

# FORMS OF LEGAL RESPONSIBILITY OF POLITICIANS AND OFFICIALS OF THE EXECUTIVE AND ADMINISTRATIVE AUTHORITY IN BOSNIA AND HERZEGOVINA DE LEGE LATA AND DE LEGE FERENDA

REVIEW SCIENTIFIC PAPER

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| UDK 341.225:343.271(497.6) | DOI 10.7251/DEFEN2353035P | COBISS.RS-ID 138681345 |
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**Summary:** The question of responsibility in general, and in particular forms of legal responsibility was, is and will be an actual problem of any social system. The social system is as stable and progressive as the principles and norms of responsible behavior are respected and implemented. Responsible behavior cannot be achieved by declarations and proclamations of norms, but rather, represents a permanent activity on the effectuation of legal norms by the administrative authority in the environment of a stable and progressive policy determined by the executive authority. In this way, responsible action is advocated and favored, as well as awareness of the inevitability of responsible work. Otherwise, sanctions will follow, which are the consequences of not complying with legal norms. The paper analyzes the legal and political responsibility of personnel in the narrower and broader sense, as well as all other forms of legal responsibility of politicians (criminal, civil, misdemeanor, and disciplinary). The legal and political responsibility of politicians is a consequence of the violation of the legal norm/s. Those legal norms explicitly instruct politicians to perform their duties in a certain way and according to a certain procedure. Hence the determination to objectively analyze the forms of legal responsibility of politicians and officials of the executive and administrative authorities in Bosnia and Herzegovina through a descriptive method. The results of the analysis indicate that the

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political responsibility of officials in our country is de facto extralegal, and therefore not regulated by legal norms. This practically means that the political responsibility of officials in Bosnia and Herzegovina is completely outside the sphere of law, which is nonsense.

**Keywords:** legal political responsibility, political functionaries, executive authority, acting responsibly

## 1. INTRODUCTION

The responsibility of the individual must coincide with the level of his/her authority, so those subjects that have greater rights and authority must be significantly more responsible concerning those subjects that have fewer rights and power. This by no means means that persons with fewer rights and authorizations are not responsible for their work. Personal responsibility should be the basis of all forms of responsibility. In any social system, responsibility should represent the assumption of social discipline and civic progress. Irresponsible behavior of an individual or a group of persons never happens by chance. This kind of behavior is an indicator of the state of social relations in a community. In order for functionaries or officials to be held accountable, their tasks and obligations must first be precisely determined, and their powers and responsibilities determined by normative acts. If this does not exist, then there is no reason to hold them accountable. For that reason, if the responsibility is not completely determined, standardized, and effective, then it irrefutably results in the disorganization of the social system as a whole. What is the approach to the responsibility of political functionaries and officials of the executive and administrative authorities in Bosnia and Herzegovina, which are the problems in personnel management, are precisely the questions whose answers we seek in this work.

## 2. POSITION CLASSIFICATION IN THE ADMINISTRATION IN RELATION TO THEIR POSITION, DUTIES AND AUTHORIZATIONS

The substrate of every organization is made up of personnel. Since every organization is unthinkable without people, it primarily depends on them. The human factor in any organization is usually referred to as personnel. We look at personnel in the narrower and broader sense of the word. Personnel in the narrower sense are management employees (political functionaries in the narrower and broader sense), and personnel in the broader sense, which includes all employees in an organization (officials and employees) as its professional staff

Such a large number of personnel in the administration, considering their different positions, duties, and authorizations, which are conditioned by their labor-legal/official status. It is necessary to classify them into three groups and only treat their rights and obligations in that way.

These are:

- 1) elected personnel,
- 2) appointed personnel, and
- 3) employees in administrative bodies (officials and employees).

1) **Elected personnel** are elected and dismissed by representative bodies. This category of elected persons at the state, entity and cantonal levels in Bosnia and Herzegovina includes ministers. Ministries, as the most important organizational form of administrative bodies, exist independently of changes in their personnel composition. Ministerial powers, who are political officials at the head of the ministries, are not their personal powers, but rather the powers of the function that the ministers have while they are in that position. Ministers, as heads of administrative bodies, are appointed and dismissed by the body determined by the constitution and law, because they are political officials. Their personal status is therefore subject to constitutional law and special laws apply to

them. The regulations on civil servants can also be applied to them, but only in an appropriate manner and under the condition that there are no special regulations regulating the personal status of political functionaries.

2) **Appointed personnel** include persons appointed and dismissed by governments. In Bosnia and Herzegovina, these are officials who manage the work of administrative bodies as part of an independent body, secretaries of ministries, assistant ministers, directors of administrative organizations and their deputies and assistants.

**Elected and appointed** personnel belong to the category of political officials, and their difference lies in whether they manage the work of administrative bodies or belong to a group of other political officials.

