

**(“Official Gazette” of Bosnia and Herzegovina, 12/02, “Official Gazette” of the  
Federation of Bosnia and Herzegovina, 23/02, “Official Gazette” of the  
Republika Srpska, 31/02)**

**DECISION OF THE  
HIGH REPRESENTATIVE**

n. 182/02

**In the exercise** of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on the Civilian Implementation of the Peace Settlement; and considering in particular Article II.1. (d) of the last said Agreement, according to the terms of which the High Representative shall “Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

**Recalling** paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including (under sub-paragraph (c) thereof) measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

**Recalling** the importance which the international community has attributed to the adoption of a Law on Civil Service in the Institutions of Bosnia and Herzegovina as part of establishing the rule of law and reinforcing the common institutions in Bosnia and Herzegovina;

**Noting** by way of example of the said attribution, the priority given by the Peace Implementation Council at its meeting held in Madrid on 16 December 1998 to the creation of a professional and apolitical civil service as a vital component of any effectively functioning state; and noting further the full support it expressed for the High Representative’s determination to strengthen the common institutions by working with the Bosnia and Herzegovina authorities to adopt a Law on Civil Service in the Institutions of Bosnia and Herzegovina which would provide for the selection, management, career progression, compensation and social benefits of public employees in a such a way as to foster professionalism and political independence;

**Recalling** that the Peace Implementation Council, at its meeting in Brussels on 23-24 May 2000, called on the authorities of Bosnia and Herzegovina to adopt such law as aforesaid by September 2000 and recalling further that the High Representative was urged to use his authority in accordance with his mandate to ensure full and accelerated implementation in all sectors of civilian implementation;

**Considering** that the adoption of the Civil Service Law was a requirement referred to in the Road Map of the European Union for Bosnia and Herzegovina and its adoption is an obligation of Bosnia and Herzegovina to meet EU guidelines;

**Considering** that the Law on Civil Service in the Institutions of Bosnia and Herzegovina, drafted in partnership between the International Community and the Council of Ministers, was adopted by the said Council of Ministers of Bosnia and Herzegovina in September 2001; and considering further that both Houses of the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law in different versions at the beginning of 2002;

**Concerned** that the Parliamentary harmonisation commission of Bosnia and Herzegovina, to which the law was referred more than two months ago, has failed to agree on a consolidated version of the Law.

**Concerned** that the delay in the adoption of the Law has made it impossible to start the process of establishing a professional, merit-based civil service to provide the non-partisan expertise and professional continuity which meets best European standards;

**Having considered** and borne in mind all the matters aforesaid, I hereby issue the following

## **DECISION IMPOSING THE LAW ON CIVIL SERVICE IN THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA**

This Decision and the Law attached hereto which forms part thereof shall be published without delay in the Official Gazette of Bosnia and Herzegovina, of the Federation of Bosnia and Herzegovina and of the Republika Srpska.

The attached law shall come into force, as provided for by article 70 thereof, namely eight days after the date of such publication in the Official Gazette of Bosnia and Herzegovina on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.

Sarajevo, 23 May 2002

Wolfgang Petritsch  
High Representative

### **Law on Civil Service in the Institutions of Bosnia and Herzegovina**

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1**

##### **Scope of the Law**

1. This Law regulates the legal status of civil servants in the Institutions of Bosnia and Herzegovina (hereinafter the Institution).
2. A civil servant consists of an individual appointed to a civil service position by an administrative act in accordance with law.

##### **Article 2**

##### **Recruitment and Representativeness**

1. The recruitment and the professional career advancement of a civil servant shall be based upon open competition and professional merit.
2. The structure of civil servants within the civil service shall generally reflect the ethnic structure of the population of Bosnia and Herzegovina in accordance with the last census.
3. National representativeness of civil servants shall be based upon voluntary declaration in accordance with this Law.

**Article 3**  
**Principles of the Law**

1. The Civil Service shall ensure the respect and the application of the following principles:
  - a) Legality
  - b) Transparency and publicity;
  - c) Accountability;
  - d) Efficiency and effectiveness;
  - e) Professional impartiality.

**Article 4**  
**Exceptions in Application**

1. Members of the Parliamentary Assembly of Bosnia and Herzegovina (hereinafter the Parliamentary Assembly), Members of the Presidency of Bosnia and Herzegovina (hereinafter the Presidency), the Council of Ministers (hereinafter the Council of Ministers), Ministers, Deputy Ministers, Members of the Standing Committee on Military Matters, Judges of the Constitutional Court of Bosnia and Herzegovina (hereinafter the Constitutional Court), Judges of the Court of Bosnia and Herzegovina (hereinafter the Court of Bosnia and Herzegovina), Governors and Vice-Governors of the Central Bank of Bosnia and Herzegovina (hereinafter the Central Bank), the Auditor-General and the Deputy Auditors-Generals of the Supreme Audit Institution of Bosnia and Herzegovina (hereinafter the Supreme Audit Institution) are not civil servants and their legal status shall be regulated by law.

Individuals employed as Advisors to the Members of the Parliamentary Assembly, the Members of the Presidency, the Chair of the Council of Ministers, the Ministers and the Deputy Ministers, the Governor and Vice Governors of the Central Bank are not civil servants

**Article 5**  
**Advisors**

1. Advisors shall be subject to the application of the following Articles: 14 .2.a), 14.5, 15.1.f), 18, 22, 43, 44 and 45 of this Law;

**Article 6**  
**Diplomatic and Consular Service and Border Service**

1. The civil servants of the Diplomatic and Consular Service and the Border Service shall be subject to the application of this Law.
2. With the exception of the provisions of Articles 1, 2 and 3 of this Law, the Council of Ministers of Bosnia and Herzegovina (hereinafter: Council of Ministers) may, with prior consent obtained from the Agency of Civil Service (hereinafter; the Agency), decide not to subject the Diplomatic and Consular Services and the Border Service to the application of certain provisions of this Law.
3. This Law shall not apply to the persons employed at the BiH Central Bank.

