

Development and effectiveness of the merit system in the Western Balkans – case of Serbia¹

The topic of this paper is the analysis of the merit system development and effectiveness in the administrations of the Western Balkans countries. At the very beginning of the paper development of the merit concept will be described (origin and genesis) as well as the effects that have been achieved mostly in Western democracies. However, the basic hypothesis is that in most of Western Balkans countries, spoils system factually remains in the reality, although the law stipulates the merit system. It will be demonstrated by a practical evidence as well as through comparison of the merit system in Western Balkans and Western democracies (in a formal as well as in a practical sense). The paper will also analyze the negative consequences of this state, as well as the benefits that the citizens would have in merit system. In addition, solutions shall be offered i.e. a model of reform that would overcome the existing situation.

In the spoils system, public administrators and politicians are often in a mutually "exploitative" relationship. Politicians give them rewards, and in return, get various forms of support for the reelection. From this situation, arise numerous negative consequences for citizens and the society as a whole. These consequences can be generally marked as undemocratic and ineffective (violation of laws, hiding information of public importance, corruption, irrational use of resources and so on).

By contrast, if the merit system would exist in the reality, citizens would have better quality of service. Beside this, public sector would be more transparent, which would produce more efficient use of the public money and other resources. In addition, the merit system would also contribute to improving political culture and fostering democratic values.

When it comes to solutions, it will be shown that the reform of the administration is insufficient without the reform of the overall system of governance, because the core of many problems lies in the political system. Some of the main goals that should be achieved through a comprehensive reform are the following: the emancipation of citizen representatives in the Parliament and local assemblies from political parties and their consequent closer relation to citizens, as well as the emancipation of local self-government from the central government and party centers. Beside this, the introduction of competition within the "political-administrative market" through the process of vertical and horizontal dispersion of political power (i.e. decentralization and real "check and balance principle") will be shown as relevant.

This issue will be addressed in particular on the example of Serbia; however, due to the similarity of the countries in the region, most of the findings will be applicable to almost all Western Balkan countries.

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1. The evolution of state and governance

In order to properly understand the evolution of the merit system as well as the varying degrees of its acceptance, realization and effects across Europe and the Western world, it is necessary to point out the evolution of the modern state and government.

Political science and the knowledge of the political organization indicate to us that governors from ancient times, whether they were one man - a monarch or a group of people who govern, could not alone completely manage the community. There were always counselors with them, or simply people who assisted the governor in various ways. However, until the modern age and the industrial revolution, government was very trivial compared to modern public management. For instance, in the Middle Ages the social structure of society was very simple. A huge number of people lived and farmed in the countryside, while only a small number lived in the city and did not have to do physical work (nobles, clergy, clerks, etc.). Secondly, in the Middle Ages there was no difference between the private and the public. Everything, and above all the land, was the property of the rulers. The people who cultivated the land were not landowners, but they were obliged to cultivate. They kept part of the product for themselves, and paid the rest to the ruler - the master. The essence of governance at the time, came down to the relationship of superiors and subordinates, i.e. on tax collection, arrangement of mutual vassal relations and guarantees of protection (Stancetic, 2012, p. 17).

It is important to be reminded of this period and of these social relationships, because they have not simultaneously nor at the same pace been overcome throughout Europe. For example, while the development of a new capitalist system was largely underway in the UK and Western Europe, the Western Balkans were still within the Ottoman Empire, deep within the feudal system. When Northcote–Trevelyan report appeared, the Western Balkans were part of a dilapidated and outdated empire with an unpredictable future. On the other hand, modern states are emerging in western Europe. Among the older modern nation-states is France, which during the 16th and 17th centuries became a modern nation-state. However, even before this period, there were indications of a future bureaucracy formation.²

Although the emergence of the merit system dates back to the second half of the 19th century, its history is long. The evolution of awareness of the need for such a system, is a consequence of the growing complexity of government and the need to engage high skilled people in governmental activities.

²In France, at the beginning of the 14th century, the basic directions of a modern centralized state were built. The previously established royal council - the *curia regis*, changed significantly during the 12th century, and instead of the group of landowners that king consulted in decision-making, it grew into a royal administrative-judicial body made up of knights, clergymen and citizens, all of them familiar with Roman law. They were appointed and paid by the king. The fact that King Philip IV, called Philip the Fair, appointed a citizen in 1310 as guardian of the great national seal, thus placing him in the highest position, was a signal that openly stated that birth and possession would no longer be the path to the highest official positions, but the skills and loyalty to the crown (Schulze, 2002, p. 26).