3) **Civil servants (Public officials)** in the administrative bodies are officials and employees who are hired by the decision of the official who manages the work of the administrative body, which is why they represent the most numerous group of personnel in the administration, but also the group with the least authority. Employees must be of equal quality at the disposal of every political party that wins power. Political changes do not affect their status. The personal status of an employee as a professional staff is regulated by special regulations on the civil service, i.e. civil servants at different political territorial levels of government in BiH, and these regulations represent the source of civil service law, which is increasingly separated from administrative law and becomes a separate branch of law.

Therefore, depending on whether the question is about elected personnel, as political functionaries in the narrower sense - ministers, or whether it is about appointed personnel appointed and dismissed by governments, as political-executive bodies (directors, deputies, secretaries, assistants) or on the other hand, when it comes to civil servants (officials and employees), all of them must be observed in this way only.

That is why they have completely different positions, duties and powers, and that means a completely different labor-legal status.

Political officials do not perform their jobs as a basic occupation, as their profession. Their duties are always temporal.

That is why they have entirely different positions, duties, and powers, which means a completely different labor-legal status.

The duties of civil servants are not transient. The virtue of civil servants (public officials) should be expertise, competence, political neutrality and impartiality, and as such they serve any political party that wins power. They perform their duties as their primary occupation, as their profession. Therefore, without such an approach to public officials, there will be no inevitable professionalization of the administration, which is a priority activity to obtain candidate status, and after that, setting the date for the opening of accession negotiations of Bosnia and Herzegovina's entry into the European Union.

Therefore, only the top of the administrative pyramid is related to politics and only it can be affected by political changes. That means that political functionaries cannot in any way be equated with civil servants (public officials) since their status is regulated by special regulations. Only if there are no such special regulations, then special regulations governing the status of professional civil servants applied to them, but in an appropriate manner.

### **3. LEGAL AND POLITICAL ACCOUNTABILITY AND ITS RELATION WITH OTHER FORMS OF LEGAL RESPONSIBILITY**

Criminal, civil, misdemeanor and disciplinary accountability are always regulated by legal norms, which should also apply to legal political liability. Legal political accountability otherwise, and especially in Bosnia and Herzegovina, would have to be completely bound by legal norms, as is the case with the remaining four forms of legal accountability.

In Bosnia and Herzegovina, legal and political accountability should by no means be allowed to fill the space between the above-mentioned four forms of accountability, in a way that would attribute to its elasticity and flexibility, and which often happens now. Political accountability, as one of the forms of legal accountability in

our country, unfortunately, covers the space of all other forms of legal responsibility, so it often excludes criminal, civil, misdemeanor and disciplinary accountability, as the remaining legal forms of legal responsibility. This fact creates the illusion that the system is functioning from a political point of view, although in our case, the principle of legality and the principle of equality of all citizens, as well as other accompanying legal principles, are completely endangered.

Given that legal political accountability is “reserved” only for political officials, it must under no circumstances overshadow or fully cover, i.e., exclude all other forms of legal accountability. That is why it is necessary to specify legal and political responsibility with legal norms and to take special account of how it functions in practice and how it is effected.

This form of legal accountability is truly special and specific, because only in it, politics and law meet and touch, but without their mutual interpenetration. Given that this statement is correct, it means that it is necessary and practical to prevent the law from being overshadowed by politics. In order to achieve this, it is necessary to continuously take into account the functioning of the system and the effects of legal and political accountability objectively and transparently.

The relationship between legal, political and other forms of legal accountability should be in the function of solving unresolved general and individual situations, all following the law and with respect for the equality of citizens. Otherwise, political accountability will cover and eliminate other forms of legal accountability and position political officials, protecting them as autarchic through crime, corruption, nepotism and other scourges of society that indisputably destroy and prevent the creation of a socio political system that would serve its citizens.

This situation is well present in Bosnia and Herzegovina, and it is the result of the fact that we, not only do not have a functional legal political responsibility for political officials, but this responsibility functions as an extra-legal political responsibility (without a foothold in the regulations) and as such has covered all the others forms of responsibility (criminal, civil, misdemeanor and disciplinary). This state of affairs has led to the fact that the remaining four forms of legal

responsibility do not have the necessary reach, which is why there have been negative consequences for the development and prosperity of society in our country for decades. The key reason for this state is that the criminal, civil-property, and disciplinary responsibilities of political functionaries and officials are covered up by political irresponsibility. If there is talk of political responsibility in our country, then as a rule it is usually about extra-legal political responsibility, not legal political responsibility. Extra-legal political responsibility is completely outside the sphere of law, which is why it is not even regulated at all, which is legal nonsense. This kind of responsibility is therefore without any effect and it directly petrifies the consociational socio-political arrangement.

