency” and LEPL “Scientific-Research Centre of Agriculture” are such examples listed in the figure below.



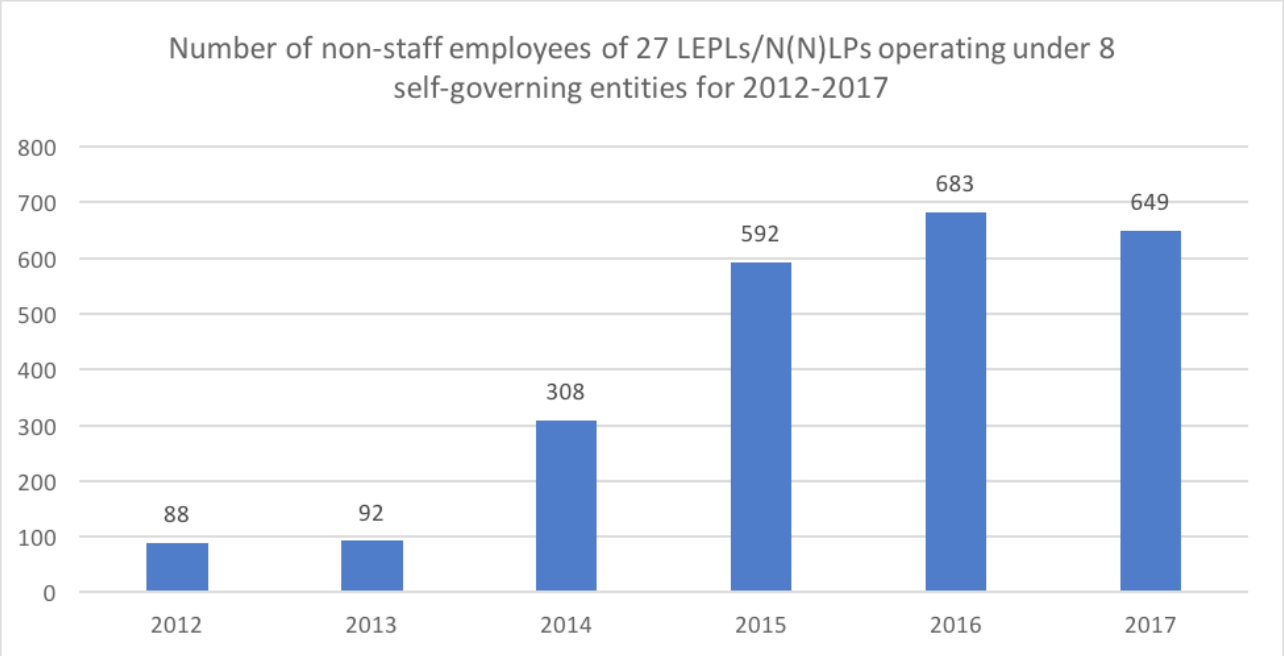
However, in the period covered by the study, the number of non-staff employees of, for example, LEPL “National Food Agency” and LEPL “Delta”, increased by 575 and 102 respectively.

In 2012-2017, the trend of increase in the number of non-staff employees is present only in those LEPLs and N(N)LPs which were founded before 2012.

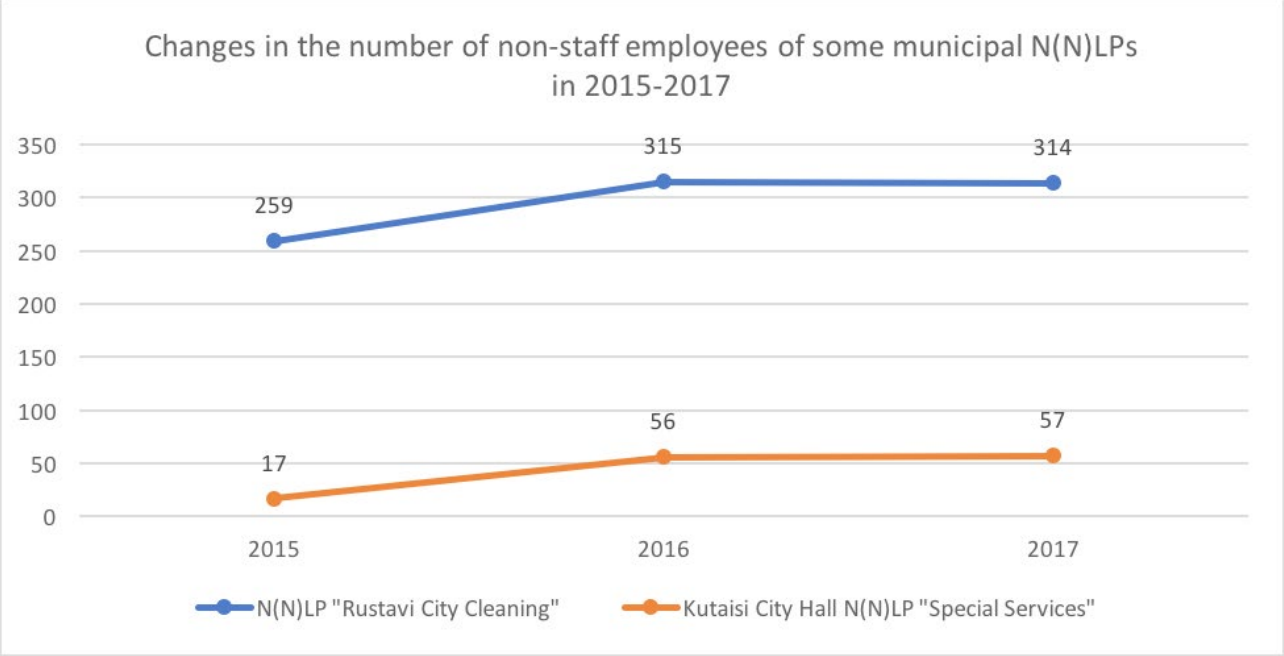


A significant increase in numbers after 2015 is conditioned by the fact that LEPL "National Centre for Teacher Professional Development" provided us with the data starting from 2015. This LEPL itself shows the trend of increase in the number of non-staff employees but the situation is similar in other LEPLs even if we do not consider the Centre.

According to the information we received from the eight self-governing entities, the number of non-staff employees of the 27 LEPLs/N(N)LPs operating under them changed considerably in the course of 2012-2017.



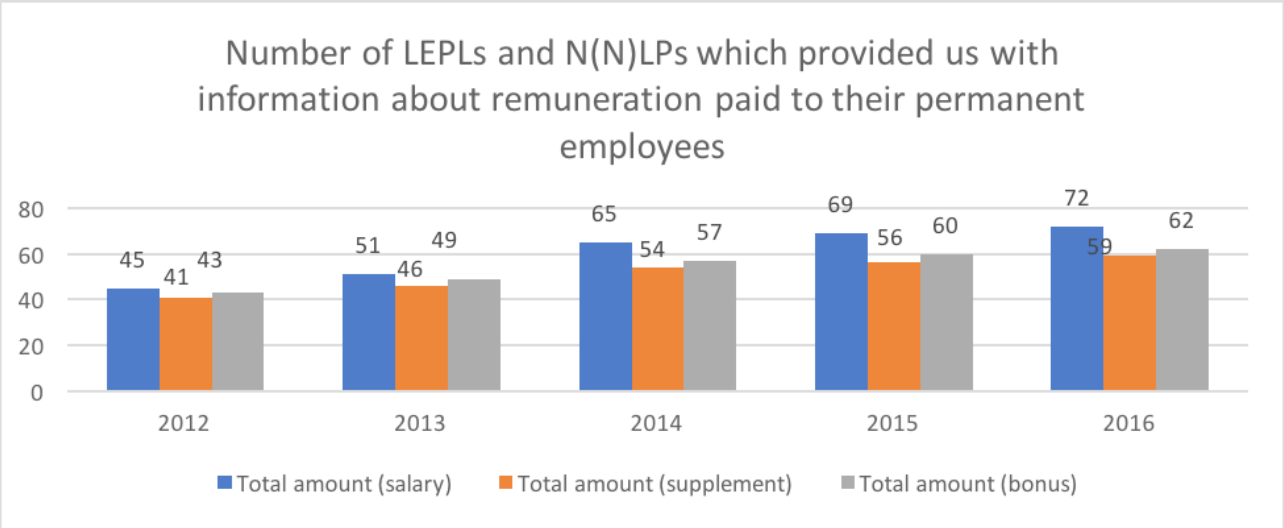
According to the information received by Transparency International - Georgia, drastic changes of recent years are conditioned by two N(N)LPs hiring an indicated number of non-staff employees starting from 2015 as shown in the figure below. These N(N)PLs are also notable for annually increasing the number of non-staff employees.



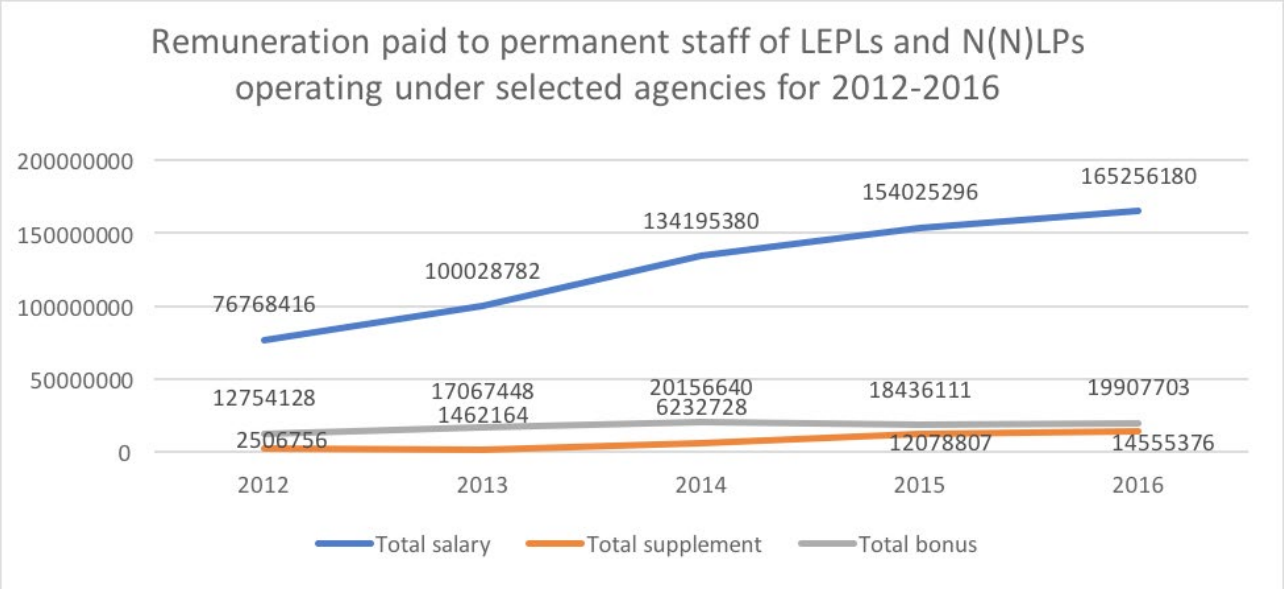
We can see from the data provided above that the number of non-staff employees in 2017 has increased significantly compared to 2012. The trend of increase is noticeable both among LEPLs/N(N)LPs established before 2012 as well as among some relatively new organizations. It is important that legal requirements are followed when hiring non-staff employees and that their employment is based on specific professional needs in order to rule out the risk of hiring them for political or party reasons or needs. This is especially important given that the hiring of non-staff employees is related to relatively simple procedures, which increases the likelihood of nepotism or political favouritism.