**CHAPTER II**

**CIVIL SERVICE POSITIONS**

**Article 7**  
**Civil service positions**

1. A civil servant shall be appointed to one of the following positions:
  - a) Managerial civil servants:
    - 1) Senior Executive Manager and Senior Executive Manager with a special assignment,
    - 2) Assistant Minister

- b) Other Civil Servants:
  - 1) Head of internal organizational unit,
  - 2) Senior Advisor,
  - 3) Senior Official,
  - 4) Specialist.
- 2. Categories within the positions referred to in paragraph 1 of this Article shall be defined by By-laws.

**Article 8**  
**Senior Executive Manager and Senior Executive Manager with a special assignment**

- 1. The Senior Executive Manager shall perform functions of a managerial nature and co-ordinate the work of sectors. He/She shall hold responsibility over the use of financial, material and human resources assigned to a given Institution. The Senior Executive Manager is responsible for his/her work and his/her administration before the Head of the Institution referred to in Article 4.1.
- 2. The Senior Executive Manager with a special assignment shall perform functions of a managerial nature and shall be responsible for performances under a specific assignment established by a decision of the Council of Ministers or separate regulations. The same terms and conditions as for the senior executive manager shall apply to the senior executive manager with a special assignment unless otherwise provided in this Law. The Senior Executive Manager with a special assignment is responsible for his/her work and his/her administration before the Council of Ministers.

**Article 9**  
**Assistant-Minister**

- 1. The Assistant Minister shall perform function of managerial nature over the basic organizational unit and hold responsibility over the use of financial, material and human resources assigned to a given basic organizational unit.
- 2. The Assistant Minister is responsible for his work and for his administration before a minister and his deputies.

**Article 10**  
***Head of internal organizational unit***

- 1. The Head of Internal Organizational Unit shall perform the functions of higher complexity and hold responsibility over the use of financial, material and human resources assigned to a given internal organizational unit.
- 2. The Head of Internal Organizational Unit is responsible for his work and for his administration before an assistant minister, or before a senior executive manager where there is no assistant minister in the Institution concerned.

**Article 11**  
**Senior Advisor**

- 1. The Senior Advisor is a civil servant, whose duties entail responsibility, high level of skills and autonomy for certain areas of work within an organizational unit.
- 2. The Senior Advisor shall report either to the Assistant-Minister or to the Head of the organizational unit.

**Article 12**  
**Senior Official**

- 1. The Senior Official shall perform functions of responsibility in a given organizational unit.
- 2. The Senior Official shall report to the Head of the organizational unit.

**Article 13**  
**Specialist**

1. A Specialist is specialized in a given area of work.

## **CHAPTER III**

### **DUTIES AND RIGHTS OF CIVIL SERVANTS**

#### **Article 14**

##### **Duties of the civil servant**

1. A civil servant shall perform the tasks assigned in the job description and apply and ensure compliance with the constitutional and legal order in Bosnia and Herzegovina.
2. Should a civil servant receive an allegedly illegal order, he shall apply the following procedure:
  - a) He shall draw the attention of the issuer of the order to its illegality;
  - b) Should the issuer of the order repeat the order, the civil servant shall request a written confirmation indicating the identity of the issuer and the precise content of the order;
  - c) Should the order be confirmed, the civil servant shall notify the order to the immediate superior of the issuer of the order and be compelled to perform it unless the order does constitute a criminal offense. In such case, the civil servant shall refuse to perform it and denounce the matter to the competent authority.
3. A civil servant shall be impartial and in particular:
  - a) Refrain from any action or omission, which is incompatible with or infringes duties as established by this Law and in particular refrain from publicly manifesting his political or religious beliefs;
  - b) Not pursue nor accept any gain, benefit, advantage in money, services or kind for himself or for his relatives other than those authorized by this Law.
4. A civil servant shall be guided by the public interest in the performance of his duties and in particular:
  - a) Serve and assist the public;
  - b) Provide the public, interested parties and public institutions with the information requested subject to Law on Freedom of Access to Information in Bosnia and Herzegovina ("Official Gazette of BiH" no. 28/2000).
5. A Civil servant shall not occupy real estate property which is owned by a refugee or displaced person, nor occupy an apartment where a refugee or displaced person has claimed an occupancy right, nor occupy an apartment which should be under the administration of the municipal administrative authority responsible for housing or responsible body of the RS MRDP for use as alternative accommodation
6. A civil servant shall abide by all other duties as provided in this Law.

#### **Article 15**

##### **Rights of the civil servant**

1. A civil servant shall have a right to:
  - a) A permanent tenure of office until such time the requirements for pension are met, unless otherwise provided in this Law ;
  - b) A leave of absence as established by law and to continue in the same or similar job position when the leave ends;
  - c) Be rewarded according to duties and performance as established by this Law ;
  - d) Be entitled to salary and compensation in accordance with the manner established in Chapter V of this Law;
  - e) Be encouraged and supported in advancing career and professional development through training and other means;

- f) Be protected in his physical and moral integrity by the State while fulfilling his official duties;
  - g) Be treated by his superiors with respect to his human dignity;
  - h) Be entitled to form and to join, but not be obliged to join, a Trade Union or a professional association in accordance with the law;
  - i) Go on strike in accordance with the law.
2. A civil servant shall be entitled to receive fair and equitable treatment in all aspects of personnel management without regard to his ethnic origin, social origin, entity citizenship, residency, religion, political or other opinion, sex, color, birth, marital status, age, property, handicapping condition or other status.
  3. A civil servant shall be exempted from all military obligations after his appointment.