Another topic important for a proper and complete understanding of the merit system is political parties and party interests. The oldest parties (in the modern sense of the word) are the British Liberal and Conservative parties and the American Republican and Democratic parties, which in the 19th century got their final outlines. Political parties were soon spreading across all European countries and became a key player in the political life and authority formation. It should be noted, that merit system is created around the same time as political parties.³ It is interesting that the time and place of origin and development of the merit system is almost identical to the place and time of emergence of political parties (namely the United Kingdom and the United States). Similarly like political parties, the idea of a merit system was spilled over to other European countries, but the degree of acceptability and effects of this system varied from country to country. The effects of the merit system are particularly questionable in the Western Balkan countries, and one of the basic hypotheses of this paper is that, in the practice of these states, the spoil system has survived, in spite of the fact that merit is formally introduced.

2. Spoil vs Merit - The emergence and development of the merit system

The spoil system (also called patronage) means that a political party that wins in elections gets the right freely and according to own will to appoint people in administration, just as it has the right to appoint a minister for a particular department. In contrast, in a merit system, a ruling political party (or coalition) appoints its people only to key political positions for a limited period, while in the administration; professionals are recruited according to their qualities, based on public competition.⁴ They are permanently employed in public administration and do not leave their job if government is shifted.

The spoil system can be signed as an overcome and anachronistic because it originates from a period when political authority was an absolute master, which is not in line with modern democratic trends. In addition, all democratic states have introduced a merit system and there are almost no politicians who will not publicly support idea of merit system. This is similar to democracy. States are often formally democratic and almost every politician will say that he is a democrat, but nevertheless not all democratic states are equally democratic nor are all politicians who claim to be democrats truly democrats. The evasion of the merit system is that the job in public administration is in reality often awarded as a reward for political services performed, most often during the election campaign, with the key criterion of party loyalty, whereby the admission procedure is only formally done according to law.

³Most researchers agree that the modern merit system appeared during the 19th century in the UK and the USA, although it can be said that its elements existed in earlier centuries. For example, in the article *The Origins of the Permanent Civil Service, 1780-1830*, author *Henry Parris* argues that no modern civilian service existed in the 18th century. „The 'permanent civil service' has been distinguished from its modern counterpart in three significant ways. It was not permanent, it was not civil, and it was not a service. The expression 'a service' implies a body of full-time, salaried officers, systematically recruited, with clear lines of authority, and uniform rules on such issues as superannuation. These conditions did not exist in the eighteenth century.“ Therefore, he concludes the eighteenth century 'civil service' is not a service (Parris, 1969, p. 143). However, most scientific articles on the development of the merit system focus on the second half of the 19th and 20th centuries.

⁴ The merit system nowadays refers primarily to the civil service system and implies that in admission to public service, education (qualifications) and the personal qualities of candidates are valued. In addition, the merit system implies that employees are grouped, paid and promoted according to their abilities, commitment to work and results achieved.

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When it comes to the emergence of merit systems as cornerstone events, the following can be mentioned:

- Northcote – Trevelyan Report in the UK in 1854, then,
- assassination of President Garfield in 1881- an event that shook the United States, and
- adopting the Pendleton Civil Service Reform Act - a federal law that virtually introduced the merit system into federal government, which meant that most positions in federal government would be awarded on the merit system. The basis of this law were the ideas from the Northcote-Trevelyan Report.

In 1854, the British Conservative politician Stafford Northcote and the official Charles Trevelyan drafted the so-called the Northcote–Trevelyan Report to the United Kingdom condemning the current administration system as unprofessional, based on nepotism and patronage. It states that governance cannot be exercised and implemented “without the assistance of a capable body, made up of permanent civil servants, who are properly subordinate to ministers, who are directly responsible to the Crown and Parliament, but who still possess sufficient independence, capacity and experiences so that they can advise, assist and occasionally influence those above them“ (Stancetic, 2015, p.74). On this occasion, the two also made four suggestions that should improve the system at the time:

1. Recruitment for work in public administration should be conducted on the basis of merit and open competitive examinations;
2. Entrants should have good general education and should be recruited to a unified Civil Service and not a specific department, to allow inter-departmental transfers.;
3. Recruits should be positioned in the hierarchical structure of classes and grades and
4. The promotion should be based on merit and not on the basis of one's patronage, position purchase, or personal preferences of superiors.

These elements are so far crucial in the modern merit system. In addition, as will be shown later, the most common deviation from the ideals of the merit system occurs with the first element, namely recruitment and admission to public service. There is another important issue to note, and it also comes up with the introduction of the merit system in the US. That is the necessity of a merit system. Namely, in the mid-19th century in Britain, the industrial revolution was in the swing, specialization and complication of state affairs took place, and this report came into existence when it became clear that the fate of Britain's further development was determined by the quality of public governance and administration and that if anything not take action on this issue the state will run into serious problems.

