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LAW ON AMENDMENTS TO THE LAW ON CIVIL SERVICE IN THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA

“Official Gazette of Bosnia and Herzegovina”, 43/09

[NOTE: The Law on Civil Service in the Institutions of Bosnia and Herzegovina was published in the “Official Gazette of Bosnia and Herzegovina”, 12/02.](#)

Pursuant to Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at 48th session of the House of Representatives held on 18 March 2009 and at 28th session of the House of Peoples held on 27 April 2009, adopted the following

LAW ON AMENDMENTS TO THE LAW ON CIVIL SERVICE IN THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA

Article 1

In the Law on Civil Service in Governmental Institutions of Bosnia and Herzegovina (“Official Gazette of BiH”, nos. 12/02, 19/02, 8/03, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06 and 32/07), in Article 1, paragraph 1, the words “Institutions of Bosnia and Herzegovina (hereinafter: the Institution)”, shall be replaced with the words: “ministries, independent administrative organizations and administrative organizations from the composition of the ministries, as well as other institutions of Bosnia and Herzegovina established by a separate law, or those that were entrusted by a separate law to carry out the tasks of the administration (hereinafter: the institutions).

After paragraph 2, new paragraph 3 shall be added to read:

“3. Terms written in masculine grammatical gender shall equally apply to both masculine and feminine genders, whilst in naming the functions, professions and titles, gender sensitive language shall be used.”

Article 2

In Article 3, paragraph 1, subparagraph e) shall be amended to read:

“e) Professionalism and impartiality”.

Article 3

In Article 14, paragraph 4, subparagraph b), the words: “Law on Freedom of Access to Information in Bosnia and Herzegovina (“Official Gazette of BiH” no. 28/2000)” shall be replaced with the word “law”.

Paragraph 5 shall be amended to read:

“5. A civil servant shall be bound to act and conduct in line with the Code of Conduct of the Civil Servants adopted by the Council of Ministers at the proposal of the Agency.”

Article 4

In Article 15, paragraph 1, subparagraph d), the words: “in Chapter V of this Law” shall be replaced with the words: “separate law”.

Paragraph 3 shall be amended to read:

“3. The Council of Ministers shall enact the regulation regulating the conditions and manner of protection of moral integrity of a civil servant in performance of duty, including also prescribing the misdemeanors in the event of violation of that regulation.”

Article 5

In Article 19, paragraph 1 shall be amended to read:

“1. Should a vacancy for a civil servant position exist within an Institution that cannot be filled through an internal transfer of a civil servant occupying a similar position within the Institution, the Institution may, in accordance with Article 32, paragraph 4 of this Law, first advertise this vacancy internally.”

In paragraph 2, in the first line, after the word “with”, the words “Article 32, paragraph 4, or” shall be added, and the word “redundant” shall be replaced with the word “state”.

In paragraph 4, the words: “competencies previously exercised by the entities”, shall be replaced with the words: “certain competencies”, and word “open” shall be deleted.

Article 6

After Article 21, new Article 21a shall be added to read:

“Article 21a Advertisement annulment

Agency may annul the published advertisement upon the explained request by the institution not later than the time of forwarding the results of the election process, i.e. the list of successful candidates to the Agency, where the same vacant posts cannot be advertised for the period of one year from the day of publishing the advertisement.”

Article 7

In Article 22, paragraph 1, subparagraph c), after the word “qualifications”, the words: “i.e. high education of first, second or third cycle of the Bologna system of studying, which shall be established by regulation regulating the jobs of basic activities and auxiliary-technical jobs and conditions for carrying out them in the bodies of administration of the Institutions of Bosnia and Herzegovina” shall be added.

Subparagraph e) shall be amended to read:

“e) Not to meet the mandatory retirement age, i.e. not to exercise the right to personal pension under any grounds.”

After subparagraph e), new subparagraph f) shall be added to read:

“f) That legal consequences of the sentence for the criminal offense of domestic violence, pronounced by final court judgment against him in accordance with the criminal codes, have ceased.”

Current subparagraphs f), g) and h) shall become subparagraphs g), h) and i).

