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TABLE OF CONTENTS

ALLOWANCES AND PRIVILEGES OF ELECTED REPRESENTATIVES IN BOSNIA AND HERZEGOVINA	4
SUMMARY	5
INTRODUCTORY REMARKS	6
RESEARCH METHODOLOGY	6
EXAMPLES OF COMPENSATIONS RECEIVED BY ELECTED REPRESENTATIVES	6
• Accommodation and living-away-from-home allowances	7
• Flat-rate allowance	10
• Severance pay	11
• Post-term severance pay called "White Bread"	11
• Other proposals	15
CONCLUSION AND RECOMMENDATIONS	16
A BUDGET RESERVE - RULES AND PRACTICE	18
INTRODUCTION	19
LEGAL FRAMEWORK ANALYSIS	19
PROBLEM ANALYSIS	22
RECOMMENDATIONS AND CONCLUSIONS	25
RECOMMENDATION FOR IMPROVING A BUDGET RESERVE FUND ALLOCATION FRAMEWORK	27
RECRUITMENTS TO CIVIL SERVICE, PUBLIC INSTITUTIONS AND IN ADVISORY POSITIONS	28
SUMMARY	29
INTRODUCTORY REMARKS	30
RESEARCH METHODOLOGY	30
EXAMPLES OF RECRUITMENTS TO CIVIL SERVICE, PUBLIC INSTITUTIONS, AND ADVISORY POSITIONS	31
• Recruitment of advisors in civil service	32
• Political appointments to SOE management	35
• Public sector vacancies and selection from the list of successful candidates	36
• Recruitments to public companies in FBiH	37
• Hiring workers outside of competition or hiring staff already employed on a fixed-term basis	38
CONCLUSION AND RECOMMENDATIONS	39

ALLOWANCES AND PRIVILEGES OF ELECTED REPRESENTATIVES IN BOSNIA AND HERZEGOVINA

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January 2021

► SUMMARY

In Bosnia and Herzegovina, elected representatives at all levels of government enjoy significant privileges through various legally provided allowances, which makes their incomes disproportionately high compared to the incomes of workers in the economic sector.

Even though many allowances are paid even for the period when there are no activities - for example, when no sessions are held – our investigative stories point to various abuses of certain allowances. For example, giving false information in travel records, exercising the right to a living-away-from-home allowance, severance pay as well as a privilege known as “white bread”, which refers to an official perk that grants top politicians the right to receive their salaries for a whole year after their terms end.

Although some privileges, such as “a post-term severance” known as white bread, have been abolished at some levels, elected representatives still have a large number of privileges, the reduction of which can lead to significant savings in the budgets of all levels of government.

This paper shows some of the important perks available to elected representatives and gives an analytical overview of total expenditures based on available data, with suggestions on how to reduce and abolish them.

In addition to the narrative and analytical part of the presented allowances, the paper in its annex contains specific amendments to the legislation aimed at reducing or removing certain allowances, thus creating savings in the budgets of all levels of government.

INTRODUCTORY REMARKS

In Bosnia and Herzegovina, elected representatives at all levels of government enjoy significant privileges, through various legally provided allowances, which makes their incomes disproportionately high compared to the incomes of workers in the economic sector.

Even though many allowances are paid even for the period when there are no activities, for example, when no sessions are held, our investigative stories point to various abuses of some allowances. For example, giving false information in travel records, exercising the right to a living-away-from-home allowance, severance pay as well as a privilege known as “white bread”, which refers to an official perk that grants top politicians the right to receive their salaries for a whole year after their terms end.

The main aim of this paper is to systematize some of the key allowances available to elected representatives in BiH, present them analytically, and give a series of proposals on how to reduce them.

In the introduction, the research methodology and the manner of data collection and processing were described.

The main part of the paper points to key allowances paid to elected representatives in Bosnia and Herzegovina, depending on the level of government - State, Entity, and/or Canton.

In the concluding part of the paper, we provided conclusions, recommendations, and key proposals for improving the regulations to reduce or even eliminate the possibility for documented abuses.

Finally, in the annexes to this paper, we provide specific amendments to the legislation aiming to reduce or abolish the perks and thus create savings in the budgets of all levels of government.

RESEARCH METHODOLOGY

In preparing this paper we used available sources prescribing the rights to perks of elected representatives of different levels of government. The sources include various laws and bylaws governing the rights to these benefits.

For the analytical part of the research, we used available CIN data, which were collected based on an inquiry to state and entity institutions on the value of the allowances received by elected representatives during various terms, as well as CIN databases.

The collected data were systematized, refined, and processed in Microsoft Excel, while the charts were made in Adobe Illustrator.

EXAMPLES OF COMPENSATIONS RECEIVED BY ELECTED REPRESENTATIVES

Elected representatives in Bosnia and Herzegovina enjoy a significant number of privileges under the laws, which they have created. The use of these privileges, which other workers in Bosnia and Herzegovina do not have, is being justified by the law, claiming that nothing that is being done could be said to be a possible abuse thereof. However, documented cases show that indeed some legal provisions, in particular vaguely defined ones, have been abused by elected representatives to obtain perks which they neither deserve nor should have.

Legislative solutions in Bosnia and Herzegovina, at various levels of government, allow elected representatives to enjoy privileges such as accommodation allowance, a flat-rate attendance allowance, refund of transportation costs, a living away from home allowance, severance pay, budget reserves, and so-called “white bread”, an official perk that grants politicians the right to receive their

salaries for a whole year after their terms end.

To assess the economic effects of these expenditures, each of these categories has been processed through documented cases and the analysis of legal basis. Also, proposals were made to amend the applicable laws and so reduce the possibility of abuse or eliminate the unnecessary perks.

At the national level, the payment of perks is regulated by the Law on Salaries and remunerations in the Institutions of BiH. However, Article 39a. allows that "allowances related to the execution of the parliamentary and deputy's tenure in the Parliamentary Assembly of Bosnia and Herzegovina, other than those regulated by the provisions of Art. 30-48 of this Law, be regulated by a special act of the Joint Commission for Administrative Affairs of the Parliamentary Assembly of Bosnia and Herzegovina"¹, which means that many allowances are regulated by bylaws.

Similarly, the rights of elected representatives are regulated by law, as well as by the Rules of Procedure of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, which stipulates that deputies have the right to salary, parliamentary compensation, reimbursement of certain material expenses and other benefits provided in a special act of the House of Representatives, i.e. an act of the Administrative Commission.

In the Republika Srpska, members of the National Assembly and delegates to the Council of Peoples are entitled to a salary and certain allowances related to the execution of parliamentary or deputy's duties. Remunerations are regulated by the Law on Labor Relations in State Bodies as well as by the Rules of Procedure of the National Assembly, the Rules of Procedure of the Council of Peoples, and other bylaws.

The detailed list of entitlements of MPs in BiH, along with the list of regulations governing the rights of MPs, is presented in the document titled "Entitlements of MPs in Bosnia and Herzegovina, Montenegro, Croatia, and Serbia".²

• Accommodation and living-away-from-home allowances

The Law on Salaries and Remunerations in BiH Institutions as well as the "Decision of the Council of Ministers of BiH on the manner and procedure of exercising the rights of employees in BiH institutions to accommodation and living-away-from-home allowances"³, enabled deputies and delegates to receive benefits on these grounds. The Decision defines that a living-away-from-home allowance for the deputies/delegates in the BiH Parliament is BAM 300.00 if the deputy/delegate is more than 80 km away from the place of residence, while the accommodation allowance is defined under Article 12a of the Decision as "the right of an MP and Deputy in the BiH Parliamentary Assembly to monthly reimbursement of the accommodation costs in the amount up to the salary calculation base determined under Article 7, paragraph (1) of the Law on Salaries and Remunerations provided that their place of residence is more than 80 km from their place of work."

In the Federation of BiH, elected officials are entitled to a living-away-from-home allowance if they reside outside their family's place of residence, which is more than 70 km away from the seat of the institution in which they are employed. Exceptions are persons who do not receive a salary based on their parliamentary/deputy's duty. Elected officials who do not have official accommodation are also entitled to reimburse the costs of renting an apartment for business purposes; those who are provided with accommodation, but pay all the living costs are entitled to reimbursement of accommodation costs. The amounts of a living-away-from-home allowance, allowance for renting an accommodating for business purposes, and the accommodation allowance are determined by the competent administrative commissions of the FBiH Parliament.⁴

Unlike the Federation of BiH, in the RS elected officials can use hotel accommodation if their place of residence is more than 45 km away from the seat of the National Assembly.⁵

Based on available data on the Parliamentary Assembly of Bosnia and Herzegovina, the Council of Ministers, and the Presidency of Bosnia and Herzegovina, we prepared an aggregated overview by period, as shown in Table 1, which refers to the allowances paid to elected representatives on the grounds of family visits, living-away-from-home, accommodation, and transportation.

Table 1. Allowances of elected representatives

Parliamentary Assembly of BiH				
Allowance	2011-2014	2015-2018	2019-2020	TOTAL
Family visit allowance	583,690.5	0	0	583,690.5
Living-away-from-home allowance	342,373.1	215,947.1	110,211.5	668,531.7
Accommodation and transportation allowance	452,626.8	370,169.3	81,268.6	904,064.6
TOTAL	1,378,690.4	586,116.4	191,480.1	2,156,286.8
Council of Ministers				
Allowance	2011-2014	2015-2018	2019-2020	TOTAL
Living-away-from-home allowance	203,450.6	171,350.3	69,666.5	444,467.4
Presidency of BiH				
Allowance	2010-2013	2014-2017	2018-2020	TOTAL
Living-away-from-home allowance	0	10,853.5	0	10,853.5

Source: CIN

Due to the specifics provided by Article 30 of the Law on Salaries and Remunerations in BiH Institutions, the Council of Ministers renders a by-law to determine the manner and procedure for exercising the rights to allowances. Many elected representatives took advantage of this possibility to earn much more income on a monthly level, without presenting any proof of living away from home at the time, visiting their family, or that their family has not been living with them in the rented apartment.

In the period 2011-2020, BAM 2.16 million were allocated for the elected representatives of the Parliamentary Assembly of Bosnia and Herzegovina for these three perks alone (family visits, living-away-from-home, and accommodation and transport). Of this amount, the majority was allocated for accommodation and transport reimbursements (BAM 0.90 million or 41.9% of total expenditures), living-away-from-home allowance (BAM 0.67 million or 31%), and family visit allowance (BAM 0.58 million or 27.1%).

Figure 1. Allowances of elected representatives in the BiH Parliamentary Assembly**BiH Parliamentary Assembly 2011-2020**

Family visit allowance	Living-away-from-home allowance	Accommodation and transport allowance	TOTAL
583,690.5	668,531.7	904,064.4	2,156,286.7

Source: CIN

Figure 2. Allowances of elected representatives in the Council of Ministers of BiH**Council of Ministers**

2011-2014	2015-2018	2019-2020	TOTAL
203,450.6	171,350.3	69,666.5	444,467.4

Source: CIN

The problem with the payment of these perks is that there are no reports as to whether the person concerned was indeed separated from his or her family during the period for which he or she received the allowance, or whether there were any sessions held during that period. For example, in the period December 2018 - December 2019, due to the blocked work of the Parliamentary Assembly of Bosnia and Herzegovina, not a single session of the House of Representatives was held, however, the elected representatives received regular salaries and allowances based on the aforementioned grounds. In the period from 2012 to 2014, i.e., for three years of office, MPs collected a total of BAM 43,365.93 based on these three perks, which is 17.8% of their total revenues.

Available data for the Council of Ministers show (Figure 2) that in the same period (2011 to 2020) a living-away-from-home allowance was paid. Ministers and deputy ministers were paid BAM 0.44 million on this ground. The highest amount was paid in the period 2011-2014, namely BAM 0.2 million or 45.8% of the total perks paid, then in the period 2015-2018, BAM 0.17 million or 38.6%, and in 2019 BAM 0.07 million or 15.6%.

