

Spoils System Is Not Dead: The Development and Effectiveness of the Merit System in Western Balkans

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The paper analyses the development of the merit system and its effectiveness in the administrations of the Western Balkan countries. The origins and benefit of the merit system are described in the article. The basic hypothesis is that in most Western Balkan countries the spoils system remains a reality, despite the fact that the law stipulates the merit system. The main argument for this hypothesis is based on one element of the merit system, and that is recruitment and employment in the public services sector. This segment of the merit system is most often violated because public service employment in the Western Balkans is not obtained objectively, i.e., from a pool of best candidates, but given to those who support the ruling party, which is particularly evident during election campaigns.

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The paper analyses this phenomenon and points out that the so-called reliable votes are the core of the problem. The article explains this phenomenon and provides guidance on possible solutions to the identified problems.

Keywords: spoils system, merit system, public administration, political party, reliable vote

1. Introduction

The purpose of this paper is to refer to and highlight the problem of party employment in public sector organisations (public services, public institutions, public companies), of the Western Balkan countries with particular focus on Serbia. The term *party recruitment*, or just *party employment*, entails the process by which parties recruit members in the public administration, public services and public enterprises based on their loyalty to the party, which is especially prominent during an election campaign. This is contrary to the principles of the merit system, according to which recruitment should be based on the objective qualities of the candidates for public administration, and procedures and regulations that are independent of the centres of political power. The mentioned problem lies at the core of the main hypothesis of this paper, which is that the spoils system has survived in practice, despite the formal introduction of the merit system.

It should be stressed at the beginning that although the consequences are felt in the societies of the Western Balkans, there are not many reliable scientific works, or unambiguous conclusions based on strict scientific methodology that deal with this problem. The reason is that the actors involved in party recruitment carefully cover up all related activities. Therefore, dealing with this problem is a thankless job and the researcher has two options: either not to deal with it due to a lack of scientific elements, or to address the issues at the risk of being labeled as methodologically inconsistent.

The author of this paper opted for the second option, keeping in mind the approaches characteristic of public policy science: the problem-solution approach, and the different types of public problems depending on their structure (structured, moderately structured, and unstructured problems).

Firstly, the key relation within public policy science is the problem-solution relation (Jones, 1984, p. 23). In addition, prescriptiveness is an essen-

tial feature of public policy study and analysis. This means that research papers should contribute not only to the scientific observation of the subject, but to the improvement of practice by suggesting a course of action or guidelines by which the problem may be solved (Jones, 1984, p. 23). From a methodological and concise point of view, this prescription consists of the identification and research of a problem, and the identification of possible solutions to the given problem. Whether and to what extent both goals will be achieved depends on the state of the problem (level of structuring). Namely, the role and capability of science depends on whether one is dealing with structured or unstructured problems (Hisschemöller & Hoppe, 1996). In short, when it comes to unstructured problems, the scientist plays the role of the problem recogniser, whereas when it comes to structured problems, the scientist is in the role of problem solver (Hisschemöller, Hoppe, Groenewegen & Midden, 2001).¹

The subject of this paper is a problem that can be defined as badly structured or even unstructured. Therefore, the goal of this text is to recognise and advocate for the problem. In addition, this paper should encourage new research related to this topic in order to validate or refute the presented hypotheses, standpoints, and possible solutions.

If we consider that party recruitment in the public sector, as a key element of the merit system, is a hidden problem, although there are many indications of its existence and its consequences are very damaging to the public interest, this paper should contribute to the first phase of public policy analysis, i.e., framing and defining the problem, and indicating its existence, indicators and consequences.

In order to adequately understand this problem, it is necessary to point to the historical genesis of the merit system, specifically that of the Western Balkan countries, as well as to the political parties that play a key role in both introducing and suppressing the formally introduced merit system.