In current subparagraph f) that shall become subparagraph g), after the words: “disciplinary measure at all levels of governance in Bosnia and Herzegovina”, a comma shall be put, and the words: “refusal to swear an oath, deliberate abandonment of the civil service or providing untrue or inaccurate data in enrollment in the civil service”, shall be added, and the words: “in the Official Gazette of Bosnia and Herzegovina” shall be deleted.

In current subparagraph g) that shall become new subparagraph h), the words: “to have a certificate stating” shall be deleted.

Article 8

In Article 24, after paragraph 3, new paragraphs 4 and 5 shall be added to read:

“4. Committee members shall be entitled to reimbursement for their work that shall be determined and paid by the Agency.

5. In appointment of specific selection committees, the Agency shall take the equal gender representation into account.”

Article 9

In Article 25, in the title and in the entire text of it, the word “disqualification” shall be replaced with the word “exclusion” in corresponding grammatical cases.

Paragraph 3 shall be amended to read:

“3. Any registered candidate shall be entitled, until the moment of entering the professional exam at the latest, to submit a request for exclusion of any member or the committee for selection to the Civil Service Board for Appeals (hereinafter: the Board), on the basis of the reasons:

- a) Specified in Article 16 of this Law;

- b) Obvious risk of prejudice and bias;
- c) Lack of adequate professional expertise and experience.”

After the paragraph 3, new paragraph 4 shall be added to read:

“4. The Board shall be bound to decide upon the request for exclusion within eight days from the day of reception of the request.”

Current paragraph 4 shall become paragraph 5.

Article 10

In Article 27, paragraph 1, sentence: “Such open competition shall take place at least 30 days after the application deadline”, shall be deleted.

Article 11

In Article 28, paragraph 3, the words: “paragraphs 1 and” shall be replaced with word “paragraph”, the word “their” shall be deleted, after the word “receipt”, the words: “opinion of the Agency and list of successful candidates” shall be added, and words: “appoint, i.e.” shall be deleted.

After paragraph 7, new paragraph 8 shall be added to read:

“8. Should the appointed not assume the duty without justification, the body that made the appointment shall annul the decision on appointment within 15 days from day specified for assuming the duty, and in such event that person shall be suspended from participating in public competitions for employment of civil servants in the institutions for the period of two years from finality of the annulment act.”

Article 12

After Article 28, new Article 28a shall be added to read:

“Article 28a Temporary employment

1. If there is a vacant civil service post within an institution that needs to be filled urgently in accordance with the needs of the operation, and internal transfer is not possible, the institution may fill that vacancy by employing the persons in line with the Labor Law for Institutions of Bosnia and Herzegovina in status of employees.
2. Temporary employment may last nine months maximally, except in the case of sick leave or maternity leave of a civil servant, but not longer than two years.

3. The institution shall be bound to request the consent for filling the vacancy from Agency in line with paragraph 1 of this Article, and the Agency shall be bound to forward its response not later than eight days after the receipt of the request.

4. Provisions of this Article shall not apply to the managerial civil servants.”

Article 13

In Article 29, paragraph 3, subparagraph b) shall be amended to read:

“b) Unsatisfactory, the institution shall dismiss the civil servant, whose employment shall be terminated without right to severance pay. The dismissed civil servant shall be entitled to appeal against the decision on dismissal to the Board within eight days from the day of receipt of the decision.”

Paragraph 4 shall be amended to read:

“4. Notwithstanding the paragraph 3 of this Article, the head of the institution may prolong the probation period for another six months upon the explained request of a civil servant.”

Article 14

In Article 30, paragraph 3, the words: “upon the proposal of the appointing authority”, shall be deleted.

In paragraph 4, the words: “appointing authority” shall be replaced with the words: “special committee the Council of Ministers appoints in line with the regulation on appraisal of the civil servants.”

In paragraph 5, the words: “twelve months” shall be replaced with words: “six months”.

Article 15

In Article 31, paragraph 1, the words: “exclusively take place through public open recruitment” shall be replaced with words: “exclusively take place through internal or public open recruitment”.

In paragraph 2, after the word “law”, the words: “i.e. higher internal salary grade” shall be added, the words: “appointing authority” shall be replaced with the word “institution”, and the words: “in accordance with the regulations on salaries and compensations of the employees in the Institutions of Bosnia and Herzegovina” shall be added.

