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RESPONSIBILITY AND PUBLIC INTEGRITY OF PUBLIC OFFICIALS IN MODERN PUBLIC ADMINISTRATION

ABSTRACT

Given that the concept of public administration includes functions that ensure the performance of tasks of public interest, public officials have responsibility for the lawful and efficient performance of public duties. Effective implementation of the responsibility principle will underpin the professional, transparent, and impartial operation of public administration. New European Union administrative principles are highlighting issues ranging from the rule of law, integrity, responsibility, fight against corruption, human rights, and public administration reform in general. The purpose of the paper is to elaborate both the theoretical concept of responsibility and public integrity and its practical application, with respect to the Serbian strategic, institutional, and legal administrative framework. Responsibility has been viewed as a comprehensive concept in a political, legal, and social sense that refers to both institutional and individual responsibility. The legal status of public officials and the scope of public authorities they perform determine the type of responsibility. While the functionaries can be seen mainly as subjects of political responsibility, civil servants are bound only by the rules of legal responsibility - disciplinary, criminal, material, etc. The paper will also elaborate essential elements of the public integrity concept - adhering to rules for combating conflict of interest to prevent negative effects, such as corruption in the public sector. In the Introduction, the author emphasizes the importance of responsibility and public integrity from the perspective of national administrative concepts, actual reform trends, and European Union public administration principles. The first part analyzes conceptual issues of responsibility and public integrity. The second part reveals essential elements of these principles from the perspective of international and European standards. The third part contains an analysis of the strategic, legal and institutional framework in Serbia, regarding the practical application of responsibility and public integrity. The paper concludes with the symbiosis of public administration principles and analysis of contemporary reform tendencies. Dominant scientific research methods include dogmatic, comparative, content analysis, statistical analysis.

Key words: Public administration, Public interest, Responsibility, Public Integrity,

1. INTRODUCTION

The purpose of public administration operation is to advocate for the legitimate public interest of society, individuals, or the majority of individuals, encompassing the protection of human rights, the provision of public services and the professional operation of public administration. Public accountability implies the rendering of account for matters of public interest, i.e. an accounting that is performed with a view to the public interest or to public responsibilities.¹ The public interest cannot be understood abstractly, but exclusively as a real historical moment, a moment of the functioning of the state and society.² It represents the interest of the entire social community or of individual parts, which the law must take into account. The principles of responsibility and accountability, essential in contemporary societies, are the founding principles of good governance. The basic social goal of administration control is to limit its power and direct its activities according to the needs of society.

Accountability is a comprehensive political, legal, and social concept. It implies the accountability of public administration bodies and organizations for the (non)achievement of strategic work goals and the responsibility of appointed, and employed persons for personal actions. In a broader sense, responsibility for the work of administrative bodies and organizations implies determining the effective, efficient performance of work and compliance with the rules of procedure, as well as the use of authority in accordance with the law by other administrative, legislative, judicial and other state bodies or independent institutions. While responsibility in a broader sense refers to giving an explanation for some action, accountability to other authorities, responsibility in a narrower sense implies an obligation to do or not do something.

Personal responsibility as a basis of institutional responsibility implies a special attitude of a public official towards actions and procedures, as well as a certain legal regime and sanctions. As the essence of institutional accountability, it promotes the legal, professional, efficient, and moral performance of work of public importance, with respect and a relationship of trust towards the users of public services. Public sector employees bear a crucial responsibility for maintaining public trust in state institutions, since individual responsibility is both

¹ Bovens, M.; Shillemans, T; Goodin, A.E., *The Oxford Handbook of Public Accountability*, Oxford University Press, 2014, p.7.

² Dimitrijević, P.; Vučetić, D., *Sistem lokalne samouprave*, Službeni glasnik, Pravni fakultet u Nišu, 2011, p.71.

a starting and an end point on the integrity route in public service.³ The concept of individual integrity encompasses the relevant education and skills of public officials as well as their ethical, morally responsive conduct to the public. This concept also implies that they are not subjected to corruption, violation of official duties and other misuse of powers.

Both political and legal responsibility of public officials have been a *conditio sine qua non* of the modern state and the rule of law. While the functionaries can be seen mainly as subjects of political responsibility, civil servants only follow the rules of legal responsibility - disciplinary, criminal, material, etc. The concept of management responsibility implies the obligation of managers at all levels of users of public funds to perform all work legally, respecting the principles of economy, effectiveness, efficiency and publicity, as well as to answer for their decisions, actions and results to the one who appointed them or transferred responsibility to them.⁴ This is a concept that aims for managers to be successful public managers and take personal legal and moral responsibility for their decisions, policies, adopted acts, undertaken actions and in general, be responsible for legal, legitimate, effective administrative action. The rules on political and legal forms of responsibility have been a crucial part of effective control mechanisms over the performance of public duties.

The concept of public integrity has also been defined in broader terms as the consistent alignment of, and adherence to, shared ethical values, principles, and norms for upholding and prioritizing the public interest over private interests in the public sector.⁵ Preserving the integrity of public servants and officials, in the sense of honorable performance of work and adherence to the rules of professional ethics, is essential for the proper performance of their duties. Institutional integrity assumes the operation of public institutions and their employees that should strengthen independent, impartial, transparent, and fair performance and trust of the public.⁶

³ Lewis, C.W.; Gilman, C.S., *The Ethics Challenge in Public Service: A Problem-Solving Guide*, 2nd Edition, Jossey-Bass, 2005.

⁴ Vukašinović, Z.; Vučetić, D., *Profesionalizacija javne uprave u Srbiji*, Kriminalističko-policijski univerzitet, Beograd, 2021, p. 11.