CIN's documented stories show that statutory perks have been abused by elected representatives. In two and a half years, the deputies of the Federation Parliament collected more than BAM 825,000 on account of accommodation, living away from home, and transportation allowances. Some of the deputies abused this perk by negotiating the lowest rents to keep as much money as possible to themselves. Also, apartments rented for the deputies are in fact occupied by some other people. These apartments are often located in old and decrepit buildings or on the outskirts of Sarajevo, far from the FBiH Parliament building, hence at least half of the delegates entitled to accommodations have no use for them.⁶ After CIN investigated legislative abuse, the FBiH Parliament's House of Peoples introduced new rules for the use of living-away-from-home and accommodation allowances in Sarajevo.⁷ From this year, when applying for a living away from home allowance, the representatives of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina (FBiH) will be asked to present the Technical Service with proof that they and their family members don't own real property in Sarajevo Canton.⁸ However, nine deputies who were found to have abused the allowances for accommodation, living away from home, and transportation in the last term of office were re-elected to the House of Peoples of the Federation Parliament.⁹

Considering the significant funds allocated for the aforementioned privileges of elected representatives, and the documented abuse of legally defined allowances, several proposals were defined to specify in more detail the existing legislative provisions and thus reduce the rights of

elected representatives.

The legal provision from Republika Srpska providing the elected representatives with hotel accommodation on the day of the session could be applied in the FBiH and at the State level, and would thus eliminate the need for living away from home, accommodation and transportation allowances.

• Flat-rate allowance

A flat-rate allowance is a monthly allowance to cover the costs of performing the parliamentary function in a constituency or for increased material costs in carrying out the parliamentary function. The amount of the flat-rate allowance is usually prescribed by law at individual levels of government in Bosnia and Herzegovina. Although provided by law, there is no clear purpose of such a privilege nor is there any evidence that it is used to cover the increased material costs in carrying out the parliamentary function.

At the level of Bosnia and Herzegovina, the flat-rate allowance is stipulated by the Rules of Procedure of the House of the PA BiH. Unlike the FBiH, where the flat-rate allowance is specified in the Law on Salaries and Remunerations in the FBiH authorities, at the level of the Republika Srpska and the Brčko District, no flat-rate allowance is provided. At the cantonal level in the FBiH, a flat-rate allowance is provided by cantonal laws on the rights, salaries, and allowances.

Deputies and delegates at the BiH level are entitled to a monthly flat-rate allowance for carrying out the deputy's and delegate's duties regardless of their employment status. The approximate amount per deputy and delegate is BAM 750.

Article 8 of the Law on Salaries and Remunerations in the FBiH authorities stipulates that elected officials are entitled to a permanent monthly income (flat-rate allowance) to cover increased material costs in carrying out their duties, which may not exceed two salary calculation bases.¹⁰

Flat-rate attendance allowance in the cantonal assemblies of the FBiH is prescribed by cantonal laws governing the rights, salaries, and allowances of deputies and appointed officials, except in the Una-Sana Canton, where the right to a flat-rate allowance is stipulated by the Decision on incomes of elected officials and executive officeholders of Una-Sana Canton. The amount of the parliamentary flat-rate in the cantons is different and ranges from BAM 350 to BAM 1,800.¹¹

The only canton that abolished the flat-rate allowance for elected representatives is the Sarajevo Canton. This was done in the Assembly of the Sarajevo Canton in January 2019 through amendments to the regulations.¹²

According to the available data obtained by CIN for the Parliamentary Assembly of BiH, in the period 2011-2020, a total of BAM 4.47 million was paid based on the flat-rate allowance of deputies and delegates. It is important to bear in mind that the data for the current term are incomplete. If we take the data for the period of the last two terms, the average annual expenses for flat-rate allowances amount to BAM 463,163, which is an additional expense, in addition to regular salaries and other benefits. The data from Figure 3 show that BAM 1.89 million were paid for flat-rate allowance in the term 2011-2014, and BAM 1.81 million for the period 2015-2018. For this amount of allowances paid to deputies and delegates, one could have bought 89 ventilators for hospitals, assuming that the price of a single ventilator is BAM 50,000.

Figure 3. Flat rate allowances of elected representatives in the BiH Parliamentary Assembly

BiH Parliamentary Assembly			
2011-2014	2015-2018	2019-2020	TOTAL
1,892,385.4	1,812,918.5	769,598.2	4,474,902.1

Source: CIN

• Severance pay

Severance pay is the right regulated by legal provisions at the level of Bosnia and Herzegovina and the Federation of BiH, while elected representatives at the level of the Republika Srpska and the Brčko District do not enjoy this right.

An employee in the institutions of Bosnia and Herzegovina is entitled to severance pay upon retirement in the amount of the six net salaries paid in the previous six months or six average monthly net salaries from the previous year in Bosnia and Herzegovina, whichever is more favorable for the employee. This right is enshrined in Articles 30 and 46 of the Law on Salaries and Remunerations in the Institutions of BiH.

In the Federation of BiH, elected officials are entitled to severance pay upon retirement in the amount of five average salaries paid in the previous five months, which is regulated by Article 16 of the Law on Salaries and Remunerations in the Authorities of the Federation of Bosnia and Herzegovina.

Severance was often abused by elected representatives, due to imprecisely defined use of this allowance. Hypothetically, nothing prevents an elected representative who meets the conditions for retirement from being registered as an elected representative for only one day, to receiving severance pay and resuming his or her job.

According to information obtained by CIN, at least three elected officials resumed their old jobs or continued working in other institutions after receiving severance pay. One was prosecuted for abusing his position at the time of receiving severance pay, while the other is suspected of not at all coming to work for which he claimed and received severance pay. The 23 officials who worked in managerial positions in state ministries - as ministers, deputy ministers, assistant ministers, and advisors to ministers and secretaries - received almost BAM 346,000 in severance pay for retirement. The money was paid from the budgets of eight state ministries in the period from 2006 - 2015.¹³

In the period 2011-2014, three elected deputies in the Parliamentary Assembly of BiH collected their severance pays and then returned to their jobs. In the next term, 2015-2018, two deputies did the same, and in the current term, one more deputy collected severance and then resumed to his parliamentary term.

To reduce the abuse of this privilege by elected representatives, the law should prescribe that employees would be entitled to severance pay for retirement if they spent at least 10 years in the same institution, and following the severance pay they have no right to re-professionalize the mandate.

• Post-term severance pay called "White Bread"

Various legal solutions provide undeserved perks such as the unearned salaries of an elected official after the end of his or her term, colloquially known as "white bread". This privilege is defined by legal solutions of various government levels, through the laws on salaries and allowances, and it allows presidents, prime ministers, ministers, their deputies, and advisers, as well as deputies and heads of

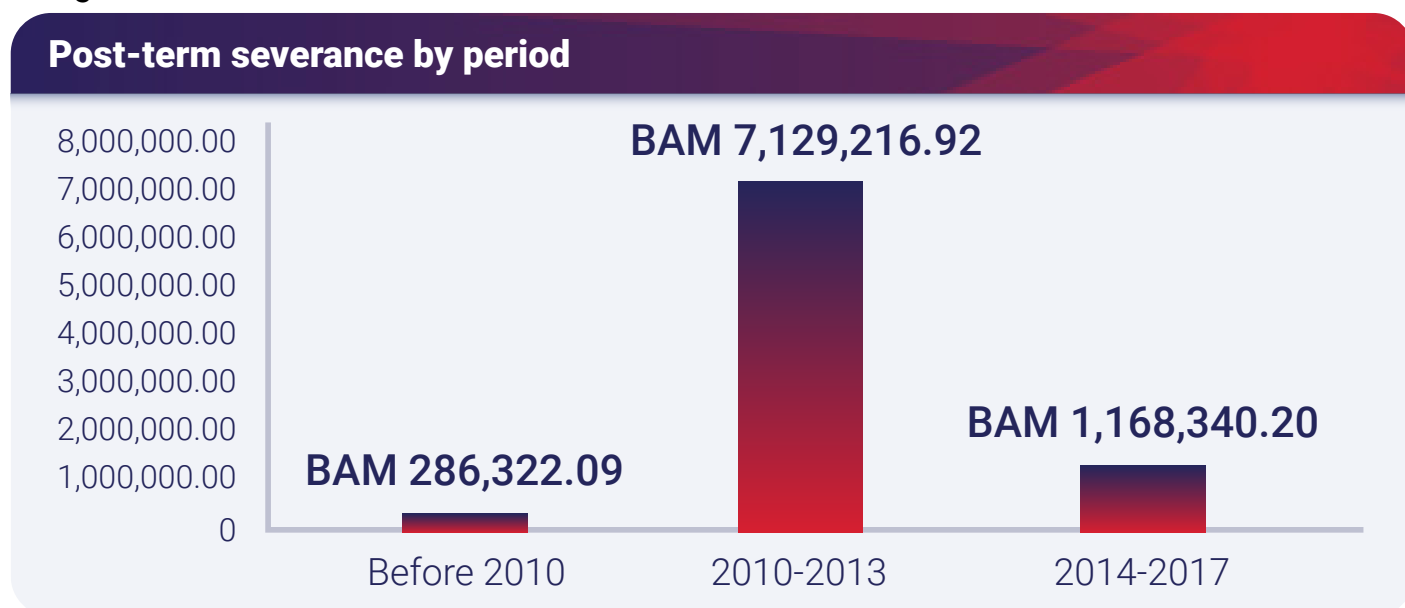
some state institutions, to receive salaries even after the end of their term.

The earlier CIN's documented stories specified that State and Federation officials could enjoy the right to a year-long post-term severance. Officials in the Republika Srpska (RS), the West Herzegovina Canton (ZHK), and advisors in the Federation of Bosnia and Herzegovina (BiH) are entitled to this perk for a maximum of six months. They can receive a salary until they find another job or retire. The officials are entitled to post-term severance even if they are fired or if they spend only one day in office. There is no limit to how many times the same person can use this perk.

Some officials have used it several times, and the documented cases show that some individuals have collected up to BAM 108,934 on this ground.¹⁴ In addition to these privileges, at least 13 former MPs from the past two terms have found jobs in administrative managerial positions. Most often, new jobs have materialized after severance ran out.¹⁵

In the CIN database on the payment of post-term severance, in the period 2008-2015, there are as many as 476 officials who collected at least BAM 8.5 million. Of this amount, BAM 7.13 million or 83.1% refers to the period from 2010 until 2013. In the period before 2010, BAM 0.29 million or 3.3% was paid in post-term severance, and another 1.69 million or 13.6% in the period 2014 - 2017, as shown in Figure 1.