Article 16

In Article 32, the title of Article shall be amended to read: **"Internal and external transfers"**.

Paragraphs 1 and 2 shall be amended to read:

“1. The head of the institution shall carry out the internal transfer of a civil servant to a similar work post in accordance with the needs of the service.

2. The Agency shall carry out the external transfer of a civil servant to a similar work post in another institution, in accordance with the need of operation, at the proposal, i.e. with the consent of the head of the institution.”

Paragraph 3 shall be deleted, and current paragraph 4 shall become paragraph 3.

In current paragraph 4 that shall become paragraph 3, after the word “internal”, the words “competitions, internal” shall be added.

Article 17

In Article 32 a, in paragraphs 1, 2 and 3, the word “open” shall be deleted.

In paragraph 2, subparagraph a), the words: “paragraph 2 of Article 20, paragraph 2 of Article 21” shall be replaced with words: “Article 20, paragraph 2, Article 21, paragraphs 2, 3 and 4, and articles 26 and 27”.

Subparagraph c) shall be amended to read:

“c) The Selection Committee shall be appointed in line with Article 24 of this Law”.

In subparagraph e), the words: “transferred or” shall be deleted.

Article 18

After Article 32a, new Article 32b shall be added to read:

“Article 32b Direct Take Over of Civil Servants

1. Civil servant who has that status in accordance with the laws of the Federation of Bosnia and Herzegovina or Republika Srpska and who meets the general conditions stipulated by this Law and special academic and professional conditions for the work post he/she is filling, may be taken over in the institution of Bosnia and Herzegovina without advertising, i.e. competition on any grounds.

2. Civil servant may be directly taken over exclusively to a similar work post. The Agency shall prescribe by a rulebook which work posts are considered similar, taking into account the provisions of this Law and entity laws regulating the matter defining the status issues of the civil servants.

3. On direct take over of a civil servant, an agreement shall be made between the institution BiH the civil servant is being taken over by and entity body of civil service, i.e. administration the from which the civil servant is taken over, with prior obtained consent of the civil servant. The Agency and competent entity agency shall provide their consents to the agreement after they establish that the civil servant meets the specified conditions for taking over.

4. In accordance with the agreement and provided evidence on meeting the conditions, the Agency shall appoint the civil servant, whilst the competent institution appoints the managerial civil servant, in line with this Law.

5. Civil servant may be taken over under conditions specified in paragraphs 1, 2, 3 and 4 of this Article from an institution of Bosnia and Herzegovina to a body of civil service, i.e. administration of entities.

6. Provisions of paragraphs 1, 2, 3, 4 and 5 of this Article shall in proper manner also apply to the Brčko District of Bosnia and Herzegovina.”

Article 19

In Article 33, paragraph 3, subparagraph d) shall be deleted.

Article 20

In Article 34, paragraph 5, the words: “19, 31, 32 and 33” shall be replaced with words: “19, paragraphs 1, 2 and 4, articles 31, 32, 32a, 32b and 33”.

Article 21

In Article 46, paragraph 1, the words: “grades 1 through 3” shall be replaced with words: “appointed to the work posts of specialists, senior officials and senior advisors”.

In paragraph 2, the words: “grades 4 through 6” shall be replaced with words: “appointed to the work posts of heads of internal organizational units and appointed to the work posts of managerial civil servants”.

Article 22

In Article 50, paragraph 1, subparagraph a), the following words shall be added in the end of the line: “where the employment of the civil servant shall be:

- 1) In the event of agreement with the institution on day reached in the agreement;
- 2) In the event of unilateral resignation with notice period of 30 days from the day of submission of the request”.

Subparagraph c) shall be amended to read:

"c) Permanent inability to work;”.

In subparagraph k), the words: “and due to his/her serving of the prison sentence must be absent from work in the civil service for more than six months” shall be replaced with words: “due to which he/she is committed to serve the prison sentence longer than six months”.

After subparagraph l), new subparagraphs m) and n) shall be added to read:

“m) Uncertified absence from work in continuity longer than five work days;

n) It is found that he/she provided untrue information in employment which served as evidence in the procedure of establishing the employment relationship and on the grounds of which the appointment was made, or it is found that he/she meanwhile stopped to fulfill requirements specified by this Law.”