⁵ OECD, OECD Recommendations of the Council of Public Integrity, Public Integrity – A Strategy Against Corruption, 2017, <https://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>, 16 March, 2024.

⁶ Vukašinović Radojčić, Z.; Čvorović D.; Voštinić M., *Serbian approach to an effective public integrity system and combating corruption*, International Scientific Conference "Towards a Better Future: Human Rights, Organized Crime and Digital Society" Conference Proceedings, Volume I, Faculty of Law - Kicevo, University "St. Kliment Ohridski", Bitola, October, 2020, p. 117-130.

International and European Union institutions have always been strongly promoting lawfulness, the stability of democratic institutions, human rights protection and social and economic progress. International and European standards highlight the importance of legal and professional operation of public institutions through suppression of politicization, corruption, conflict of interest, violations of official duties or ethical standards and other means of abuse of public powers for private interests. By adopting common standards, the states modify and improve administrative systems and harmonize the most significant segments of public administration. At the same time, there is an emerging convergence between national legislation and practice, at both the European and international level. The concept of modern administrative reform contains the changes in the organisational culture, discipline and mentality, level of professionalism, transparency of operations and application of the new public management methods with the increase in managerial initiative and individual responsibility.⁷ The aim of the paper is to point out the relevance of a systemic approach towards public administration reform, ensuring legal, professional and responsive public administration through individual and institutional mechanisms for combating negative effects in the public sector. Legal rules and ethical standards for public service should be clear - public servants need to know the basic principles and standards they are expected to apply to their work and ethical standards should be reflected in the legal framework, laws and regulations could state the fundamental values of public service providing the framework for guidance, investigation, disciplinary action and prosecution.⁸

2.INTERNATIONAL AND EUROPEAN PUBLIC ADMINISTRATION PRINCIPLES: TOWARDS RESPONSIVENESS AND INTEGRITY

2.1. The United Nations acts

International and regional public administration guidelines focus on efficient implementation of legality and legitimate expectations, professionalism, transparency, accountability, responsibility, integrity and ethical conduct and application of integrated and connected elements of the human resources management system. One essential international act concerning the strengthening of measures and the development of international cooperation for the efficient

⁷ Kavran, D., *Javna uprava, Reforma, Trening, Efikasnost*, knjiga 5, Savet za državnu upravu RS, Udruženje za javnu upravu, FON, Univerzitet u Beogradu, UNDP, 2003, p. 307.

⁸ Pope, J., *Confronting Corruption: The Elements of a National Integrity System*, Transparency International, Source Book, 2000, p. 178-181.

prevention and suppression of corruption is the United Nations Convention against Corruption⁹, which promotes integrity, accountability, and legality in performing affairs of public importance and managing public property, while seeing corruption as a negative phenomenon undermining professionalism, the rule of law, and human rights. Because of the importance of combating corruption and conflict of interest in public administration, the notion of a "public official" has been expanded to any person holding a legislative, executive, administrative or judicial function and any other person who performs a public function, including for a public agency or public enterprise.¹⁰ This scope should be adopted by national legal systems in order to apply rules to these officials performing public functions.

Bearing in mind that professional public administration shall underpin capacities to combat corruption and politicization, the principle of meritocracy in recruitment, retention, and promotion, includes adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions.¹¹ In order for public affairs to be performed professionally and efficiently, the salary system must be stimulating, according to the economic development of the signatory countries. To ensure responsibility in the work of the officials, it is proposed to adopt and implement the code of conduct for employees in the public sector, for the violation of which the officials are to be liable in disciplinary and other legal proceedings. Also, national regulations must provide for the obligation to declare the assets of persons performing public functions and the possible existence of conflicts of interest. The convention emphasizes the importance of establishing mechanisms for effective control of public finances (external and internal audit) and informing the public (availability of information of public importance, periodic reporting, simplification of administrative procedures, publication of information). An institutional framework - an independent anti-corruption body shall carry out its functions effectively and free from any undue influence.

2.2. Council of Europe's conventions and guidelines

Along with the UN Convention against Corruption, the Council of Europe's Criminal Law Convention is reflecting the Council of Europe's comprehensive

⁹ United Nations, Office on Drugs and Crime, United Nations Convention against Corruption, New York, 2004, https://www.unodc.org/pdf/corruption/publications_unodc_convention-e.pdf, 20 February, 2025.

¹⁰ Art. 2. of the UN Convention.

¹¹ Art. 7. of the UN Convention.

approach to combating corruption as a threat to democratic values, the rule of law, human rights and social and economic progress.¹² The specificity of the Council of Europe's role lies in its multidisciplinary approach to this issue, which includes combating corruption from a criminal, civil and administrative perspective. The broader meaning of the term public official is used, which, due to the importance of combating corruption and conflicts of interest in public administration, also refers to officials at central and local levels of government and holders of judicial functions (judges and public prosecutors). This definition has both theoretical and practical importance when anticorruption and competent authorities address or intervene in anticorruption matters. The Convention aims to develop general standards about certain criminal offenses of corruption. Corruption includes bribery, trading in influence, and any other form of conduct involving persons entrusted with public or private authority that violates the obligations arising from their status. States parties are obliged to establish as a criminal offense bribery, i.e. the acceptance of an undue advantage by a person exercising public authority, as well as bribery of foreign public officials, which may be prosecuted by all States parties, not only the country of origin of the corrupt official.