Figure 4. Post-term severance



Source: CIN

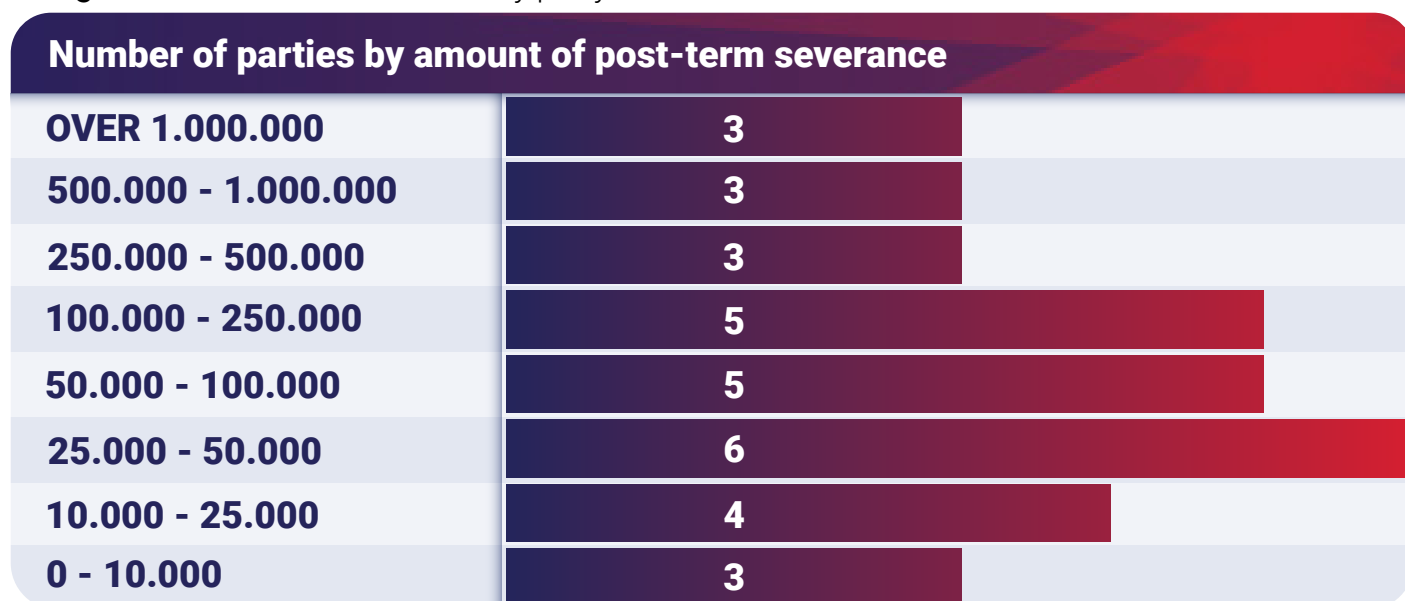
Table 1 and Figure 2 show disaggregated data by the amount and by the number of parties whose members received post-term severance. As it can be seen, in the period 2008-2015, three parties received over BAM 1 million, while a total of 14 parties together accumulated over BAM 100,000 in post-term severance.

Table 2. "Post-term" severance by party

Post-term severance	Number of parties		%
OVER 1.000.000	3		9,38%
500.000 - 1.000.000	3		9,38%
250.000 - 500.000	3		9,38%
100.000 - 250.000	5		15,63%
50.000 - 100.000	5		15,63%
25.000 - 50.000	6		18,75%
10.000 - 25.000	4		12,50%
0 - 10.000	3		9,38%
TOTAL	32		100,00%

Source: CIN

Figure 5. "Post-term" severance by party



Source: CIN

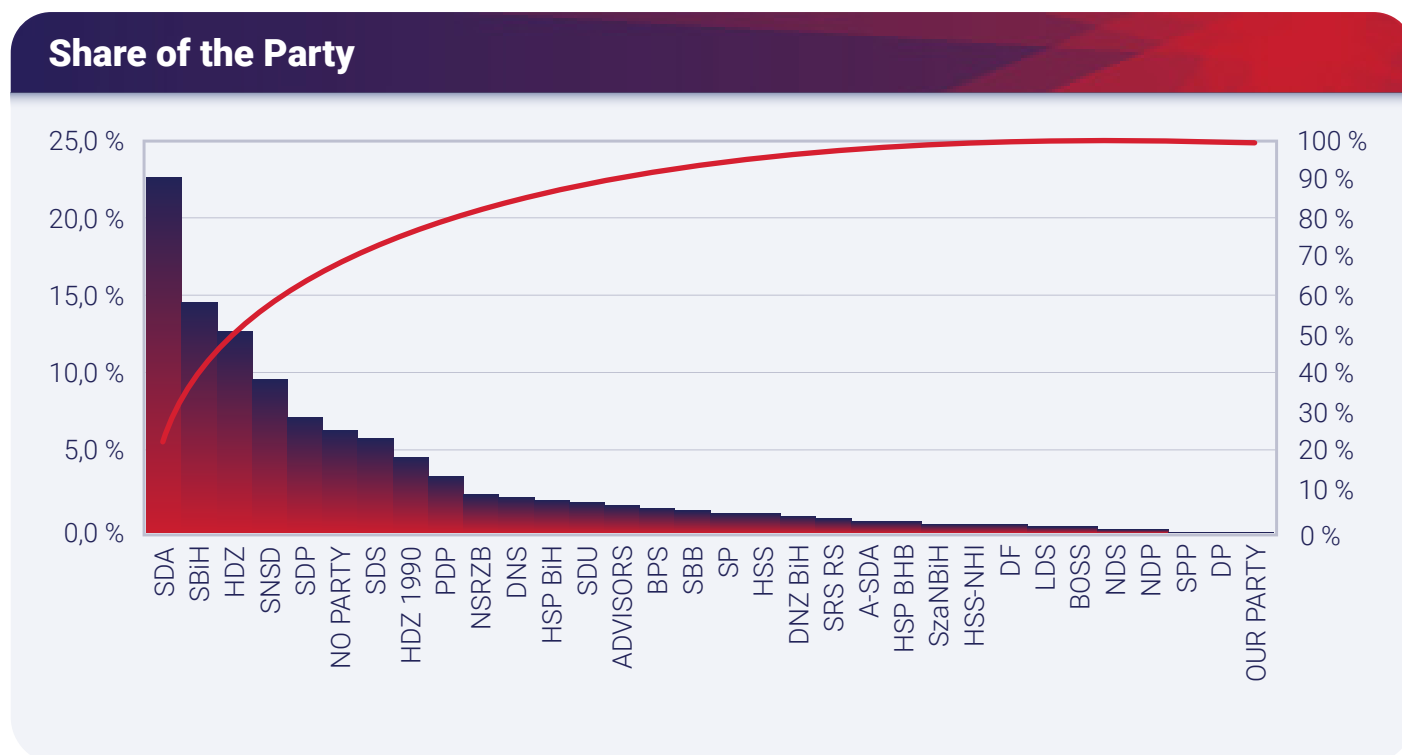
Data by individual parties show that the largest amount of "post-term" severance was paid to SDA members, namely BAM 1.94 million, Stranka za BiH BAM 1.24 million, HDZ BAM 1.06 million, SNSD BAM 0.8 million, and SDP BAM 0.58 million. According to these data - which are shown in Table 2 and Figure 3 - the amount of post-term severance paid to the first five parties accounts for 65.6% of the total allowances.

Table 3. "Post-term" severance by party

No.	Name of the Party	Amount
1.	Party of Democratic Action (SDA)	BAM 1,939,303.02
2.	Party for Bosnia and Herzegovina (SBiH)	BAM 1,237,820.93
3.	Croat Democratic Union (HDZ)	BAM 1,064,763.31
4.	Alliance of Independent Social Democrats (SNSD)	BAM 804,290.13
5.	Social Democratic Party (SDP)	BAM 581,587.49
6.	NO PARTY	BAM 528,104.86
7.	Serb Democratic Party (SDS)	BAM 487,787.89
8.	Croat Democratic Union 1990 (HDZ 1990)	BAM 387,049.23
9.	Democratic Progress Party (PDP)	BAM 280,791.90
10.	People's Party „Work for Prosperity“ (NSRZB)	BAM 143,412.33

Source: CIN

Figure 6. Share of post-term severance by party



Source: CIN

Although there have been several attempts to abolish this privilege, only some levels of government have stripped elected officials of this perk. Following the civil protests of February 2014 demanding explicitly, among other things, that this perk be abolished, the Tuzla¹⁷, Una-Sana¹⁸, Zenica-Doboj,¹⁹ and Sarajevo Cantons accommodated this requirement²⁰. Despite several attempts made in the RS

National Assembly, this privilege has not been abolished to date.²¹ Also, this perk has been abolished at the state level²², although there have been subsequent attempts to reinstate it.²³

According to the current legislation, this privilege is still allowed in the cantons and at the Entity level.

At the FBiH level, this perk is defined under Article 11 of the Law on Salaries and Remunerations in the Institutions of the Federation of BiH, which deals with salary compensations after the termination of public office.²⁴

At the RS level, this provision has been proposed through amendments to the legislation, i.e., draft amendments to the Law on Labor Relations in State Bodies and the status of local government officials.²⁵ To abolish these privileges, Article 35 of the Law on Labor Relations in State Bodies would need to be deleted.²⁶

In some cantons, such as the Herzegovina-Neretva Canton, these provisions are defined by the Law on the Rights of Elected Officials and Holders of Executive Functions in HNC Government Institutions, Article 9 "Salary after Termination of Public Office".²⁷

In the Bosnia-Podrinje Canton, a draft Law on Salaries and Remunerations in the Institutions of the Bosnian-Podrinje Canton of Goražde, which does not specify any perks for elected officials, is still pending adoption.²⁸

To abolish these privileges, it is enough to amend the applicable laws and delete the entire Article governing this matter, as proposed in the annexed document.

The money that has been used for the undeserved privileges could be used much more usefully and efficiently for new employment, the improvement of the education sector, or the health sector. If a job costs BAM 20,000 per person, with BAM 8.58 million - documented as being paid for these undeserved privileges - a total of 429 jobs could be created for young people.

With this money, the education sector could improve the level of digitization of schools. With the money paid for the post-term severance, the schools could have got a total of 8,583 pieces of BAM 1,000-worth laptops.

If this money had been used to improve the diagnostics of the health sector, 17 MRI devices could have been procured and donated to 17 hospitals in Bosnia and Herzegovina to shorten the waiting time for these services, provided that the price of a single device is BAM 500,000.

• Other proposals

To improve the system of entitlements enjoyed by elected representatives at all levels of government, it is necessary to consider the proposal to introduce a single amount of net salary that would include all privileges, which would reduce the possibilities for abuse.

Net salary should be defined through a fixed and variable part. A fixed part of the salary would be paid every month, regardless of the number of sessions held and parliamentary activities, while the variable part would depend on the number of conditions, which may include attendance at sessions, the number of sessions held, initiatives made and implemented, laws submitted and so on. The ideal ratio would be 30% for the fixed part and 70% for the variable.

The legislation should also tighten the penal provisions envisaging sanctions for proven abuses by elected representatives, as shown in many cases within the document.

At the level of BiH, a special change refers to the repeal of Article 39a of the Law on Salaries and Remunerations in the Institutions of Bosnia and Herzegovina, which specifies that "Remunerations related to the parliamentary and deputy's mandate in the Parliamentary Assembly of Bosnia and

Herzegovina.”

In this way, the possibility of prescribing new or expanding the existing rights of elected representatives through secondary legislation would be removed.

CONCLUSION AND RECOMMENDATIONS

Elected MPs in Bosnia and Herzegovina are entitled to a significant number of rights provided by applicable legislation. At the level of Bosnia and Herzegovina, elected representatives have the right to as many as 19 different entitlements, some regulated by law and some through bylaws. At the level of the FBiH, elected representatives are entitled to ten (10) and in the RS to eight (8) different rights. In the Brčko District, elected representatives are entitled to nine (9) different perks.

In the period 2011-2020, BAM 2.16 million were allocated for the elected representatives of the Parliamentary Assembly of Bosnia and Herzegovina for these three perks alone (family visits, living away from home, and accommodation and transport).

CIN's documented stories show that statutory perks have been abused by elected representatives. In two and a half years, the deputies of the Federation Parliament collected more than BAM 825,000 on account of accommodation, living away from home, and transportation to the house.

According to the available data CIN obtained for the Parliamentary Assembly of BiH, in the period 2011-2020, a total of BAM 4.47 million was paid to deputies and delegates based on the flat-rate attendance allowance.

Ministers, deputies, assistants, and advisors to ministers and secretaries of ministries received almost BAM 346,000 in severance pay for retirement. The money was paid from the budgets of eight state ministries in the period from 2006 to 2015.

In the CIN database on the payment of post-term severance, in the period 2008-2015, there are as many as 476 officials who collected at least BAM 8.5 million.

Given the large number of privileges enjoyed by elected representatives, their reduction and abolition require a significant number of amendments to the legislation.