The situation was similar in the USA. Specifically, in 1881, the United States was shaken by the assassination of President Garfield by his party counterpart for being upset because he did not receive the reward he expected for his services during the presidential campaign. This event led to the public being woken up and realized that "the spoil system is a

huge public evil".⁵ The spoil system as evil was talked about and written in the US media decades before the event. The Garfield assassination was the final trigger and call for the spoil abolishment and the finally merit system introduction. That happened two years later, with the adoption of the Pendleton Act. This law introduced the Civil Service Commission, which played a significant role in the selection of personnel to work in public administration, but which also insured that public servants were protected from the influence of politicians.⁶

The last years of the 19th and first decades of the 20th century were characterized by the public and academics enthusiasm for the idea of a merit system. For example, scholarly article published 1917. in *The American Political Science Review* states that "there is no question of national policy being firmly established as the merit system" (McIlhenny, 1917, p. 461). It is also stated that the development and improvement of the practical methods of the merit system in recent years have been rapid not merely in the federal service, but in the great municipalities of the country. Of the whole number of public employees in the United States, federal, state, county, municipal, and village, not far from 600,000 or nearly two-thirds of the entire number, are withdrawn from the spoils system and appointed upon a merit basis, under laws intended to regulate and improve the public service (McIlhenny, 1917, p. 462). The article *The Rise and Progress of the Merit System* reads enthusiastically about the merit system as well as early years of the 19th century, which was dominated by the "evil of spoil system" (Wheeler, 1919). Former New Mexico Senator Carl A. Hatch, in his speech of the 1939 year, says, "Free government demands the abolition of the spoils system. The fight against its evils began long ago." (Hatch, 1939, p. 631). During the 20th century, "Americans have been aware that Personnel administration is the most fundamental and important task of the head of any organization as well as whenever this administrative theorem is ignored, the objective of the organization is jeopardized". (Wilson, 1954, p. 87).

However, more recent research indicates that the US merit system development has not flowed smoothly nor equally in all US states. Specifically, the Pendleton Act introduced a merit system into federal government, but the states did have freedom of choice in organizing their authorities, though there were recommendations from the federal state as well as public pressure to introduce the merit system in all states at all levels.

Despite this, only Massachusetts introduced the merit system, just a year or two after the Pendleton Act was passed. After that, for almost two decades, there has been virtually no states activity on the merit system introduction. It was so until 1905 when the states of Illinois and Wisconsin introduced merit, and in the following years Colorado (1907), New Jersey (1908), California (1913), Ohio (1913) and Maryland (1921). During the 1920s and

⁵The reaction of the whole country was mirrored in the text of the influential Harpers' Weekly magazine, edited by George William Curtis, one of the most prominent civil service reformers. The headline of the text was: "The Significance of Guito's Crime", which read, among other things, "But for the practice which we have tolerated in this country for half a century, and which has become constantly more threatening and perilous, Guiteau would not have felt that working for the party gave him a claim to reward, or a right to demand such a reward as his due and to feel wronged if he did not get it. This dire calamity is part of the penalty we pay for permitting a practice for which as a public benefit not a solitary word can be urged, and which, while stimulating the deadliest passions, degrades our politics and corrupts our national character. The spoils system is a vast public evil". Source: Key Events: Ninety-six Premerit Years: 1789-1883, <https://archive.opm.gov/biographyofanideall/PUevents1789p01.htm#item9>

⁶The Commission existed in this form until the reforms in 1979 when the Office of Personnel Management and the Merit Systems Protection Board as the successor agencies are created.

the end of the 1930s, only a few more states introduced merit, but between 1936 and 1939, even 24 of the remaining 37 states introduced the merit system (Ruhil, Camões, 2003, pp. 30-31). The key question is why did this happen in this period?

The answer given by the researchers in the cited article refers to the importance of politicians and to the fact that the merit system was introduced at a moment when parties and politicians did more harm than good with the spoil system. More specifically, they do not cite the "goodwill" of politicians to introduce the merit but the objective circumstances that compelled them to do so, namely: nationwide and state-specific demographic, economic, structural, and political factors, for example, growth in patronage constituencies; the use of the Australian ballot; political party competition; dwindling patronage resources post-Pendleton; and the onset of the Great Depression — that shifted politicians' preferences for the merit principle rather than patronage (Ruhil, Camões, 2003, p. 28).