### **Article 16 Incompatibilities**

1. A civil servant shall not exercise a function, an activity or hold a position, which constitutes conflict of interests with his official duties and in particular:
  - a) A civil servant shall not exercise any additional remunerative activity unless authorized by his Minister or Head of Institution. By-laws shall determine the cases in which an authorization may be given;
  - b) A civil servant who has been released from office may not, within two years after the date of release of office, be employed by an employer over whom, or join a company over which, he exercised regularly supervision. He shall also not receive any income from such employer or company within two years after the date of release from office;
  - c) A civil servant, with the exception of those holding the position of Senior Executive Manager or of Assistant-Minister, shall be considered on leave from the Civil Service from the moment he is certified as a candidate for a public office which is directly or indirectly elected or from the moment he is appointed to a position within any legislative or executive body of authority at any level of government in Bosnia and Herzegovina. In such case, a civil servant holding the position of Secretary or of Assistant-Minister, shall resign from the Civil Service;
  - d) The civil servant mentioned under Art. 16 1. c), with the exception of those holding the position of Senior Executive Manager and Assistant-Minister, shall be reinstated in the same or similar job position not later than one month after the following cases: failure to be elected, end of his term and end of his position within a legislative or executive body of authority at a level of government in Bosnia and Herzegovina;
  - e) A civil servant shall not be a member of governing or others boards of political parties and shall not follow political parties' instructions.
2. A civil servant shall disclose, in accordance with this Law, all information on properties at his disposal and at the disposal of the members of the close family as well as activities and functions performed by himself and the members of the close family, when appointed as a civil servant.
3. All data shall be kept recorded in the Civil Service Register in accordance with regulations on data protection in force in Bosnia and Herzegovina.

### **Article 17 Senior Executive Manager with a special assignment**

1. A senior executive manager with a special assignment, who previously held the status of civil servant, shall be reinstated in the same or similar position, whenever he would lose his special assignment in the following cases:
  - a) Irregular appointment;
  - b) Unsatisfactory probationary period;
  - c) End of the special assignment;
  - d) Voluntary resignation from the position.

**Article 18**  
**Rights and obligations of Advisors**

1. An advisor shall not be granted a security of tenure:
  - a) He may be dismissed at any time by his appointing authority upon the motion of an authorized proponent;
  - b) The term of an advisor may not be longer than the term of the individual he advises;
  - c) The appointment as an advisor shall not be transformed into the position of civil servant with a security of tenure.
2. Should a civil servant, with the exception of those holding the position of Secretary and Assistant-Minister, be appointed to the position of advisor, he shall be considered on leave from the moment of his appointment. In such case, a civil servant holding the position of Secretary and Assistant-Minister shall resign from the Civil Service.
3. The civil servant mentioned under Art. 18. 2, with the exception of those holding the position of Secretary and Assistant-Minister, shall be reinstated in the same or similar job position not later than one month after the end of his appointment.
4. An advisor shall resign from the moment he is certified as a candidate for an elected position or from the moment he is appointed to a position within any legislative or executive body of authority at any level of government in Bosnia and Herzegovina.
5. By-laws shall define the specific cases of incompatibilities for the position of advisor.

**CHAPTER IV**

**VACANCY, TRANSFER, RECRUITMENT,  
PERFORMANCE MANAGEMENT, PROMOTION**

**Article 19**  
**Vacancy**

1. Should a vacancy for a civil servant position exist within an Institution, the Institution shall first advertise this vacancy internally. The Institution shall consider whether the position can be filled through an internal transfer of a civil servant occupying a similar position within the Institution, in accordance with Article 32;
2. Should such internal transfer not be possible, the Agency for Civil Service shall attempt to fill the position through an external transfer of a redundant civil servant occupying a similar position in a different Institution in accordance with Article 33;
3. Should an external transfer not be possible, the vacant position shall be advertised for open public competition, which shall be carried out in accordance with this Law.

**Article 20**  
**Internal advertising**

1. The advertisement of the vacancy shall be done by the Agency for Civil Service;
2. The advertisement shall be published, at least 1 month before the application deadline, in the Official Gazette of Bosnia and Herzegovina and in the Institution where the vacancy occurred;
3. The advertisement shall contain:
  - a) A description of the vacant position ;
  - b) A description of the type of competition;
  - c) The list of subject matters for the competition;
  - d) The list of required documents, deadline and place for their submission;
  - e) The specific academic and professional requirements for the position to be filled;
  - f) Other requirements, which might be deemed, appropriate.

**Article 21**  
**External advertising**

1. The advertisement of the vacancy shall be done by the Agency for Civil Service;
2. The advertisement shall be published, at least three months before the application deadline, in the Official Gazette of Bosnia and Herzegovina, and shall also be published in:
  - a) the Official Gazettes of the entities and the Official Gazette of District Brcko and;
  - b) In the diplomatic and consular posts and;
  - c) In, at least, three daily newspapers whose distribution covers the whole territory of Bosnia and Herzegovina;
3. The advertisement shall contain the general requirements for appointment as a civil servant and the items enumerated under Art.20.3.

**Article 22**  
**General requirements for appointment as civil servant**

1. To be appointed as a civil servant a person shall meet the following general requirements:
  - a) To be a citizen of Bosnia and Herzegovina;
  - b) To be more than 18 years of age;
  - c) To hold a university degree and other educational or academic qualifications of minimum level VII;
  - d) To satisfy the requirements of medical examination for the duties assigned to the position;
  - e) To be free of military obligations in accordance with law;
  - f) Not to have been dismissed from the civil service as a consequence of a disciplinary measure at all levels of governance in Bosnia and Herzegovina within three years before the date of the publication of the vacancy in the Official Gazette of Bosnia and Herzegovina;
  - g) To have a certificate stating that there has currently not been instituted criminal proceedings against that person;
  - h) Not to be affected by Article IX.1 of the Constitution of Bosnia and Herzegovina.
2. Notwithstanding the requirements set out in paragraph 1 of this article, the persons holding the two-year post secondary education (degree VI) appointed earlier as civil servants to the position of Specialist may maintain the position for the period not exceeding 2 years following the entry into force of this Law.

**Article 23**  
**Non-discrimination**

1. The Agency for Civil Service shall ensure, when organizing a public competition, that no distinction or selection shall be done on a discriminatory basis in accordance with Art.15.2 of this Law.

**Article 24**  
**Selection Committees**

1. The Agency of Civil Service shall appoint specific selection committees that are impartial at administrating the public open competitions.
2. A Selection committee shall be composed of at least five members, at least three members of which shall be civil servants of the institution concerned and have a demonstrable academic and professional expertise in the areas covered upon during the open competition, as determined by by-laws. Other two members of the selection committees shall be appointed from a list of experts approved by the Agency.
3. Selection committees shall designate a Chairman among their members and adopt rules of procedure, by majority of votes of all members.