Remuneration of permanent employees

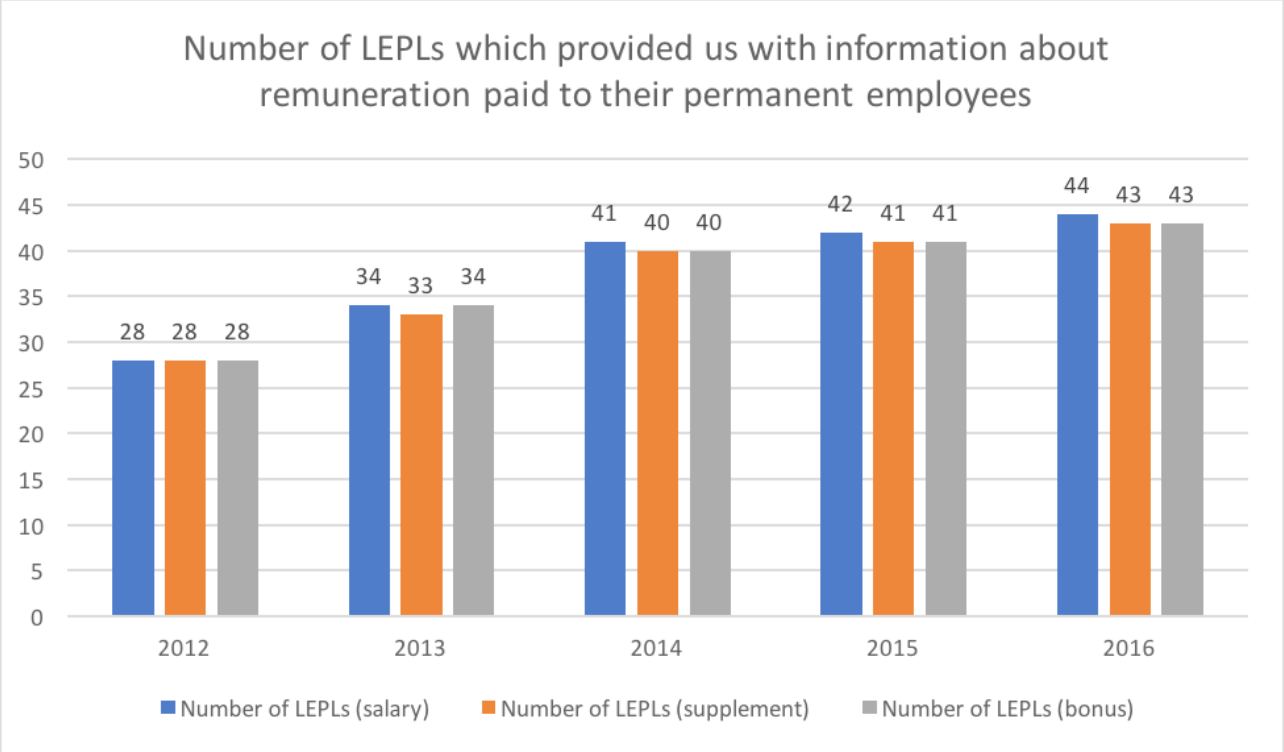
Transparency International - Georgia looked into the amount of remuneration paid to employees of LEPL and N(N)LP operating under agencies selected for the study during the examined period.



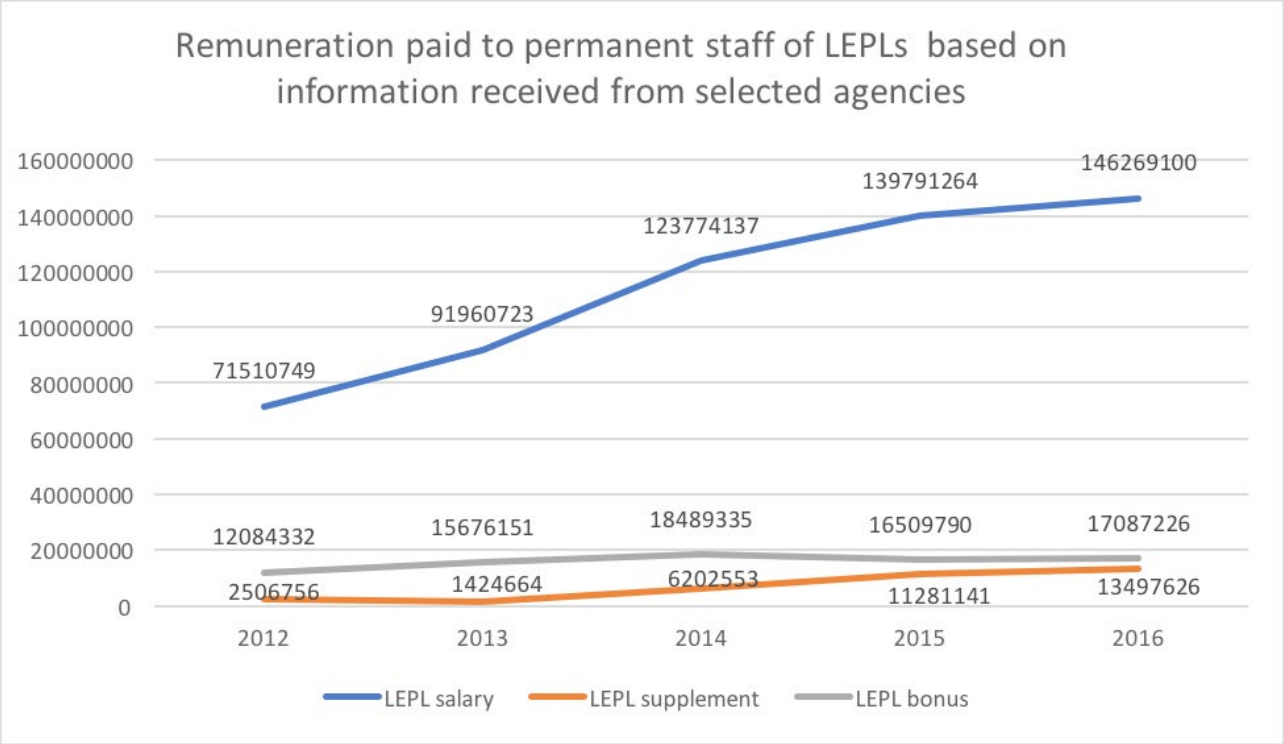
According to the received information, in 2012, employees of 45 LEPLs and N(N)LPs were paid almost GEL 77m in salaries; in 2016, this amount exceeded GEL 165m in 72 LEPLs and N(N)LPs.



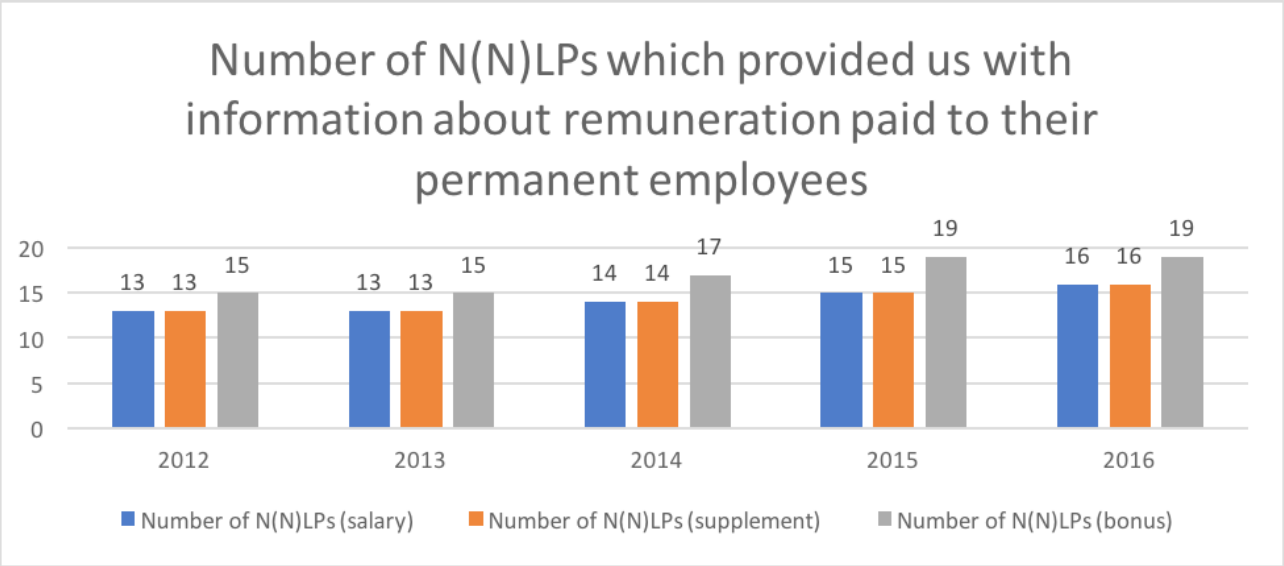
In 2012, permanent employees of 41 LEPLs and N(N)LPs were paid GEL 2.5m in supplements those of 43 LEPLs and N(N)LPs received almost GEL 13m in bonuses; in 2016, GEL 14.5m were paid to employees of 59 LEPLs and N(N)LPs in supplements and approximately GEL 20m to those of 62 organizations in bonuses.



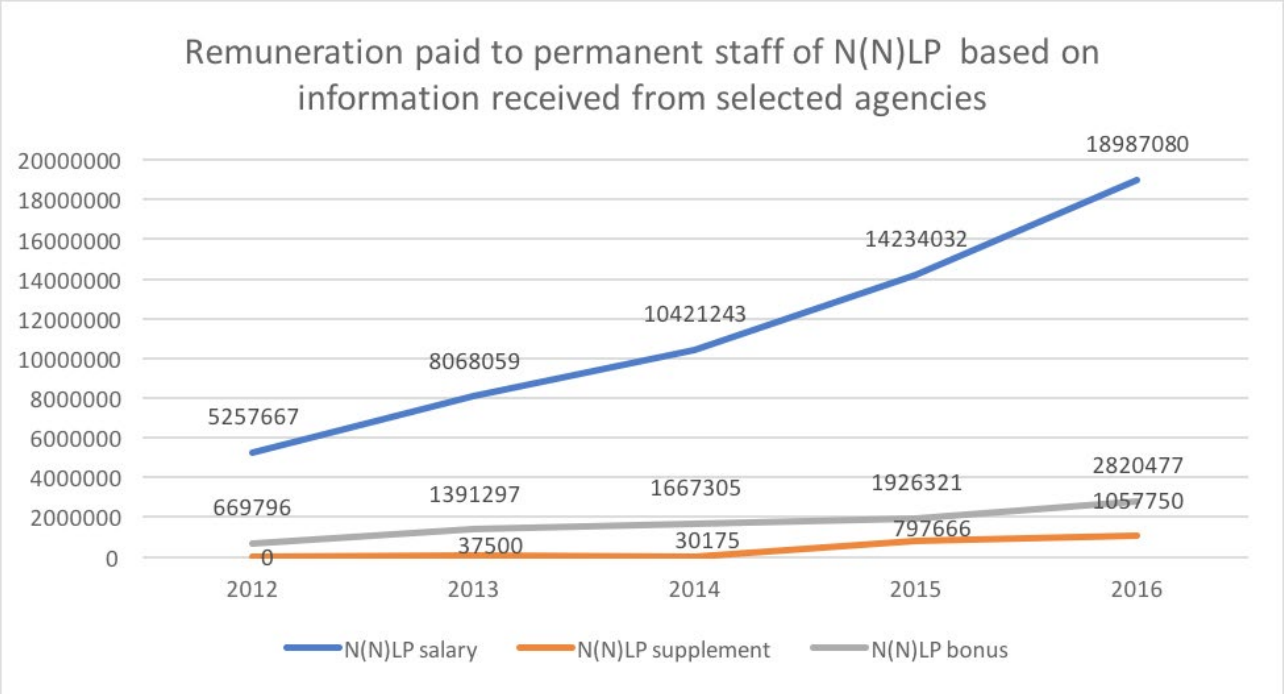
More specifically, in 2012, in 28 LEPLs, GEL 71.5m were paid in salaries, GEL 2.5m - in supplements and GEL 12m - in bonuses. In 2016, the amount of salaries paid by 44 LEPLs exceeded GEL 146m while the amount of supplements and bonuses in 43 LEPLs exceeded GEL 13m and GEL 17m respectively.



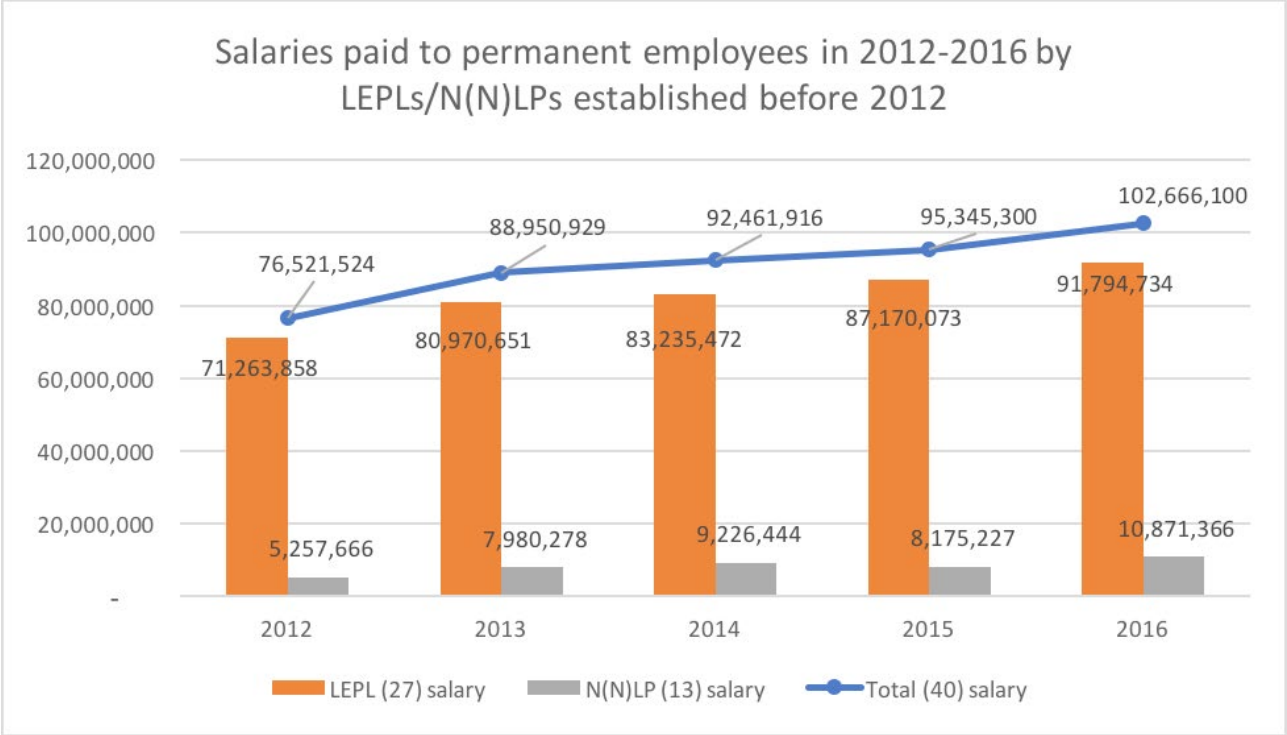
As for N(N)LPs, in 2012, salaries paid by 13 N(N)LPs exceeded GEL 5m and bonuses exceeded GEL 669,000. No supplements were paid by the N(N)LPs which provided us with information.