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- ¹ <https://advokat-prnjavorac.com/zakoni/Zakon-o-placama-i-naknadama-u-institucijama-Bosne-i-Hercegovine.pdf>
- ² <https://www.parlament.ba/Publication/Read/3940?title=materjalna-prava-clanova-parlamenta-u-bosni-i-hercegovini,-crnoj-gori,-hrvatskoj-i-srbiji&pagelId=0>
- ³ Decision on the manner and procedure of exercising the rights of employees in BiH institutions to accommodation costs, living away from home allowance and compensation for temporary assignment, Official Gazette of BiH, nos. 42/12, 78/12 and 51/13
- ⁴ <https://www.parlament.ba/Publication/Read/3940?title=materjalna-prava-clanova-parlamenta-u-bosni-i-hercegovini,-crnoj-gori,-hrvatskoj-i-srbiji&pagelId=0>
- ⁵ Decision on salaries and allowances of elected persons in the National Assembly of the RS
- ⁶ <https://www.cin.ba/lazni-smjestaj-za-dodatnu-zaradu/>
- ⁷ <https://www.cin.ba/strozija-pravila-za-naknade-delegata/>
- ⁸ <https://www.cin.ba/istrazivanje-cin-a-promijenilo-federalna-pravila/>
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- ¹² <https://istinomjer.ba/skupstina-ks-ukinula-pausale-profesionalnim-zastupnicima/>
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- ²⁴ <http://www.fbihvlada.gov.ba/bosanski/zakoni/2010/zakoni/35bos.html>
- ²⁵ <https://bhrt.ba/da-li-ce-u-republici-srpskoj-biti-ukinut-tzv-bijeli-hljeb/>
- ²⁶ Official Gazette of RS, nos. 11/1994, 6/1997, 16/2002 - other law, 96/2003, 118/2008 - other law and 43/2010 - other law
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A BUDGET RESERVE - RULES AND PRACTICE

| **AZRA BEĆIROVIĆ**
December 2019

INTRODUCTION

A budget reserve is usually an integral part of the budget. What makes it specific in the context of Bosnia and Herzegovina is that the purpose of the funds of the budget reserve is not clearly defined. Part of the reserve is used at the discretion of the nominees, i.e., the prime ministers, their deputies, members of the presidency, etc., while the purpose of the remainder of budget reserve funds is decided by governments as collective bodies. Each level of government defines the amount and decision-making process on the use thereof, while the criteria for individual use of the funds are decided by the decision-makers.

In the period from 2014-2019, a total of BAM 183 million was allocated from the budget reserve, of which BAM 176.7 million (or 96.26%) by decisions of collective bodies (governments), and BAM 6.9 million (3.74%) by decisions of individual nominees¹.

LEGAL FRAMEWORK ANALYSIS

The uneven practice of using budget reserve funds is partly due to an insufficiently clear legal framework defining the manner and purpose of using these funds.

All budgets have a budget reserve as a category, but the legal framework and powers to use the reserve significantly vary across different levels of government in Bosnia and Herzegovina.

At the level of institutions of Bosnia and Herzegovina, the Law on Financing of Institutions of Bosnia and Herzegovina defines that the budget reserve may not exceed 3% of the overall budget, excluding funds for public debt repayment, and shall be used as follows:

“Budget reserve funds can be used for:

- a) financing of emergency and extraordinary expenditures, and programs not included in the budget;*
- b) financing the costs of international disputes and arbitrations;*
- c) financing of new institutions of Bosnia and Herzegovina, which during the fiscal year acquire the status of a budgetary user;*
- d) grants to non-profit organizations.”*

It follows from this provision that budget reserve allocations to individuals are not envisaged.

Furthermore, the laws on the budget of BiH institutions and international obligations of BiH stipulate that the BiH Council of Ministers shall transfer, by a special decision, the power for emergency use of the budget reserve to individuals (chair and deputy chair of the BiH Council of Ministers, and also members of the Presidency). The total amounts of budget reserve approved for the discretionary use are shown in the table below.

Table 1. Approved budget reserve amounts for discretionary use

Year	Chair of the CoM and deputies	Members of the BiH Presidency
2014	4% of the budget reserve	-
2015	4% of the total budget reserve	6% of the total budget reserve
2016	-	BAM 360,000
2017	BAM 180,000	BAM 360,000
2018	BAM 180,000	BAM 360,000
2019 ²	n/a	n/a

At the beginning of the observed period, the chair of the Council of Ministers and two deputies had the authority to use the intervention funds, and from 2015, the authority was awarded also to the members of the Presidency of BiH.³ It is stipulated that each time these funds are to be allocated, a set of criteria based on which the funds shall be awarded must be made.

In practice, decisions on criteria, if adopted, define only the amounts to be allocated to certain categories, e.g., natural persons up to BAM 2,000, legal entities, associations, non-governmental organizations up to BAM 10,000, and religious communities up to BAM 5,000.

Since 2015, the obligation to report on the use of funds has been imposed, but without prescribing the form and deadlines for submitting reports.

In the Federation of BiH, it is prescribed that emergency and unforeseen budget expenditures incurred during the budget year are to be settled from the budget reserve funds. The distribution of funds is approved by the Government. There is a decision from 2014 on the procedures for the allocation of funds from the "FBiH Budget Reserve"⁴ but it refers to the requests of budget users only. Budget reserve earmarking may not exceed 3% of total revenues, excluding receipts. The savings generated during the fiscal year are transferred to the Budget Reserve line only to the set level.

As for the discretionary use of reserve funds, it is stipulated that the Prime Minister may dispose of the budget reserve funds up to BAM 75,000, and the Deputy Prime Ministers up to BAM 40,000.

Table 2. Approved amounts of budget reserve funds of the Federation of BiH for discretionary use

Year	Prime Minister	Deputy Prime Ministers
2014	BAM 75,000	BAM 40,000
2015	BAM 75,000	BAM 40,000
2016	BAM 75,000	BAM 40,000
2017	BAM 75,000	BAM 40,000
2018	BAM 75,000	BAM 40,000
2019	BAM 75,000	BAM 40,000

Decisions of the Prime Minister and Deputy Prime Ministers on the criteria for allocation of budget reserve funds define areas of interest (which include a very large number of categories, from talented pupils and students, through socially sensitive activities, to the renovation of residential buildings, schools, and religious buildings) and beneficiaries, which include individuals, municipalities and non-profit organizations.

In Republika Srpska, the budget reserve is defined as part of the planned budget funds (2.5% of budget revenues, without grants) which is allocated based on special decisions of the Government, i.e., the executive body of municipalities, cities, and funds, and can be used for:

- a) covering unforeseen expenditures for which no funds are planned in the budget,
- b) budget expenditures for which no sufficient funds have been planned in the budget,
- c) temporary execution of budget obligations due to reduced volume of the budget funds, and
- d) exceptionally, for other purposes, as per Government decisions, i.e., decisions of the executive bodies of municipalities, cities, and funds.

In the observed period, discretionary use was defined as shown in the table below.

Table 3. Approved amounts of budget reserve funds of Republika Srpska for discretionary use

Year	Prime Minister	Minister of Finance
2014	BAM 40,000	BAM 20,000
2015	BAM 40,000	BAM 20,000
2016	BAM 40,000	BAM 20,000
2017	BAM 40,000	BAM 20,000
2018	BAM 200,000	BAM 50,000
2019	BAM 1,000,000	BAM 50,000

Rules and practices **in the cantons**, vary and here we analyzed only a few different approaches in the use of budget reserve funds.

Sarajevo Canton has a budget reserve of up to 3% of total revenues, excluding receipts, which is used by the Government based on the established criteria. The criteria refer only to the reasoning of the emergency and unforeseen requests by budget users. On the other hand, until 2016, the Prime Minister of the Canton could use, at his/her discretion, up to BAM 100,000 per quarter. After 2016, this amount was cut down to BAM 25,000 per quarter.

Tuzla Canton prescribed the budget reserve as well as the purpose for which the reserve can be used (contingencies).

The concept of this type of expenditure is defined in more detail, as follows:

"... Contingencies are expenditures and expenses incurred due to circumstances that the beneficiaries could not foresee at the beginning of the fiscal year or expenditures incurred due to circumstances beyond the beneficiaries' control, which may endanger human health, material goods, and the functioning of the work of the users of funds."

Determined are also thresholds for different categories:

“... in the following ratios:

- 1. budget users up to 45% of the set budget reserve for the fiscal year,*
- 2. other levels of government up to 10% of the set budget reserve for the fiscal year,*
- 3. other users up to 45% of the set budget reserve for the fiscal year.”*

The 2018 Instruction defines in more detail the areas of special interest and activities that can be supported in this way, however, the prescribed manner of submitting requests suggests that the mandatory forms apply to budget users only.

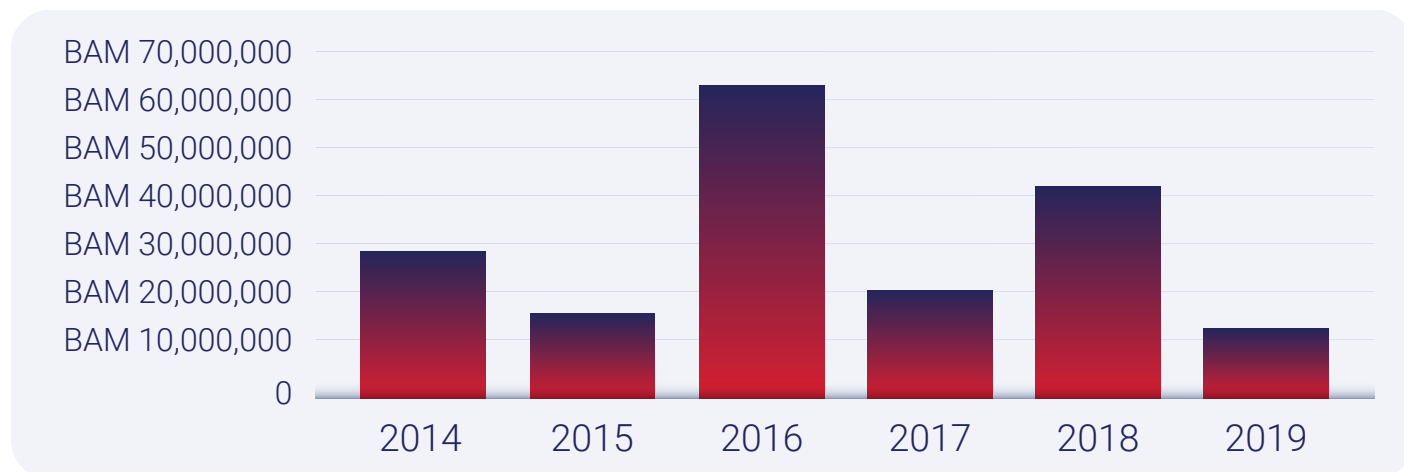
In the observed period, the Tuzla Canton did not have a special authorization for the discretionary use of budget reserve funds. The same is true in the Herzegovina-Neretva Canton. In the Central Bosnia Canton, for example, the general rules are the same, but the Canton Prime Minister's limit is BAM 35,000 per quarter, while the Minister of Finance can use up to BAM 27,500 per quarter.