### **3.1. Legal and political responsibility of political officials, as public office bearers**

Political responsibility is linked only to political officials who participate in the exercise of political power, and as such are part of the overall political structure of the country. Each of the political functionaries has the powers given to him by his office, but to adequately perform the powers of public office, not his own powers.

The political responsibility of public-political officials is one of the forms of legal responsibility. Therefore, in addition to criminal, civil, misdemeanor and disciplinary responsibility, there is also political responsibility, as a fifth form of legal responsibility that is compatible with holders of public political functions. Due to the insufficiently, incompletely and dysfunctionally regulated system in Bosnia and Herzegovina, we consider it unnecessary to treat the issue of extra-legal political responsibility in our country. Because the essence of extra-legal political responsibility is always determined by the socio-political arrangement, that is the moral-political responsibility of personnel (Popovic, Markovic, Hrnjez, Kuzmanovic, 1984:380). Given that the socio-political system of our country is insufficiently regulated, and taking into account the fact that the procedure of extra-legal political responsibility has never been regulated by legal norms, which is why it is completely outside the sphere of law, we objectively appreciate that

at this stage of the construction of the socio-political system country, this extra-legal responsibility is not needed, because it is ineffective for us.

Given that in our country, the work of political officials is often carried out with phrase words, and not with work and responsibility, then: greed, extravagance, egoism, babbity, ignorance and primitivism can only be prevented with all the above-mentioned forms of legal responsibility, including legal and political responsibility. Given that inactivity and irresponsibility at work in Bosnia and Herzegovina have become a frequent occurrence, we are afraid that the irresponsibility of political officials and public officials will not become an expression of the state of mind and social being, which is extremely dangerous if this existing negative progression is not stopped.

The legal political responsibility of public office holders is determined by:

(1) Ineffective or purposeless work of public office bearers that is not in line with the attitude, understanding, opinion, or interests of the political-territorial unit on whose behalf they perform the function;

(2) Responsibility is submitted to the body which: elected, appointed, or employed the holder of that public office, whose ineffective or purposeless performance is the basis for calling for responsibility

(3) The process of legal and political responsibility begins with the initiative to start the process, then goes through different stages of the process, and ends with the decision of the competent authority, established by legal norms and

(4) Finally, the sanction of legal and political responsibility is always only one. Unfortunately, the sanction is practically unknown to the holders of public offices in Bosnia and Herzegovina. Namely, the decisions of the competent bodies or organs towards the elected and appointed personnel consist of recall, replacement, or dismissal from office. In this way, the relationship of objective trust that connected the body or organ, on the one hand, and the holder of the public function, on the other hand, would be broken.



Between ministers - members of governments who bear political responsibility, and the largest number of personnel, which are public servants as members of the professional public service who are not subject to political responsibility, there is a certain number of political functionaries in a broader sense, who are between these two categories of personnel. However, no matter how specific this category of personnel is, which is between the two described, it must be said that it is still to a significant extent political, in the broadest sense of the word. Political functionaries in a broader sense are represented by personnel who are appointed to appropriate positions by the government.

Performing any political function implies mandatory compliance with the Constitution and laws. In the case of violation of constitutional and/or legal provisions, this implies the mandatory responsibility of political officials, which then actually represents their criminal responsibility. As legal responsibilities do not exclude each other, this means that political officials can simultaneously perform their function and cause damage to another, which represents his civil (property) responsibility. By performing their function, political officials can simultaneously commit a misdemeanor in their work, as a less socially dangerous act compared to criminal responsibility, which represents their misdemeanor liability. Finally, political officials can also violate the rules of discipline, performing their work tasks in compliance with the ethical code of conduct, so the violation of those rules for political officials also entails disciplinary responsibility. That is why it is necessary to explicitly regulate all four of these latter forms of legal responsibility through clear legal norms, especially concerning: the basis of responsibility, the competence of authorities, proceeding and sanctions.

As far as political responsibility is concerned, it should be a consequence of the greater or lesser powers given to the exercise of the political function that the official has at his/her own disposal (Purisevic, 2021). These powers are given to political officials directly or indirectly by those who elected or appointed them to these positions. However, this by no means means that the authorizing party waived its right to control the work of political officials and to call them to account if necessary.

When it comes to this control and responsibility of political officials in Bosnia and Herzegovina, the problem is the fact that political responsibility covers the entire area of legal responsibility and thus practically excludes all other forms of legal responsibility (criminal, civil, misdemeanor and disciplinary). In addition to the fact that in our country these are classic forms of abuse of power, which should entail all forms of legal responsibility, this does not happen in Bosnia and Herzegovina because political responsibility covered all other forms of legal responsibility, and thus excluded them from their application. Political responsibility is not based on an objectively determined criminal offense, nor on objectively determined civil responsibility, but on subjective elements valued by representative bodies.