This research is a qualitative one² and includes specific sources and types of data. Among them, and especially used in this research, are interviews, observations, as well as narrative analysis. Observation implies that the

¹ Specifically, the cited article refers to the following: “Problems of different structure means scientists in different roles” (Hisschemöller et al. 2001, p. 447). Besides the above mentioned roles (the scientist as a recogniser and the scientist as a solver), the article states that a scientist can also play the role of advocate (when it comes to moderately structured problems), and the role of mediator (in the case of badly structured problems).

² More information on the differences between qualitative and quantitative research can be found in *Qualitative Data, Analysis, and Design* (Suter, 2012, pp. 347-348).

researcher positions himself within the natural circumstances of the phenomenon that he observes and investigates and records his observations and conclusions. Narrative analysis is a kind of qualitative research in which raw data is derived from human stories and experience. These approaches also require some specific skills, such as “reading between the lines” (Poland & Pederson, 1998, pp. 293-312; Sturma & Emmelhainz, 2019, pp. 389-398).

2. Spoils vs. Merit: The Emergence and Development of the Merit System

The spoils system (also called patronage), implies that a political party that is victorious in the elections gets the right to freely, and according to their own will, appoint people within the administration and public organisations, just as it has the right to appoint a minister for a particular portfolio. In contrast, in a merit system, a ruling political party (or coalition), appoints its people only to key political positions for a limited period of time, whilst within the administration professionals are recruited according to their qualities and based on public competition.³ These individuals are permanently employed in the public administration and do not leave their position should the government shift.

The spoils system can be identified as old and anachronistic, since it originates from a period when political authority was the 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 the idea of the merit system. This is similar to democracy. States are often formally democratic and almost every politician will say that he is a democrat, yet despite this not all democratic states are equally democratic, nor are all politicians who claim to be democrats truly democrats (such as can be seen in fledgling democracies or hybrid regimes). The evasion of the merit system springs from the fact that a position within the public administration is in reality often awarded as a reward for political services performed, most often during an election campaign, with

³ The merit system nowadays refers primarily to the civil service system and implies that upon admission into public service, the education (qualifications) and personal qualities of the 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.

the key criterion being party loyalty, whereby the admission procedure is only formally done according to law and regulation.

When it comes to the emergence of merit systems as cornerstone events, the following two should be mentioned: the 1854 Northcote-Trevelyan Report in the UK; and the assassination of President Garfield in 1881, an event that shook the United States, with the subsequent adoption of the Pendleton Civil Service Reform Act – a federal law that virtually introduced the merit system into the federal government, which meant that most positions in the federal government would be awarded based on the merit system. The ideas from the Northcote-Trevelyan Report were the basis of this law.

In 1854, the British Conservative politician Stafford Northcote, and the official, Charles Trevelyan, drafted the Northcote-Trevelyan Report in the United Kingdom, condemning the current administration system as unprofessional, based on nepotism and patronage. It stated that governance could not 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” (Stančetić, 2015b, p. 74). On this occasion, they additionally made four suggestions to improve the system of that time: recruitment for work in public administration should be conducted on the basis of merit and open competitive examinations; entrants should have a good general education and should be recruited to a unified Civil Service rather than a specific department, to allow inter-departmental transfers; recruits should be positioned in the hierarchical structure of classes and grades; and promotions should be based on merit and not on the basis of one’s patronage, position purchase, or the personal preferences of superiors.

These elements are still crucial in the modern merit system. That said however, the most common deviation from the ideals of the merit system occurs within the first element: recruitment and admission to public service. There is another important issue to note, which comes up with the introduction of the merit system in the US, and that is the necessity of a merit system. The Northcote-Trevelyan Report came into existence in the mid-19th century in Britain when, with the industrial revolution in full swing and the specialisation and complication of state affairs taking place, it became clear that the fate of Britain’s further development was determined by the quality of public governance and administration, and that by not taking action on this issue the state would run into serious problems.