**Article 25**



## **Resignation and Disqualification of Selection Committee members**

1. Should a conflict of interest for a member of the selection committee exist, such member shall resign from the committee.
2. Any registered candidate may ask and receive from the Agency for Civil Service the names of the members of the selection committee.
3. Any registered candidate may introduce a request before the Civil Service Board to disqualify any member of a selection committee on the basis of:
  - a) Conflict of interest as provided under Art.16 of this Law;
  - b) Obvious risk of prejudice or bias;
  - c) Lack of the required expertise.
4. The review by the Civil Service Board shall not suspend the recruitment process. In case the Civil Service Board or the competent Court grants the request, the whole recruitment process shall be declared null and void. In such case, the Agency for Civil Service shall reorganize a public open competition in accordance with this Law.

## **Article 26 Open competition**

1. The Agency for Civil Service shall determine the nature and the content of the open competition.
2. The open competition shall include:
  - a) a general exam;
  - b) a specialized exam;
3. The Council of Ministers shall, upon proposal of the Agency, determine in a by-law the manner of taking the exams and the program for the exams.

## **Article 27 Selection process**

1. A selection committee shall examine and select the candidates upon professional merits assessed through an open competition that shall be identical for all candidates for the same vacancy. Such open competition shall take place at least 30 days after the application deadline.
2. By-laws shall determine the system of allocation of score for each candidate in accordance with Articles 22, 26, 70 and 71 of this Law.
3. The Agency for Civil Service shall publicize the results of the open public competition and notify each applicant in writing his results in accordance with this Law.

## **Article 28 Appointment of the civil servant**

1. The appointment of a civil servant shall be carried out by the Agency, upon prior opinion of the competent institution, in accordance with the results accomplished by this candidate during the selection process.
2. The competent institution shall appoint the managerial civil servants, upon prior opinion obtained from the Agency, from the list of successful candidates who have passed the open competition.
3. A reserve list of successful candidates shall be kept until the appointed ones have concluded the probationary period.
4. Appointments shall be made by an administrative act published in the Official Gazette of Bosnia and Herzegovina. Before taking office, an appointed candidate shall receive a written description of the conditions of service and of the terms of reference attached to his position;
5. The appointment act shall contain:

- a) The given name and surname of the civil servant;
  - b) The name of the Institution where the civil servant is appointed;
  - c) The title of the position and the salary grade;
6. An appointed candidate shall take office by swearing an oath of allegiance. The Agency of Civil Service shall determine the text of the oath. The signed text of the oath shall be included in the personal file of the civil servant.

### **Article 29** **Probation period**

1. Upon taking office a civil servant shall undergo a probationary period. The probationary period of the civil servants shall include both an induction and a performance period and shall have an overall duration of twelve months unless otherwise provided in this Law.
2. His direct superior shall be designated as a supervisor responsible for carrying out a performance appraisal at the end of the probationary period. In the case of the appointment of a Secretary, the probationary performance appraisal shall be exercised by the Minister and his/her Deputies.
3. Should the performance appraisal be:
  - a) Satisfactory, the appointing authority shall confirm the appointment of the civil servant;
  - b) Unsatisfactory, the appointing authority shall dismiss the civil servant, which shall in consequence lose his status without receiving any dismissal due compensation. The dismissed civil servant shall be entitled to have his case reviewed by the Civil Service Board in accordance with Art.63 of this Law.
4. Notwithstanding Paragraph 3 b) of this Article, the civil servant may be granted an extension up to six months of the probationary period upon motivated request to the appointing authority.
5. Should a civil servant be dismissed according to Paragraph 3 b) of this Article, the next successful candidate from the reserve list under Article 28.4 of this Law shall be appointed to fill the vacancy.

### **Article 30** **Performance evaluation**

1. The performance evaluation of a civil servant refers to the monitoring and the appraisal of his accomplishments in accordance with his position during his tenure. A civil servant shall concur equally with their direct superior to their performance evaluation.
2. The Head of Institution shall establish the performance evaluation for the managerial civil servants.
3. The performance evaluation for the Senior Executive Manager and the Assistant minister in the Council of Ministers shall be established by the Minister and his Deputy, upon the proposal of the appointing authority.
4. The performance evaluation for the Senior Executive Manager with a special assignment in the Council of Ministers shall be established by the Council of Ministers, upon proposal of the appointing authority.
5. All civil servants shall undergo a performance appraisal carried out by their direct hierarchical superior at least every twelve months.
6. The performance appraisal shall be based upon the results achieved during the performance of functions determined by the job description and the objectives established by their direct hierarchical superior for the period in question.
7. The results of the performance appraisal shall be taken into account for promotion and internal transfers. All civil servants shall:
  - a) Have an unrestricted access to their performance appraisal inserted in their personal file in accordance with Art.60.2;
  - b) Be given the opportunity within a reasonable time to attach written comments to their performance appraisal and to have the possibility to have his case reviewed by the Civil Service Board in accordance with Art.63.

8. Should the performance appraisal be negative, the civil servant shall undergo a specific program established by his direct hierarchical superior in consultation with him in order to remedy this situation.
9. Should there be two consecutive negative performance appraisals, the Agency shall, upon prior opinion of the competent institution, dismiss the civil servants from Article 7.1.b) of this Law. Should there be two consecutive negative performance appraisals as to the civil servants from Article 7.1.a) of this Law, the competent institution shall dismiss them upon prior opinion of the Agency. The civil servant may ask for the review of his dismissal by the Civil Service Board in accordance with Art.63 of this Law.

### **Article 31 Promotion**

1. The promotion of a civil servant to a higher working position referred to under Art.7.1 within the same or a different Institution shall exclusively take place through public open recruitment.
2. The promotion of a civil servant to a higher category referred to under Art. 7.2 shall be based upon positive performance appraisals and shall be decided upon by the appointing authority.