That this reasoning is not alone is borne out by Canada's experience. There, in 1919, the Civil Service Act was passed which virtually eliminated the patronage system from almost all public service. A major step towards professionalizing the administration was the separation of personnel administration from general management. This separation not only marked the end of an unambiguous executive authority over personnel management but also substantially increased the power of the Civil Service Commission, which guarded, protected and promoted its new authority. However, it is also important to mention the consensus of political parties to establish such an independent commission (Juillet, Rasmussen, 2008, p. 49).

During the 20th century, challenges emerged from the originally merit system, stemming from the pressures of various social groups that required special treatment: women, war veterans, minorities, and so on. Thus, over the course of the 20th century, a pure merit system was modified, which now began to take into account some other aspects besides its objective characteristics. Therefore, there is opinion that merit is not completely neutral, but rather that it is strongly influenced by what is considered as politically correct at the moment.

The topics that prevail in the late 20th and early 21st century relate to the real-world reach of the merit system, looking at the extent to which it has actually been applied and what the results are. There are frequent criticisms of the merit system, but not in the sense that the concept is flawed, but that there is a constant tendency to avoid or partially apply it.⁷

Also in the 21st century, some orthodox values of the merit system and the degree of freedom that executive agencies need to have are still being questioned. Earlier enthusiasm for full autonomy (from politics) of executive agencies has raised the dilemma of whether partial politicization (i.e., the appointment of top executives by political or party will) has its public benefits. It appears standpoints that the right balance between political dependency and political independence of agencies is the best way to be effective. This implies that end-to-end solutions such as the spoil principle of staff hiring and high political dependency, but also completely independent merit hiring, reduce the efficiency of the bureaucratic

⁷For example, according to a survey conducted in the 1980s in the United States at the local level, personnel directors were found to be in cities with over 100,000 inhabitants in 85.5% of cases interacting with local elected officials and federal representatives concerning recruitment, selection, examinations, minority hiring, hiring of females, and selection of individual job candidates (Stein, 1987, p. 263).

organization, and that balancing these two principles is the best thing. The basis of this approach is that not only the expertise of the staff is sufficient for the efficiency of the administrative organization, but also the clear responsibility of the management to get the job done properly. Thus, expertise is provided through the merit system and independent segments, but the responsibility of the organization is ensured through political leadership (Krause, Lewis, Douglas, 2006).

When it comes to the merit system development on the European continent, it is difficult to speak generally because of the great diversity between European countries (especially western and eastern). Although the merit system root is unique, each country's merit-based civilian service has its own particular historical and cultural roots, but each country also borrows from others. European countries where the historical evolution of merit systems provide references to others are the United Kingdom, France and Prussia. The merit systems of most other European countries were based on ideas and elements taken from these national frameworks (Cardona, Eriksen, 2015, p. 3).

A numerous research on the merit system in Europe is related to corruption, ie the question of the relationship between the merit system and corruption, and to the question why in some European countries merit is accepted and produces good results, while in some it is declaratively accepted but not consistently implemented and produces poor results.

In contemporary research on the merit system in Europe, much like in the USA, it is noticeable overcoming the strict division of politics and administration, and the importance of a kind of permeation of these two spheres, which must control each other. In Europe, for a long time, the key features of bureaucracy that have an impact on combating (or preventing) corruption are: closed bureaucracy (formal exams special regime for bureaucrats), well-paid and professional bureaucracy (Dahlström, Lapuente, Teorell, 2015, p. 658). More recent research, however, shows that corruption actors across Europe are both officials and politicians, i.e. both groups can be a source of corruption. Therefore, the importance of mutual control and mutual monitoring of these two spheres (politics and administration), as well as openness to citizens and the public in general, is emphasized. An extensive survey, conducted on the basis of data from 52 countries (from Europe and the world), on what are the key features of a bureaucracy that acts to counteract corruption, has been found to be primarily recruitment based on merit. Interestingly, the same survey found that other elements of merit, which in most of the literature are considered to discourage corruption, such as: competitive wages, career stability, or closed bureaucracy is not a relevant factor in combating corruption. So their conclusion is that employment in the bureaucracy is crucial and mutual monitoring of politics and bureaucracy, and that the mechanisms of eliminating temptation (through esprit de corps) are not so effective (Dahlström, Lapuente, Teorell, 2015, p. 650).