The situation was similar in the US. Specifically in 1881, when the United States was shaken by the assassination of President Garfield by his party counterpart who was upset because he had not received the reward he had expected for his services during the presidential campaign. This event led to a public awakening and the realisation that “the spoils system is a huge public evil”.⁴ It should be noted that the evils of the spoils system were talked and written about in the US media decades before the event. The Garfield assassination was simply the final trigger and a call for the abolishment of the spoils system and the introduction of the merit system. It happened two years later with the adoption of the Pendleton Act. The law introduced the Civil Service Commission, which played a significant role in the selection of the personnel in public administration, but which also insured that public servants were protected from the influence of politicians.⁵

The last years of the 19th and first decades of the 20th century were characterised by the public and academics' enthusiasm for the idea of a merit system. For example, a scholarly article published in 1917 in *The American Political Science Review* stated that “there is no question of national policy being firmly established as the merit system” (McIlhenny, 1917, p. 461). It also stated that the development and improvement of the practical methods of the merit system in recent years had been rapid not merely in the federal service, but in the great municipalities of the country. Out of the total of public employees in the United States, federal, state, county, municipal, and village, as many as 600,000, or nearly two-thirds of the entire number, were 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 in the early years of

⁴ The 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 Guiteau'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>

⁵ The Commission existed in this form until the reforms of 1979, when the Office of Personnel Management and the Merit Systems Protection Board were created as successor agencies.

the 19th century, which were dominated by the “evil of the spoils system” (Wheeler, 1919). Former New Mexico Senator, Carl A. Hatch, in his 1939 speech says that “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 organisation as well as whenever this administrative theorem is ignored, the objective of the organisation is jeopardized” (Wilson, 1954, p. 87).

However, more recent research indicates that the US merit system development has not flown smoothly or equally in all US states. Specifically, the Pendleton Act introduced a merit system into the federal government, but the states had the freedom of choice in organising their authorities, although there were recommendations from the federal state as well as public pressure to introduce the merit system in all states and 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 was virtually no state activity on the introduction of the merit system. Until 1905, when the states of Illinois and Wisconsin introduced it, and in the following years Colorado (1907), New Jersey (1908), California (1913), Ohio (1913) and Maryland (1921). During the 1920s and at the end of the 1930s, only a few more states introduced the system, with 24 of the remaining 37 states introducing the merit system between 1936 and 1939 (Ruhil & Camøes, 2003, pp. 30-31). The key question is why this happened during this particular period.

The answer given by researchers 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 spoils system. More specifically, they do not cite the “good will” of the politicians to introduce the merit system, but the objective circumstances that compelled them to do so, namely, nationwide and state-specific demographic, economic, structural, and political factors; growth in patronage constituencies; the use of the Australian ballot; political party competition; post-Pendleton dwindling patronage resources; and the onset of the Great Depression, that shifted politicians’ preferences for the merit principle rather than patronage (Ruhil & Camøes, 2003, p. 28).

That this reasoning is not alone is borne from Canada’s experience. In Canada, the Civil Service Act was passed in 1919, which virtually eliminated the patronage system from almost all public service. A major step towards professionalising 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 for the original 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 began to take into account other aspects besides its objective characteristics. Therefrom an opinion emerged 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 is actually applied and what the results are. There are frequent criticisms of the merit system, however, not in the sense that the concept is flawed, but that there is a constant tendency to avoid it or apply it partially.⁶

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 politicisation (i.e., the appointment of top executives by political or party will) has its public benefits. It appears that the standpoint is 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 spoils principle of staff hiring and high political dependency on the one hand, and completely independent merit hiring on the other, reduce the efficiency of bureaucratic organisation, whereas balancing these two principles is the best way to go. The basis of this approach is that not only the expertise of the staff is sufficient for the efficiency of the administrative organisation, but also the clear responsibility of the management to get the job done properly. Thus, expertise is provided through the merit sys-

⁶ For example, according to a survey conducted in the 1980s in the United States at the local level, in 85.5% of the cases personnel directors in cities with over 100,000 inhabitants were found to be interacting with local elected officials and federal representatives concerning recruitment, selection, examinations, minority hiring, hiring of females, and the selection of individual job candidates (Stein, 1987, p. 263).

tem and independent segments, but the responsibility of the organisation 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's roots are unique, each country's merit-based civilian service has its own particular historical and cultural roots, with each country also borrowing from others. European countries where the historical evolution of merit systems provides references for others are the United Kingdom, France and former Prussia. The merit systems of most other European countries were based on the ideas and elements taken from these national frameworks (Cardona & Eriksen, 2015, p. 3).