### **Article 32 Internal Transfer**

1. An internal transfer from a civil service position to a similar position within the same Institution may be voluntary or imposed upon a civil servant pursuant to the objectively ascertained requirements of the public service.
2. A voluntary transfer shall require the existence of a vacant position in accordance with Article 19. This vacancy shall be filled through a competition and be based on the respective merits of the civil servants of the Institution who applied for the vacancy.
3. Should the transfer of a civil servant entail a change of residence, the civil servant shall be entitled to an appropriate compensation.

### **Article 33 Redundancies**

1. Redundancy occurs exclusively in the case of reorganization or a reduction in scope of work of an Institution.
2. Agency for Civil Service shall declare a civil servant redundant upon proposal of the Institution;
3. A redundant civil servant shall be exclusively reallocated to a vacant similar civil servant position in another Institution in accordance with Article 19:
  - a) Should the reallocation not be possible, the redundant civil servant shall be offered an early retirement in accordance with law;
  - b) Should an early retirement not be possible, the redundant civil servant shall be dismissed by the appointing authority and may ask for review of his dismissal by the Civil Service Board in accordance with Art.63;
  - c) The redundant civil servant shall be entitled to a severance package in accordance with Art. 42 and to unemployment benefits in accordance with law;
  - d) Should a vacancy for a similar position be announced within one year of the day of the dismissal, the civil servant shall hold a priority to re-enter the civil service.

### **Article 34 Senior Executive Manager with a special assignment**

1. All positions of senior executive manager with a special assignment shall be advertised for open recruitment in accordance with Art.21.
2. A Senior Executive Manager with a special assignment shall be appointed by the institution for a fixed period of time, which shall not exceed five years. The maximum duration of an appointment to the same position shall be ten years.

3. The special assignment shall define the duties and the objectives to be achieved by the senior executive manager. The text of the special assignment shall be published in the Official Gazette of Bosnia and Herzegovina jointly with the appointment of the senior executive manager on special assignment.
4. The realization of the objectives spelled out in the mandate shall be assessed through annual performance appraisal. The renewal of the mandate shall be based upon positive performance appraisals.
5. Articles 19, 31, 32 and 33 shall not apply to the Senior Executive Manager with a special assignment.

## **CHAPTER V**

### **REMUNERATION AND ALLOWANCES**

#### **Article 35**

##### **Criteria for Determination of Salaries**

1. A civil servant shall be entitled to a salary the amount of which is dependent on type of the civil service position.
2. Provisions set forth in Articles 35 through 42 of this Law represent the salary structure for civil servants in the Institutions.

#### **Article 36**

##### **Salary Structure**

1. The initial basis for calculation of a civil servant's salary shall be the same for all civil servants in the Institutions and shall be determined by the Council of Ministers.
2. Civil servants shall be categorized in six salary grades: the first grade are the Specialists, second are the Senior Officials, third are the Senior Advisers, fourth are the Heads of Organizational Units, fifth are the Assistant Ministers and sixth are Senior Executive Managers and Senior Executive Managers with a special assignment.
3. The coefficients relating to the salary grades and within the salary grades shall be determined by the Council of Ministers.

#### **Article 37**

##### **Calculation of Salary**

1. The salary shall be determined by multiplying the basis from Art.36 by the coefficient of salary grade and increasing it by a bonus allocated on account of the promotion in accordance with Art.31.2, and then the total amount is raised pursuant to number of years of service.
2. A civil servant, which is promoted in accordance with Art.31.2, shall be entitled to a salary increase not higher than 30 % of the salary established for that position. The Council of Ministers shall define the amounts of increase of salary.
3. The salary shall be raised by 0.5% for each started year of service, and not higher than by total 20%.

#### **Article 38**

##### **Retribution for a temporary performance of overwork**

1. Should an institution be unable to provide personnel to fill the civil service working positions, the civil servants who temporally perform these functions in such institution shall receive an increment of a special salary bonus to the basic salary amount by up to 50%, dependent on the extent to which the volume of work has been increased.
2. The Agency for Civil Service shall provide an opinion in any particular case if the conditions required for the application of par.1 of this Article are met.

#### **Article 39**

##### **Paid absence**

1. A civil servant shall be entitled to salary compensation up to the amount of a single salary over the period of annual leave and paid absence and for first 30 days of the absence from work due to sickness or disability.

**Article 40**  
**Other Remuneration**

1. A civil servant shall be entitled to remuneration for:
  - a) Compensation of costs of transportation to and from work (local public transportation bonus);
  - b) Compensation for food rations; (luncheon vouchers);
  - c) Holiday cash grant;
  - d) Death of the civil servant or one of his family members;
  - e) Compensation of the costs of moving from the place of permanent residence to the place where the official apartment is located and back;
  - f) Compensation for education expenses; (training and education allowance);
  - g) Anniversary rewards;
  - h) Retirement severance pays.
2. The managerial civil servants whose permanent residence is at the distance of more than 60 kilometers from the place where they perform their official assignments shall be entitled within the following two years to family separation allowances and fees for accommodation at the place of work.

**Article 41**  
**Reimbursement for official trips**

1. A civil servant shall be entitled to compensation of expenses concerning official trips (per diem, transportation expenses, etc.).
2. Types and amounts of costs referred to in Paragraph 1 shall be regulated by the Council of Ministers.

**Article 42**  
**Rights in case of redundancies**

1. In case of dismissal for redundancies as provided under Art.33, the dismissed civil servant shall be entitled to a severance package of six months of salary.
2. The amount of severance package referred to in Paragraph 1 shall be extended to 12 months for civil servants, who have at least 15 years of working experience.

**Article 43**  
**Advisors' salaries**

1. The salary of an Advisor shall have reference to the salary of an Assistant Minister of wage grade 5.

**Article 44**  
**Approval of the salaries and allowances of the civil servants and the advisors**

1. The salaries and allowances established in the State Budget shall be approved by the Parliamentary Assembly.

**CHAPTER VI**  
**WORKING CONDITIONS**

**Article 45**  
**Labour and social regulations**

1. The laws on labor relations and other laws regulating rights and obligations deriving from employment shall apply to a civil servant unless otherwise provided in this Law.