The domain of political responsibility is very wide, and accordingly, the question of this responsibility could arise exemplarily due to: (1) every act of the minister in the exercise of his function, (2) the views and intentions of the minister, with the fact that his/her behavior should be appreciated according to the criterion of legality, and not according to the criterion of expediency or purposefulness adopted by the representative body.

Therefore, if the issue of the political responsibility of officials is not objectified, then it will mean that the representative bodies will continue to participate directly or indirectly in manifesting the will of individuals in power, and not the will of state authorities.

The relationship between a political official and the body that entrusted him with that political function is twofold. (1) A political official can be given that authority precisely and explicitly, and he should only exercise that authority. (2) On the other hand, there is a possibility that political officials, based on their general mandates entrusted to them, are given discretionary rights in the sense that it depends on them whether and how they will act.

Space for abuse of political responsibility is incomparably smaller if a political official does not act according to a precisely and explicitly given order by the grantor of authority, and accordingly, it is much easier to determine the eventual political responsibility of the political official in case of non-execution of authority.

We encounter a much greater space for the abuse of political responsibility with the discretionary right, because then it can happen that a political official does not act in a case when he was obliged to do so, or he acts when he should have refrained from acting, or he acted differently than he should have and the like. This automatically implies the fact that the possibilities of calling for political responsibility are greater in the case of the discretionary right of political officials (Jovicic, 1968: 9-17).

Political responsibility<sup>3</sup> in Bosnia and Herzegovina should be tied to a wider circle of officials of different political-territorial levels of government, such as officials of political-executive bodies, high-ranking officials appointed and dismissed by representative bodies and members of parliaments/assemblies.

The subject of our interest will be the political officials of the executive (government) and administrative authorities, namely:

- 1) ministers, as members of political-executive bodies (government), whose responsibility is determined by representative bodies;
- 2) governments, as political-executive authorities as a whole, whose responsibility is determined by representative bodies and
- 3) high political officials who are directly appointed by governments, as political-executive bodies, i.e. whose appointments are approved by the government, and in doing so, these high political officials are not members of governments, whose responsibility should still be determined by representative bodies.

Therefore, only ministers, as individual members of governments and governments as a whole, as political executive bodies, bear political responsibility before representative bodies. In addition to them, this political responsibility should also be borne by a number of the highest officials who, although they are not members of the

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3 A synonym for “political responsibility” in Western countries is “parliamentary responsibility”.

government, nevertheless participate in the management of significant organizational units of the administration with recognizable powers, which is why they should also be legally politically responsible.

We emphasize, once again that the only sanction of legal political responsibility is the impeachment, removal, or dismissal of a political official.

As a rule, a single head of state, and it is rarely a collegial head as is the case in our country, neither in a parliamentary monarchy nor in a republic, as another form of state government, does not bear legal political responsibility. This also applies to members of parliaments/assemblies, since in any country with a parliamentary system they cannot be recalled before the end of their mandate.

Some of, in our opinion, particularly important reasons why we should formally and actually insist and practice the issue of legal political and the other four forms of legal responsibility for political officials in Bosnia and Herzegovina are:

1. It is a truism that the executive and administrative powers are the gravitational centers of political power. The political primacy, especially of the executive and even the administrative authorities over other authorities, is based on the concentration of the interests of the rulers. Appreciating the stated statement, it is not difficult to conclude that the executive and administrative authorities represent a powerful tool for preserving and consolidating the rule of political parties. The crucial reason for practicing the application of all five forms of responsibility to political officials is to prevent these authorities from interfering with the individual rights of citizens, i.e. preventing the possible abuse of the position and authority of officials, i.e. protecting the legality of their work. An objective and real reform of the executive and administrative power is unthinkable without consuming all the mentioned forms of legal responsibility. One of the main reasons why the results of reforming these authorities so far have been insignificant lies precisely in this. Individual, partial and ad hoc changes do not contribute to the reform of the executive-political and administrative-legal power but serve as a means to maintain the ruling political parties, and thus the authorities in our country are petrified and lead directly to the consociational socio-political system.

2. Given that the executive power is primarily concerned with formulating policy, as a political power, i.e. making the most important political decisions, implementing general principles of fairness, activities to shape the future of society and the like, then we can say that political responsibility is also reserved for the executive power, but only as one of five forms of legal responsibility, to which holders of public office are subject. Therefore, for political officials, political responsibility is only one of the five forms of legal responsibility. As political officials are empowered to perform their duties, this implies their obligation to comply with the constitution and laws. From this obligation comes responsibility for non-observance of the mentioned regulations, which then implies other forms of legal responsibility (criminal, civil-property, misdemeanor and disciplinary).