2. Public administration and the merit system development in the Western Balkans

Historically as well as culturally, we can say that the factors in the Western Balkans are disincentives for the intensive implementation of the merit system.⁸ Namely, while in the USA and Western Europe there was a continuity of democratic state, institution building, confrontation with various experiences and gradual improvement of institutions, the Balkans was occupied with completely different activities and topics. For example, while the Trevelyan Report was being created in Britain, and while the US was largely talking about the evil called spoil, the Balkans were ruled by decadent and obsolete Ottoman empires. The entire 19th century was unstable for the Western Balkans, followed by the 20th century with two devastating world wars and the final establishment of socialism that did not care about the merit system. The Communist Party was the absolute master, deciding who was ideologically fit and who was not for public service. It was only with the fall of socialism that began with the fall of the Berlin Wall in 1989, the issue of modernizing public administration, and within that, the merits system came to the agenda. However, the decades of experience of complete overlapping between the ruling party and the state, and extensive state intervention and regulation during the socialist period, have made the spheres of politics and administration very difficult to separate, which is one of the preconditions for democracy and public sector efficiency. In addition, the centralization of political power that has persisted to this day constitutes an environment in which the merit system is reluctant to be implemented.

Therefore, in analyzing the merit system in Europe, a distinction should be made between the two groups of countries. The first group is made up of countries with traditionally well-established professional civil services, which are relatively independent of politics. The second group of countries emerged from a period of communist rule, where no distinction was apparent between political party apparatuses, public administration, and the idea of a state as an independent reality, both from public administration and political party (SIGMA, 2000, p. 1). More detailed grouping can be done within second group. Namely, one group is made up of countries that have implemented reforms well and became EU members in 2004, and countries that are still on the path of European integration, or have become EU member states, but still face serious challenges related to merit system (in the first place Western Balkans, and probably Bulgaria and Croatia can be added to this group).

A comparison of the merit systems of the countries of the Western Balkans and Western Europe (the so-called Old Democracies) and the US on the other hand, as well as their reach, would require a complex analysis that goes beyond the scope of this paper. However, what can be done in a more concise form is a comparison of a crucial element of the merit system, which is recruitment. Namely, research (some of them cited) as well as various reports (eg SIGMA reports)⁹ indicate that the merit system is often violated when applying for public service candidates.¹⁰

⁸ It is interesting that in the Serbo-Croatian language the word *vlast* (which means authority or government) is similar to the word *vlasnik* (owner) or *vlastelin* (landlord). English words government or authority do not refer to ownership or to lordship.

⁹SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the OECD and the European Union. Its key objective is to strengthen the foundations for improved public governance, and hence support socio-economic development through building the capacities of the public sector, enhancing horizontal governance and improving the design and implementation of public administration reforms, including proper

Report *A comparative overview of public administration characteristics and performance in EU28* states that Bulgaria, also Croatia has a problem in the EU with a merit system.¹¹

According to SIGMA reports, the situation regarding the merit systems in the Western Balkans is poor. Although most countries of the Western Balkans have introduced merit in formal and legal terms, the practical reach is weak. This situation is best illustrated by the sentences that “Western Balkan states have made major efforts to institutionalize procedures that are supposed to ensure merit-based recruitment to civilian service and there are basic requirements such as compulsory advertising of vacancies, examination right of appeal against the outcomes of selection decisions. In spite of this, recruitment practices continue to be characterized by a high degree of informality and favoritism, the use and abuse of discretion, and a high degree of party patronage. International organizations including the European Commission have made major efforts to institutionalize merit recruitment in the Western Balkans, but the social, political and economic context fails to provide conditions for the professionalization of recruitment practices” (Hinrik, Sahling, SIGMA paper No. 48, 2012, p. 32).

In short, the conclusion is that, as announced in the beginning of this paper, the legal form for a merit system exists, but not the will to put it into practice consistently. This finding is also supported by findings on the merit systems development in the US and Canada.

There is another important difference between the merit system in the Western Balkans from one side and the merit system in Western Europe and the US on other side. Namely, the introduction of the merit system in Western democracies was accompanied by the introduction of an independent commission, which played a key role in the selection of candidates for public service. These are reputable, independent commissions or agencies with high institutional power that play a key role in recruiting for public service but also protect the merit system and honor of officers. In addition, most importantly, they protect officials from political influence. For example, if an official in the United States suffers political pressure or mobbing or is fired, he or she may initiate a procedure after which, if he or she is proven innocent, he or she is compensated and promoted. Of course, this implies the functioning of the judicial system, but also the existence of legal norms that ensure the protection of a public servant from political influence. In the Western Balkans, on the other hand, there are also national bodies such as the Human Resources Management Service in Serbia. However, their reach, power and overall importance in society are significantly smaller compared to analogous institutions in the west.