The provisions of the Civil Law Convention on Corruption¹³ guarantee the signatory states effective means for the protection of the rights and interests of persons who have suffered damage from corruption, including the right to compensation for damage. Any person who has suffered damage as a result of an act or conduct of corruption has the right to initiate appropriate legal proceedings in order to obtain compensation for material and non-material damage. Article 5 of the Convention establishes State responsibility for damage caused by acts of corruption in the exercise of public functions. In appropriate legal proceedings, it is necessary to establish that an act of corruption has been committed or that appropriate measures have not been taken to prevent it, that the person has suffered damage and that there is a causal link between the act of corruption and the damage caused.

The Code of Conduct for Public Officials defines standards of conduct that play a significant role in preventing corruption, educating officials and changing the ethical climate in administrative bodies and organizations.¹⁴ The provisions of the Code regulate in more detail issues related to conflict of interest, participation in

¹² Criminal Law Convention on Corruption, Council of Europe, ETS, no 173, Strasbourg, 1999.

¹³ Civil Law Convention on Corruption, Council of Europe, ETS, No 174, Strasbourg, 1999.

¹⁴ Council of Europe, Committee of Ministers, Explanatory memorandum to Recommendation Rec(2000)10 on Codes of conduct for public officials, adopted by the Committee of Ministers on 11 May 2000, at the 106th session.

political activities, protection of privacy, acceptance of gifts, abuse of official position, use of public funds, liability of managers, termination of employment and monitoring of compliance with the rules of the Code. The principle of equal access to jobs is promoted, which supports the principle of non-discrimination and employment based on merit (merit principle), while ensuring a fair procedure for conducting public competitions. Article 13 of the Code defines personal (private) interest as any benefit for an official, a member of his family, a close relative, a friend or a person with whom he has business or political relations. Also, as a provision of a preventive nature, periodic reporting of personal or private interest is envisaged. A special prohibition applies to the performance of duties or activities incompatible with the performance of public duties. Political activities must not affect the impartial and professional performance of duties and the trust of citizens and employers.

For the Council of Europe, corruption represents a major threat to the rule of law, democracy, human rights, fairness and social justice, hinders economic development, and endangers the stability of democratic institutions and the moral foundations of society.¹⁵ GRECO standards are rather aspirational than legally binding on national public organizations, considering different approaches across the countries and legal systems to be supported by various legal systems. Similarly, GRECO determines the scope of "public official" as any person elected, appointed, or nominated to a public authority, appointed civil servants, advisers and special advisers to ministers, directors and members of the supervisory or executive boards nominated in public authorities.¹⁶

GRECO principles emphasizing integrity and impartiality as acting in accordance with the moral values, norms and rules, valid within the context in which one operates. It also refers to honesty and trustworthiness in the discharge of official duties, serving as an antithesis to corruption or the abuse of office for private gain. Public institutions should operate transparently in order to ensure public confidence in their independence, fairness and effectiveness and to maintain a balance between the need for transparency and the need to ensure confidentiality of sources, tactics and methodology, in order to effectively discharge their duties, especially in conducting investigations, as well as to protect the legitimate rights of others. Recruitment, career, and training to attract highly qualified individuals exhibiting the necessary skills, experience and behavior. The recruitment of personnel must be based on the principles of efficiency, transparency and fairness and upon known and objective criteria such as merit, equity and aptitude, focusing

¹⁵ Council of Europe, GRECO (99) 1 Agreement Establishing the Group of States Against Corruption, Document prepared by the Directorate of Legal Affairs Strasbourg, May 1999.

¹⁶ *Ibid.*

on a proven record of the individual's integrity, skills, education and training, experience and professionalism only.¹⁷

2.3. European Union Public administration principles

European Union institutions have always been strongly engaged in promoting lawfulness and human rights protection. The need for legal certainty does not mean that decision-makers must not be granted discretionary power, provided that legal remedies and procedures are in place for the prevention of its abuse. Public authorities act in accordance with the law, not taking arbitrary measures, even when exercising discretion. The concept of "abuse of power" involves the courts looking beyond the ways in which a particular decision was reached, and examining what the decision actually ought to be.¹⁸ They shall exercise their powers only if the established facts and the applicable law entitle them to do so and solely for the purpose for which they have been conferred.¹⁹

Similar to other international and regional organizations, European Union Principles of Public Administration, the fundamentals address interlinked issues ranging from the rule of law, integrity and accountability, fight against corruption, human rights, and public administration reform in general.²⁰ The new structure follows six thematic areas. The key areas for which the working principles are defined include: 1) Strategy; 2) Policy development and co-ordination; 3) Public service and human resources management; 4) Organization, accountability and oversight; 5) Service delivery and digitalization; and 6) Public financial management.²¹ The efforts of European institutions are aimed at supporting the states in establishing a clear and consistent legal framework and enforcing the rule of law, legal certainty, legitimate expectations, professionalism, transparency, efficiency, effectiveness, equality, accountability, ethical conduct, and the set-up

¹⁷ European Partners Against Corruption, European contact-point network against corruption, ANTI-CORRUPTION AUTHORITY (ACA) STANDARDS home-extension://efaidnbmnnnibpcajpglclefindmkaj/https://www.epac-eacn.org/fileadmin/Documents/Recommendations/Anti-Corruption_Authority_Standards.pdf, November 2011, 20 January 2024.

¹⁸ Stelkens, U., *General Principles of Administrative Law, Legality of Administration*, https://www.uni-speyer.de/fileadmin/Lehrstuehle/Stelkens/Lehrveranstaltungen/General_Principles_of_Administrative_Law/4_AdministrativeLaw_legality.pdf, 20 February, 2024.