As the executive branch is primarily concerned with formulating policy, it was quite justified that the executive branch should be doubled to:

- general execution, the bearer of which is the political-executive power, i
- special execution, which is carried out by the administrative authority as the executor of rights, through which the state exercises its sovereignty (administrative bodies, administrative organizations and institutions entrusted with the exercise of public powers). Bearing in mind all the above, unfortunately, we have to state that the post-Dayton development of executive and administrative power in Bosnia and Herzegovina should be marked as a period in which political/politician parties and their leaders/autocrats, ruling on the principles of tribalism, represent the essential embodiment of executive and administrative power government that acts most often on the principle of expediency, and which should be changed immediately and as soon as possible. Bosnia and Herzegovina, especially in the administrative power, needs a meritocratic staff, not an egalitarian one, which is currently, unfortunately, a very common case. Due to all of the above, the use of all five forms of legal responsibility is therefore inevitable.

3. The executive, that is, the political-executive power should continuously work on studies and plans, using instructions, proposals, suggestions, and opinions of experts, all to adequately predict the improvement and development of the socio-political system. Without this adequate forecast, there is no conception of a specific and appropriate policy. This is especially important to mention in countries in transition of government with an insufficiently regulated socio-political system, because the executive and administrative powers in such systems, that is, in times of crisis, become dominant for solving an extremely complex situation in the state. It must be significantly more resistant to the influence of individuals and groups, or different types of pressure, to resist different private and particularistic interests. In this essential activity of the executive and administrative authorities, immense help and support should be provided by the professional and technical teams of the administrative authorities. After all, today having a parliamentary majority means having its government, that is, power because the government is the most influential and active institutional expression. The electoral battles of political parties today are not fought to protect abstract interests, but to obtain a parliamentary majority that can form a government. For political parties, elections are primarily an opportunity to get their political officials (ministers), i.e. their members' seats in the parliament/assembly. Appreciating the importance of these activities, the issue of all forms of legal responsibility of political officials is indispensable, both from a preventive and a repressive aspect.

4. As for modern executive and administrative powers, which are the result of general right to vote, they are by their nature under the control of representative bodies. In Bosnia and Herzegovina and the countries of the region, the meaning of parliamentarism is not that the minister has the trust of the representative body, but of the majority that formed the government. Our ministers practically do not answer to the representative body, but to the majority that formed the government. To be even more precise, ministers in Bosnia and Herzegovina are "answerable" to their political party, which is the electoral or coalition winner and which inaugurated them to these political positions.

That is why today the ministers in Bosnia and Herzegovina are almost “all-powerful”, because behind them stands their political party, that is, the coalition of political parties that formed the government and are considered the election winners. Starting from the latter statement, primarily the executive, and consequently the administrative authorities are influenced by: a) the government, which has the necessary technique provided by the administrative authority in drafting and proposing laws, and since it has a majority in the representative bodies, it quickly adopts the drafts and proposals in the form of laws b) in the same way, decrees (by laws) are passed, i.e. the appointment and recall of high administrative officials and c) executive and administrative power are today viewed outside the social context, independent of the social forces in whose hands executive and administrative power is. Instead of these authorities dealing with the protection of the individual and abstract interests of their citizens, they are just a concentration of ruling political forces whose individual and group interests they selflessly serve, and in this way consolidate their rule by preventing significant economic, legal, social and political changes in society. Through political parties and general elections, party leaders often come to the head of executive and administrative power and create, as a rule, party policy. During the term of office, political parties control the political officials they inaugurated in executive and administrative power. Those holders of executive and administrative power are helpless if they do not have the support of political parties, and as such they cannot remain in power until the end of their mandate, nor can they appear as serious aspirants for the same or greater positions in the next general elections. In other words, if political officials lose the support of their political parties, then they lose power. That is why political officials can be said to be the bearers of power, but at the same time, they are prisoners of their political parties.

Appreciating the above, the need for all forms of responsibility of political functionaries of the executive and administrative authorities is indisputably imposed.

## 4. CRIMINAL AND CIVIL RESPONSIBILITY OF POLITICAL FUNCTIONARIES

While respecting misdemeanor and disciplinary responsibility, as the remaining two forms of legal responsibility, on this occasion we will still point out only the criminal and civil responsibility of political officials. We will do this only because the degree of social danger that endangers the public interest of a socio-political community is greater and with more severe consequences for these two types of legal liability, concerning a misdemeanor and disciplinary liability, pleading for the application of these two latter types of legal responsibilities.

### 4.1. Criminal responsibility of political functionaries

The institute of criminal responsibility of ministers was created in medieval England.<sup>4</sup> Today, the most common and basic question is: what are the ministers responsible for? One could say that the crimes that can be committed by ministers are threefold.

First, performing their function, they can violate constitutions and laws, thus causing damage to the state - society, that is, to its political-territorial units.