Another significant difference that can be noted between Western Balkans and West are the schools for public training and the education of future public servants. In the Western Balkans, officer training is generally formal and general. On the other hand, in the west, there are special schools and academies that train future officials, not only with knowledge of

prioritization, sequencing and budgeting. Currently SIGMA work with Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia and Turkey as EU candidate countries and potential candidates. More: <http://www.sigmaweb.org/>

¹⁰“In particular, meritocratic recruitment of civil servants, as opposed to political appointment, is found to reduce corruption. A comparative assessment of indicators and national sources indicates a continuing high degree of patronage in many European public administrations. Especially in Eastern and Southern European Member States, patronage is still a dominant pattern of public administrations” (Thijs, Hammerschmid, Palarić, 2017, pp. 27-28).

¹¹Politicization is also a continuous feature and one of the main problems in the Croatian civil service. The problem has usually been approached in a formal manner, through the law amendments and attempts of reshaping the appointment procedure for managerial positions in public administration, (Ibid. p. 28).

regulations and public management, but also who study ethics and codes of ethics, what an honorable officer is and finally how to react in situations of political or any other pressure to act dishonestly and contrary to law. Similar schools in the Western Balkans do not exist or are in their infancy.

3.The SPOIL system in Serbia is still alive

One of the basic hypotheses of this paper is that the spoil system in Serbia today largely lives in public sector practice, although formally speaking there is a merit system (at least the minimum standards of merit system). As Serbia is in many ways similar to the surrounding countries, many of the assumptions and conclusions of this paper can be applied to western Balkan countries.

Of course, a hypothesis like this is difficult to prove on the basis of official reports and data, because the circumvention of the merit system regulations is done carefully and perfidiously. Often the legal form when recruiting for public service is satisfied, but the bottom line is that the best candidate should be selected. However, a closer analysis of the regulations in Serbia indicates that, even in the legal framework, there are many gaps. Namely, a merit system should permeate the entire public sector. But most of the merit system rules apply to the state administration, but not to local self-government and other segments of the public sector (eg public enterprises). Therefore, the most common mechanisms of employment in the state administration, local self-government and public enterprises will be briefly outlined, which together represent a large part of the political parties spoils.

Most of the regulations of the merit system apply only to state administration.¹² Similar to other countries, there is a central agency that should take care of the personnel in public administration and professional standards, which is the Human Resources Management Service (HRMS). However, this is a rather "weak" organization compared to its counterparts in Western countries. First, it has only the role of support and assistance in the process of public administration reform; second, its activities relate primarily to the state administration staff (therefore, to a small part of the public sector in Serbia). The role of the HRMS in the decision to recruit to the state administration is minimal (mainly performing administrative and technical tasks - e.g. public advertising). The commission which decides on the admission of a new candidate to the state administration is appointed by the head of the state body (minister) almost at will. There are no detailed provisions in the Civil Servants Act (*Zakon o državnim službenicima*). In practice, the Minister selects several employees already employed to be members of the commission. After testing the candidates (although there are usually no written tests and most often interviews), the committee submits the list of candidates who meet the criteria for selection with the achieved candidate results (hereinafter: the list of candidates) and submits it to the top manager, who should choose the candidate who has on the best way met the selection criteria. As testing is usually reduced to an interview, there is considerable discretion for the commission and therefore for the minister

¹² The state administration in Serbia is very narrowly defined. According to the Law on State Administration, public administration consists only of ministries, and so-called. administrative bodies within ministries and special organizations. Public administration in Serbia is not a positive legal category, although there is Strategy on public administration reform.

to decide which candidate is the most successful. In order to understand more fully the employment situation in state administration and the well-founded hypothesis that public competition is a mere form, another very common phenomenon in state administration, namely temporary employment on the basis of contracts, should be pointed out.

Although the law stipulates that the state administration only in specific and rare situations may hire staff based on temporary contract, this legal instrument is widely and very often used. The mechanism is very simple. The ministry has great freedom in the implementation of this instrument. In practice, it is most often the case that “party soldiers” are first hired through contracts like this. These are contracts that are renewed most often every three months, possibly longer. During this time, the engaged person is not employed in formal or legal terms nor has the status of a civil servant, but practically performs all the duties of a civil servant. It is superfluous to speak about the (in)dependence of such staff. After a certain period of time when the authority (in fact the party headquarters) decides that it is time for one person to be completed and formally employed as a state servant, a public competition is announced. As a rule, a large number of candidates appear, including the preferred candidate that is already engaged. The commission members are actually senior colleagues of the preferred candidate. Then the commission values the previous experience and since the preferred member is practically already working in the ministry, the commission gives him a great deal of points on the basis of which he defeats the others (outsiders).