PROBLEM ANALYSIS

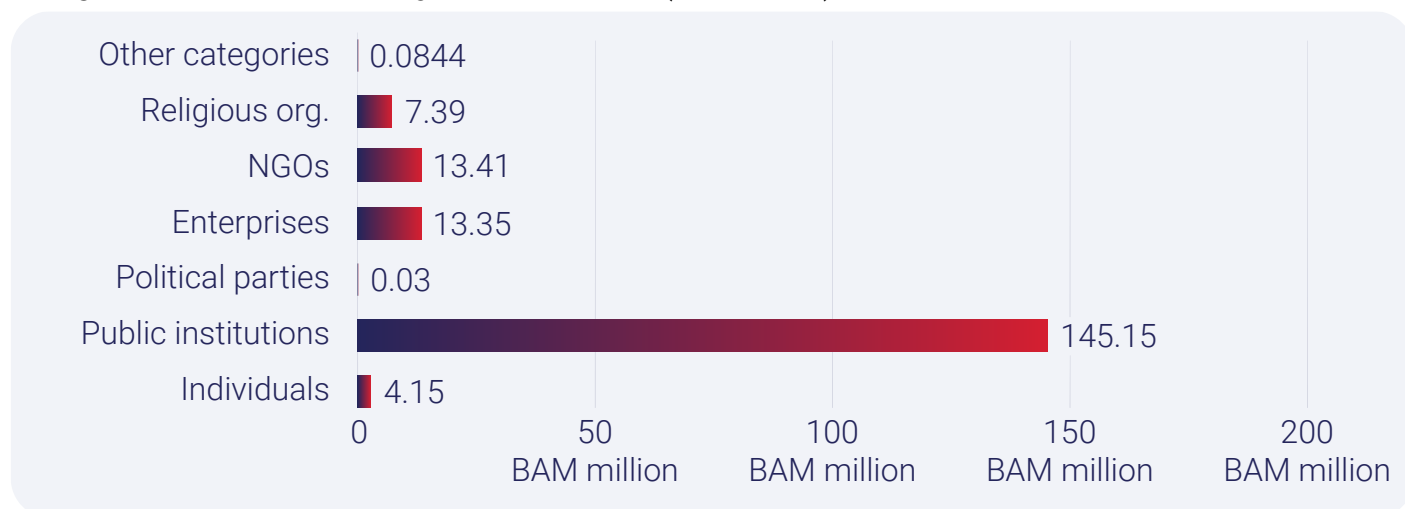
The unclear and incomplete legal framework for the use of budget reserve funds alone points to the need for more detailed monitoring of the budget reserve spending, despite these being relatively small amounts relative to total budget spending in Bosnia and Herzegovina.

The structure, purpose, and dynamics of these allocations in the period 2014-2019 are shown below.

Figure 1. Total allocated funds by year



Although usually the same percentage of the budget reserve is planned for, the spending of the budget reserve fluctuates a lot from year to year. During the observed period, significantly higher allocations were noted in the “even” years, which correspond to the election years in Bosnia and Herzegovina. In 2016, these allocations amounted to more than BAM 60 million, in 2018 more than BAM 40 million, while in other years the spending was two or three times smaller.

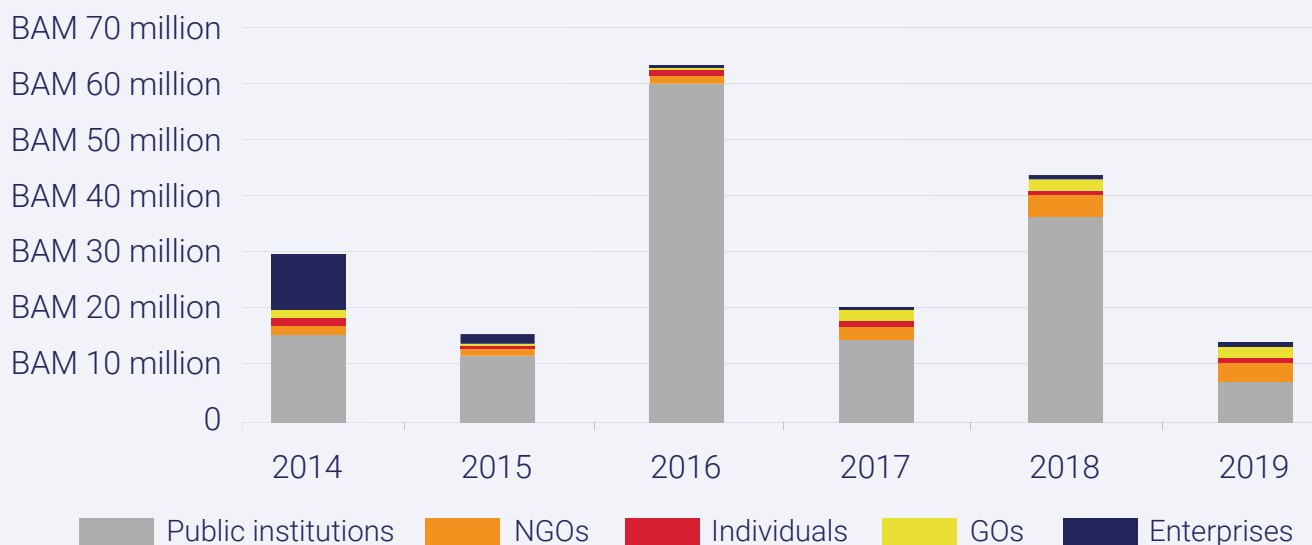
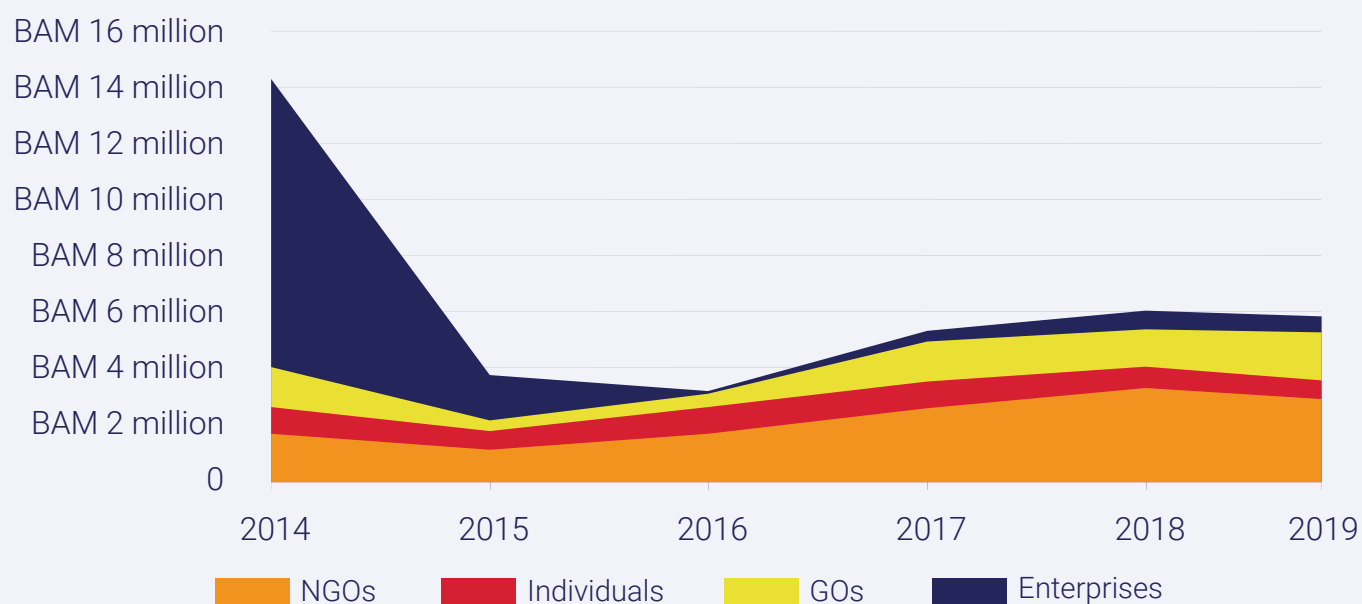
Figure 2. Users of the budget reserve funds (2014-2019)

The fund users are mainly public institutions, i.e., budget users and institutions of other levels of government (BAM 145 million). Non-governmental organizations and enterprises received more than BAM 13 million each, religious organizations BAM 7.4 million, and individuals BAM 4.15 million.

Figure 3. Total allocated funds

Looking at the budget reserve allocations by decision-maker, we see that the vast majority are the collective decisions of governments, assemblies, and the Council of Ministers of BiH. Nevertheless, the share of funds allocated based on individual decisions has been increasing in recent years (from 3.64% to 8.21%). In absolute numbers, individuals on average allocate more than BAM 1 million.

Budget reserve allocation based on the decisions of this category is also the most vaguely defined. In the period 2014-2019, individuals (prime ministers, deputies, members of the Presidency) allocated, at their discretion, BAM 6,868,517 or 3.74% of total budget reserve. Based on more than 6,500 individual decisions, allocations were made in the minimum amounts of BAM 50 to a maximum of BAM 5,000. Half of the allocations were below BAM 400 per decision, i.e., per beneficiary.

Figure 4. Budget reserve funds allocated**Figure 5.** Budget reserve funds allocated by year and beneficiary, excluding public institutions

In the structure of budget reserve spending by the user, we see that the vast majority of funds is allocated to public institutions, very often budget users, i.e., institutions regularly financed from the very same budget.

Looking at the structure of budget reserve spending, excluding the allocations made to public institutions, we see that in the last few years the financial support to NGOs and religious communities has been growing, while support to individuals and companies is much smaller but constant⁵. On the other hand, direct allocations for political organizations are negligible in total spending, and in the period 2014-2019, they amounted to BAM 29,320.

Taking into account the legal framework and data on spending, we can conclude that the procedures of allocating budget reserve funds are completely different from the usual procedures and practices used for allocation of public funds, and the structure of spending is diverse and varies across the levels of government and over the years. The greatest concern, however, is that these funds - as can be seen

from the foregoing - very often are not used for their primary purpose - emergency and unforeseen expenses.

Audit Offices in Bosnia and Herzegovina have dealt specifically with this topic on several occasions - 2014 performance audits by the SAI BiH and 2016 performance audits by the SAI FBiH.

Audits have shown the consequences of the lack of clear rules and implementing acts, which is why budget users often use budget reserve funds to finance their current operations. Furthermore, there are no criteria or public calls for the allocation of budget reserve funds for individuals and legal entities, nor information on which areas are funded or in what amount. The applications are prepared on an ad hoc basis and are based on personal information, and decisions are made arbitrarily. Also, there is no exchange of information on allocated funds, so it happens that the same individual, or organization's purpose is supported by several individuals with discretionary authority or several levels of government. Finally, reporting of beneficiaries on the use of funds is, at best, cost justification, hence, there is no information on the effects and benefits of so invested public money.

RECOMMENDATIONS AND CONCLUSIONS

Many of the identified shortcomings in the use of budget reserves arise from the legal framework governing its use, but also from practices that do not take into account the primary purpose of the budget reserve, as a type of expenditure mobilized by emergency and unforeseen circumstances. Based on the presented problem analysis, the recommendations for improving the framework for the use of budget reserve funds are as follows:

a) Discretionary use of budget reserves by individuals

A relatively large number of individuals have the discretionary right to use the budget reserve, but the amounts of allocations are relatively low, both by the individual decision and the total amount (BAM 6.9 million in the period 2014-2019, or 3.74% of total funds). The very nature of the authority given to individuals in managerial positions to decide, at their discretion, on the user and the purpose of budget reserve funds implies the absence, or shortcomings in terms of clear and objective criteria, transparency, and objectivity. This being public money, the spending of which should be transparent and accounted for, shows that this way of spending is inappropriate. Hence, the only recommendation in this segment is to simply abolish this way of using budget funds.

Most of the budget reserve funds are being used to support medical treatments, education, sports, difficult social situation of individuals, and financing the activities of non-profit organizations. The question is why the rights to such support are not exercised through regular programs and procedures in the fields of health, education, culture and sports, social support programs, or regular support programs for non-profit organizations? Addressing all such needs of individuals and organizations is regularly planned in the budgets of the respective levels of government. Whether the funding of these programs is sufficient and targeted is the question that should be discussed in the budget adoption process to avoid addressing the shortcomings of existing programs and policies through one-time non-earmarked allocations. Also, according to the data on individual allocations, it can be concluded that in a large number of cases this type of support is insufficient to meet the needs of individuals and organizations, and on the other hand, multiple payments to the same individuals and organizations can be considered continuous (but not guaranteed) support.

Finally, the inadequacy of this category can be observed through the role of individual holders of discretionary right - how and why is the function of the prime minister and ministers (and the work of their offices) tied to direct support to individuals and organizations, when their resources can be used to more efficiently support government program objectives, and thus solve problems of the same categories they support directly through the budget reserve? An example of good practice already exists in some cantons in the Federation of BiH, where this category has been abolished.

b) Using budget reserve based on the collective decision of the government, the Council of Ministers, or the Assembly

The budget reserve as a category of expenditure managed by a collective body is very important for ensuring the general stability of public finances and execution of activities in unforeseen circumstances. What is missing at all levels of government in Bosnia and Herzegovina are comprehensive implementing acts prescribing in detail the criteria and purpose of funds, especially for budget users and other categories of users, or areas of special importance.