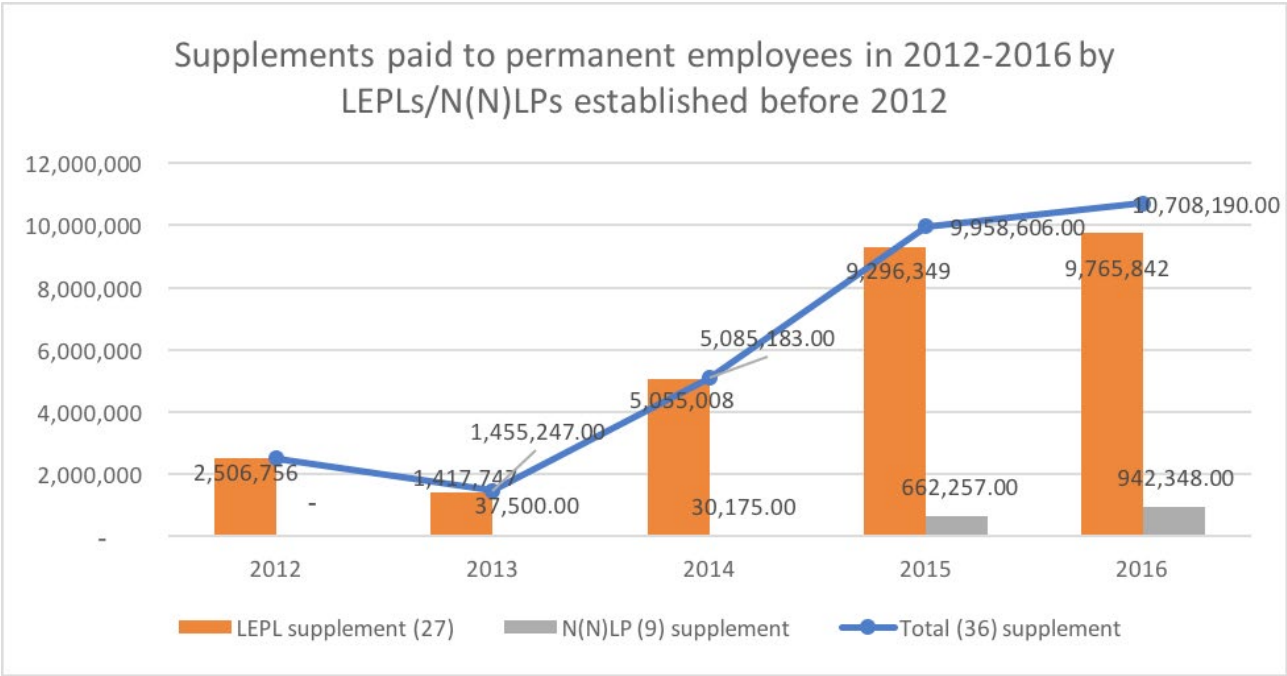


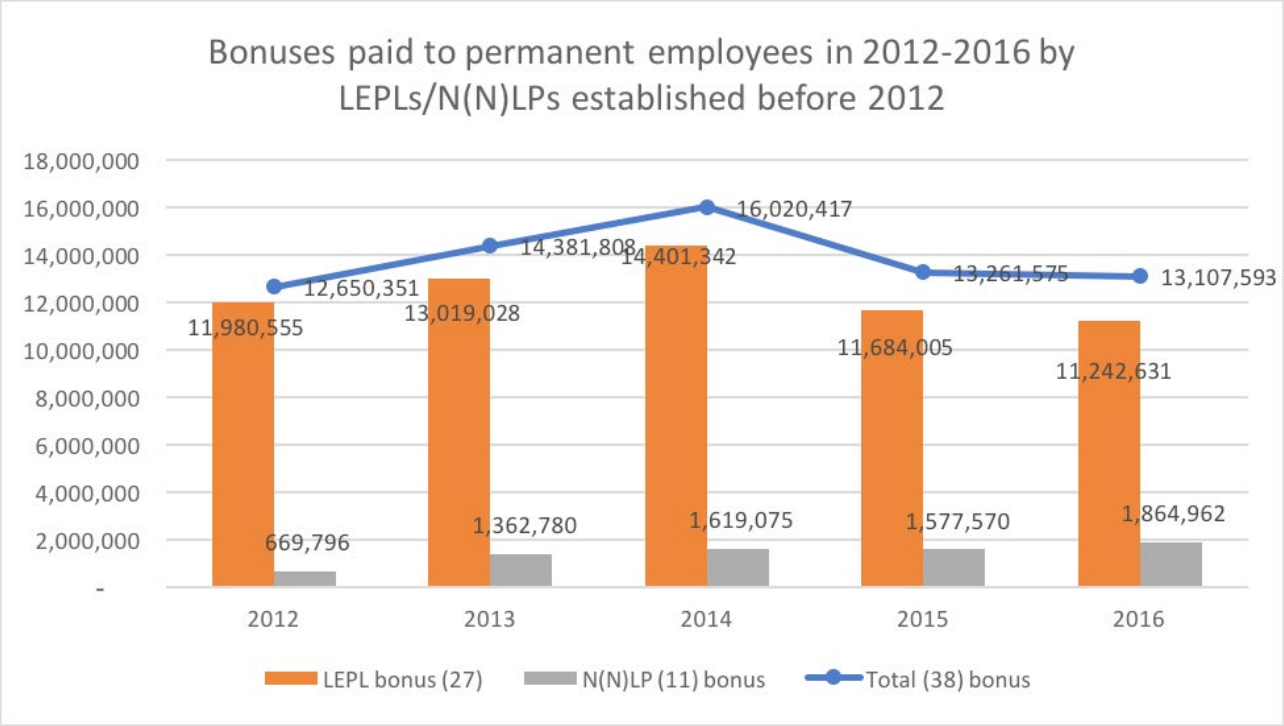
According to the 2016 information, the total amount of salaries paid by 16 N(N)LPs was approximately GEL 19m while supplements in 16 N(N)LPs exceeded GEL 1m and bonuses in 19 N(N)LPs exceeded GEL 2.8m.



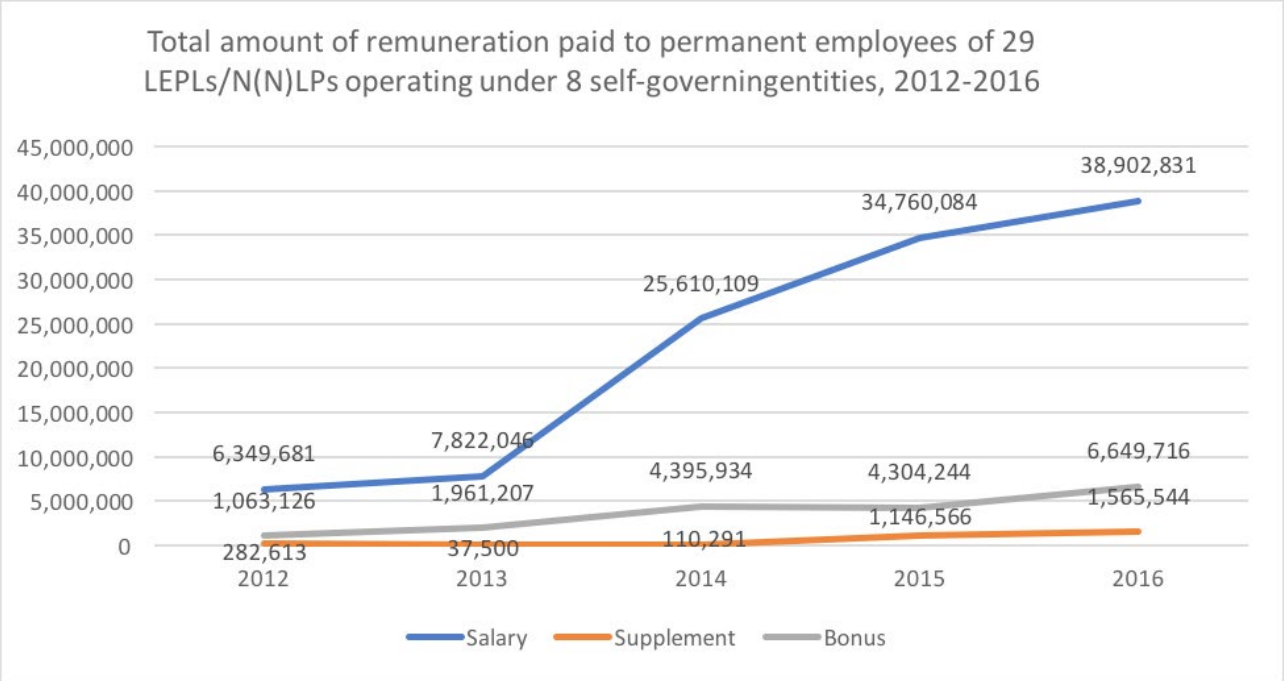
The increase in the total amount of remuneration paid to permanent employees cannot be explained solely by the establishment of new institutions. The figure below demonstrates that in 2016, compared to 2012, the trend of increase in salaries, supplements and bonuses is also present in those institutions that already existed by 2012.


Salaries paid to permanent employees in 2012-2016 by LEPLs/N(N)LPs established before 2012
120,000,000
100,000,000
80,000,000
60,000,000
40,000,000
20,000,000
-
76,521,524
88,950,929
92,461,916
95,345,300
102,666,100
71,263,858
80,970,651
83,235,472
87,170,073
91,794,734
5,257,666
7,980,278
9,226,444
8,175,227
10,871,366
2012
2013
2014
2015
2016
LEPL (27) salary
N(N)LP (13) salary
Total (40) salary


Supplements paid to permanent employees in 2012-2016 by LEPLs/N(N)LPs established before 2012
12,000,000
10,000,000
8,000,000
6,000,000
4,000,000
2,000,000
-
2,506,756
-
1,417,747
1,455,247.00
5,055,008
5,085,183.00
9,296,349
9,958,606.00
9,765,842
10,708,190.00
37,500.00
30,175.00
662,257.00
942,348.00
2012
2013
2014
2015
2016
LEPL supplement (27)
N(N)LP (9) supplement
Total (36) supplement

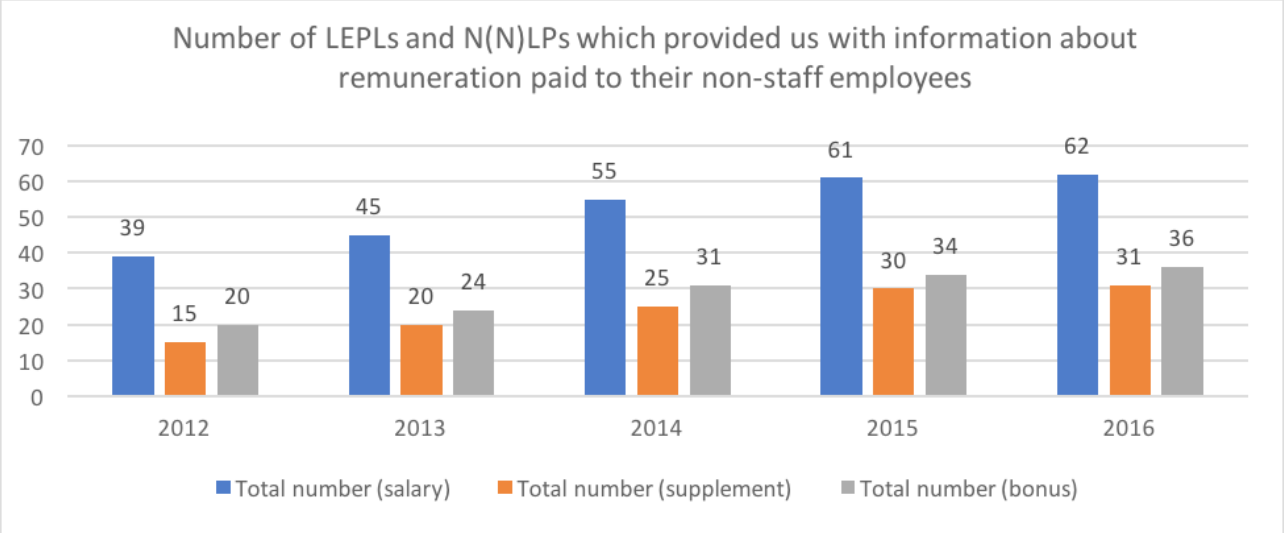


The situation is also interesting with regard to remuneration paid to permanent employees of LEPLs/N(N) LPs operating under local government bodies. Here, a significant increase occurs after 2013 which is mainly caused by the establishment of new LEPLs/N(N)LPs in 2014 and 2015.