Second, while performing their functions, ministers can also violate the rights of citizens, as individuals, and other entities.

Thirdly, like all other citizens, ministers can commit any criminal act independently of their function, as citizens. High-ranking political officials who are directly appointed by governments, as political

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<sup>4</sup> The institute of criminal responsibility appeared in the form of impeachment, as an accusation by the House of Commons on which the House of Lords tried the minister against whom the impeachment was initiated. This institute was one of the strongest means of the House of Commons' struggle against the crown and its ministers. As with other institutes of English law, this institute is not regulated by legal regulations but was built based on a series of precedents. The last conviction by impeachment took place in 1805, and since then the House of Commons has had a more effective means of removing ministers, because since then ministers are accountable to the House of Commons for their work, and it can, without the participation of the House of Lords, remove them from power when it wishes. It should be noted that the institution of impeachment has not been abolished, but it is not applied in practice. This institute of criminal responsibility of ministers has been adopted in most other countries.



executive bodies, i.e. whose appointments the government approves, and these high-ranking political officials are not members of governments, are in principle subject to criminal liability, like all other citizens, for all their actions that are punishable by the corresponding criminal legislation. Appreciating the fact that these high-ranking political officials, who are not members of the government, are to a very significant extent similar to ministers, because they are the heads of certain departments, or at least services and departments for whose work they bear personal responsibility, to the most significant extent, everything can be applied to them what also applies to ministers regarding their criminal responsibility.

#### **4.2. Civil (property) responsibility of political functionaries**

Property (civil) responsibility is borne by anyone who causes damage to another, which consists of the obligation to compensate for the damage caused. Damage can be different, such as property (material) and non-property (moral) damage, direct and indirect damage, then concrete and abstract damage and such. For this occasion, it is not important for us what the property responsibility consists of, but the goal is to point out the specifics of the property responsibility of political officials, concerning the property responsibility of citizens and officials. By the way, the question of property responsibility is one of the basic questions that arise in the field of obligation law, including modern types of responsibility that follow the overall social development in multi-party political systems.

On this occasion, we will specifically point out the issue of civil or property liability of political officials in the narrower sense (ministers), without minimizing the political responsibility of officials in the broader sense of the word, and they represent responsibility for the damage they cause to others while performing their political functions. Political officials can cause damage to citizens and political territorial units. Damage can be caused by the commission of a criminal offense by political officials, and it can be inflicted independently of the criminal offense.

The political responsibility of officials is, as a rule, attached to the holders of the highest political positions, namely ministers as heads of the basic administrative body for performing administrative tasks in one or more administrative branches. Also, the criminal responsibility of these same political officials is specific concerning other political officials, officials and citizens, because only ministers, given their function, are subject to special criminal acts. In contrast to political and criminal liability, general civil liability rules apply to ministers, just like other political officials, employees and citizens. Of course, one must take into account the nature of their position, that is, the powers they have. Therefore, if a minister causes damage to a political-territorial unit, i.e. causes any other damage, the minister is liable like any public administration official, even though ministers can more easily get into a situation of causing damage to a political-territorial unit than other political officials and officials even though this damage can be significantly greater. In this way, their responsibility, in accordance with their powers, is further tightened, which is desirable. In addition to these latter specificities, the responsibility of the minister remains a civil responsibility.

The civil responsibility of political officials in the broadest sense of the word, which concerns their obligation to compensate for the damage caused, is the same as the civil responsibility borne by civil servants. In other words, they are responsible for their illegal work, including gross negligence, by which they cause harm to others. Therefore, the only question is whether they will be directly responsible for the claim of the damaged party (physical or legal) or indirectly, based on the recourse claim of the political territorial unit that has already compensated the injured party.

## **5. FORMS OF LEGAL RESPONSIBILITY OF PUBLIC OFFICIALS**

As for public servants, they do not bear political responsibility, nor can they be considered political functionaries in the narrower sense, or the broader sense.

Public officials can bear criminal, civil, misdemeanor and disciplinary, but not political responsibility. It is important to note that all forms of the mentioned legal responsibilities don't exclude each other.

Professional officials are hired into public service, they progress in it, and in some cases, they should also be removed or dismissed from the service. The conditions and criteria for hiring and firing civil servants should be determined objectively because only in this case the public service system ensures adequate stability of civil servants.

If this is not the case, then this situation also contributes to the dysfunctionality of the administration. True, dysfunctional administration is most often found in the case when the previous administrative bodies are not closed, new ones are established, employees from the closing bodies are kept, and at the same time, new employees are hired for the bodies that are being established. In this way, along with the dysfunctionality of the administration, sinecure personnel is also created (a staff who does not have the expertise, but is politically suitable and obedient and whose main function is to be the electoral base of the political parties that participated in the placement of such personnel).