¹⁹ Council of Europe, Recommendation CM/Rec (2007)7 of the Committee of Ministers to member states on good administration, <https://rm.coe.int/16807096b9>, 20 February, 2025.

²⁰ SIGMA/OECD, *The Principles of Public Administration*, 2023 edition, Paris, 2023, <https://www.sigmaxweb.org/publications/principles-public-administration.htm>, 19 January 2024.

²¹ *Ibid.*

and application of integrated and connected elements of the human resources management system.²² The newly redefined principle of organization, accountability and oversight reflects a need for an efficient organization of public administration across all levels of government, operating legally and applying clearly defined internal and external accountability mechanisms, such as: strong oversight bodies protect the rights of citizens and the public interest, principles of stability and flexibility ensuring accountability of public servants and protecting them against undue influence and wrongful dismissal, the obligation to act professionally and neutrally and the right to reject unlawful instructions, with protection against undue political and other interference in their professional judgment, public servants are subject to accountability, ethical and disciplinary frameworks and can be held liable in cases where misconduct is proven in due process.

Regarding the responsibility of public officials, key measures refer to effective and adequate legal provisions and institutional arrangements for suppression of corruption, disciplinary or criminal public officials' responsibility, rules on conflicts of interests (restriction of secondary employment, post-employment restrictions, guidelines for gifts and benefits, asset declarations and mechanisms for investigating and sanctioning discrepancies between personal assets and declared incomes. etc.), codes of ethics and conduct, integrity policies and action plans, and having the corrupt behavior of public servants criminalized in the penal code.²³ When it comes to the category of anti-corruption criminal offenses (bribery, fraud in the public service, abuse of public position, tax evasion, influence trading, money laundering), these offenses also need to be in the function of integrity building. While in some countries, conflict of interest is considered a crime (or misdemeanor), other countries have foreseen various sanctions for breaching the laws on conflict of interest (disciplinary sanctions).²⁴ Accordingly, legislation should define a comprehensive set of corrupt acts and integrity violations as criminal, civil and/or administrative offenses, including proportional sanctions.

²² Vukašinović, Z. *et.al.*, *op.cit.* note 4, p. 54-56.

²³ SIGMA/OECD, The Principles of Public Administration, 2017 edition. <https://www.sigmaxweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>, 20 June 2023.

²⁴ OECD/SIGMA, Conflict of interest Policies and Practices in Nine EU member states: a comparative review, 2007, <https://www.oecd.org/content/dam/oecd/en/publications/reports/2005/01/conflict-of-interest-policies-and-practices-in-nine-eu>, 20 January, 2024.

Managerial accountability refers to the answerability of managers for the work and results of their organisation.²⁵ Two main forms of accountability are most often mentioned in academic studies on the subject: political, and administrative, although others are also discussed (professional, public, democratic, legal, social, moral/ethical).²⁶ In order to underpin managerial accountability, European Union standards for civil service development include: recruitment based on merit and equal treatment of candidates during the selection process, prevention of direct/indirect political influence on managerial positions, fair and transparent remuneration system, efficient professional development system, fair and effective performance appraisal system, promotion/mobility based on objective and transparent criteria and merit, working discipline. The setting up of an efficient civil service system assumes the existence of measures for promoting integrity, preventing corruption, and ensuring working discipline.

One of the essential prerequisites for an effective anti-corruption authority is to provide a proper institutional and legal framework and its full application. The independence of an anti-corruption institution includes political, functional and operational, as well as financial independence. Its mission is to investigate and/or prosecute allegations effectively and efficiently and without undue influence or undue reporting obligations. There must be adequate procedures in place to ensure compliance with personal and professional standards and to respond to complaints and allegations of inappropriate, unethical behavior or other misconduct. These procedures should also provide mechanisms to deal with malicious and unjustified accusations and enable credible and swift exoneration in such cases. These protective mechanisms should not inhibit proper judicial review.

3. CHALLENGES AND PERSPECTIVES OF SERBIAN PUBLIC ADMINISTRATION

Although the Public Administration Reform Strategy in the Republic of Serbia for 2021-2030 and its accompanying Action Plan 2021-2025²⁷, as well as the Serbian legal framework provide for clear competences of state administration authorities in integrity building and in establishing a more efficient ethical infrastructure in

²⁵ OECD/SIGMA, Managerial Accountability in the Western Balkans, A comparative analysis of the barriers and opportunities faced by senior managers in delivering policy objectives, SIGMA Paper No. 58, Authorized for publication by Karen Hill, 2018, p. 9.

²⁶ *Ibid.*, p.10.

²⁷ Government of the Republic of Serbia, The Public Administration Reform Strategy in the Republic of Serbia for 2021-2030 and the Action Plan 2021-2025 for the Implementation of the Public Administration Reform Strategy in the Republic of Serbia 2021-2030, Official Gazette, No. 42/2021, 9/2022-Decision.