In this regard, it is recommended that each time the budget prescribing the use of budget reserve funds is adopted, the government/Council of Ministers should adopt an implementing act, within 30 days following the adoption of the budget, detailing the criteria for approving funds for each category entitled to budget reserve funds (budget users and other public institutions, individuals, non-governmental organizations, religious organizations, companies, etc.) and the purposes for which the funds can be allocated.

In particular, the terms “emergency and extraordinary expenditures” should be defined in all laws and implementing acts (e.g. the previously mentioned example from Tuzla Canton).

For example, the institutions of BiH and FBiH have prescribed procedures and criteria for allocating budget reserve funds to budget users in great detail, but it is necessary to establish control and reporting on the intended use of funds.

When it comes to allocating funds to individuals, NGOs, and religious organizations, application procedures are almost non-existent. No public calls are published, so only those who have inside information from the institutions end up applying for these funds. One of the recommendations of the SAI BiH auditors was to publish public calls if the money is planned to be allocated to non-governmental organizations.

Also, applicants are not required to have work programs or a spending plan. Only a few institutions required that spending of funds be explained, but the reporting requirement is a formal one. Institutions do not check whether the money was indeed spent for the indicated purpose.

Recommendations regarding the allocation of funds to individuals, non-governmental and religious organizations, and other categories within defined areas of special importance are as follows:

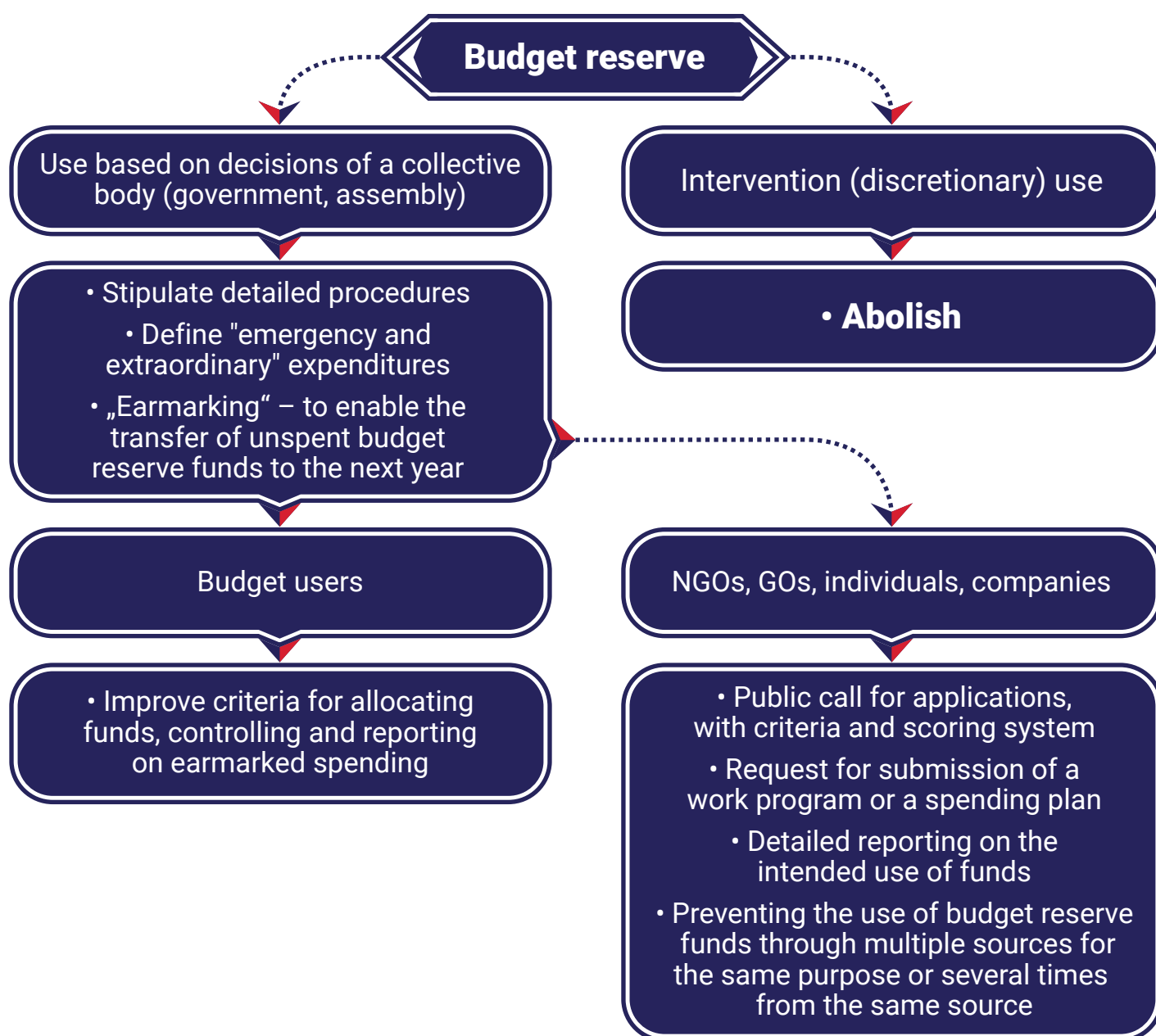
- 1. At the beginning of execution of the budget anticipating the funds under this category, a call for applications should be published, along with criteria and a scoring system;*
- 2. Decisions allocating the funds and information on the remaining amount of funds should be published on the websites of the decision-making institutions, which should be regularly updated - (BiH institutions already do this in practice);*
- 3. As for supporting organizations and individuals, when applying for funds, the organizations and individuals should prove (and the administration should check through previous reports) that they have not been allocated the funds on the same basis in the previous 5 years and were not awarded grants for non-profit organizations in the regular procedure. RS has established the practice of proving that funds for the same purpose were not allocated by the line ministries.*
- 4. Unspent earmarkings should be carried forward to next year's budget reserve, so that they can be later used for actual emergency and unforeseen expenses, such as increasingly present natural disasters.*

Finally, all interventions aimed at improving the framework for the use of budget reserve funds should be based on the principles of justification, accountability, and transparency, while recognizing good practices at other levels of government in Bosnia and Herzegovina.

As both the State and Entities plan to introduce program budgeting, which implies allocating budgets for specific programs and defining program objectives and performance indicators, it will be

interesting to see how the effects of the spending will be measured. Finally, in the light of existing gender-responsive budgeting initiatives, it would be particularly interesting to track the benefits of the budget reserve spending disaggregated by women and men.

Recommendations for improving a budget reserve fund allocation framework



¹ The CIN database contains all data on the spending of the budget reserve from the beginning of 2014 to October 2019, except for data on the funds approved by the Prime Ministers and Ministers in West Herzegovina Canton and Canton 10

² Since the 2019 budget of BiH institutions has not been approved, using budget reserves for interventions is not approved either

³ With the exception of 2016, where these funds were used only by members of the Presidency of BiH

⁴ Official Gazette of the Federation of Bosnia and Herzegovina no. 106/14

⁵ Allocations for companies in 2014 mostly relate to the procurement of equipment and materials to mitigate the effects of floods

RECRUITMENTS TO CIVIL SERVICE, PUBLIC INSTITUTIONS AND IN ADVISORY POSITIONS

| **FARUK HADŽIĆ**
January 2021

► SUMMARY

Public service in Bosnia and Herzegovina is a synonym for political employment. Political parties that make up the majority at various levels of government, in their political activities, pay special attention to the control and management of the civil service, especially public enterprises.

These institutions are controlled and governed through direct control over the process of selection of members of management and supervisory boards, and the appointment of politically suitable persons as directors of public institutions. This way of governance opens the doors to possible abuses and violations of the procedures for the appointment of candidates for certain positions, thus creating direct harm to society as a whole, but also public institutions themselves.

This paper shows some examples of recruitment to the civil service, public institutions, and various advisory positions, which have been corroborated by a series of documented cases through various research stories. The paper particularly points to how these abuses can be reduced.

In addition to the narrative and analytical part of the presented fees, the paper in its annexes contains specific amendments to the legislation aimed at reducing or removing certain fees, thus creating savings in the budgets at all levels of government.

INTRODUCTORY REMARKS

Public service in Bosnia and Herzegovina is a synonym for political employment. The cumbersome and privileged public sector is more about hiring politically appropriate staff than about the development of the economy and the State.

Having political parties manage the public enterprises have led to a large debt. According to the IMF report, there are about 550 state-owned enterprises (SOE) in Bosnia and Herzegovina with 80,000 employees, and they have a debt of about eight billion BAM, of which BAM 3.2 billion of tax debt. This debt accounts for about 22% of BiH's GDP. However, political management of public enterprises, which ultimately manifests in an out-of-competition recruitment, is only one of the ways for the elected officials to position themselves.

The main objective of this paper is to show how the elected representatives of political parties that make up the ruling majority at different levels of government in BiH use the political influence to manage and recruit "their people" in the civil service, public institutions, and other advisory positions. Also, where possible, we provided proposals on how to reduce the room for abuse.

In the introduction, the paper described the research methodology and the manner of data collection and processing.

The main part of the paper shows the examples of recruitments to the civil service, public institutions, and various advisory positions.

In the concluding part of the paper, we provided conclusions, recommendations, and key proposals for improving the regulations to reduce the room for abuse but also for abolishing certain provisions that enable recruitment of advisors at different levels, although, it is important to note that no evaluation of their contribution has been made so far.

Finally, in the annexes to this paper, we provided specific amendments to the legislation reducing room for potential abuse in the recruitment process.

RESEARCH METHODOLOGY

In preparing this paper we used available sources relating to documented cases of abuse in the recruitment of staff to public enterprises, or in connection with the appointment of advisors to elected representatives.

For the analytical part of the research, we used available CIN data, which were collected based on an inquiry to state and entity institutions on the value of compensations received by various advisors, as well as data on the number of employees in individual institutions who were recruited outside of the public competition procedure.

The collected data were systematized, refined, and processed in Microsoft Excel, while the charts were made in Adobe Illustrator.

EXAMPLES OF RECRUITMENTS TO CIVIL SERVICE, PUBLIC INSTITUTIONS, AND ADVISORY POSITIONS

The blocking mechanisms held by the “winning” parties in the executive and legislative branches - usually the three ethnic-nationalist parties - give them the right to form a government based solely on the division of positions and privileges, not the programs. It is these winning parties that have the exclusive right to appoint directors and management and supervisory boards of State- and Entity-owned enterprises, thus making the public resources a booty for the distribution and appointment of party suitable staff. Vacancies for directors are formally announced, but the political appointees are agreed in advance, while members of management and supervisory boards are not selected through the public competition process but through the direct appointment of party persons at government sessions, which puts public enterprises under full party control. Independent experts can seldom be appointed or apply in this way because they are non-partisans, and the party interest comes first. This is how political partisans are appointed heads of institutions such as tax administrations, border police, intelligence, and security sectors, which allows party leaders to use public resources through their directly appointed staff for confronting or threatening their dissidents from other parties.

By controlling the direct appointments of directors of public enterprises, management, and supervisory boards, the parties exert pressure through these party-appointed persons to recruit “their staff” in public enterprises through rigged competitions or even outside of competition, thus building its army of voters. People employed in this way are often threatened into voting for the party if they are to keep the job. Besides giving employment to eligible party persons, the control of public enterprises is used to control and manage the public procurement process. The deals are made with party-related private companies, often in violation of public procurement procedures, thus “draining” the tax-payers money and directing it to private companies, which then redirect part of it for funding of party black funds or party activities. Companies that complain about this process or people who have companies and who sympathize with other parties can expect retaliation, usually in the form of tax and other inspections - headed by party-appointed directors - who are politically instructed to issue fines against their opponents. Due to indirect control over the judiciary, appeals to the courts have little chance of succeeding.

As a result of constant party halts in the division of public resources and quarrels among party leaders, and due to the party-managed public enterprises and party-conditioned recruitment, the citizens of Bosnia and Herzegovina have been leaving the country en mass in search of not only job but also better life in better-organized jurisdictions.