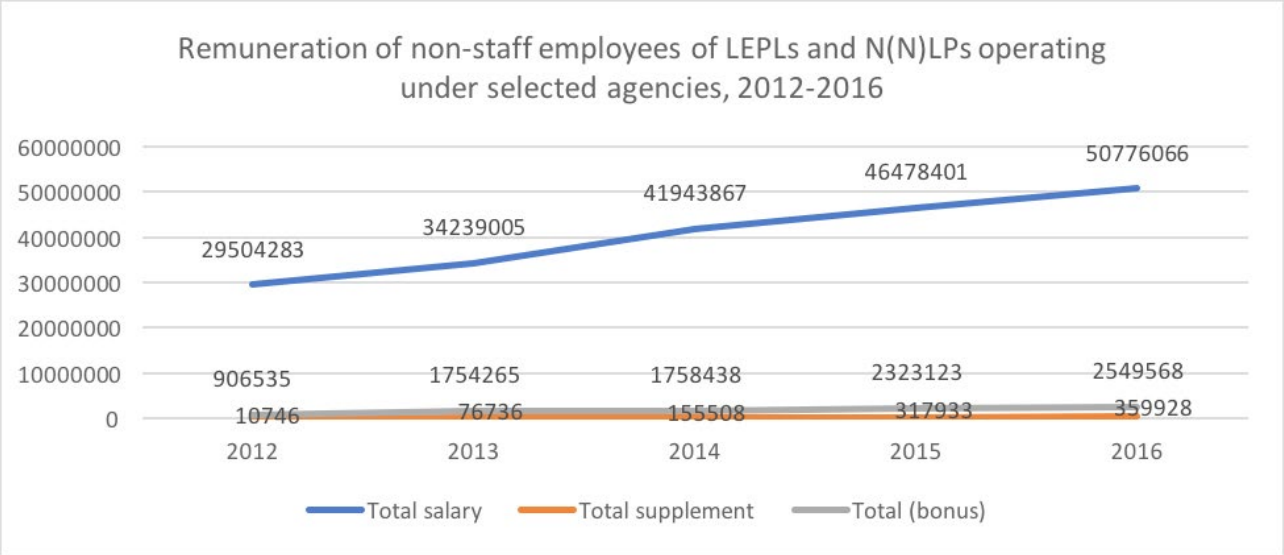


Remuneration paid to non-staff employees

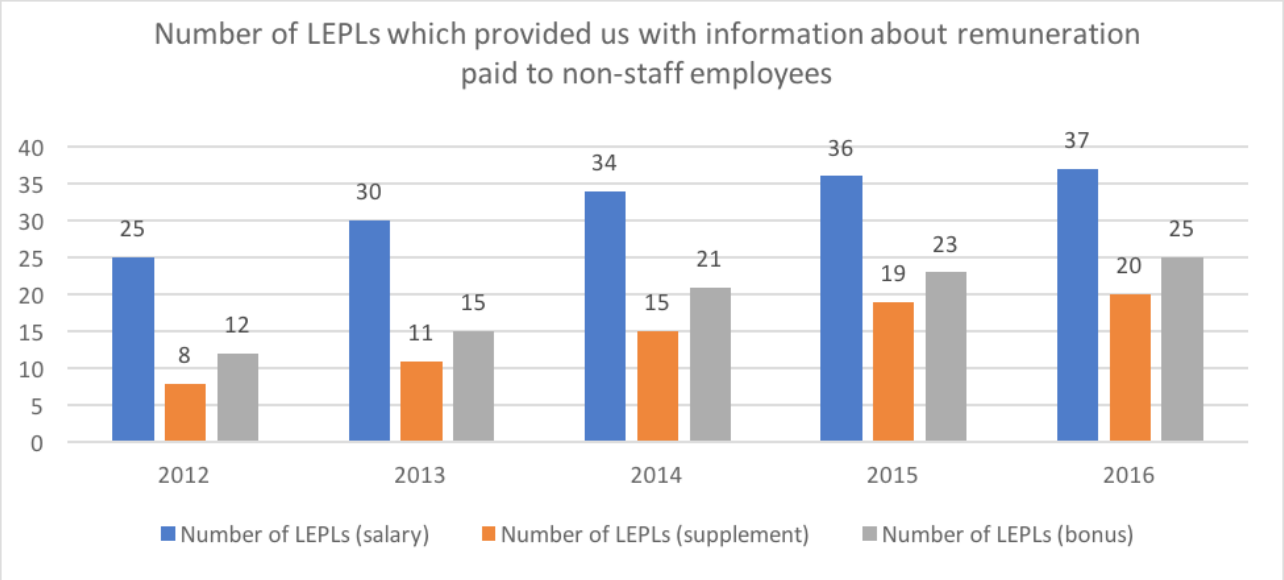
Within selected agencies, the situation with regard to remuneration of non-staff employees is similar to the one of permanent employees' remuneration. Specifically, while GEL 29.5m were paid in salaries to non-staff employees of 39 LEPLs/N(N)LPs in 2012, this number amounted to almost GEL 51m in 62 LEPLs/N(N)LPs in 2016.



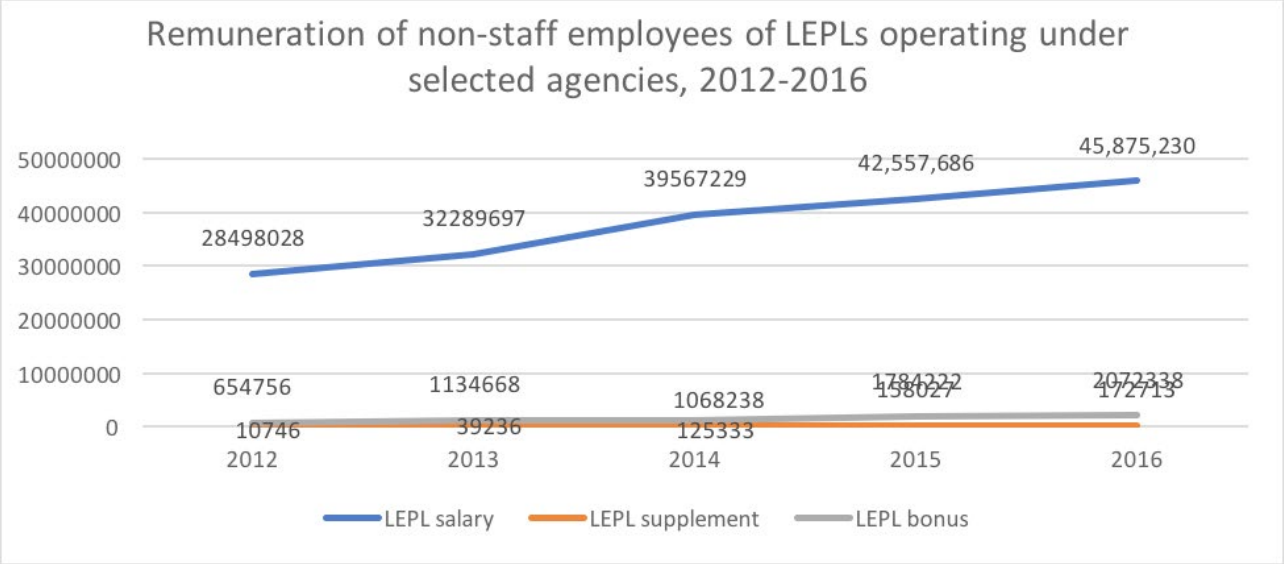
As for the amount paid out in supplements and bonuses, the numbers here are relatively modest, although total numbers for the institution which provided us with information nevertheless show a trend of increase. In 2012, GEL 10,746 were paid in supplements by 15 LEPLs/N(N)LPs and GEL 906,535 were paid in bonuses by 20 LEPLs/N(N)LPs. These numbers increased to GEL 359,928 in supplements for 31 LEPLs/N(N)LPs and GEL 2.5m of bonuses for 36 LEPLs/N(N)LPs in 2016.



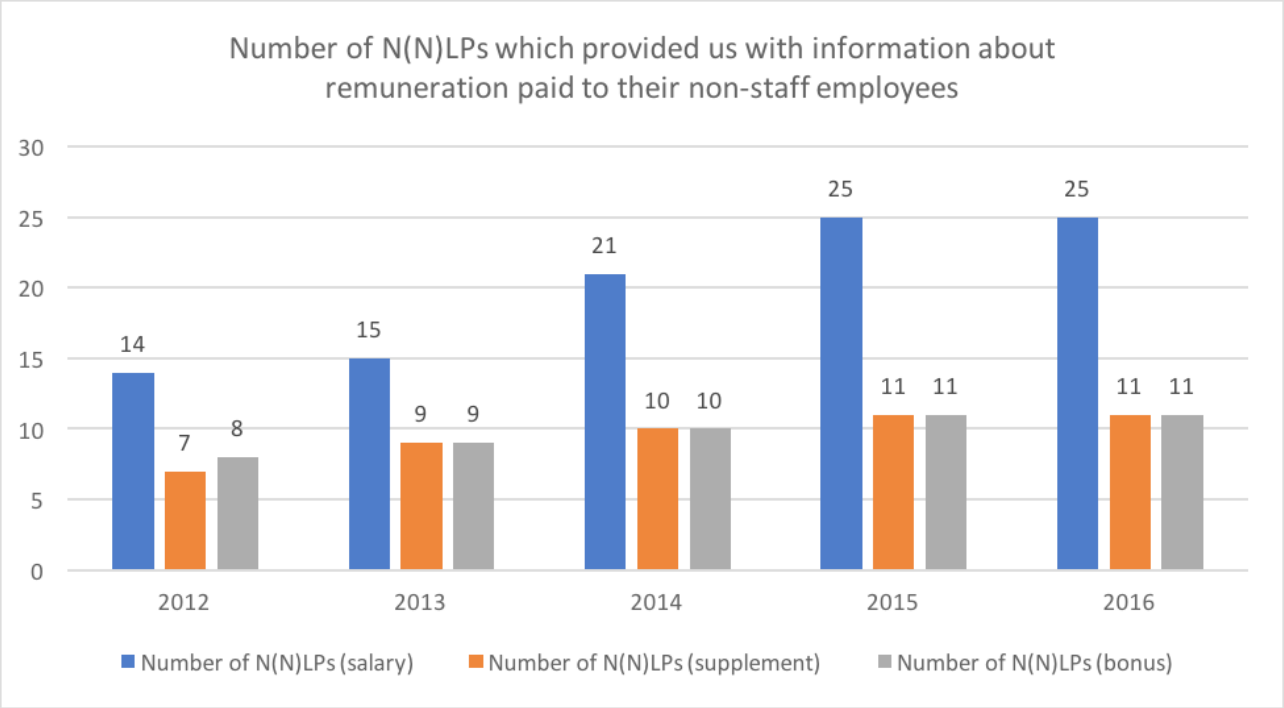
More specifically, GEL 28.5m were paid in salaries to non-staff employees of 25 LEPLs in 2012; this amount increased to nearly GEL 46m for 37 LEPLs in 2016.