In situations where this occurs, it would have to be the subject of legal and political responsibility of elected and appointed political officials.

Given that the spoil system is often applied in Bosnia and Herzegovina, then, unfortunately, when political parties or coalitions of political parties in power change, a certain, and we would say very significant, number of public servants also change, which is real and legal nonsense for public administration. Namely, it is necessary to emphasize that the change of public servants is not done because of their political responsibility, but it is simply the need of the new bearers of political and institutional power to have “their” people in public services, especially at their top, which they, due to their participation in “robbery”, they reward abundantly in different ways. If in this case not all forms of legal responsibility are applied to political officials who do or tolerate this occurrence, then the future of this country is questionable.

It is high time that the engagement of such political officials in Bosnia and Herzegovina ceases to exist and that, legally and politically, along with other forms of legal responsibility, such political officials are finally prosecuted. Otherwise, the further exodus of its citizens will

further intensify, which is unacceptable. That is why it is the right and obligation of its citizens to approach the control of the work of holders of public-political functions, i.e. so that the legal political responsibility of political officials, and consequently other forms of legal responsibility starts applying.

We believe that the working relationships of civil servants represent a special - official relationship, today often regulated by separate legal norms classified under civil service law, as a separate branch of law.

Modern legal systems require a non-contradictory and consistent public official organization based on doctrinal principles, scientifically processed on empirical knowledge, and planned and methodically organized.

Given that the different levels of government in Bosnia and Herzegovina did not approach the resolution of the labor relations of employees and appointed staff in the above manner, and in accordance with the provisions on civil servants, this led to an incoherent, legally uncertain and inconsistent civil service system with different status of civil servants, although work of the same nature is performed in the same country. Unfortunately, given that the authorities in Bosnia and Herzegovina are not doing enough or even doing nothing to equalize the status of civil servants throughout the country, the differences and inconsistencies continue to deepen, which makes the civil service system in Bosnia and Herzegovina completely and petrified fragmented, primarily ethnicized, politicized, and ideologized and partisan.

In the wake of what was said, and to start the creation of an official system in the entire country, all citizens of Bosnia and Herzegovina should be reminded of the need to live our statehood by all its citizens because statehood can only be lived by its citizens. If that's the case, then no citizen can have an advantage over another citizen, regardless of which national ethnicity he/she belongs to. That is, according to the words of Krzalic (2017), "it is necessary to turn to joint actions that would imply the coordinated action of all levels of government, i.e. all resources - human, scientific, financial and material, in order to achieve the concrete goals set by the governments" (Krzalic, 2017:70 ).

A functional civil service system, i.e. the prosperity of the social community as a whole, can only be built by experts, politically neutral and impartial officials, who, as its citizens, are at the same time representatives of the national ethnic groups to which they belong. Therefore, if all citizens are primarily and truly its citizens and only citizens can be citizens, then that community can be additionally culturally enriched through the multiple ethnonational affiliations of its members, which then makes it even more utilitarianly desirable.

A holistic approach to solving complex social issues rarely provides explicit answers, which also includes solving ethnonational issues. Just as complex social issues cannot be resolved without the application of multiple knowledge in their totality (multidisciplinary), so the issues of multi-national social communities, such as Bosnia and Herzegovina, cannot be resolved in a utilitarian and pragmatic way until the individual rights, obligations and legal interests of all its citizens-residents are resolved. Satisfied citizens, as residents, are a prerequisite for satisfying the general or common interest in a social community.

Satisfied individuals directly and utilitarianly, as resilient persons, increase the satisfaction of the national ethnicities of which they are members and satisfied national ethnicities in their cultural totality are a guarantee of the prosperity of the social community as a whole, as a community of citizens, without consociationalism (Purisevic, 2021:110-111 ).

We consider it quite justified to single out special legal norms concerning official relations, namely legal norms concerning civil service relations, and to treat the civil service relationship with a special law (Dedic & Purisevic, 2016).

Building a coherent, professional and consistent civil service system in a country is an extremely important task for everyone, especially the executive and administrative authorities. Without this system, there is no satisfactory exercise of the individual rights of citizens and no satisfaction of the general or common interest of the social community in its entirety.

## 6. CONCLUSION

We begin the final observation with the statement that in Bosnia and Herzegovina, at all its political territorial levels of government, legal political responsibility *de facto* does not function and is not applied, and as such it has covered and thus, as a rule, excluded all other forms of legal responsibility of political officials (criminal, civil, misdemeanor and disciplinary).

The legal political responsibility of political officials is a consequence of the violation of the legal norm/s. These legal norms explicitly order political officials to carry out their duties in a certain way and according to a certain procedure.

In all forms of legal responsibility, political officials in the narrower sense deserve special attention and treatment. Their responsibility should be seen as functional responsibility for the results of work in a certain position, but also as responsibility for the destructive influence that a political functionary has.