public administration, reducing the intensity of the risk of illegal behaviour, conflict of interest, corruption or unethical conduct to the minimum, effective implementation is often lacking. The European Commission has recognized limited progress in the field of Serbian public administration.²⁸ It has been emphasized that politicization remains one of the crucial problems in the Serbian public sector.²⁹ Political appointments of managers are hindering individual responsibility for legal and efficient operation. Although the legislation provides a basis for merit-based recruitment and dismissal procedures, it leaves too much discretion to the heads of institutions,³⁰ threatening the legality principle and legal certainty. In addition, individual and managerial responsibility remains weak.³¹ Due to a large number of public administration organizations, the lines of accountability between agencies and their parent institutions are blurred, contributing to overlapping functions, fragmentation, and unclear reporting lines. Recent reports of Serbian Human Resource Management Service point to significant outflows of civil servants in some job areas (inspection, international cooperation and EU funds management), the area of management.³² The reasons are numerous - the largest number of employees is dissatisfied with the salary, the lack of colleagues to share duties with, the lack of other resources, recognition and rewards, inadequate means and working conditions, and reduced opportunities for development and advancement.³³ Another problem is that civil service often uses temporary employment to fill positions instead of filling vacancies through competitive processes. This practice could result in inequities in career advancement opportunities and hinder the system's ability to attract and retain competent officials. A further major weakness of the Serbian civil service system is the ineffective performance appraisal system - the distribution of the results of evaluation of work performance shows a continuous inflation of high ratings of employees, so since most civil servants are appraised with the highest performance appraisal marks, it leaves a lot of discretion to a manager to decide who to promote to a higher rank.³⁴ Strengthening public administration's integrity requires developing the concept of managerial accountability. It involves achieving the

²⁸ European Commission, SWD(2023) 695 final Commission staff working document, *Report Serbia 2023*, November 2023, <https://op.europa.eu/en/publication-detail/-/publication/92407d24-7eee-11ee-99ba-01aa75ed71a1/language-en>), 20 February, 2024.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² HRMS, Report on the outflow of civil servants and proposed measures for retaining and preventing the influence of the outflow in civil service bodies (period from April 2022 to April 2023), 2023 <https://www.suk.gov.rs/tekst/75/korisna-dokumenta-.php>, 10 March, 2023.

³³ *Ibid.*

³⁴ HRMS, Unified Report on the evaluation of work performance of civil servants in state administration for the period from January to December 2022, 2023, <https://www.suk.gov.rs/tekst/75/korisna-dokumenta-.php>, 10 February, 2023.

administration's primary goals - to protect public interest and values and to effectively implement public policies. On the other hand, it contributes to suppressing negative phenomena, such as corruption, conflict of interest, nepotism, politicization, and improper application of discretionary assessment, among other issues. Some authors perceive, similarly, in other countries like Bosnia and Herzegovina, no progress has been made in the domain of changing the approach to management and leadership in public administration - the traditional management model based on the decisive will of one person, is in place.

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Accountability as a comprehensive political, legal, and social concept, implies accountability of all public administration bodies and organizations for the (non)achievement of strategic work goals and the responsibility of appointed or employed persons for personal actions. According to the Serbian Civil Servants Act, a civil servant is responsible for the legality, professionalism, and effectiveness of their work and no one may influence a civil servant to do or not do something contrary to regulations.³⁶ Except for general reasons stipulated for dismissal, a senior civil servant shall be dismissed from their position if they have not met most of the expectations in an annual or extraordinary performance evaluation, or if their employment relationship terminated due to: a sentence of imprisonment of at least six months, or a suspended sentence of imprisonment of at least six months, for a criminal offense, or a final decision imposing a disciplinary penalty of termination of employment.³⁷ A civil servant shall also be dismissed from their position if the authority or body responsible for their appointment accepts the public recommendation of the Ombudsman for their dismissal, or if it accepts the initiative for dismissal based on the measure of public publication of the recommendation for dismissal issued by the Anti-Corruption Agency. A civil servant who heads a state body shall also be dismissed from their position if the appointing authority or body determines that, during their tenure, there was a serious disruption in the work of the state body they head, due to responsibility for their failure to achieve work plans and strategic goals. If applied consistently, this provision would certainly enhance individual and managerial responsibility. However, in practice, in accordance with official reports, terminations of employment for this reason have not been realized within the Serbian administration.

³⁵ Vranješ, N., Djurić, V., *Izazovi uspostavljanja menadžerske odgovornosti u javnoj upravi u Bosni i Hercegovini*, Pravna riječ, Časopis za pravnu teoriju i praksu, Udruženje pravnika Republike Srpske, 67/2023, Banja Luka, 2023, p.101-120.

³⁶ Art. 6. of the Civil Servants Act, Official Gazette of RS, No. 79/2005-13, 81/2005-11 (correction), 83/2005-21 (correction), 64/2007-3, 67/2007-26 (correction), 116/2008-76, 104/2009-27, 99/2014-7, 94/2017-5, 95/2018-366, 157/2020-3, 142/2022-3, 13/2025.

³⁷ Art. 78. of the Civil Servants Act.

Responsibility and integrity are stipulated through strategic and legal acts: Anti-corruption Act,³⁸ Civil Servants Act,³⁹ Criminal Code⁴⁰, and the code of ethics at central and local levels. While the Anti-corruption Act establishes the Serbian Anti-corruption Agency, governing the powers of public authorities regarding the adoption and implementation of integrity plans, solving conflicts of interest, and implementing training in corruption prevention and integrity building, the Civil Servants Act defines the legal status of civil servants, principles of work, rules on conflict of interest, featuring significant provisions concerning the obligations of public officials and responsibility for disciplinary and criminal offenses. The Serbian Anti-corruption Agency initiates and conducts the procedure to determine the existence of violations of the Law and imposes the prescribed measures, resolves conflicts of interest, files criminal charges, requests to initiate misdemeanor proceedings and initiatives to initiate disciplinary proceedings, maintains and publishes the Register of Assets, verifies assets and income reports submitted by public officials, acts on petitions submitted by natural and legal persons, investigates the state of corruption, analyzes risks from corruption and prepares reports with recommendations to eliminate the risks, and performs other tasks. In accordance with International and European standards, a public official has been perceived as any elected, appointed, or nominated person in a public authority, except for persons who are representatives of private capital in the management body of a company that is a public authority. According to the Civil Service Act and anti-corruption legislation, a public official must not be dependent on persons who could influence his impartiality, nor use public office for obtaining any benefit or convenience for himself or a related person.⁴¹ Regarding the provisions of this Act, it has to be emphasized it contains rules on the concept of conflict of interest - prohibition of acceptance of gifts, additional work, prohibition of establishing companies and public services or engaging in entrepreneurial activities, restriction of membership in bodies of legal entities, reporting any interests related to the authority's decision and managing the conflict of interest.⁴² Violation of rules concerning the prevention of conflict of interest of civil servants constitutes a gross violation of duty.⁴³ The Civil Servants Code of Conduct⁴⁴ spells out these rules.