Opportunities to avoid merit standards at the local level are even greater. HRMS is primarily a service of the central government but not of local governments. On the other hand, several paragraphs of the *Law on Employees in Autonomous Provinces and Local Self-Government Units* illustrate the degree of discretion and flexibility in hiring new employees in local government. Article 101 of this Law states that the Head of Administration, Head of Service or Organization, by its decision, establishes a selection commission of three members, and of these three members one must be the direct manager of the organizational unit in which the position is filled and one must be hired in the field of human resource management. The selection of the third member is free. The discretion of the commission and the possibility of staging the results are particularly facilitated by the provision according to which the commission determines which professional competences, knowledge and skills will be tested in the election procedure and the manner of their verification.

What is happening in the practice of local self-government in Serbia is pure trade - "selling" local government jobs for political services rendered during the campaign and election. Another name for this situation is the spoil system.

The core of the evil of spoil in this situation is the so-called certain voices. Namely, the political parties that have won the local election should satisfy the appetites of their members and party friends who have especially stood out during the election campaign and certain votes are most valued. The most active member of the party is considered to be the member who brings the most certain votes. According to some media, there are indications that local officials and party members are given a quota of certain votes during the election campaign that he must muster to justify his party's confidence and to confirm or get a job (Danas, 2017). A certain voice is obtained by offering and giving to citizens, a variety of services: charity packages, a free checkup, firewood, work or just money. The voter in return

undertakes to vote for a particular party in the forthcoming elections. Even a system for controlling whether a "certain" voter actually voted according to his promise was developed. One mechanism is to print more ballots than anticipated, so the functionary who provides the buying a vote gives a ballot to a voter with an already rounded ballot, and the voter returns the blank sheet he received at the polling place. Of course, the one with the previously rounded choice was inserted into the ballot box. There are other methods of control, such as taking a ballot with a mobile phone after an agreed political party has been rounded up. Whatever the control, one of the basic principles of democratic elections, which is the secrecy of elections, is violated here.

As a key criterion for status and influence in the party is collecting a certain votes, it is possible that a non-expert person may have a greater influence on political decision-making in the party than one who has the appropriate qualifications and knowledge to deal with local politics in a quality manner. An incompetent person in the following sequence of events in accordance with a job well done, making a list with the largest number of potential voters has certain privileges and benefits e.g. the right to employ a number of people (friends, neighbors, relatives and those who pay him to get a job). Although, by law, public vacancies for admission to a certain position in local administration must be announced, in practice this is not respected or bypassed. Public competitions are called for the purpose of simulation and formal adherence to the law, and the one to whom the work is intended in advance is known or even employed in that workplace and employed by a directive from the top of the local authority.

Namely, thanks to this mechanism some members of a political party advance on the party ladder without any visible knowledge and honor. Very often, the local policy depends on such people without real knowledge and/or ethical integrity. With the lack of knowledge of such party members, primitivism is generally manifested in the sense that they tend to eliminate professional experts to the most primitive methods, so it could be deduced that the less education and necessary knowledge, the more arrogant in their method, so the lack of knowledge is covered by cruelty and bestiality. In addition, the consequences for the quality of public services received by citizens are extremely negative.

Another phenomenon that clearly indicates that political parties do not want to give up their spoils are public companies. Although it is established by recent regulations that directors of public companies are elected in a public competition and that they have some independence in their work, this is avoided in practice by the appointment of acting directors (srb. *vršilacdužnosti*). According to media reports, "more than half of the directors of public companies and civil servants have been appointed by the Government of Serbia as acting directors. In this way, politically elected and easily replaceable personnel come to the highest positions in public enterprises, which often do not meet even the basic conditions stipulated by law" (Insajder, 2019).

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150 years of experience in the merit system development , as well as numerous experiences of European countries and assistance from the European Union, are a good basis for establishing reform directions that would lead on the way to the realization of the merit system in practice and professionalization of public administration. However, the problem is not what should be done, but whether there is a (political) will to do it. And previous

experience has indicated that the merit system was introduced when political parties came to the situation to do more harm than the benefits of the spoil system, so they created a broad consensus for the merit system introduction.

A solid explanation for the absence of the aforementioned political will is the concept of the so-called guild interests of parties. These are interests or benefits that apply to the entire political elite or politicians, regardless of party affiliation. This could be, for example, the broader increase in parliamentary immunity, the increase in parliamentary salaries, etc. It is also in their interest to have as much political spoil as possible (controlling state bodies, institutions, public companies ...), (Goati, 2008, p. 71).