Numerous research on the merit system in Europe is related to corruption, i.e., 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 others 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, overcoming the strict division of politics and administration is noticeable, as well as 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 had an impact on combating (or preventing) corruption were: 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 the 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 the key features of a bureaucracy that acts to counteract corruption are, found it 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, are not a relevant factor in combating corruption. So their conclusion is that employment in the bureaucracy is crucial for 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).

3. Public Administration and the Development of the Merit System in the Western Balkans

The last ten years have seen a number of academic works focusing on the topic of state building, public administration reform in post-socialist states, and the role and influence of political parties in this process. In her book, *Rebuilding Leviathan: Party competition and state exploitation in post-communist democracies* Anna Grzymała-Busse explains how political parties in Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia extract state resources and receive enormous informal profits from the privatisation of the communist economy, establishing discretionary structures of state administration instead of monitored, transparent and responsible institutions (Grzymała-Busse, 2007).

In the context of the subject of this paper, the book *Party patronage and party government in European democracies* (Kopecký, Mair & Spirova, 2012) is also worth mentioning. It is a comprehensive comparative study of the role of political parties in public appointments in Europe, with new empirical data that has not been collected or published to date since the publication of the book. Also, a reference should be made to the recently conducted research on party patronage in contemporary democracies and the results from an expert survey in 22 countries from five regions (Kopecký et al., 2016).

A significant contribution to this topic comes from the study of informal politics in post-communist Europe as well as political parties, clientelism and state capture (Klíma, 2019).

However, it must be stressed that in these publications, when dealing with former socialist countries, the research deals with EU member states. Therefore, there is no talk of the Western Balkan countries. This points to the initial assumption given in the introduction, that this issue has been very poorly researched in the Western Balkan countries.

Historically as well as culturally, we can say that the Western Balkans' position is a disincentive for the intensive implementation of the merit system.⁷ While in the USA and Western Europe there was a continuity of democratic states, institution building, confrontation with various experiences and the gradual improvement of institutions, the Balkans was

⁷ 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). The English words *government* and *authority* do not refer to ownership or to lordship.

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 spoils, the Balkans were ruled by a decadent and obsolete Ottoman empire. The entire 19th century was unstable for the Western Balkans, followed by the 20th century with the Balkan Wars of 1912-13, two devastating world wars, and the final establishment of socialism that did not care about the merit system. The Communist Party was the absolute lord and master, deciding who was ideologically fit for public service and who was not. It was only with the fall of socialism (that began with the fall of the Berlin Wall in 1989), that the issue of modernising the public administration came into the spotlight, and within that, the merit system came to the agenda. However, decades of experiencing a complete overlapping between the ruling party and the state, with extensive state intervention and regulation during the socialist period, have made it very difficult to separate the spheres of politics and administration, which is one of the preconditions for democracy and public sector efficiency. In addition, the centralisation of political power that has persisted to this day constitutes an environment in which there is a strong reluctance to implement the merit system.

Therefore, in analysing the merit system in Europe, a distinction should be made between at least 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 a reality independent from both public administration and political party (Cardona, 2000, p. 1). A more detailed grouping can be done within the second group, whereby one group is made up of countries that implemented the 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 the merit system (in the first place the 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, 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: recruitment. Research (some of which is cited), as well as various reports (e.g., the

SIGMA reports)⁸ indicate that the merit system is often violated when applying for public service candidacies.⁹

The report, *A comparative overview of public administration characteristics and performance in EU28*, states that Bulgaria, as well as Croatia, have a problem in the EU with the merit system.¹⁰

According to the 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 quote that the “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, 2012, p. 32).

In short, the conclusion is that, as announced at 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 system’s development in the US and Canada.