Public service in Bosnia and Herzegovina is a synonym for political employment. Many agree that there is a direct connection between the economic (dis)functionality of the country and the Dayton set-up of the state. The cumbersome and privileged public sector is more about hiring party-suitable staff than about the development of the economy and the State. In the FBiH alone, there are 11 prime ministers, 142 ministers, 300 assistant ministers, 300 advisors, hundreds of deputies, thousands of members of commissions at the level of cantonal assemblies or extra-budgetary funds.

To finance the cumbersome and dysfunctional public sector, high taxes on wages and consumption have been imposed, which burden the already weak economic sector. To pay salary to an employee, a businessman in the Federation i.e. the RS has to pay additional 72,6 BAM i.e. 57,1 BAM respectively for various taxes and contributions per each 100 BAM, which funds are only partly used to finance the public sector.¹ It is precisely high taxes and contributions which make many businessmen report lower wages of workers to reduce the level of their business costs.

The party protection of large companies is a special problem for small businessmen. To be able to market their products through retail chains small manufacturing companies have to grant longer terms of payment for the delivered goods, which in practice usually exceeds the agreed period, sometimes it can be even 180 days. At the same time, small businesses are required to pay VAT to the state for receivables that have not been collected, contributions and taxes relating to workers and salaries and wages. Any default in payment of VAT, even for one day, automatically triggers the system

of forced collection. This exhausts the economy only to prevent delays in the financing of the public sector. To prevent this, businessmen borrow from banks and microcredit organizations, often at a high-interest rate, just to pay their obligations to the State, paying interest for that. To raise additional money from the economy and citizens to finance the public sector, 3,400 parafiscal levies were introduced.^{2 3}

Due to corruption, nepotism, party employment, and excessive taxes, the economic sector is completely exhausted. Not having received any significant help from the authorities during the COVID-19 pandemic, it bore the burden of the crisis on its own. Paradoxically, in the FBiH, many businessmen had to pay the difference for the period when they were banned from working in order to qualify for the subsidy for contributions.

The collected taxes and contributions are insufficient to finance the public sector and current liabilities. Before the COVID pandemic, 76% of all expenditures in the FBiH budget were planned to be financed through collected taxes, and 11.8% through credit borrowing. In the RS, 85% of all budget expenditures are financed through tax revenues, and 10.7% through credit borrowing.⁵

The importance of the excessively taxed private sector is shown by the data on collected contributions in the FBiH. Due to the negative effects of the COVID pandemic and the layoffs, the expenditures for pensions exceeded the amount of collected contributions by BAM 243 million. This deficit was covered by loans from the IMF and commercial banks, which the citizens will be paying in the coming years. The COVID-19 pandemic showed how important the private sector is for the functioning of the public sector. Without money paid by the private sector, the public sector cannot survive except through borrowing, thus only delaying its final collapse. The economic consequences of such a BiH's set-up are that one-quarter of total government spending in Bosnia and Herzegovina goes on salaries in the public administration.⁶

Having political parties manage the public enterprises leads to a large debt in these enterprises. According to the IMF report, there are about 550 state-owned enterprises in Bosnia and Herzegovina with 80,000 employees, and they have a debt of about eight billion BAM, of which 3.2 billion of tax debt. This debt accounts for about 22% of BiH's GDP.⁷

• Recruitment of advisors in civil service

Advisors to elected representatives are selected out-of-competition. According to the FBiH Civil Service Act, although they do not have the status of civil servants, advisors must meet the same requirements as candidates for assistant senior civil servants. These conditions are not specified by law, but by a special regulation according to which five years of work experience is required. A legal provision stating that the term of office of an advisor is linked to the term of office of an elected representative means that the employment of advisors appointed by politicians to their cabinet terminates with the expiry of the term of office of that person. For the above-mentioned persons not to lose their jobs after the expiration of their term, vacancies for civil servants are advertised and these persons are recruited as civil servants, the status of which they freeze as soon as they are reappointed as advisors. Eventually, at the end of their term, they return to their positions as civil servants.

CIN's research stories confirm the hiring of advisors to the positions of civil servants. The Secretariat of the BiH Presidency has prepared a Proposal of the Decision on the new organization of this institution, which envisages over 20 new positions. A total of 36 candidates applied for the positions, four of whom have already worked in the Presidency i.e. the offices of the members of the Presidency of BiH based on temporary contracts. They got the best grades.⁸

Positions of advisors are usually filled by party persons. The Speaker of the House of Peoples of the Federation BiH Parliament has illegally appointed five of her eight advisors. She violated FBiH regulations, appointing as advisors persons who did not have the required five years of work experience. For some of them, it was their first job, while others had work experience ranging from eight months to two years. Most of her advisors are party members or relatives and acquaintances of politicians. In two years and two months, more than BAM 306,000 were spent from the FBiH budget

for the salaries and allowances of these advisors.⁹

In Sarajevo Canton, advisory positions existed until 2016, when they were abolished by the Sarajevo Canton Civil Service Act, and cantonal, city, and municipal authorities were given seven months to enforce it. Neither the Sarajevo mayor nor the six municipality mayors complied. Some of them not only kept the old ones but also appointed new advisors. CIN reporters discovered that following the abolishment of the advisory function, mayors and municipal leaders were advised by 20 people. Since then, at least half a million marks have been spent on their salaries.¹⁰

Table 1. Number of advisory positions in the Council of Ministers of BiH

Name of institution	Minister's Cabinet - number of advisors	Deputy Minister's Cabinet - number of advisors	TOTAL
Ministry of foreign affairs	5	3	8
Ministry of Security	5	3	8
Ministry of Defense	5	3	8
Ministry of Finance and treasury	5	3	8
Ministry of Justice	5	3	8
Ministry of foreign Trade and Economic Relations	5	3	8
Ministry of Transport and Communications	5	3	8
Ministry of Human Rights and Refugees	5	3	8
Ministry of Civil Affairs	5	3	8
TOTAL	45	27	72

Source: Author's work

Table 1 shows the number of advisors directly appointed by elected representatives at the level of BiH. According to available data¹¹, within the Council of Ministers, the Minister has the right to appoint five advisors including the Chief of Cabinet, while the Deputy Minister has the right to appoint three advisors. In total, without advisors in the cabinet of the Chair of the Council of Ministers, there are 72 advisors at the State level.

Based on the data from Table 1, and based on the assumption that each advisor has a net monthly salary of BAM 2,000, Table 2 shows the costs of 72 advisors in the Council of Ministers during one term.

Table 2. Costs of salaries of advisors in the Council of Ministers for one term

Name of institution	Minister's Cabinet	Deputy Minister's Cabinet	TOTAL
Ministry of foreign affairs	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Security	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Defense	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Finance and treasury	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Justice	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of foreign Trade and Economic Relations	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Transport and Communications	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Human Rights and Refugees	BAM 840,000	BAM 504,000	BAM 1,344,000
Ministry of Civil Affairs	BAM 840,000	BAM 504,000	BAM 1,344,000
TOTAL	BAM 7,560,000	BAM 4,536,000	BAM 12,096,000

Source: Author's work

According to the data in Table 2, one advisor costs the State an average of BAM 42,000 per year based on gross salary. This number multiplied by the number of advisors and four-year term gives the information about the cost of 72 advisors in the Council of Ministers, which is around BAM 12 million for one term only. On the other hand, the question is whether this cost is justified since so far the public has not been aware of their performance assessment and their contribution in return for the money they receive.

An additional argument in favor of abolishing the function of advisors is the fact that they do work within the competence of the ministry, which is already done by civil servants employed in the said institution. Upon order of the Minister/Deputy Minister, civil servants can perform delegated activities and obligations, which would also increase their productivity. Also, being already familiar with the work and responsibilities of the ministry, civil servants can prepare better and faster for the execution of delegated activities and obligations than external advisors, who often lack the legally required experience. The CIN's documented cases show that for some elected representatives, the elected advisors did not have enough work experience. In one example, as many as five of the eight possible advisors did not satisfy the statutory requirements, and for one of the advisors, it was his/her first work experience.¹²

To improve this area, it is possible to make changes to legislation, so that these positions are abolished at the level of BiH and the FBiH, which would lead to significant annual savings in expenditures for these positions. To this end, amendments to the Civil Service Act were drafted abolishing these positions, as shown in annexes 1 and 2. These amendments reduce the possibility for persons

appointed to the positions of advisors from being appointed to the positions of civil servants through public vacancies.

• Political appointments to SOE management

The ruling political parties exercise their political power by controlling a large number of management and supervisory boards of various enterprises, agencies, and directorates. This is done through the appointment of politically suitable staff, whose professional merit for the job is irrelevant. Through the supervisory and management boards, the political appointees can control all strategic, economic, and financial decisions in the company's operations, as well as in the management of public procurement procedures.

The establishment of administrative structures and the appointment of members to these structures in public enterprises in BiH is regulated by a set of rules, including:

- *Public Enterprise Acts at the Entity level;*
- *Law on Ministerial, Governmental and Other Appointments in the Entities*
- *A decision on the establishment of assemblies of canton-owned public companies¹³*
- *A decision on standards and criteria for appointment to the position of president and members of assemblies of cantonal public utility enterprises¹⁴*
- *Entity Government Act¹⁵*
- *Decree on the exercise of authority in SOE under the competence of the Federation of Bosnia and Herzegovina¹⁶*
- *Internal documents of the company - statutes*

According to the Public Enterprise Act of the FBiH, the company's management is elected by the supervisory board by a majority vote based on a public competition from among the candidates who, according to managerial knowledge and experience, are best suited to meet the operational and business needs of the public enterprise. Persons holding office in political parties may not be appointed to the company's management. When appointing members of the Supervisory Board, the provisions of the Law on Ministerial, Governmental and Other Appointments of the Federation of Bosnia and Herzegovina and the provisions of the Law on Conflict of Interest in Government Institutions of Bosnia and Herzegovina shall apply.¹⁷

Although the Law on Ministerial, Governmental and Other Appointments of the Federation of Bosnia and Herzegovina provides for an open election procedure for the final appointment and reappointment to positions in regular bodies in which the government, cantonal, city or municipal authorities have a legal interest (including government agencies and enterprises regardless of whether they are wholly or partly owned by the government)¹⁸, which means that every citizen of BiH has an equal chance to be elected through a competition to a supervisory board of a public enterprise, in reality, political parties select their party persons for supervisory boards not through the competitions but through a commission that has the right to subjectively evaluate the candidates.

The CIN's story based on one of Sarajevo's public enterprises showed that in the assemblies sit the people who are usually appointed by political parties and thus control the work of the enterprise. CIN reporters spoke with 28 former and then members of the assemblies and most of them admitted to being members of political parties. Candidates' education and work experience were often not related to the enterprise's core activity and the responsibilities of the members of the assembly. In the eight years analyzed, 252 people passed through the assemblies of 14 enterprises. CIN reporters did not receive biographies of all candidates from the relevant ministries, yet, they managed to collect biographical data for 100 of them. According to these data, at least 40 of them did not meet the precise criteria that were valid for a short time, while some cases point to the abuse of procedures for issuance of certificates proving work experience.¹⁹

A document published by the IMF, which assessed the performance and oversight over state-owned enterprises in BiH, presented the negative aspects of the operations of these enterprises. There are 550 majority state-owned enterprises in BiH, employing 80,000 workers. According to the analysis, state-owned enterprises do not contribute enough to the economy. In 2015-2017, the return on equity (ROE) of these enterprises averaged -0.3 percent, indicating that government investment in the sector yielded negative returns. It was particularly emphasized that the Management and Supervisory Board member selection is decentralized and independence requirements is weak. The average salary in these enterprises is about 40% higher than in the private firms, despite lower productivity and profitability.