³⁸ The Anti-Corruption Act, Official Gazette, No. 35/2019, 88/2019, 21/2021 – authentic interpretation, 94/2021, 14/2022.

³⁹ The Civil Servants Act.

⁴⁰ Criminal Code, Official Gazette of the RS, No. 85/2005, 88/2005, 107/ 2005,72 /2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019, 94/2024.

⁴¹ Art. 41. of The Anti-Corruption Act.

⁴² Art. 25-31 of the Civil Servants Act.

⁴³ Art. 107 - 120 of The Civil Servants Act.

⁴⁴ The Code of Conduct for Civil Servants, Official Gazette, No 29/2009, 30/2015, 20/2018, 42/2018, 80/2019, 32/2020.

Harmonizing with European public administration standards, the rules on conflict of interest have been stipulated through the Civil Service Act and anti-corruption legislation. These rules imply that in performing their duties, persons exercising public authority must not allow their private interests to come into conflict with the public interest. A public official can exercise only one public function unless obliged by the Constitution, law, or other regulations to exercise several public functions and he/she cannot perform other work or business activity while discharging a public office that requires permanent or full-time work or be engaged in entrepreneurship, even for two years after the termination of the public service. Besides, a public official may not advise legal entities and natural persons on issues related to the public office he holds unless obliged to do so. Nevertheless, a public official can perform a function in a political party or political entity and participate in their activities if it does not jeopardize the performance of the public function and if the law does not prohibit it. This indicates that public resources cannot be used for the promotion of political parties or political entities. Additionally, a public official and their family members may not receive gifts in connection with the discharge of public office, except for protocol gifts and special gifts.

Certain shortcomings in resolving the issues related to the conflict of interest and as such remain one of the major challenges in countering corruption in Serbia. In 2023, a total of 107 measures were imposed due to breaches of the Law – measures of caution, public disclosure of the decision on the violation of the Law on the Agency, measures of public announcement of the recommendation for dismissal from public office.⁴⁵ On the basis of current trends, the European Commission recommended that the Serbian Government should ensure consistent implementation of the administrative legislation, in order to ensure a depoliticized public administration and a stronger merit-based human resource management and revision of anti-corruption legislation, especially rules governing the conflict of interest. Conflict of interest is still perceived as an abstract category, the consequences of which are not fully comprehended.⁴⁶

In addition, the obligation to declare assets and income is also an integral component of the rules on preventing conflicts of interest. A public official, within 30 days from the day of election, appointment, or nomination, submits to the Agency a report on his assets and income, the assets and income of his spouse or common-law partner, as well as minor children if they live in the same family household, according to the situation on the day of election, appointment, or

⁴⁵ Serbian Anti-corruption Agency, Annual Report for 2023, 2024, [https://www.acas.rs/storage/page_files/Annual_Report_2023%20\(003\).pdf](https://www.acas.rs/storage/page_files/Annual_Report_2023%20(003).pdf), 28 February 2024.

⁴⁶ European Commission, *Report Serbia 2023*,... *op.cit.* note 28.

nomination. Asset declarations are to prevent corruption and illegal use of public resources.

In 2023, the Agency imposed measures for the existence of grounds for suspicion that officials had not reported assets or had provided false information to the Agency, with the intent of concealing information about assets, 178 measures of caution, and eight measures of public disclosure of the decision on the violation of the Law on the Agency.⁴⁷ Measures of caution were imposed due to: not reported or not accurate assets (85), not reported upon termination of public office (38), not reported changes in assets and incomes (23), accumulation of functions (22) not reported on new appointment (10). The Agency filed nine criminal charges and two reports for non-reported assets and false data. In this period, 157 misdemeanor procedures were initiated due to the existence of grounds for conflict of interest.⁴⁸ In 2023, one conviction was passed and evidentiary proceedings are ongoing, while five applications were rejected. Two reports were submitted to the Serbian authority for money laundering. Most of the petitions were in the fields of local self-government, education, judiciary system, health system, construction (189), especially in public procurement. This implies to proactive role of the Agency in initiating relevant procedures and imposing measures.

Regarding the recommendations by the Group of States against Corruption (GRECO), in 2017, Serbia took steps to meet the remaining recommendations of the fourth evaluation round on the prevention of corruption in respect of Members of Parliament, judges and prosecutors, and reported on it to GRECO in March 2023.⁴⁹ In 2024, GRECO addressed a number of recommendations to Serbia in its Evaluation Report.⁵⁰ To get a comprehensive and multidisciplinary approach, there are some to be pointed out. First, national systems should lay down rules requiring that integrity checks take place prior to the appointment of ministers in order to identify and manage possible risks of conflicts of interest before joining government. GRECO concluded that this recommendation has not been implemented in Serbia.⁵¹ In addition, in Serbia, integrity checks are still not carried out in respect of chiefs of cabinets and advisers, nor do there appear to be any

⁴⁷ *Ibid.*

⁴⁸ In 2023, misdemeanour courts imposed 9 penal sanctions and 6 measures of caution.