On the other hand, the effective operation of the party in modern conditions also requires large amounts of money. In Serbia, most of the party budgets are contributions from the state budget that belong to the parties by law. However, in theory and practice, there are numerous other sources of party financing, including so-called party taxes. It is a situation when a person gains public office and is a member of a particular party, than he or she commits to give to the party an increased membership fee or simply a contribution. Public companies are a large part of the "party booty", and in addition to the party tax, they often serve to "take care of party soldiers" (Stancetic, 2015, pp. 78-79).

4. What are the solutions? Recommendations

However, the more difficult question than proving the hypothesis that the spoil system lives on in practice is what reform steps must be taken to make the merit system a reality?

In order to answer this question, several aspects need to be considered:

- Historical heritage and factors (discontinuities, traditional distrust of government and institutions, from the time of the Ottoman Empire to the present day);
- The legacy of the socialist period (big state, party state) and as a consequence:
- Existing political and party system and political culture.

One of the key reasons why spoil persists in practice is the win-win situation for immediate participants, i.e. the party (politician) and the person receiving the award in the form of employment in the public sector. The key to this solution is to translate this game from a win-win to a non-win game for at least one actor, and ideally for both. In other words, a new ambience that does not favor a spoil transaction should be created, or an ambience where at least one party (player) does not want a "spoil transaction". However, what exactly needs to be done?

Let's start with a politician who naturally wants to be successful and re-elected. The key question is what "successful" means and what is crucial for his/her success. In Serbia, loyalty to the party is the key, and the media support that the party provides (media freedoms in Serbia are weak, most of the media is controlled by the ruling party). This means that the existing system that produces a power concentration in a small number of people or even one person should be disaggregated and create a situation in which the success of politicians

depends primarily on citizen satisfaction. One of the key steps to do it is a new **electoral system**.

The existing electoral system responds to partial party interests, or more precisely to party leaders and to the interest groups behind them. They seek to keep the political arena closed so that no new forces and "fresh energy" enter the political scene that could threaten them. They also seek to keep under control MPs. Therefore, MPs or political representatives are primarily in the service of the party, not the citizens. It is possible because of the electoral system. In fact, there are no truly direct elections in Serbia, since there is a mediator between citizens and elected representatives, which are political parties. Thus, citizens vote for parties, and then parties decide who will represent citizens, and not only that, but also how they will behave in the assembly. Because of that, a new electoral system should be built, which should enable high-quality and integrity-minded people who have a stronghold in the electorate, and not only in the party base, to come to public office.

From this basic goal comes the need for two key changes:

1. Opening of the "political arena", i.e. the release of the "political market", which means the removal of numerous barriers to candidacy and entry into the election race;
2. Elimination of mediation between citizens (voters) and elected representatives, that is, strengthening the link between the deputy and his electoral base, which can be achieved through the introduction of the principle of elections personalization.

Especially at the local level, elections should be personalized, and **mayors should be elected directly**. Direct election of mayors binds them more to citizens and their needs. In such circumstances, the mayors will demand more competencies, which will increase the pressure for **decentralization** of Serbia. Greater democratic legitimacy as well as greater competencies will make them more accountable, and thus more interested in citizens' satisfaction and efficient performance of public affairs. In addition, there is a need to work on the emancipation of local self-government and even local party committees from central government and party headquarters. To this end, the emergence of local and regional parties may be encouraged, or the rule may be that local elections are not held at the same time as parliamentary elections.

Another concrete activity to consider is the establishment of a truly **independent commission** for the selection of public administration personnel and the care of the merit system. It would be a relief for politicians who have gained their success and political standing thanks to citizens, not just the party, in a situation where they are pressured to recruit new people to the administration (according to contra-merit principles). It should be remembered that although parties want the many memberships and various forms of support, sometimes it makes potential risks and costs for party. This happens when all members cannot be satisfied and start acting against the party (Goati, 2008, p. 127).

In short, generally speaking, changes that open up the political scene and increase political competition, which has a beneficial effect on the actual functioning of the merit system, should be introduced. This leads to the important conclusion that the **merit system cannot be introduced or improved only by changing the regulations, but should be viewed in the context of overall governance reform in which political parties will no longer want to spoil because it becomes unprofitable**.

Finally, the question is also under what conditions the **second player - candidate for public service** does not want to spoil the game. The answer lies in professional qualification and ethical integrity. A highly educated and trained person naturally does not want to buy his workplace because he has already invested years of work and effort into his abilities. However, for such people to exist there must be good schools and colleges to prepare people for public service work. Without a good and sufficient number of public administration schools, the merit system is unlikely to achieve satisfactory results.

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