Finally, the general conclusion is that SOEs negatively impact macroeconomic performance and do not contribute enough to the economy because of low profitability, high leverage, and low liquidity. Total SOE debts total BAM 8 billion (26 percent of GDP), and through significant tax arrears, they impact the pension and health security systems. Almost half are illiquid and rely on state support, both implicit and explicit, to stay afloat, while 66 firms that have accumulated losses of BAM 3.2 billion thus wiping out the value of their equity.²⁰

To reduce the possibility of appointing politically suitable members to the SOE's management, amendments to the legislation have been drafted and are provided in Annex 3 to this document. These amendments aim to repeal the provision that allows a public official, be it a minister, or another person or body responsible for the regulated body, to appoint two members to the Commission for selection and appointment of members of Supervisory Boards. Abolishing this possibility will reduce the possibility of direct political influence on the selection of members to the Commission, and thus on the selection of politically preferred staff.

• Public sector vacancies and selection from the list of successful candidates

Almost five thousand people apply for job vacancies in the public sector - the most desirable employer in Bosnia and Herzegovina (BiH). CIN's documented cases²¹ show that many people apply for various vacancies several times. Many have very similar experiences, and despite their education and experience, none have been able to get a job. The documented cases tell stories of persons who were at least twice the second-best candidates, and who claim that "without pulling strings" it is impossible to pass the competition procedure conducted on behalf of the institutions by the Civil Service Agency (CSA).

Complaints about the fairness of commission members grading exams do no good. Regulations do not even permit questioning individual commission members about how and why they gave the grades they did.

The procedure for selecting employees in BiH institutions begins with passing a general knowledge and a professional exam. Once the ADS—which manages hiring – publishes a call for applications for a job at an institution and candidates send in the required documents, those who meet the requirements take a test. The candidates first take a general knowledge test, which checks the candidate's knowledge of the organization and functioning of the country. Those who answer at least 28 of 42 questions qualify and never have to take that exam again. The next step is a professional knowledge test consisting of a written and an oral part. Ultimately, a candidate can accumulate up to 130 points on the two parts.

The major problem with the selection of employees in the institutions of BiH is the discretionary right to select a candidate from the list of successful candidates, as specified in Article 28 of the Civil Service Act of BiH.²² It is this provision that allows the Commission to select a candidate from the list, even if he/she had fewer points than the best-ranked candidate.

Recruitment in the FBiH is regulated by Article 31 of the Civil Service Act of the Federation of BiH, which states that the appointment of a civil servant shall be carried out by the competent civil service authority, upon the prior opinion obtained from the CSA of the FBiH from the list of successful

candidates who have passed the open competition. Like at the State level, the head has the discretion to choose one of the candidates from the list but is not obliged to choose the candidate who achieved the highest number of points in the general knowledge or professional exam or to explain his/her decision, which calls into question the selection process.

In the Republika Srpska, the process of selection and appointment of candidates is not fully regulated by the Civil Servants Act of the RS but is more closely governed by the Rulebook on Uniform Rules and Procedures for Public Competition for Employment and Appointment of Civil Servants. This Rulebook stipulates that the Commission shall compile a list of successful candidates after determining the final results of the public competition, and submits it with the entire supporting documentation to the Civil Service Agency. If the Agency, after receiving the entire documentation, finds that the Commission acted by the provisions of the Rulebook, it shall confirm the list of successful candidates and proposes recruitment and appointment of the most successful candidate from the list.²³

These cases show that the process of selecting civil servants is not transparent. To improve this area, Annexes 4 and 5 offer amendments to the laws at the level of the State and the FBiH to change the current practice and ensure that a candidate is selected based on the best results, not from the shortlist.

• Recruitments to public companies in FBiH

Employment in SOEs is around a quarter of public sector employment and 11 percent of total employment. The average monthly gross salary in SOE was BAM 1,475 relative to BAM 1,056 average gross salary in BiH. Although employees in public enterprises had about 28% higher gross salary compared to the average in BiH, the estimated average revenue per worker, if we take it as an indicator of productivity, was 8% lower than in the private sector.²⁴

For political parties, controlling the management of public enterprises is important from the aspect of employing their staff. Many segments of society, in particular citizens, suffer direct harm from this: citizens receive poorer quality service as a direct consequence of employing less skilled people in certain positions; the enterprise itself suffers as it is overstaffed, thus incurring higher expenses, while it is less efficient and incurs losses; Ultimately, the company, in the event of loss, is subsidized from tax-payers' money, instead of that money being invested in other, more useful projects.

In several documented cases, CIN has been able to demonstrate how people get employment in public enterprises. These cases include hiring the children of existing employees, waiving severance pay in return for hiring a child of a particular person in the same company, or party officials.

For example, during 2014 and 2015 several people got jobs in HT Eronet through their parents. In agreement with the Management, they all got permanent jobs after their parents left the company and waived their severance pay. The Federation BiH Ministry of Transport and Communications approved this. BH Telecom also has not frowned at hiring the children of staffers. It has been confirmed that family members of deceased staffers got hired without a job ad. In four and a half years, 70 people out of 336 employed staff came to this company through a public competition procedure. According to the previous law, public enterprises were not required to advertise vacancies for new employees, which was changed in November 2018 through amendments to the Labor Law in FBiH, making this an explicit requirement. According to the reports of the Supreme Audit Institution in Federation BiH, for years, the FBiH government failed to set up transparent hiring in public enterprises.²⁵

In a performance audit titled "Hiring Transparency in the FBiH Public Enterprises", SAO FBiH's auditors concluded that in three years, 2,282 new workers were employed in nine public enterprises, of which 1,674 were hired outside of competition.²⁶ Over-staffing these enterprises causes huge financial damage, and significantly burden the financial sustainability of public enterprises, which is a long-term threat to the budgets of various levels of government.

- Hiring workers outside of competition or hiring staff already employed on a fixed-term basis

Political control and influence on the work of public companies allow directly appointed managers to hire workers for a certain period, for whom they later advertise a vacancy for a permanent post or even hire them outside of a public competition procedure.

Documented CIN's stories show that in the period from 2007 to 2010 the Sarajevo canton Public Health Center hired almost 600 workers outside the public competition procedures. Among them were friends, relatives of Board members, and the children of long-term employees. According to the statements of employees or members of their families, they got a job by sending in applications, although at the time the Conclusion of the Sarajevo Canton Government was in force requiring the consent of the Canton Sarajevo Ministry of Health for each new employee. The recruitment procedure looked like this: a candidate would submit an application to the director, after which he or she was interviewed by the director and then sent to Human Resources Department for information about his or her job. The candidate first signs a fixed-term contract, and after some time a permanent contract. The whole procedure from applying to signing a contract might take only a few days.²⁷

In another story, CIN has learned, based on data from 33 state ministries, directorates, and agencies, that over the past five years, at least 260 people have already worked in the positions for which the public vacancy was subsequently advertised. They worked in these positions based on service contracts or fixed-term contracts. CIN mailed a request for information to 54 State-level institutions asking for the names of civil servants and the type of contract that they'd held in that same period between 2006 to 2011, hoping to get a clearer picture, based on the type and date of contracts, on how many vacancies advertised were for positions in which people were already under contract.²⁸

Some cases show that for certain positions advertised, the names of the persons who will be hired were known in advance. One such public competition was the competition of the Ministry of Finance and Treasury. About 200 candidates applied for it, but the CSA failed to inform 125 of them about the date of the written part of the professional exam, which was organized on September 15, 2011. Consequently, they had to take the first part of the exam 20 days later. In the end, four candidates, who were known beforehand that will be hired, got the jobs, while the fifth candidate failed the first part of the exam, so no one was hired for this position in the Ministry of Finance and Treasury of BiH.²⁹

CIN's research story about the vacancy in the BiH Ministry of Justice showed that the two candidates won a maximum of 100 points after the written part of the exam. CIN found that both of those candidates had already been working at the BiH Ministry of Justice when they took the exam and held year-long contracts that were set to expire two months after the call for applications was put out. When we called the Ministry and asked to talk to one of the two, we were told that they were on vacation.³⁰

The state suffers huge financial losses due to redundancies employed in this way. To show the economic effects of hiring workers in the civil service, we developed Table 1. This table shows a total of five different scenarios, estimating the gross annual expenditure per worker at BAM 30,000, i.e. BAM 2,500 a month, including expenditures for meal and transport allowances. According to scenario A, 100 redundant workers, who were hired to the civil service under suspicious circumstances, cost the State three million BAM per year. If that number is 500 workers, as shown in scenario C, then that number of redundant workers costs the State BAM 15 million per year. In Scenario E, assuming that 5,000 workers are employed under suspicious circumstances, outside the public competition procedures, or are redundant, their financing costs the State as much as BAM 150 million per year. Details are shown in Table 3.

Table 3. Scenarios of total annual expenditures for redundancies in the civil service

Scenario	Number of staff	Annual expenditure per employee	Total annual expenditures
A	100	BAM 30,000	BAM 3,000,000
B	250	BAM 30,000	BAM 7,500,000
C	500	BAM 30,000	BAM 15,000,000
D	1,000	BAM 30,000	BAM 30,000,000
E	5,000	BAM 30,000	BAM 150,000,000

Source: Author's work

CONCLUSION AND RECOMMENDATIONS

- *Allowing political parties to manage public enterprises leads to a large debt in these enterprises. According to the IMF report, there are about 550 state-owned enterprises in Bosnia and Herzegovina with 80,000 employees, and they have a debt of about eight billion BAM, of which 3.2 billion of tax debt. This debt accounts for about 22% of BiH's GDP.*
- *Positions of advisors are usually filled by party persons. CIN's stories confirm that the advisors are employed as civil servants, after being employed in those institutions based on fixed-term contracts.*
- *One advisor at the BiH level costs the State, based on a gross salary, an average of BAM 42,000 per year, which means that 72 advisors in the Council of Ministers cost the State around BAM 12 million for just one term. On the other hand, the question is whether this cost is justified since so far the public has not been aware of their performance assessment and their contribution in return for the money they receive.*
- *The establishment of administrative structures and the appointment of members to these structures in public companies in BiH is regulated by a set of rules. Our stories have disclosed the schemes of hundreds of political appointments to the supervisory and management boards of various agencies, institutes, and public companies founded by the Government of the FBiH.*
- *The major problem in the selection of employees in institutions in Bosnia and Herzegovina is the discretionary right to select a candidate from the list of successful candidates. It is this provision that allows the Commission to select a candidate from the list, even if he/she had fewer points than the best-ranked candidate, thus opening room for misuse of the process.*
- *Employment in public enterprises without public competition has become a common phenomenon. The documented cases have shown that in three years, 2,282 new workers were employed in nine public companies, of which 1,674 were hired outside of a public competition.*
- *CIN's stories show that, based on data from 33 state ministries, directorates, and agencies, over the past five years, at least 260 people have already worked in the positions for which the public vacancy was subsequently advertised.*
- *To improve the process of selecting candidates for the civil service, it is necessary to amend the provisions that allow the selection of a candidate from the shortlist, and not the best-ranked candidate.*

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- ¹⁵ Official Gazette Federation of nos. 1/94, 8/95, 58/02, 19/03, 2/06 and 8/06
- ¹⁶ Official Gazette of the Federation of BiH, Nos. 20/16, 3/17, 9/17, 69/17 and 96/17) - in case of a Decision on giving prior consent to the supervisory boards for dismissal and/or appointment of members of the company's management
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- ¹⁸ <http://www.fbihvlada.gov.ba/bosanski/zakoni/2003/zakoni/44bos.htm>
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- ²⁰ <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi6utHxqPHtAhUNxosKHfWvBaIQFjACegQIARAC&url=https%3A%2F%2Fwww.imf.org%2F~%2Fmedia%2FFiles%2FPublications%2FWP%2F2019%2FBosnian%2FWPIBA2019201.ashx&usg=AOvVaw2l3EjPek0SmDGVKjRwjytV>
- ²¹ <https://www.cin.ba/vjecito-drugi/>
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- ²³ <https://ti-bih.org/wp-content/uploads/2014/12/Zapo%C5%A1ljavanje-u-organima-javne-uprave-sa-posebnim-osvrom-na-primjenu-zakonskih-principa.pdf>
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