⁸ SIGMA (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 prioritisation, sequencing and budgeting. Currently SIGMA works with Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia and Turkey as EU candidate countries and potential candidates. More information can be found on the website <http://www.sigmaxweb.org/>

⁹ “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 & Palaric, 2017, pp. 27-28).

¹⁰ Politicisation 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 law amendments and attempts to reshape the appointment procedure for managerial positions in public administration (Ibid. p. 28).

There is another important difference between the merit system in the Western Balkans on one side, and the merit system in Western Europe and the US on the other. 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 the honour of the 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 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 the Western Balkans and the 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 providing them with the knowledge on regulations and public management, but also on the study of ethics and the codes of ethics, what an honourable officer is, and finally how to react in situations of political or any other pressure to act dishonestly and contrary to the law. Similar schools in the Western Balkans do not exist or are in their infancy.

4. The Spoils System in Serbia is Still Alive

One of the basic hypotheses of this paper is that the spoils system in Serbia today largely lives in public sector practice, although formally speaking there is a merit system, or at least the minimum standards of one. As Serbia is in many ways similar to the surrounding countries, many of the assumptions and conclusions of this paper can be applied to other 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 regula-

tions is done carefully and perfidiously. Although the legal form is often satisfied when recruiting for public service, the bottom line is that the best candidate should be selected, but is not. Furthermore, a closer analysis of the regulations in Serbia indicates that there are also many gaps in the legal framework. For example, a merit system should permeate the entire public sector, however, most of the merit system rules apply to the state administration, but not to local self-governments and other segments of the public sector (e.g., public enterprises). The most common mechanisms of employment in the state administration, local self-government and public enterprises will be briefly outlined. Together they represent a large part of the political parties' spoils.

Most of the regulations of the merit system apply only to the state administration.¹¹ Similar to other countries there is a central agency, the Human Resources Management Service (HRMS), that should take care of the personnel in public administration and set professional standards. However, this is a rather "weak" organisation compared to its counterparts in Western countries. First, the organisation's only role in the process of public administration reform is support and assistance; and second, its activities relate primarily to the state administration staff (therefore, only 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 (limited mainly to performing administrative and technical tasks, such as 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 (the minister), almost at will. There are no detailed provisions in the Law on Civil Servants (*Zakon o državnim službenicima*). In practice, the minister selects several employees, who are already employed, as members of the commission. After testing the candidates (although there are usually no written tests and most often the recruitment process is done through interviews), the committee submits a list of candidates who meet the criteria for selection with the achieved candidate results, and submits it to the top manager, who is responsible for choosing the candidate that best meets the selection criteria. As testing is usually reduced to an interview, there is considerable discretion for the commission, and therefore for the

¹¹ The state administration in Serbia is very narrowly defined. According to the Law on State Administration, the public administration consists only of the ministries, and the so-called administrative bodies within the ministries and special organisations (Art. 1, Law on State Administration). Public Administration in Serbia is not a positive legal category, although there is a Strategy on public administration reform (Official Gazette, 9/2014, 42/2014 - correction, and 54/2018).

minister, to decide which candidate is the most successful. In order to understand more fully the employment situation in the state administration and the well-founded hypothesis that public competition is a mere form, another very common phenomenon in state administration should be pointed out, namely temporary employment on the basis of contracts. Although the law stipulates that the state administration may hire staff based on a temporary contract only in specific and rare situations, this legal instrument is widely and very often used. The mechanism is very simple and the ministry has considerable 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 contracts are then most often renewed every three months, and 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 the senior colleagues of the preferred candidate. Since the commission values previous experience, and since the preferred member is practically already working in the ministry, the commission gives him a great number of points on the basis of which he defeats the other candidates (outsiders).¹²

Opportunities to avoid merit standards at the local level are even more numerous. HRMS is primarily a service of the central government, but not of local governments. 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. Art. 101 of this Law states that the Head of Administration, Head of Service or Organisation, by their decision, establishes a selection commission of three members, and of these three members one must be the direct manager of the organisational unit in which the position is to be 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

¹² The author has gathered the presented information from several sources: personal experience (observation) while working for the state administration (2008-2011); interviews and (informal) conversations (narrative) with persons working in the public sector; and media reports.