After paragraph 1, new paragraphs 2 and 3 shall be added to read:

“2. Civil servant dismissed his/her duty pursuant to paragraph 1, subparagraphs h), l), m) and n) cannot be accepted into civil service for three years after the day of dismissal.

3. The Council of Ministers shall by separate decision specify the procedure of reconsideration of fulfilling requirements of Article 22, paragraph 1, subparagraph d) of this Law.”

Article 23

In Article 53, the words: “Recruitment and appointment of a civil servant in contravention of this Law shall be declared null and void” shall be replaced with words: “The decision on appointment, i.e. employment shall be declared null and void”, whilst the comma punctuation mark and words: “and by-laws shall further regulate this matter” shall be deleted.

After paragraph 1, new paragraph 2 shall be added to read:

“2. The Council of Ministers shall by separate decision, at the proposal of the Agency, regulate the conditions and procedure in the event of appointment contrary to the provisions of this Law.”

Article 24

In Article 54, paragraph 2, subparagraph e), the words: “direct superior” shall be replaced with word “superior”.

Subparagraph f) shall be amended to read:

“f) Deliberate violation of the provisions of this Law or other regulation of Bosnia and Herzegovina in exercise of the Civil Service office or in relation with the office or violation of the Code of Conduct of the Civil Servants;”.

In subparagraph l), after the words: “Civil Service office” the words: “or in relation with the office” shall be added.

After subparagraph l), new subparagraph m) shall be added to read:

“m) Discrimination, and violence on the basis of sex or sexual orientation, harassment on the basis of sex and sexual harassment, as well as any other form of discrimination, pursuant to the law”.

Article 25

In Article 55, paragraph 2, the words: “and their deputies” shall be replaced with a comma punctuation mark and words: “deputy minister, other person or collegiate body who is superior to the civil servant”.

In paragraph 3, subparagraphs b) and c) shall be deleted.

Current subparagraph d) shall become subparagraph b).

Paragraphs 4 and 5 shall be deleted.

Current paragraph 6 shall become paragraph 4.

After paragraph 4, new paragraphs 5 and 6 shall be added to read:

“5. An appeal against the opening of the disciplinary procedure shall not be allowed.

6. An administrative dispute shall not be allowed against the final decision on pronounced disciplinary measure of written warning or written reprimand.”

Article 26

Article 56 shall be amended to read:

“Article 56

Disciplinary measures

In the event that civil servant violates the official duty referred to in Article 54 of this Law, the following disciplinary measures shall be pronounced:

- a) Written warning;
- b) Written reprimand;
- c) Decrease of salary up to 10% for the period from one to three months;
- d) Demotion to a lower category within the same work post;
- e) Suspension of the right to participate in open competitions in the civil service in the institutions of BiH during a maximum of two years;
- f) Decrease of salary from 15 to 30% for the period from three to six months;
- g) Demotion to immediately lower position;
- h) Dismissal from the Civil Service.”

Article 27

In Article 58 after paragraph 2, new paragraph 3 shall be added to read:

“3. When a procedure is initiated in accordance with Article 55 of this Law, the institution civil servant is employed with shall suspend him/her in the following cases if:

- a) There is reasonable suspicion that civil servant could during the disciplinary procedure again violate official duties;
- b) There is reasonable suspicion that civil servant could influence the witnesses;
- c) There are other reasons for which the institution assesses that they are justified.”

Current paragraphs 3 and 4 shall become paragraphs 4 and 5.

In paragraph 5, subparagraph a), in the end of the line the words: “until the completion of the criminal, i.e. disciplinary procedure” shall be added.

Article 28

In Article 62, paragraph 1 shall be amended to read:

“1. The Agency shall be established by this Law as independent administrative organization as legal person.”

In paragraph 2, subparagraph a) line 2), the words: “Central Registry of Personnel” shall be replaced with words: “information system of human resources management”.

Paragraph 3 shall be amended to read:

“3. The Council of Ministers shall appoint the Director of the Agency who shall hold the position of a Senior Executive Manager with a special assignment, and shall be selected and appointed pursuant to Article 34 of this Law, for the term of five years.”