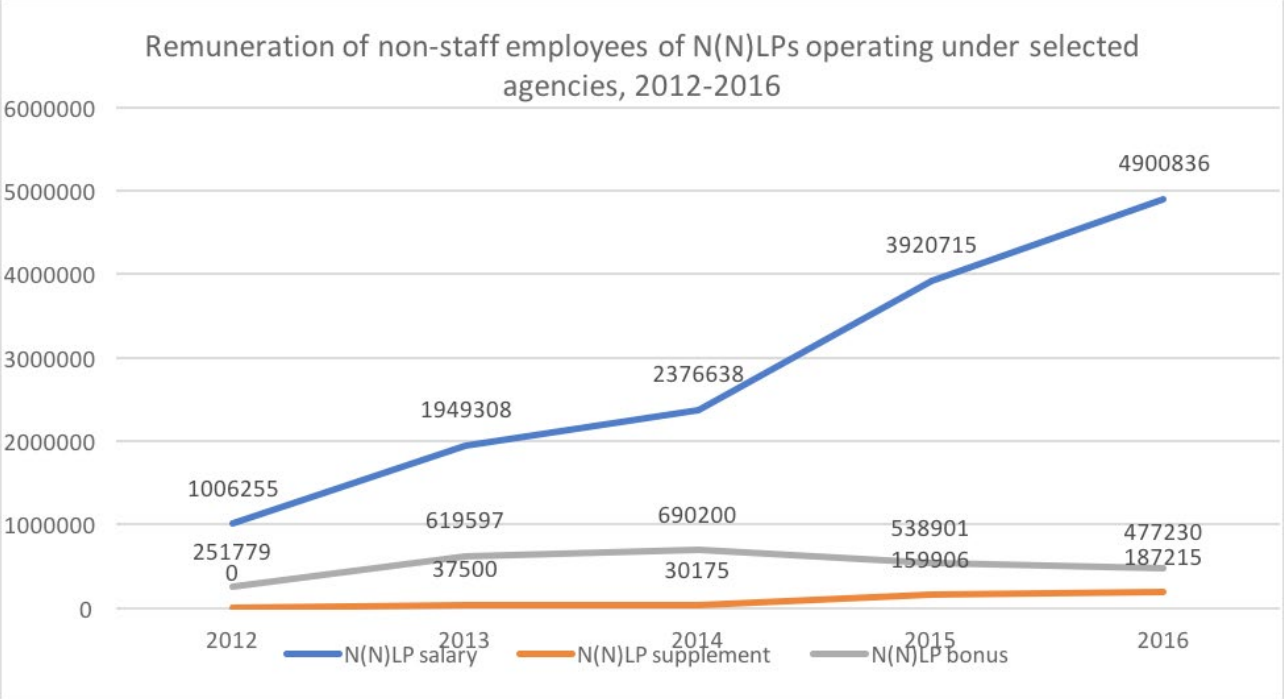
In 2012, GEL 10,746 were paid in supplements by 8 LEPLs and GEL 645,756 in bonuses by 12 LEPLs; in 2016, these numbers amounted to GEL 172,713 in supplements for 20 LEPLs and GEL 2,072,338 in bonuses for 25 LEPLs.



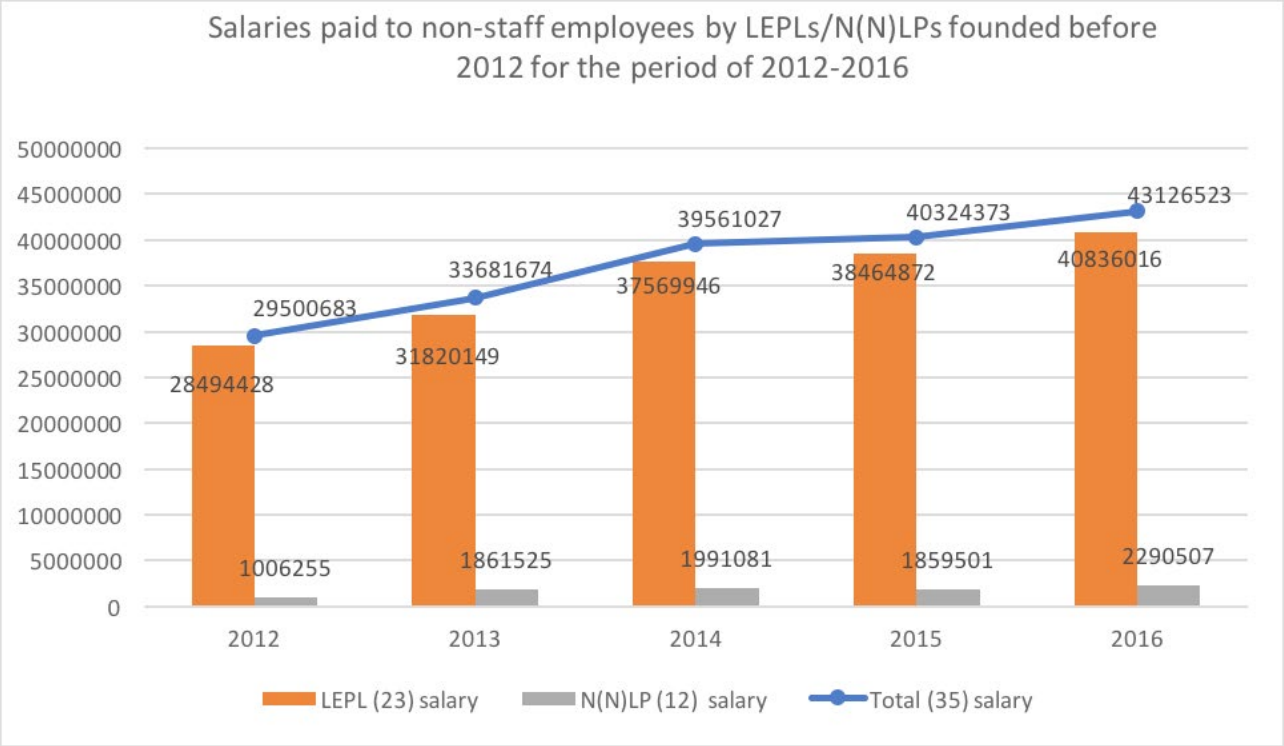
The situation is similar in case of N(N)LPs. In 2012, GEL 1m were paid in salaries by 14 N(N)LPs and GEL 251,779 in bonuses by eight N(N)LPs; no supplements were paid by the seven N(N)LPs which provided us with public information.

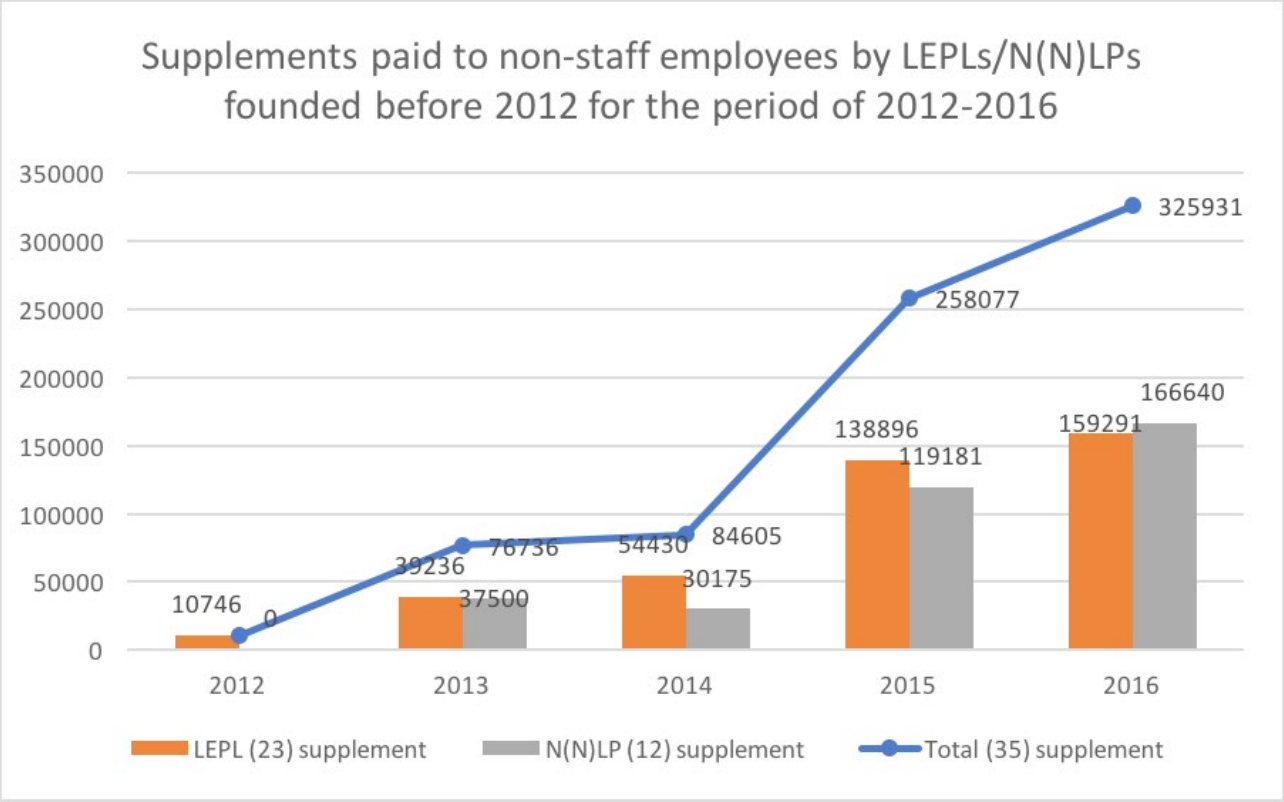


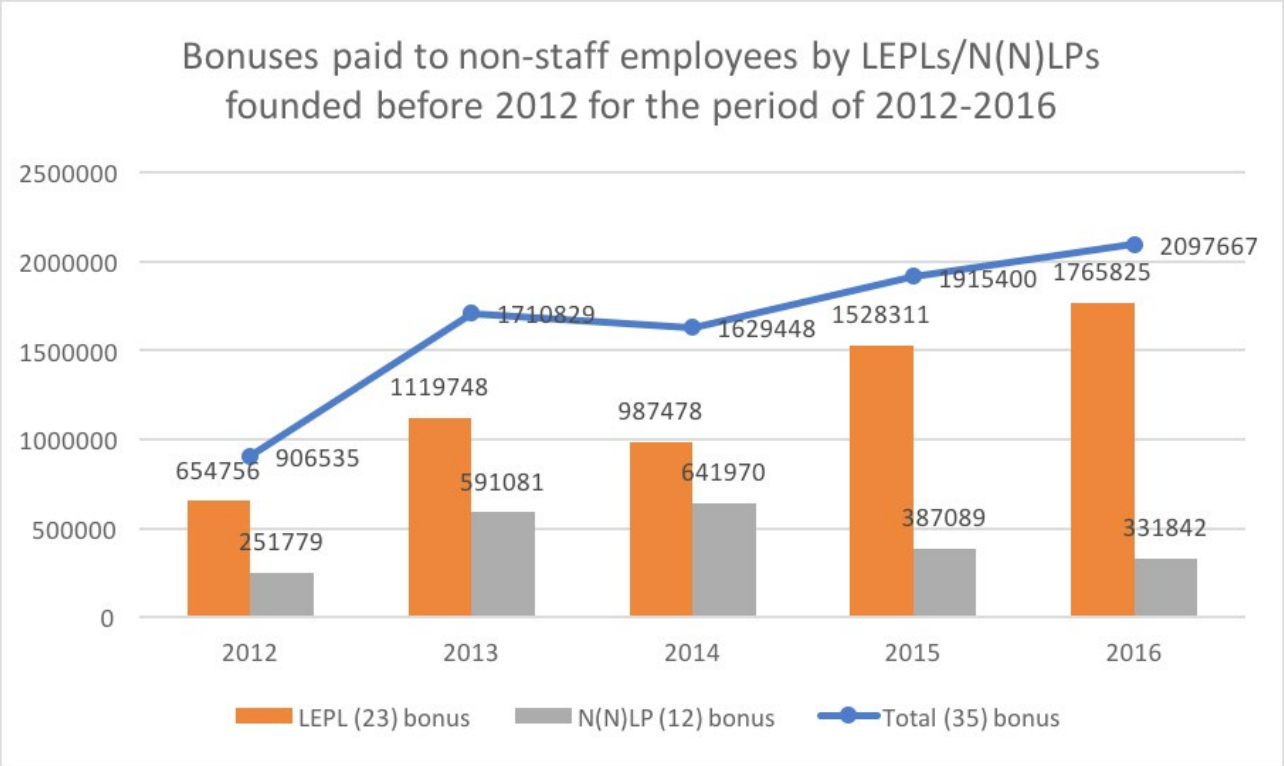
These numbers changed by 2016: GEL 4,900,836 were paid in salaries by 25 N(N)LPs, GEL 187,215 in supplements and GEL 477,230 in bonuses by 11 N(N)LPs.