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 selection procedure and the manner of their verification.

What happens in practice in local self-government in Serbia is pure trade; the “selling” of local government jobs for political services rendered during the campaign and election. Another name for this situation is the spoils system.

The core of the trouble within the spoils in this situation are the so-called reliable votes. Namely, the political parties that have won the local election should satisfy the appetites of their members and party friends who have stood out during the election campaign, and certain votes are the most valued. The most active member of the party is the one who brings the most certain votes. According to some media reports, there are indications that local officials and party members are given a quota of certain votes during the election campaign that they must muster to justify their party’s confidence and to confirm or get a job (Danas, 2017). A reliable vote 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 of 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 is 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, the secrecy of elections, is violated.

Since the key criterion for status and influence in the party is the collection of a certain number of votes, it is possible that a non-expert person may have 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. As such, an incompetent person in the following sequence of events, and in accordance with a job well done, having made 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, neighbours, relatives and those who pay him to get a job). Although by law public vacancies for admission to a certain position in the

local administration must be announced, in practice this is not respected and is often bypassed. Public competitions are called for the purpose of simulation and formal adherence to the law, while the one for whom the position is intended is known in advance or even employed in that workplace and employed by a directive from the top of the local authority.¹³

Due to the existence of this mechanism, some members of a political party advance on the party ladder without any visible knowledge or honour. Very often, local policy depends on people without real knowledge and/or ethical integrity. With such party members who lack knowledge, primitivism is generally manifested by the tendency to eliminate professional experts by the most primitive methods. So it could be deduced that the less education and necessary knowledge they possess, the more arrogant their methods; the lack of knowledge is covered by cruelty and bestiality. In addition, the consequences of 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 has been established by recent regulations that directors of public companies are to be elected in a public competition and that they have some independence in their work (Law on Public Enterprises, Art. 24-26), this is avoided in practice by the appointment of acting directors (Serbian: *vršilac dužnosti*). The legal basis for the appointment of acting director is Art. 52 and 53 of the Law on Public Enterprises. It is an instrument that is rather limited and should only be used in specific situations. According to this regulation, the government (discreetly) appoints the acting director until the appointment of the public company after a public competition. Moreover, the term of office of the acting director may not exceed one year and the same person may not be appointed twice as acting director. However, 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” (In-

¹³ In addition to media reports, the author's “insider” information confirms the accuracy of this scenario. Specifically, some persons who have participated in or directly witnessed such “transactions” talk about these processes, but only anonymously or in private conversations with a “trusted” person. Very few public sector employees are ready to speak about this publicly because of the fear of losing their jobs and other forms of retaliation by the centre of political, i.e., party power.

sajder, 2019). Furthermore, some rules are often violated, and one person commonly spends several years in the position of acting director.

150 years of experience in the merit system development, as well as numerous experiences of European countries and assistance from the European Union and the OECD, are all a good basis for establishing reform directions that would lead the way to the realisation of the merit system in practice and the professionalisation of the public administration. SIGMA¹⁴ reports and guidelines offer very useful recommendations related to this topic (i.e., *The Principles of Public Administration*, SIGMA, 2017, pp. 38-52). In this sense, it is worth mentioning the analysis and recommendations done by ReSPA (Regional School of Public Administration), that deal directly with the topic of the improvement of merit recruitment procedures in the Western Balkans (Sahling et al., 2015; Sahling et al., 2019).

However, the problem is not what should be done, but whether there is the (political) will to do it. As previous experience has indicated, the merit system was introduced when political parties did more harm than the benefits of the spoils system, thereby creating a broad consensus for the introduction of the merit system.

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, etc. (Goati, 2008, p. 71).

On the other hand, the effective operation of the party in modern conditions also requires pecuniary competence. 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 the so-called party taxes. This is a situation whereby a person who gains public office and who is a member of a particular party, commits to giving an increased membership fee or simply a

¹⁴ SIGMA (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 prioritisation, sequencing and budgeting. More: <http://sigmaweb.org/about/>

contribution to the party. 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” (Stančetić, 2015a, pp. 78-79).