After paragraph 3, new paragraphs 4, 5 and 6 shall be added to read:

“4. Provisions of the Law on Public Procurement for Bosnia and Herzegovina shall not be applied to implementation of the procedures referred to in paragraph 2, subparagraph a) line 3) of this Article.

5. The Council of Ministers shall, according to the work needs of the institution, regulate separate decision formation of a body that shall conduct training of civil servants.

6. When the information system module referred to in paragraph 2 of this Article is applied, which shall enable electronic form application of the candidates (on line application), manner and procedure of submitting such application shall be regulated by implementing regulation, with application of provisions of the law regulating the electronic business.”

Article 29

In Article 63, paragraph 1, after the words: “an institution and/or Agency” shall be added words: “also including the institution referred to in Article 4, paragraph 1 of this Law, and”.

In paragraph 1, subparagraph a), in the end of line, comma punctuation mark and words: “if the civil servants has clearly determined legal interest” shall be added.

In paragraph 3, subparagraph a), the words: “subject to any judicial review which may be provided by the laws of Bosnia and Herzegovina” shall be replaced with words: “and are subject to judicial review in accordance with the Law on Administrative Disputes of Bosnia and Herzegovina”.

In paragraph 4, subparagraph a), the words: “in the “Official Gazette of Bosnia and Herzegovina”, in the diplomatic and consular posts” shall be replaced with words: “at the official Internet page of the Agency”, and words: “thirty (30)” shall be replaced with number “15”.

In subparagraph b), the number “26.2” shall be deleted.

In subparagraph c), after the words “years”, the words: “without public competition for the same mandate period” shall be added.

In paragraph 5, after the words “appeal” the words: “for all acts” shall be added.

After paragraph 5, new paragraphs 6 and 7 shall be added to read:

“6. The appeal to the Board against the acts on recruitment, appointment, transfer or dismissal of a civil servant shall not delay their execution.

7. Against the final decisions of the Board, which are pertaining to the procedure of public competition or are in relation to the procedure of public competition, an administrative dispute shall be allowed for the purpose of protection of the candidates who applied.”

Article 30

After Chapter IX, new Chapter IX a and articles 63a and 63b shall be added to read:

“CHAPTER IX a

PENALTY PROVISIONS

Article 63a Penalties for violations

1. A fine in the amount between KM 20.000 and KM 50.000 shall be imposed for violation against the legal person – employer or company which within two years from the day of dismissal of the civil servant employs or pays any compensation to the civil servant who had been exercising regular supervision over the same employer or company (Article 16, paragraph 1, subparagraph b)).

2. A fine in the amount between KM 2000 and KM 5000 shall be imposed for violation against the natural person in the legal person and natural person – independent businessperson (tradesperson) for violation referred to in paragraph 1 of this Article (Article 16, paragraph 1, subparagraph b)).

3. A fine in the amount between KM 2000 and 5000 KM shall be imposed for violation against the person who within two years from the day of dismissal of the civil servant finds employment or receives any compensation from the employer or company over which he/she had been exercising (Article 16, paragraph 1, subparagraph b)).

4. A fine in the amount between KM 2000 and KM 5000 shall be imposed for violation against the managerial civil servant who do not resign the post in the civil service after

his/her candidacy for public function which is elected directly or indirectly is confirmed, or after he/she is appointed to the position in any legislative or executive body at any level of authority in Bosnia and Herzegovina (Article 16, paragraph 1, subparagraph c)), or to a function referred to in Article 18, paragraph 2, as well as the persons referred to in Article 18, paragraph 4, who do not resign.

5. A fine in the amount between KM 2000 and KM 5000 shall be imposed for violation against the civil servant who is member of steering or other boards of a political party, or if he/she follows the instructions of the political party (Article 16, paragraph 1, subparagraph e)).

6. A fine in the amount between KM 2000 and KM 5000 shall be imposed for violation against the responsible person in the institution who do not execute or refuse to execute the decision of the Board (Article 63).