⁴⁹ Council of Europe, GRECO, Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, Evaluation report, Serbia, 2017, <https://www.coe.int/en/web/greco/evaluations/serbia>, 20 January, 2024.

⁵⁰ GRECO, Council of Europe, Public GrecoRC5(2024)921, Fifth Evaluation Round, Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, 2024, Compliance Report Serbia, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680b0cd80>, 20 February, 2024.

⁵¹ *Ibid.*

reflection in this regard. However, the majority of measures recommended by GRECO (i.e. integrity checks of chiefs of cabinet and advisers, making the names and competence areas of Government advisers public) have not been addressed. The role of the Agency has to be strengthened by making public its recommendations and fostering integrity (personal, institutional, social), identifying and assessing corruption risks in the performance of the highest managerial positions. GRECO also calls upon the Serbian authorities to take resolute action so as to improve access to public information in the executive, as recommended.⁵²

GRECO recommendation on post-employment restrictions rules, setting out the two-year ban on public officials to engage in employment in the private sector which had a business relationship with the public authority where the official concerned was performing his/her functions, does not apply to all persons with top executive functions, including the President, the Prime Minister's and Deputy Prime Ministers' chiefs of cabinets, as well as special and government advisers. This represents one of the key challenges. In addition, asset and income declarations of persons with top executive functions need to be subject to regular substantive control by relevant authorities.

Regarding measures within Ministry of Interior, proposed activities include amending legislation for the selection, appointment, and re-appointment of senior managers, compulsory training, security checks relating to the integrity of police officers carried out at regular intervals throughout their career, setting up of a risk register at workplaces with high risk of corruption, adopting rules on the deployment/relocation of police officers at the proposal of the managers - the Corruption Risk Analysis should be a part of preventive activities.⁵³ The Code of Police Ethics has to be updated to cover in detail all relevant integrity matters (such as conflict of interest, gifts, contacts with third parties, outside activities, confidential information). Importantly, the Law on Internal Affairs is expected to introduce new rules on the selection and appointment of the Chief of Police and all civil servants in the police through a more open and transparent competition process.

In this regard, GRECO refers to the European Commission Progress Report for 2023 for Serbia which takes the view that the legal framework is still insufficient to guarantee the operational autonomy of the police from the Ministry of the Interior during the pre-investigation and investigation phases. GRECO recommended that an institutional system of rotation of police staff be put in place,

⁵² *Ibid.*

⁵³ *Ibid.*

which could be applied, as appropriate, in areas considered particularly exposed to corruption risks. However, the authorities indicate that these proposals have not been approved yet. GRECO further recommended that awareness of and training on whistleblower protection be strengthened in the police. In light of the foregoing, GRECO concludes that Serbia has implemented satisfactorily only one of the twenty-four recommendations set out in the Fifth Round Evaluation Report. Of the outstanding twenty-three recommendations, ten have been partly implemented and thirteen have not been implemented.

Considering responsibility of public officials, the most frequent violations of official duties refer to inappropriate and violent behavior towards parties and colleagues, failure to fulfill work obligations, negligent and untimely execution of tasks and orders of a superior, as well as being late for work three or more times, and leaving work early, for which a fine was imposed - 20% of the basic salary for the month in which the injury was committed.⁵⁴ Analyzing the judgments of the Administrative Court, it can be seen that civil servants initiate court proceedings most often in situations where a more serious disciplinary violation has been confirmed by the contested decision.⁵⁵ This is understandable considering the prescribed sanctions for serious disciplinary violations, which implies that the civil servant is motivated to invest legal means and thus prove in the administrative procedure, and later in the court, that he served in compliance with the regulations. In general, disciplinary responsibility does not entail responsibility in the criminal sense. We are talking about separate forms of responsibility of officials, for which special legal regimes are provided - competent authorities for conducting the procedure, legal procedure for determining responsibility and legal sanctions.

The most frequent violation of official duty refers to inappropriate and violent behavior toward parties and associates, which can be related to insufficient knowledge of the rules of the Code of Conduct and ethical norms, which would contribute to reducing such behaviors to a minimum. In general, there are a small number of initiated disciplinary procedures and a mild penal policy.⁵⁶ Also, disciplinary proceedings last quite a long time, and the epilogue is usually reached before the expiry of the period provided for the statute of limitations of the

⁵⁴ Vukašinović Radojičić, Z., Čogurić V., *Disciplinska odgovornost državnih službenika u teoriji i praksi*, „Zbornik radova 35. Susreta Kopaoničke škole prirodnog prava – Slobodan Perović“, Sudski postupak – pravda i pravičnost, 13-17 decembar, Tom I, Volume I, Beograd, 2022, p. 653-667.

⁵⁵ *Ibid.*

⁵⁶ Anđelković J., Vučetić D., Vukašinović Radojičić, Z., *Conceptual issues of public officials accountability: Research conducted in Local Self-Government units in the Republic of Serbia*, TEME, Časopis za društvene nauke, Pravni fakultet Univerziteta u Nišu, Vol. XLVIII, No 3, July – September 2024, Niš, 2024, p. 777-795.

proceedings.⁵⁷ In addition to professional ones, civil servants also have moral (ethical) characteristics and personal qualifications that affect professional, politically impartial, transparent, and efficient work performance.