**Article 46**  
**Leave and Vacation**

1. The civil servants of grades 1 through 3 shall be entitled to annual leave of at least 20 work days and to paid absence of 5 work days per one calendar year.
2. The civil servants of grades 4 through 6 shall be entitled to annual leave of at least 25 work days and to paid absence of 5 work days per one calendar year.
3. The issues of annual leave for civil servants that would take longer than as provided for in Paragraph 1, may be regulated under separate bylaws.

**Article 47**  
**Unpaid Leave and Part Time**

1. By-laws shall further determine the conditions pursuant to which specific unpaid leave for civil servants may be taken as well as when a civil service position may be exercised part-time.

**Article 48**  
**Senior Executive Manager on special assignment**

1. No part-time position shall be allowed for a Senior Executive Manager on special assignment.

**Article 49**  
**Training**

1. The civil servants shall have the duty to make permanent efforts with regard to their on-the-job and further training as well as study and research.
2. The civil servants shall be entitled and obligated to participate in training and educational activities, seminars.
3. Decision regarding the participation of civil servants in seminars and other forms of educational activities shall be made by a person designated as under the bylaws taking into account at the same time that the equal representation of all civil servants has to be accomplished.

**CHAPTER VII**

**TERMINATION OF SERVICE**

**Article 50**  
**Termination of the civil service office**

1. A civil servant shall lose his civil service status in the following cases:
  - a) Voluntary resignation from the civil service;
  - b) Reaching the legal retirement age;
  - c) Permanent inability to fulfill his official duties due to health conditions, provided that the civil servant is in fact not fit to be transferred to other suitable positions within the civil service;
  - d) Loss of the citizenship of Bosnia and Herzegovina;
  - e) Acquisition of the citizenship of another country in violation of the Constitution and the laws of Bosnia and Herzegovina;
  - f) Redundancy;
  - g) Expiry of the term of appointment as Senior Executive Manager with special assignment in cases where the incumbent was not a civil servant before his appointment;
  - h) Refusal to take the oath and/or to sign the text of it;
  - i) Unsatisfactory probationary period;

- j) Two consecutive negative performance appraisals;
- k) Conviction against him/her for a criminal offense and due to his/her serving of the prison sentence must be absent from work in the civil service for more than six months;
- l) Dismissal from the service as a result of a disciplinary procedure.

**Article 51**  
**Procedure of termination of the civil service office**

- 1. The civil servant shall be dismissed by the Agency, upon prior opinion of the competent institution, with the exception of Article 50. 1. i) of this Law.
- 2. The managerial civil servants shall be dismissed by the appointing authority, upon prior opinion of the Agency, with the exception of Article 50.1.i) of this Law.
- 3. The civil servant from paragraph 1 and 2 of this Law may ask for the review of the decision on dismissal by the Civil Service Board in accordance with Article 63 of this Law.

**Article 52**  
**Compensation**

- 1. Should a civil servant lose his status, he shall not be entitled to a severance pay, with the exception of Article 50.1 b) and f).

**Article 53**  
**Irregular appointments**

- 1. Recruitment and appointment of a civil servant in contravention of this Law shall be declared null and void by the Civil Service Board, and by-laws shall further regulate this matter.

**CHAPTER VIII**

**DISCIPLINARY RESPONSIBILITIES**

**Article 54**  
**Disciplinary Responsibilities**

- 1. A civil servant may be held disciplinarily accountable for the violation of official duties, which occurred as a result of his own fault, as laid down in this Law.
- 2. Violation of official duties can comprise:
  - a) undertaking actions defined as criminal offences against official duty, other serious or minor offences which are harmful to the reputation of the civil service making the servant ineligible for the engagement in the civil service;
  - b) betrayal of the State, military and official secret and contravention to the regulations on keeping those secrets;
  - c) abuse of the official position or exceeding of the authorizations;
  - d) failure to execute the entrusted tasks, failure to consciously and carefully execute official duties;
  - e) refusal to execute a legal order of the direct superior;
  - f) undertaking actions which may impede or prevent the citizens or other parties in realization of their respective rights in the procedures at the Civil Service bodies;
  - g) undertaking actions or activities in contravention to the interests of the Civil Service;
  - h) causing a substantial material damage consciously or by an extreme negligence;
  - i) unexcused absence from work;
  - j) breach of regulations related to the working discipline at the Civil Service;
  - k) failure to execute entrusted tasks and duties in a timely and proper manner;
  - l) indecent attitude towards the citizens, collaborators and other parties in performing the Civil Service office.

3. The accountability for committing criminal acts and offenses shall not exclude the disciplinary accountability of a Civil Servant, provided that the act also constitutes a breach of duty.
4. Further By-laws shall further determine the breach of official duties.

#### **Article 55** **Disciplinary procedure**

1. All civil servants and employees of the Institutions shall be entitled to file to the appointing authority confidentially a disciplinary case against a civil servant who has allegedly committed a violation of Art.54.
2. Rights from paragraph 1 of this Article apply to ministers and their deputies.
3. When receiving a disciplinary case against a civil servant, the appointing authority:
  - a) Shall, upon being notified, issue a written confirmation to the person who files the case. The written confirmation shall at the same time be copied to the Agency for Civil Service;
  - b) May transfer the case to the ombudsperson as referred to under Art. 61:
    - 1) The ombudsperson shall issue a report and make it available to the person who filed a case, to the person against whom the case is filed and to the appointing authority;
    - 2) The ombudsperson may make recommendations and/or suggest measures to the appointing authority;
  - c) Shall ensure the confidentiality of the procedure for the person who files the case and before the ombudsperson;
  - d) Shall, after the completion of the procedure, pronounce disciplinary measures of written warning or written reprimand, whereas in the case it considers that the violation of duty by the civil servant deserves the pronouncement of a more stringent sanction, shall refer the case to the Agency, upon prior opinion of the appointing authority.
4. The Agency for Civil Service shall be competent to establish all disciplinary sanctions against its own civil servants and may issue disciplinary measures in accordance with paragraph 3 d) of this Article.
5. Should the ombudsperson's report contain no satisfactory recommendation or should the appointing authority or the Agency not take any satisfactory decision for the civil servant against whom the disciplinary case is filed , the civil servant may ask for review of the report and/or of the decision by the Civil Service Board and the competent Court and shall also:
  - a) Have access to the administrative file before the appointing authority, the Agency for Civil Service and the Civil Service Board;
  - b) Be entitled to be heard and to receive the assistance of a legal counselor before the appointing authority, the Agency for Civil Service and the Civil Service Board.
6. The procedure for determining the disciplinary accountability of civil servants for breach of official duties shall be conducted in accordance with principles of criminal procedure code, unless this Law determines otherwise.