5. Conclusion

Perhaps the question that is more difficult to answer than proving the hypothesis that the spoils 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 spoils persists in practice is the win-win situation for the 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 a solution is to translate this game from a win-win to a no-win game for at least one actor, and ideally for both. In other words, a new ambience that does not favour a spoil transaction should be created, or an ambience where at least one party (or player) does not want a “spoil transaction”. Nevertheless, what exactly needs to be done?

We shall commence with a politician who wants to be successful and get 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, as well as 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 for a small number of people or even one person should be disaggregated to create a situation in which the success of politicians depends primarily on citizen satisfaction. One of the key steps to achieving this 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 or “fresh

energy” can enter the political scene to threaten them. They also seek to keep MPs under control. Therefore, MPs or political representatives are primarily in the service of the party, not the citizens. This is possible because of the electoral system. In fact, there are no truly direct elections in Serbia, since there is a mediator between the citizens and the elected representatives, which are the political parties. Thus, citizens vote for parties, and then parties decide who will represent the 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 would 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. Firstly, the 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. Secondly, elimination of the 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 personalisation.

Especially at the local level, elections should be personalised, and mayors should be elected directly. Direct election of mayors binds them more to the citizens and their needs. In such circumstances, the mayors would demand more competencies, which would increase the pressure for the decentralisation of Serbia. Greater democratic legitimacy as well as greater competencies would make them more accountable, and thus more interested in the citizens' satisfaction and efficient performance of public affairs. In addition, there is a need to work on the emancipation of the 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 those politicians who have gained success and political standing thanks to the citizens, and 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 many memberships and various forms of support, sometimes it can lead to potential risks and costs for party. This happens when all the 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 function within the spoils system because it then becomes unprofitable.

Finally, the question is also under what conditions the second player, the 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 them 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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SPOILS SYSTEM IS NOT DEAD: THE DEVELOPMENT AND EFFECTIVENESS OF THE MERIT SYSTEM IN WESTERN BALKANS

Summary

The paper analyses the development of the merit system and its effectiveness in the administrations of the Western Balkan countries. First, the development of the merit concept is described; its origin and genesis, as well as the positive effects it has had mostly in Western democracies. However, the basic hypothesis presented in the paper is that in most Western Balkan countries, the spoils system still remains a reality, even though the law stipulates the merit system. This hypothesis is demonstrated through practical evidence, as well as by comparing the merit system in the Western Balkans with that of Western democracies, in both a formal and a practical sense. The paper also analyses the negative consequences of this situation, as well as the benefits that the citizens would have in a merit system. In addition, solutions are offered, i.e., a model of reform that would overcome the existing situation.

Keywords: spoils system, merit system, public administration, political party, reliable vote

SUSTAV PLIJENA NIJE MRTAV: RAZVOJ I UČINKOVITOST SUSTAVA SPOSOBNOSTI U ZEMLJAMA ZAPADNOG BALKANA

Sažetak

Rad analizira razvoj sustava sposobnosti i njegovu primjenu u javnim upravama zemalja Zapadnog Balkana. Objasnjeni su razvoj koncepta sposobnosti, njegovi izvori i geneza te njegov pozitivan učinak u zapadnim zemljama. Glavna je hipoteza da je u većini zemalja Zapadnoga Balkana sustav plijena i dalje realnost unatoč pravnim pokušajima da se uvede sustav sposobnosti. Autor svoju tezu elaborira dokazima iz prakse te usporedbom primjene sustava sposobnosti u zemljama Zapadnog Balkana te u zapadnoj Europi u formalnom i praktičnom smislu. Rad analizira negativne posljedice takva stanja i koristi koje bi građani imali kad bi se u javnim upravama njihovih zemalja primijenio sustav sposobnosti. U radu se predlaže model reforme koja bi vodila rješavanju postojeće situacije.

Ključne riječi: sustav plijena, sustav sposobnosti, javna uprava, politička stranka, čvrsti glas