7. A fine in the amount between KM 1000 and KM 2000 shall be imposed for violation against civil servant who:

a) Exercises additional remunerative activity contrary to by-laws and which was not approved by the Head of institution (Article 16, paragraph 1, subparagraph a));

b) When appointed as civil servant, does not disclose all information on properties at his/her disposal and at the disposal of the members of the close family as well as activities and functions performed by himself/herself and the members of the close family (Article 16, paragraph 2).

8. A fine in the amount between KM 200 and KM 800 shall be imposed for violation against civil servant who:

a) Publicly manifests his/her political beliefs (Article 14, paragraph 3);

b) Discriminates, and commit violence on the basis of sex or sexual orientation, harassment on the basis of sex and sexual harassment, as well as any other form of discrimination, pursuant to the law (Article 54, paragraph 2, subparagraph m)).

9. A fine in the amount between KM 200 KM do 800 KM shall be imposed for violation against the responsible person in the institution who:

a) Annuls the advertisement without explained request or attempts to advertise the same vacancy before expiry of deadline of one year from day of annulment (Article 28, paragraph 8);

b) Beyond procedures specified in law or by-law employs a civil servant or promotes him/her (Article 31);

c) Does not dismiss civil servant without justified reason within the statutory timeframe (Article 51);

d) Does not establish or does not ensure the unhindered operation of the Section in charge of the implementation of this Law (Article 60);

e) Does not execute or refuses to execute final decision of the Agency made pursuant to the provisions of this Law.

10. A fine in the amount between KM 150 KM do 500 KM shall be imposed for violation against the responsible person in the institution who:

a) Despite the warning of the civil servant, confirms the order for which is established that it is obviously illegal (Article 14, paragraph 2);

b) Proposes on behalf of the institution a person who does not have the civil servant status to the selection committee (Article 24, paragraph 2);

c) Employs an intern in the civil service contrary to the law (Article 28a);

d) Does not appraise civil servant or who does not ensure that civil servants are appraised regularly and in timely fashion (articles 29, 30 and 64);

e) Without justified reason or contrary to Agency's decision prevents civil servant in professional education and improvement (Article 49).

Article 63b

Responsible person

The responsible person in the institution, i.e. administrative body, shall imply to be the head of the administrative body, as well as other official person in those institutions and bodies, who is authorized and charged for immediate execution of certain tasks, but failed to execute them or executed them contrary to specified obligation.”

Article 31

In Article 64, paragraph 4, after the words: “Article 22 of this Law”, words: “to whom the Agency confirms legality of their employment” shall be added, word “determined” shall be replaced with word “specified”, and words: “principle of performance appraisals established under” shall be replaced with words “provisions of”.

In paragraph 5, the words: “The appointing authority” shall be replaced with words: “Institution civil servant is employed with”, and words: “do not fulfill the requirements set out under Article 22”, shall be replaced with words: “did not fulfill the requirement of

qualification referred to in Article 22, paragraph 1 within the period specified in subparagraph 2 of the same Article”.

Article 32

In Article 67, the words: “set forth in Chapter X of this Law” shall be deleted, and number “15” shall be replaced with word “eight”.

Article 33

In Article 35, paragraph 2, articles 36, 37, 38, 39, 40, 41, 42, 42a, 43, 44 and in Article 63, paragraph 4, subparagraph e), and in articles 68 and 69, shall be deleted.

Article 34

By-laws enactment of which is specified by this Law shall be enacted not later than six months after its entry into force.

Article 35

Constitutional and Legal Committee of the House of Representatives and Constitutional and Legal Committee of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina are hereby authorized to jointly determine the consolidated text of the Law on Civil Service in the Institutions of Bosnia and Herzegovina (“Official Gazette of BiH”, nos. 12/02, 19/02, 8/03, 35/03, 4/04, 17/04, 26/04, 37/04, 48/05, 2/06 and 32/07), not later than three months from day of entry into force of this Law.

Article 36

This Law shall enter into force on the eighth day from publishing in the "Official Gazette of BiH".

PABiH, number 350/09

27th April 2009

Sarajevo

Speaker

House of Representatives

Parliamentary Assembly of Bosnia and Herzegovina

Beriz Belkić

Speaker

House of Peoples Parliamentary Assembly of Bosnia and Herzegovina

Ilija Filipović