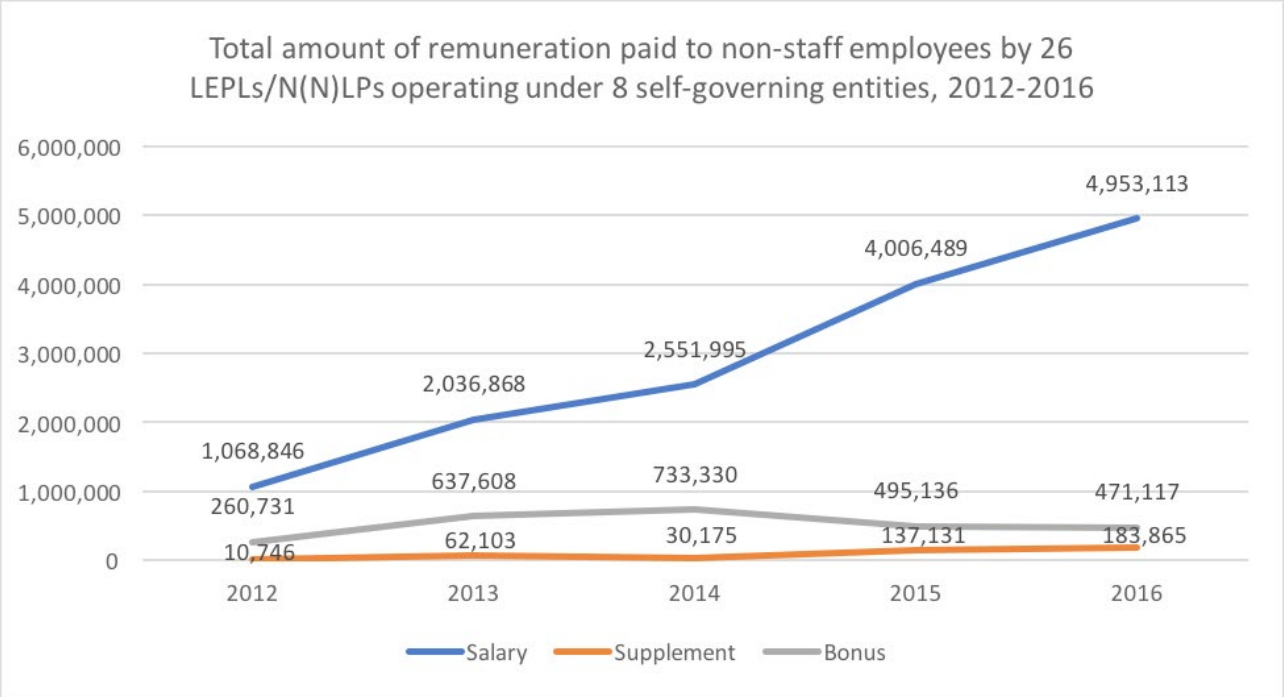
In 2016, compared to 2012, the trend of increase in remuneration paid to non-staff employees (salary, bonus, supplement) was also present in the organizations that were not founded after 2012.


Salaries paid to non-staff employees by LEPLs/N(N)LPs founded before 2012 for the period of 2012-2016
50000000
45000000
40000000
35000000
30000000
25000000
20000000
15000000
10000000
5000000
0
28494428
1006255
29500683
31820149
1861525
33681674
37569946
1991081
39561027
38464872
1859501
40324373
40836016
2290507
43126523
2012
2013
2014
2015
2016
LEPL (23) salary
N(N)LP (12) salary
Total (35) salary


Supplements paid to non-staff employees by LEPLs/N(N)LPs founded before 2012 for the period of 2012-2016
350000
300000
250000
200000
150000
100000
50000
0
10746
0
39236
37500
76736
54430
30175
84605
138896
119181
258077
159291
166640
325931
2012
2013
2014
2015
2016
LEPL (23) supplement
N(N)LP (12) supplement
Total (35) supplement

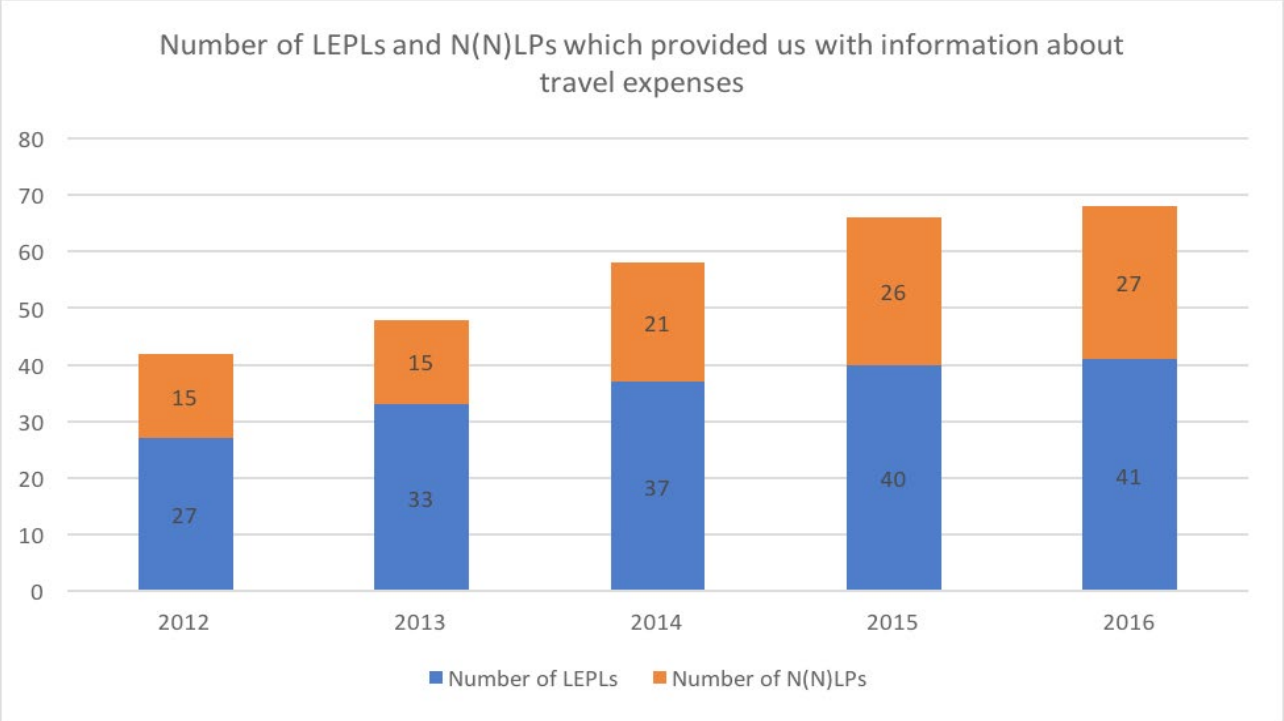


The situation is similar in the LEPLs/ N(N)LPs operating under local government agencies where the trend of increase in remuneration expenditures is present from year to year.

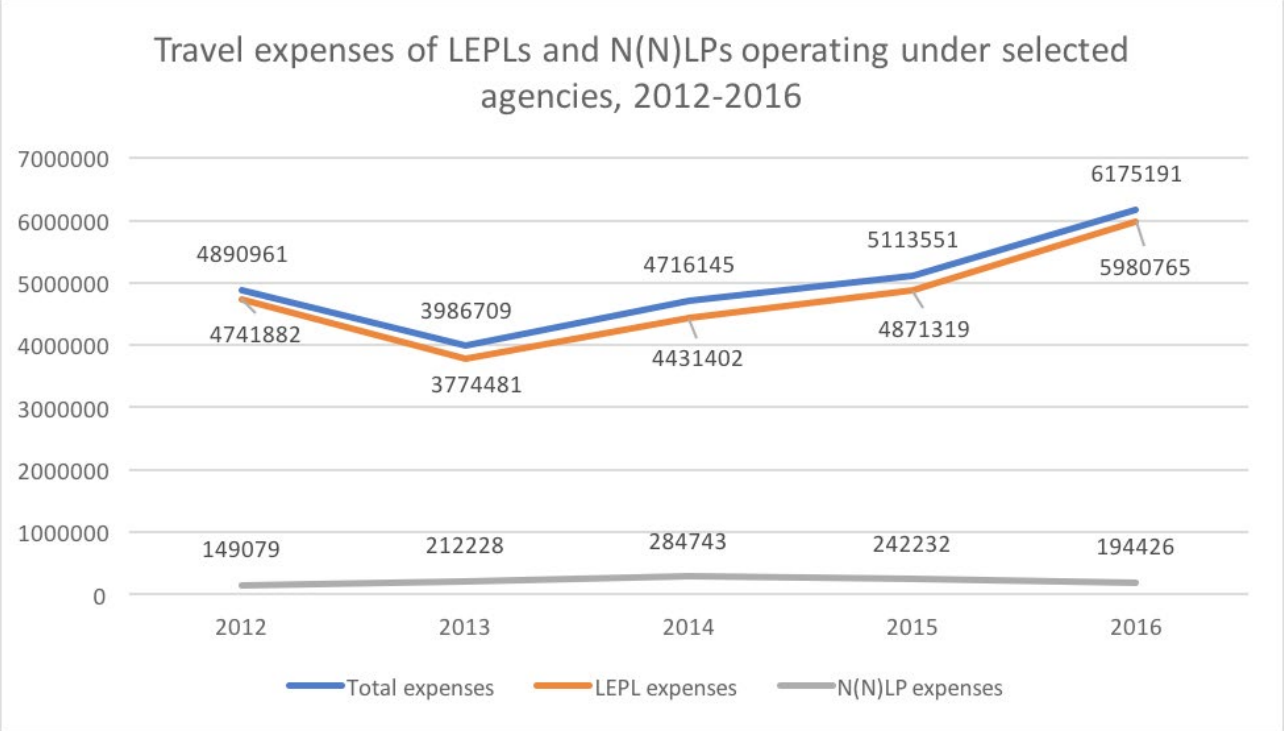


Travel Expenses of LEPLs and N(N)LPs

Based on the information received from selected agencies, it can be said that there is a trend of increase in the amount of travel expenses in 2016 compared to 2012, just like in the number of these organizations, which causes an increase in these expenses, as well as quantitatively, in terms of the total amount of their travel expenses. One of the reasons for this is the establishment of new organizations and their expenses.



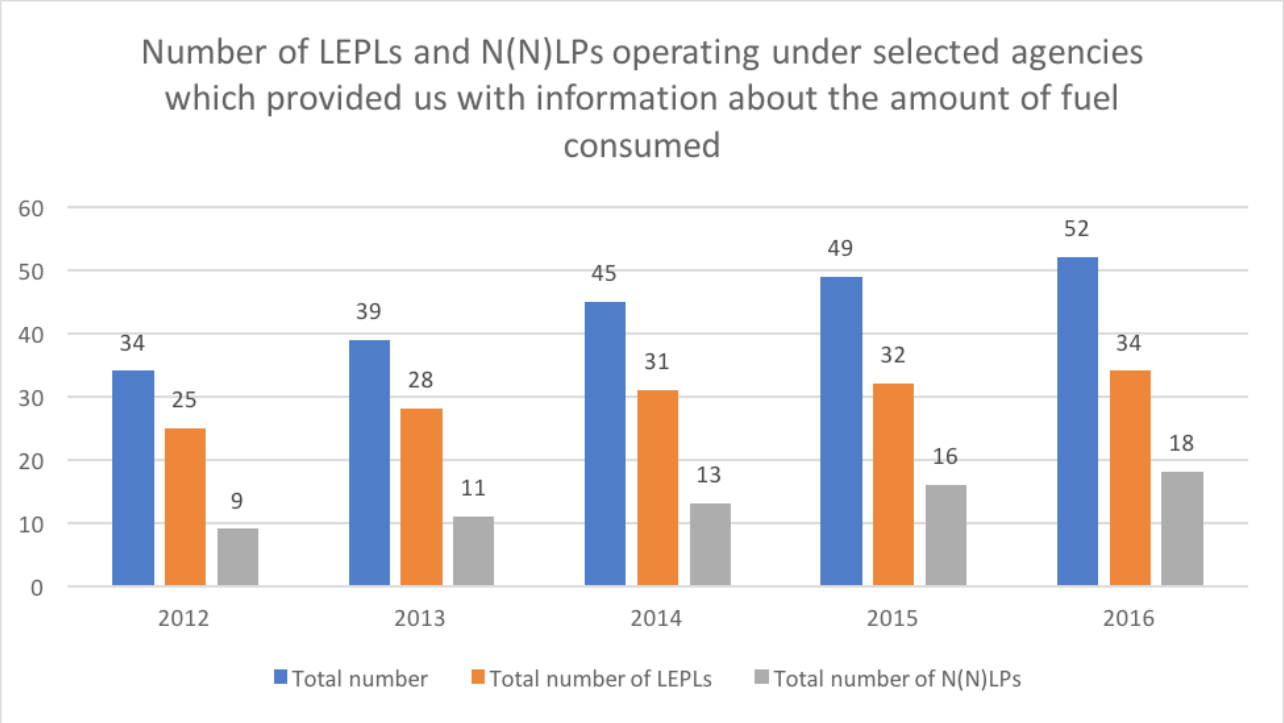
According to the public information we received, 42 LEPLs/N(N)LPs spent GEL 4.9m on domestic and international travel in 2012. In the following years, there was a certain decrease in these numbers but by 2016 they increased to GEL 6.2m for 68 organizations.