Since the official relationship implies moral duty and obligation of civil servants, it is related to ethics, which can be defined as "a set of social rules that he adopts as his personal criterion of behavior in view of his capacity as a public servant."⁵⁸ The code of conduct for civil servants regulates the rules of ethical conduct of civil servants and the way of monitoring its application.⁵⁹ The goal is to determine the standards of integrity and rules of conduct of civil servants from state administration bodies and to inform the public about the behavior they have the right to expect from civil servants. Although the legal framework of the Republic of Serbia provides a basis for strengthening responsibility and integrity, the level of application of these norms in practice is inadequate. Current data indicate that integrity-building mechanisms have been implemented mainly at the level of fulfilling legal obligations, and that additional efforts are necessary to further promote and develop the elements that would be conducive to their better functioning and integration aimed at strengthening ethical infrastructure. One of the ways to reduce the existing gap between the norms and their application is to pay even greater attention to the expertise and ethics of public officials.

4. CONCLUSION

Public institutions should be responsive to public interest, protecting common values. The efforts of the international and European institutions are aimed at supporting national systems in establishing a clear and consistent legal framework and enforcing the rule of law, accountability and responsibility, professionalism, integrity and transparency of public administration. International and European standards are rather aspirational than legally binding on national public organizations, considering different approaches across the countries to be supported by various legal systems. The convergence of public administration principles means fundamental public values that have been adopted and implemented in national systems, bearing in mind differences between European continental and Anglo-Saxon doctrines and administrative practices.

⁵⁷ *Ibid.*

⁵⁸ Pusić, E., *Nauka o upravi, Knjiga 1, Uvodna pitanja, Uprava u društvu, uprava kao ljudska delatnost*, Narodne novine, Zagreb, 1989, p. 240.

⁵⁹ The Code of Conduct for Civil Servants.

Clearly, public sector employees bear a crucial responsibility for maintaining public trust in state institutions, since individual responsibility is both a starting and an end point on the integrity route in public service. A systemic, multidisciplinary, approach encompasses adequate strategic and legal framework and institutional arrangement for suppression of corruption, disciplinary or criminal public officials' responsibility, rules on conflicts of interests (restriction of secondary employment, post-employment restrictions, guidelines for gifts and benefits, asset declarations and mechanisms for investigating and sanctioning discrepancies between personal assets and declared incomes. etc.), codes of ethics and conduct, integrity policies and action plans.

Anti-corruption bodies and other independent institutions have a major role in imposing measures for illegal or non-ethical behavior of public officials and they have to be strengthened. Nevertheless, a proactive role of all public institutions should be in place. Effective application of rules on conflicts of interest is viewed as a powerful tool in establishing and maintaining citizens' trust in public institutions. In addition, the recruitment of personnel must be based on the principles of efficiency, transparency, and fairness and upon known and objective criteria such as merit, equity, and aptitude focusing on a proven record of the individual's integrity, skills, education and training, experience and professionalism only. The rules on civil service appointments, especially senior civil service and their career opportunities are fostering individual responsibility and integrity, underpinning prevention of abuse of powers, corruption, politicization, and violation of duties. Disciplinary, criminal, misdemeanor, and material responsibility are enshrined in all international acts.

The rules of Serbian administrative legislation guarantee legality, fairness, efficiency, equal treatment, the proper exercise of discretionary judgment, transparency, impartiality, objectivity, and legal protection. While the institutional and legal framework of the Republic of Serbia guarantees the implementation of responsibility and integrity, the level of application of these norms in practice is inadequate. According to monitoring and progress reports of international and European institutions, the Serbian environment should exceed the gaps between rules and practice. Measures of independent institutions should be effectively implemented in practice. Some indicators as to the effectiveness of conflict of interest relate to national law setting out clear principles, meritocracy, clear policies widely understood by public servants, established mechanisms for the resolution of these conflicts in ways that serve the public interest. Information regarding chiefs of cabinet and advisers of the Prime Minister, Deputy Prime Minister and ministers, as well as their respective areas of competence, is still not publicly available. In addition, integrity checks prior to the appointment of ministers, chiefs of cabinets and advisers are yet to be introduced. The

recommendation on post-employment restrictions rules does not apply to all persons with top executive functions, which constitutes one of the key challenges in preventing conflict of interest and corruption. Moreover, asset and income declarations of persons with top executive functions need to be subject to regular substantive control by relevant authorities.

Measures to foster responsibility and integrity also include amending legislation governing the selection, appointment, and re-appointment of senior managers in public administration, compulsory training on ethics and integrity, security checks relating to "risk" working positions, setting up of risk registers at workplaces with a high risk of corruption, adopting rules on the deployment - relocation of public servants. These preventive activities for combating corruption and conflict of interest are ones that would make the Serbian administration more responsive. There should be introduced an institutional system of rotation of civil servants, possibly to be applied, as appropriate, in areas considered particularly exposed to corruption risks. The expertise and ethics of public officials need to be addressed with greater attention.

The official documents and guidelines of International and European organizations promote the development of public administration in the context of achieving the rule of law, responsiveness and professionalism. Strengthening the public integrity, public awareness, ethical conduct of public officials should be a permanent tendency in modern public administration. With a view to developing a common European administrative identity, it is crucial to assess whether the law is applicable in practice before adopting it, as well as to further evaluate whether it can be applied effectively. European standards or guidelines can be approached critically and analytically, with respect to specific traditions of the national legal systems – administrative tradition, political support for reform implementation, economic conditions, and organizational culture of public administrative bodies and organizations. The essential prerequisites for accountable and responsive administration are political support, a solid strategic framework, a normative framework ensuring rules to suppress abuse of official duty, conflict of interest, criminal and disciplinary responsibility, relevant sanctions and full application of public policies.

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