#### **Article 56** **Disciplinary sanctions**

1. Only the following disciplinary sanctions may be ordered for the violation of Article 54 by a civil servant:
  - a) Written warning;
  - b) Written reprimand;
  - c) Suspension of the right to participate in open competitions during a maximum of two years;
  - d) Punitive suspension of duties and salary during a period from two days up to 30 days;
  - e) Demotion to a lower position or category;
  - f) Dismissal from the Civil Service.



**Article 57**  
**Criminal proceedings**

1. All disciplinary proceedings shall be suspended, with the exception of Article 58, in case of criminal proceedings initiated against a civil servant for the same facts as those investigated in the disciplinary proceedings until such time as a final ruling in the criminal proceeding is issued by the competent Court.
2. Should the person accused be acquitted:
  - a) The civil servant shall be reinstated in his previous position and his file shall not contain any mention of the criminal proceedings and/or any related preventive suspension;
  - b) No disciplinary sanction may be ordered for the same facts for which the civil servant was acquitted.
3. Should the charges against an accused person be rejected, disciplinary proceedings may be ordered for the same facts in accordance with Art.54.
4. Should the person accused be convicted, the competent administrative authorities shall be bound by the facts as found by the competent Court.

**Article 58**  
**Preventive suspension**

1. Once a procedure provided for under Article 57 of this Law is initiated, a civil servant shall be immediately suspended from duties by the appointing authority in the following cases:
  - a) Criminal proceedings for a crime committed during his duties are initiated against the civil servant and/or;
  - b) The civil servant is held in preventive detention.
2. Once a procedure provided for under Article 57 of this Law is initiated, a civil servant may be suspended from duties by the appointing authority in the following cases:
  - a) Criminal proceedings for a crime to be sentenced by an imprisonment, which would last at least five years are initiated against the civil servant and;
  - b) The civil servant was caught committing a crime sentenced by imprisonment in the duration of at least five years; and
  - c) Reasonable grounds exist indicating that crime has been committed.
3. In case of a preventive suspension:
  - a) The alleged offender shall receive his full salary;
  - b) The disciplinary proceedings shall be suspended until such time as a final ruling by a competent Court is issued.

**CHAPTER IX**  
**MANAGEMENT OF THE CIVIL SERVICE**

**Article 59**  
**Human Resource Policy Guidelines**

1. The relevant institution shall set up general guidelines for the conduct of the policy of Human Resources in its institutions and shall enact by-laws to this Law.

**Article 60**  
**Institutions**

1. Each Institution shall establish a Section in charge of the implementation of the provisions of this Law

(hereinafter: the Section).

2. The Section within the Institutions shall ensure the management of their personnel and keep the file of each civil servant, as well as ensure to each civil servant who exercises his functions within its Institution an unrestricted access to his administrative file.
3. The Section of the Institutions shall coordinate their activities and cooperate with the Agency for Civil Service.
4. Upon prior approval of the Head of the Institution, the appointing authority shall submit an annual report of activities and a plan of activities for the next year to the Agency for Civil Service.

### **Article 61 Ombudsperson**

1. The ombudsperson shall facilitate the respect and the implementation of the principles enshrined in this Law. The ombudsperson shall act as a mediator in all issues pertaining to the status of a civil servant in accordance with this Law.
2. All civil servants and employees within each Institution shall elect a civil servant for the position of ombudsperson. The ombudsperson must not be a member of the appointing authority in the institution in which he is exercising his functions. The same ombudsperson may be appointed for two or more Institutions.

The appointing authority shall confirm the election of the ombudsperson.

### **Article 62 The Agency for Civil Service**

1. The Council of Ministers shall establish an Agency for Civil Service and shall appoint its Head. The Head of the Agency for Civil Service shall hold the position of Secretary with a special assignment and shall be selected and appointed in accordance with Article 34 of this Law for a mandate of 5 years.
2. The Agency for Civil Service shall:
  - a) Ensure:
    - 1) The realization of the recruitment process for civil servants, upon request of the Institutions;
    - 2) The assistance to the Institutions in realization of their Human Resources policy, organizational development, and shall entail the establishment of a Central Registry of Personnel;
    - 3) The training and the development of the Civil Service;
  - b) Submit for approval to the Council of Ministers an annual report of activities and a plan of activities for the next year;
  - c) Conduct surveys within the Institutions, upon request of the Council of Ministers.
  - d) Fulfill all other duties stipulated in this Law.
3. The Head of Agency is responsible for managing the Agency and for adoption of the Book of Rules of internal organization of the Agency, with previous consent of the Council of Ministers.

### **Article 63 The Civil Service Board**

1. A Civil Service Board shall be responsible for reviewing all final decisions, undertakings or non-undertakings of an Institution and/or of the Agency for Civil Service pertaining to the status of civil servants in accordance with this Law and its by-laws, upon request of:
  - a) The civil servant affected by the disputed decision, undertakings or non-undertakings;
  - b) The Institution where the affected civil servant exercises his functions;
  - c) The Agency for Civil Service.
2. The Civil Service Board shall:

- a) Hear the applicant, if appropriate;
  - b) Call witnesses and experts when deemed necessary;
  - c) Ask and obtain from the authorities concerned all relevant information;
  - d) Adopt rules of procedure, which shall be published in the Official Gazette of Bosnia and Herzegovina.
3. Decisions of the Civil Service Board shall be reasoned on legal grounds and on facts properly and fully established. The Decisions of the Civil Service Board shall also be:
- a) Final, subject to any judicial review which may be provided by the laws of Bosnia and Herzegovina;
  - b) Notified to the appellant within 8 days of their issue.
4. The Civil Service Board of three members shall be established by the Council of Ministers:
- a) All vacancies to the Civil Service Board shall be advertised for open public recruitment in the Official Gazette of Bosnia and Herzegovina, in the diplomatic and consular posts and in, at least, three daily newspapers covering the whole territory of Bosnia and Herzegovina at least three months before the application deadline. The advertising shall contain the same requirements as those listed under Articles 20.3 and 22;
  - b) An independent selection committee appointed by the Council of Ministers shall select the Members of the Civil Service Board, upon the basis of their professional experience and their demonstrated ability to exercise their function within the Board. Articles 24.2, 24.3, 25.1 and 26.2 shall apply to the Selection Committee and to the selection procedure;
  - c) The Members of the Civil Service Board shall be appointed by the Council of Ministers for a fixed renewable term, up to 4 (four) years;
  - d) A Member of the Civil Service Board shall:
    - 1) Be independent and impartial;
    - 2) Not hold a position which is directly or indirectly elected or be appointed to a position within any legislative or executive body of authority at any level of government in Bosnia and Herzegovina;
    - 3) Be removed before the end of their term only at the initiative of the Council of Ministers under exceptional circumstances and done by consensus of the other Members of the Civil Service Board;
  - e) By virtue of their appointment, Members of the Civil Service Board shall benefit from a status equivalent to that of a Senior Executive Manager. By-laws adopted by the Council of Ministers shall further define the status of the Members of the Civil Service Board.

## **CHAPTER X**

### **TRANSITIONAL PROVISIONS**

#### **Article 64 Existing employees**

1. Legal status of all the employees in the existing institutions shall remain the same on the day this Law enters into force, until such time as the entire review process for their positions has been completed by the Agency in accordance with this Article.
2. The Agency shall issue a decision on termination of employment for the employees from paragraph 1 of this Article that have been appointed in contravention of the Law on Public Administration or do not fulfil the requirements from Article 22 of this Law. The vacant positions shall be subject to public competition. The decision on termination of employment shall become effective after the overall process of open competition has been completed in accordance with the Law.
3. During the procedure of open competition, the experience of a candidate previously employed at the position that is subject to open competition may be taken into consideration.

4. Employees from paragraph 1 of this Article who have been employed in accordance with the Law on Public Administration which was in effect at the moment of their appointment and who fulfil the requirements from Article 22 of this Law, shall be subject to review within the period of 12 months. The review procedures shall be determined by the Agency taking into account the principle of performance appraisals established under Article 30 of this Law.
5. The appointing authority shall confirm the appointment of those employees who have successfully passed the review process and dismiss those who have not successfully passed the review process or do not fulfil the requirements set out under Article 22. The vacant positions shall be subject to public competition.

**Article 65**  
**Compensation**

1. A civil servant [radnik] to whom the employment has been terminated as under Article 64 shall be entitled to a severance package in the amount of an average monthly salary disbursed in institutions in the month preceding the month when this Law comes in effect.
2. The severance package referred to in Paragraph 1 shall be disbursed to the civil servant [radnik] with regard to the total years of service, and shall be determined by multiplying the average salary referred to in Paragraph 1 by the coefficients linked to years of service as follows:

<b>years of service</b>	<b>Coefficient</b>
a) up to 5 years	1.33
b) 5 to 10 years	2.00
c) 10 to 20 years	2.66
d) over 20 years	3.00

**Article 66**  
**Issuance of decisions on employment termination**

1. Concurrently with issue of the Decision on employment termination, the appointing authority shall also decide *ex officio* on right to severance package as provided under Article 65.
2. Severance packages that result from the decisions issued pursuant to paragraph 1 shall be disbursed by the Ministry for Treasury of BiH Institutions.

**Article 67**  
**Appeal**

1. Should an employee consider that his/her rights set forth in Chapter X of this Law have thereby been violated by the appointing authority, he/she may lodge an appeal to the Civil Service Board in accordance with Art.63 of this Law within 15 days from the day of receipt of such Decision.

**Article 68**  
**Restricted application**

1. Until such time as the laws on labor relations and other laws regulating rights and obligations deriving from employment are enacted at the level of Bosnia and Herzegovina, the existing regulations in this area shall apply to all employees of the Institutions.
2. Until the enactment of the Law on Communications by the Parliament of Bosnia and Herzegovina only articles 2, 3 and 16 of this Law will apply to the Communication Regulatory Agency.

**CHAPTER XI**

**FINAL PROVISIONS**

**Article 69**

## **Provisions regarding application and repealing of the Law**

1. The Council of Ministers, at the first session after entry into force of this Law, shall:
  - a) announce a public competition for the Head of the Agency;
  - b) announce a public competition for the members of the Civil Service Board;
  - c) nominate a working group composed of 5 members in accordance with Article 24.2 of this Law, that shall be responsible for the following tasks:
    - 1) perform the functions of a Commission for election of the Head of the Agency;
    - 2) perform the functions of a Commission for election of members of the Board, pursuant to Article 63.4 b), of this Law;
    - 3) assist the Head of Agency and the members of the Board in the process of organizing and establishing the Agency and the Board.
2. The Council of Ministers shall, within one month after the entry into force of this Law, appoint the members of the Board.
3. The Head of Agency shall, within one month of the entry into force of this Law, adopt a Book of Rules on internal organization of the Agency. Upon the adoption of this Book of Rules, the Agency shall announce a public competition in order to fill the positions within the Agency.
4. Within 2 months after entry into force of this Law, the Institutions that are subject to this Law shall be obliged to implement Articles 7-13 of this Law through their Books of Rules on internal organization.
5. Until the establishment of the Agency, the Board and adoption of the By-laws pursuant to this Law, the Law on State Administration and its By-laws governing the legal-employment status of civil servants shall apply, within the maximum period of 12 months following the entry into force of this Law, unless they do contravene the provisions of this Law.
6. A separate decision the Council of Ministers may regulate the establishment of a body/institution that shall perform the training of civil servants.

### **Article 70 Final provision**

1. This Law shall enter into force the eighth day of the day of its publication in the "Official Gazette of Bosnia and Herzegovina".