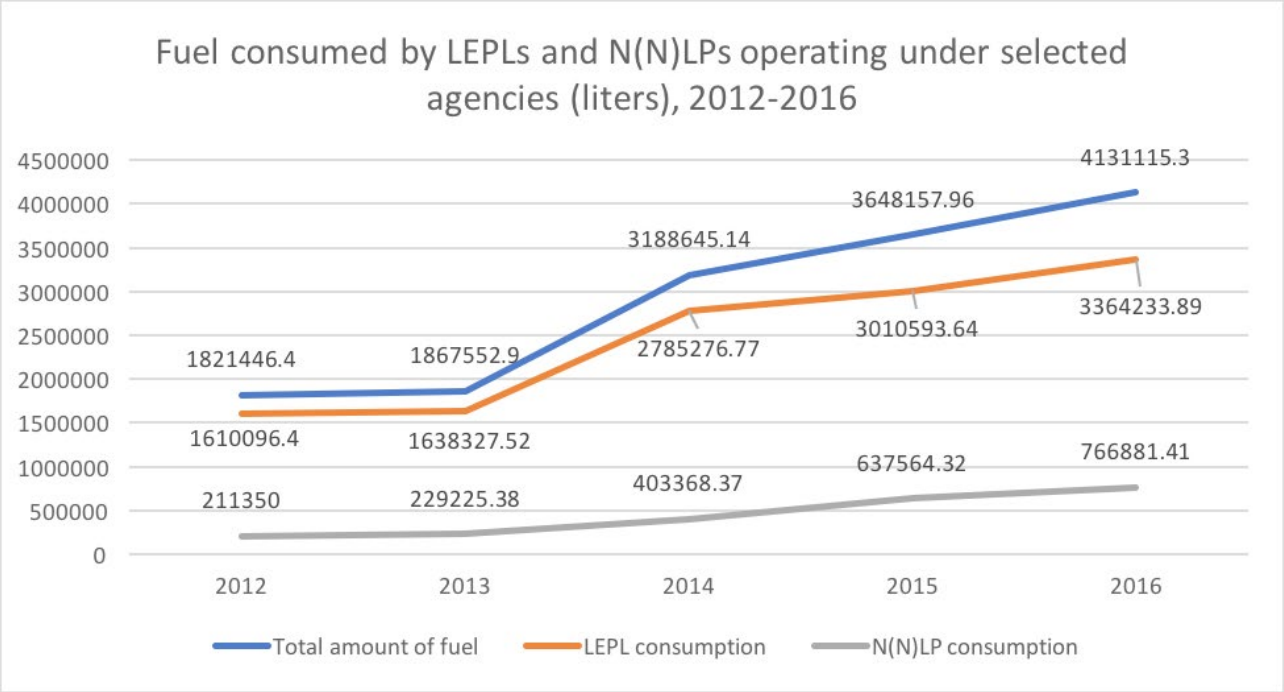
More specifically, in 2012, travel expenses of 27 LEPLs and 15 N(N)LPs amounted to GEL 4.7m and GEL 149,000 respectively. According to the information for 2016, these numbers for 41 LEPLs and 27 N(N)LPs increased to GEL 6m and GEL 194,000.

Fuel consumption and costs of LEPLs and N(N)LPs

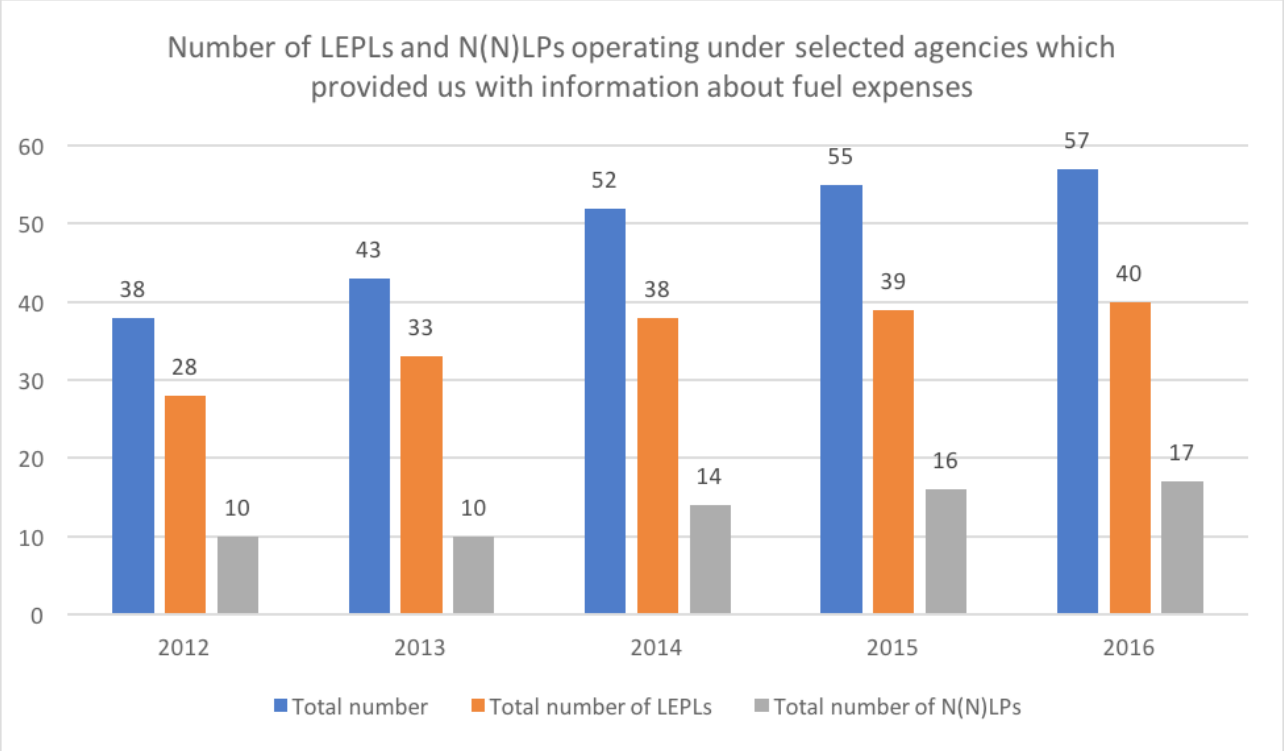
The activities of LEPLs/N(N)LPs are not related only to salaries and travel expenses: the amount and cost of fuel they use is also interesting in this regard.



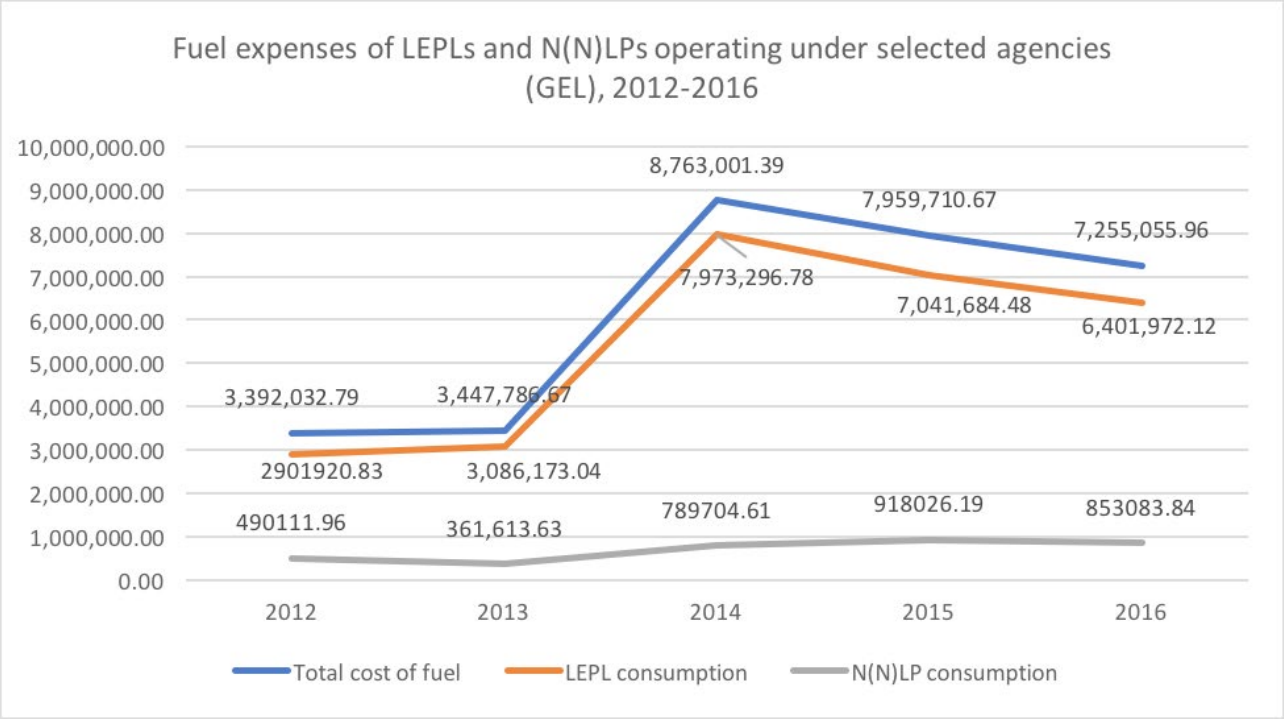
In 2012, 34 LEPLs/N(N)LPs used 1.8m liters of fuel; in 2012, this amount exceeded 4m liters used by 52 LEPLs/ N(N)LPs. Of these, 25 LEPLs consumed 1.6m liters of fuel in 2012; in 2016, this amount exceeded 3.3m liters for 34 LEPLs. In 2012, the amount of fuel consumed by 9 N(N)LPs was 211,000 liters; in 2016, this amounted to 766,000 liters for 18 N(N)LPs.



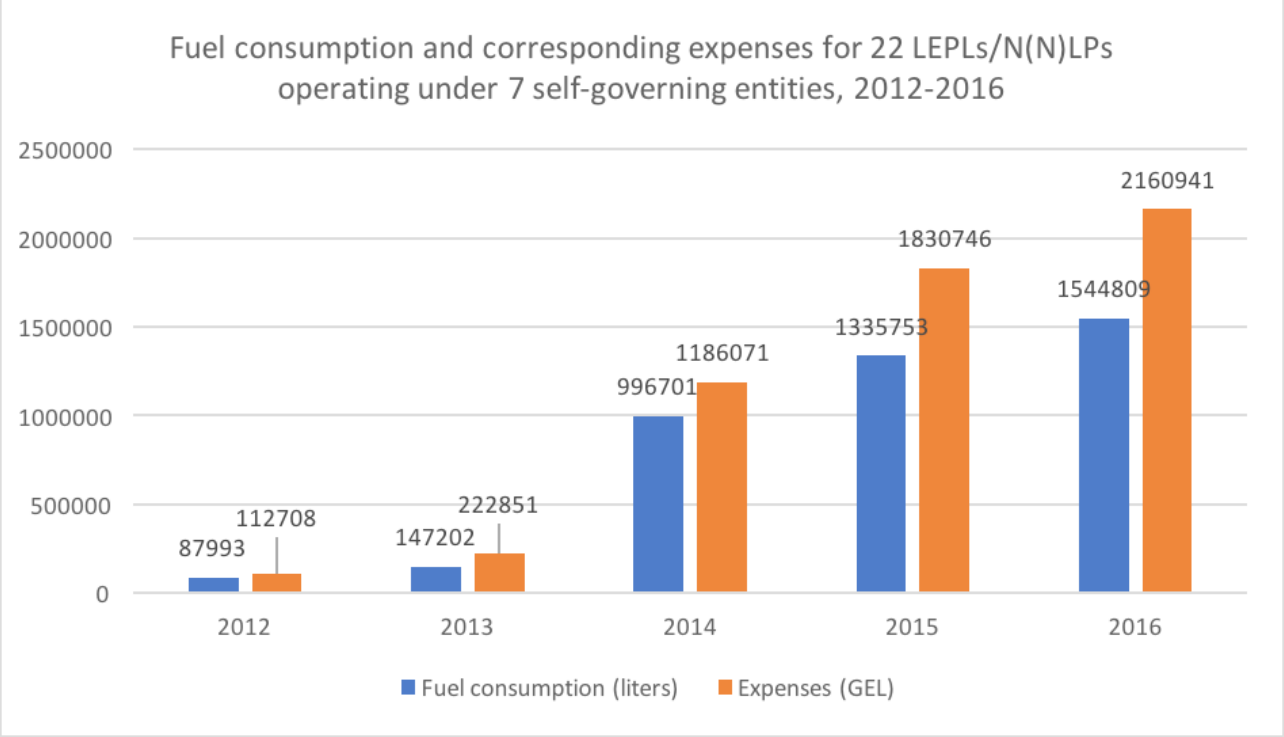
The changes in fuel expenses in 2012-2016 are also interesting to consider. In 2012, 38 LEPLs/N(N)LPs spent about GEL 3.4m on fuel; in 2016, the amount increased to GEL 7.2m spent by 57 LEPLs/N(N)LPs.