Also, organizational responsibility is particularly interesting and important for management science. This responsibility concerns the organization of the government system. In this organization, leadership is of particular importance, which includes responsibility for the work of government bodies headed by a political functionary. The responsibility of the political officials concerns the process of planning, directing, coordinating, and controlling the results of the body's work in full.

In the same way, the responsibility of the political official refers to the work of all other personnel in the government bodies they manage, which is a consequence of their obligation to ensure the efficient work of the body as a whole.

Although governments, as political-executive bodies, are organized collegially or collectively, the responsibility of its members is primarily individual and only exceptionally solidary. Today, administrative bodies are exclusively organized on a monocratic or independent principle, and the responsibility of their managers and employees is individual. Political officials and officials are the personification of the government system. The system of authorities can be managed and

their basic activities are carried out only by professional figures as real authorities, which is why we need the most competent and conscientious personnel. Only diligent, creative, proactive, and capable personnel can reduce the existing large gap between the normative and the real.

Governments as collegial or collective bodies of government cannot be the basis and a cover for all legal forms of responsibility, collegial bodies would have to be responsible not only for their decisions but also for the procedure, i.e. the process of their adoption. Not only collegial but also monocratically organized authorities are not only responsible for making their decisions but should also be responsible for their possible non-implementation. Therefore, for each form of legal responsibility, there must be certain realistic and objectified sanctions that enable full responsibility. As with any other persons, the sanctions of political officials and officials should be realistic and socially acceptable, and sufficiently educational and corrective, both for the individual and for the wider social community.

The question of the responsibility of political officials and officials cannot be addressed if there is no corresponding political responsibility of the public. There are actually two sides to one political phenomenon. The responsibilities of political officials and public officials can only exist if there is political responsibility for public opinion. Otherwise, it inevitably brings with it the irresponsibility of political functionaries and public officials. Therefore, if the existing course of political responsibility of public opinion in Bosnia and Herzegovina is not changed, we will not be able to have adequate and effective institutional solutions, and even with more generous financial and other material assumptions. To achieve this goal, i.e. to bring to life the systemic solutions that are advocated every day, along with the indispensable real expertise of personnel and their continuous education and modern technology, more time, professional work, and political and civil-human socialization are necessary.

The executive and administrative authorities are the most immediate and concrete guarantors of the prosperity and development of a society. That is why responsible and expert individuals must be at the

head of these bodies. A system of such personnel is unthinkable based on the principles of double morality, which is now a common phenomenon in our country. Namely, it is incomprehensible that we talk about the responsibility of political functionaries and public officials every day, and that these same personnel who ostensibly call themselves responsible, actually behave irresponsibly. This kind of their behavior is the immediate cause of the general social disorder and lack of discipline, and the immediate cause of this is inappropriate personnel policy. In Bosnia and Herzegovina, an appropriate personnel policy should prioritize the development of awareness of political culture, and especially in the direction that political office can be left with honor, even when there were mistakes in its performance, because this is characteristic of humans, and thus of political activity.

Unfortunately, we lack a culture of dialogue and constructive discussion. Among other things, the quarrelsome mood, the devaluing and belittling of the other, and the rude and unprincipled disqualification of the other speak of this daily. Our political officials must understand that building a culture of dialogue is a part of political culture, and this is one of the most important conditions for political and other decision-making. In this connection, the objectified facts must have a determining specific gravity, in order to accept the arguments based on the factual substrate and criticality, and not, as is the case now in our country, keeping in mind only the fact of who represents which ideas.

To conclude, political responsibility would have to be a consequence of the given greater or fewer powers to exercise political functions that functionaries have at their disposal independently. These powers are given to him directly or indirectly by the person who elected or appointed the political functionary to these functions. However, this should by no means mean that the authorizing party, at the moment of election or appointment of a political official, waived his right to control their work and, if necessary, call them to account. When it comes to this control and responsibility of political officials in Bosnia and Herzegovina, the problem is the fact that often political responsibility covers the entire area of other forms of legal responsibility, thus practically excluding criminal, civil, misdemeanor and disciplinary responsibility.



Although such actions of political officials enable classic forms of abuse of power, which would have to entail all forms of legal responsibility, this does not happen in Bosnia and Herzegovina because political responsibility has covered all other forms of legal responsibility, thus practically excluding them from applications. The fact that the political responsibility of officials in our country is de facto extra-legal and therefore not regulated by legal norms, is of additional concern. This practically means that the political responsibility of officials in Bosnia and Herzegovina is entirely outside the sphere of law, which is nonsense.

Following the above, in our country, de lege lata and de lege ferenda, the legal and political responsibility reserved for political officials would have to start practicing immediately, and together with it all other forms of legal responsibility, both for political officials and for professional personnel.

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