In this case too, a large part of the expenses was undertaken by LEPLs. In 2012, nearly GEL 3m were spent by 28 LEPLs, the amount increasing to GEL 6.4m for 40 LEPLs in 2016. Ten N(N)LPs in 2012 spent GEL 490,000 on fuel; in 2016, the amount increased to GEL 853,000 for 17 N(N)LPs.

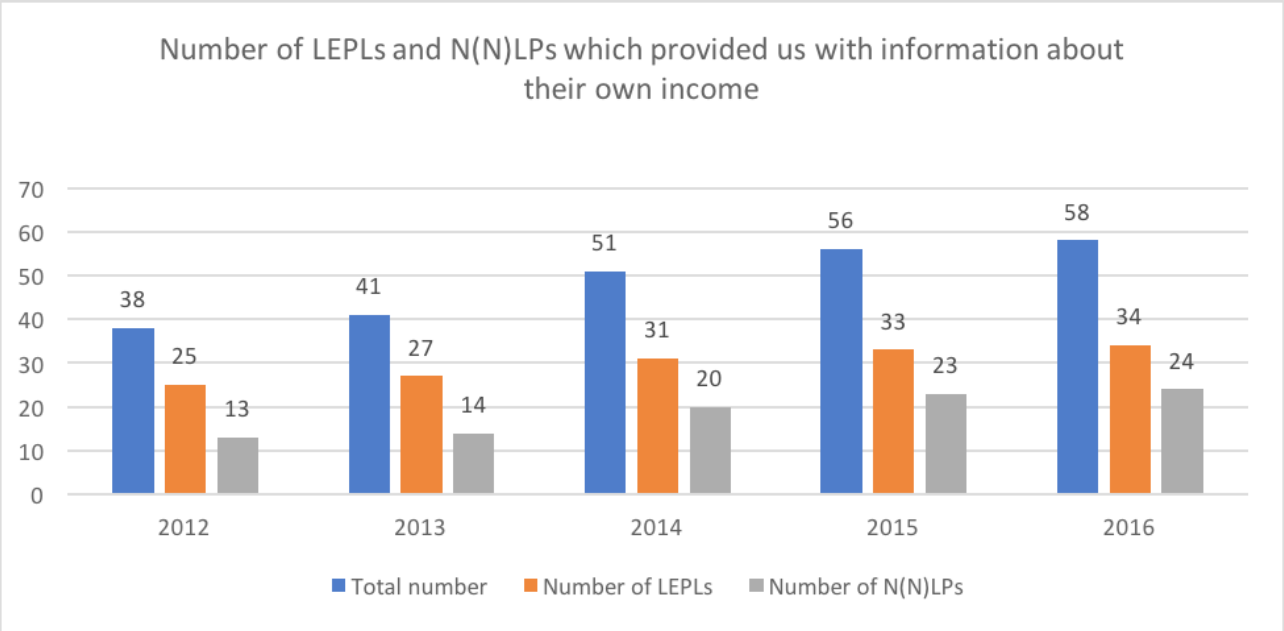


If we analyse fuel consumption and relevant expenses of LEPLs/N(N)LPs operating under self-governing entities, we will see that there is a trend of increase in both categories in this group as well.

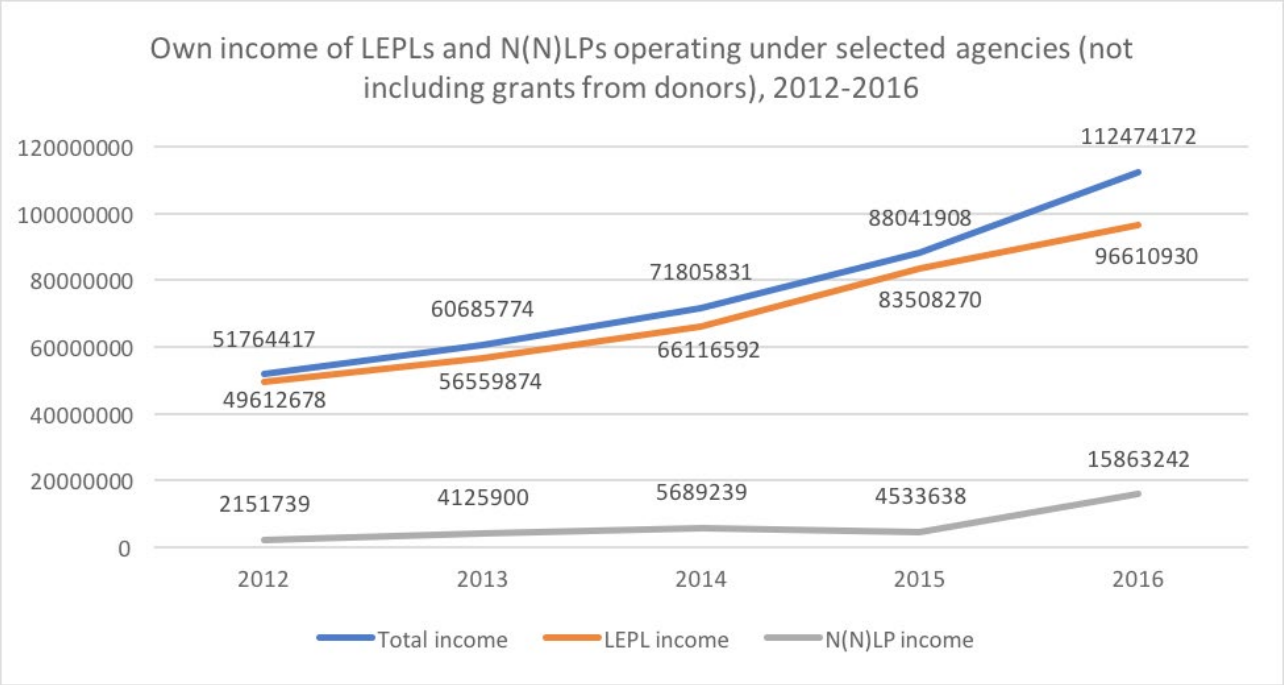


LEPLs' and N(N)LPs' own income

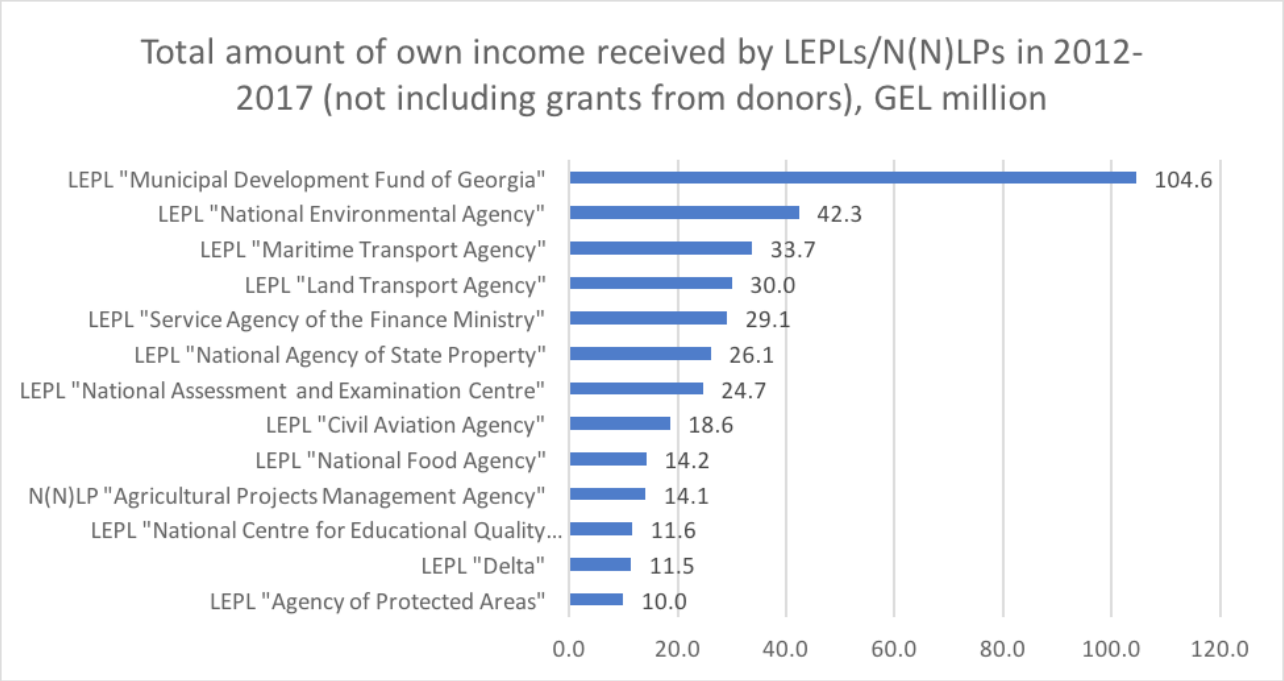
As mentioned in the review of the legal framework, LEPLs and N(N)LPs are authorized to receive income from sources other than the state budget. Transparency International - Georgia tried to identify the scale of the total annual income received by these institutions.



According to the information received by Transparency International - Georgia, own income (not including grants or funding received from international donors) of 38 LEPLs/N(N)LPs in 2012 amounted to almost GEL 52m. In 2016, the amount exceeded GEL 112m for 58 LEPLs/N(N)LPs. This information shows that, in the course of five years (2012-2016), only 20 LEPLs/N(N)LPs out of 78 LEPLs/N(N)LPs which provided us with information within the framework of the study did not have their own income. However, it should also be noted here that the largest share (GEL 104m) of the total amount of income in 2012-2016 was received by the Municipal Development Fund. The Municipal Development Fund received this income from the loans it made and the interest that accrued to its bank deposits. This source of income is important in the case of financial resources of other LEPLs too. The main sources of financing the Municipal Development Fund are the state budget and grants received from international donors.



The lion's share of GEL 112m in 2016 was received by LEPLs. For example, in 2012, own income of 25 LEPLs amounted to approximately GEL 50m, and in 2016 it increased to GEL 96.6m for 34 LEPLs. In 2012, own (non-budgetary) income of 13 N(N)LPs was over GEL 2m; in 2016, it reached GEL 15.8m for 24 N(N)LPs. Listed below are the LEPLs/N(N)LPs which received the highest income in 2012-2017.



ACCOUNTABILITY AND ANTICORRUPTION MECHANISMS

Since LEPLs and N(N)LPs are created as separate organizations for special, substantiated objectives, having an action plan and reporting on its implementation is one of the important mechanisms of accountability. For this reason, Transparency International – Georgia looked into the existence of this and other internal anticorruption mechanisms in the selected agencies. Questions were asked about the activities of internal entities responsible for the prevention of a conflict of interest, statistics of uncovered violations, implementation of preventive measures and so on. Responses received from the organizations often did not contain any information about these issues or noted that they did not have the majority of such mechanisms in place. The issue of preparing an annual report can be considered an exception. In a number of cases, an internal audit service of a supervising agency was indicated as responsible for the prevention of a conflict of interest.

However, given the general picture, it can be said that the organizations that have been studied did not have effective internal mechanisms for preventing a conflict of interest and corruption, which is particularly problematic considering the fact that they essentially implement public functions.

Although LEPLs and N(N)LPs can be created for important public purposes but, in the absence of proper control and preventive mechanisms, they could also be used to provide a ruling party with unfair advantage (for example, for offering employment to party activists) and could become a source of misuse of budget resources. These risks are of particular interest in the context of a sharp increase in the number of such organizations and the people employed by them. The increase in the number of non-staff employees is especially problematic since their employment is related to relatively simple procedures, which further increases the probability of nepotism and political favouritism. A similar kind of risks arise due to the increase in the number of N(N)LPs and people employed by them since the requirements of the law “On Civil Service”, including the condition of hiring staff through competition, do not apply to these organizations.

On the positive side, the efforts made by the Civil Service Bureau are noteworthy. According to its information, in 2016, representatives of 108 LEPLs participated in trainings on ethics and whistle-blower protection issues. The topics of these trainings, among others, included such themes as a conflict of interest and corruption, whistle-blower protection and transparency/accountability. On the other hand, it is noteworthy that, according to the Bureau’s information, no employees of N(N)LP participated in such trainings.