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## For More Professional Hospitals, Schools and Public Institutions

### Our key recommendations for the Law on Public Institutions

Public institutions founded by the state employ 30,170 people, accounting for more than half of all employees in central-level public administration.<sup>1</sup> According to the Open Data Portal, there are 324 public institutions in Montenegro.<sup>2</sup> Despite their significance, employment and labour relations in public institutions remain a largely neglected area, most often governed either solely by general labour regulations or by inadequate legislation that fails to acknowledge their unique relevance to advancing the public interest, delivering public services, and, more broadly, establishing a merit-based and transparent system..

The extent to which this area has been neglected is illustrated by the fact that it was only with the adoption of the current Public Administration Reform Strategy 2022-2026 that an official record of the number of employees was established, covering public institutions at both the central and local levels. The Strategy also identified the absence of a unified normative framework governing public institutions that provide public services to citizens and legal entities in the fields of health care, education, culture, sport, social and

1 Visualisation of the Number of Employees in Public Administration –  
<https://www.gov.me/clanak/vizuelizacija-broja-zaposlenih-u-javnoj-upravi>

2 <https://data.gov.me/dataset/javne-ustanove/resource/6710e418-6d68-4b6b-a23e-54619134bd11>

child protection, pension and disability insurance, etc. Simultaneously, it recognised that Montenegro, unlike neighbouring countries, does not have a dedicated Law on Public Institutions, but rather regulates this area in part through so-called “sectoral laws” in the field of social activities.<sup>3</sup> In response, the Strategy foresees preparation of a dedicated analysis of public institutions, drafting of a Law on Public Institutions, and introduction of mandatory human resources planning within this segment of the public sector.

Following the adoption of the *Analysis with Identified Challenges and Recommendations on the Need to Establish a Normative Framework for Public Institutions*,<sup>4</sup> the Government of Montenegro proceeded with drafting the Law on Public Institutions. Institute Alternative (IA) sought to contribute to this process through participation in the working group, and through a series of meetings with representatives of the Ministry of Public Administration, other members of the working group, and trade unions. To this end, IA organised a workshop to advance the discussion on the future Law on Public Institutions, which aims to regulate recruitment procedures in institutions operating across various sectors, including culture, health care, education, and social and child protection.<sup>5</sup> In this analysis, we outline potential approaches to improving the current draft of the law, drawing on previous experience in this field and on identified shortcomings in recruitment procedures, human resources planning, and the protection of rights, as documented in the *Risk Map of Corruption and Undue Influence in Public Sector Recruitment* (<https://mapa-rizika.me>). The analysis is divided into two key chapters: the first identifies the main legal gaps and ambiguities in this area, while the second sets out the principal avenues for improvement.

## Overview of the current situation and previous work on the Law on Public Institutions

An extensive analysis of human resources planning procedures, recruitment processes, and the protection of job candidates' rights in public institutions indicates that the basic preconditions necessary to ensure the primacy of expertise and an adequate level of transparency are not in place.<sup>6</sup>

General labour regulations apply to public institutions, yet they do not even establish the basic principle of prior public advertising of vacant positions in public institutions. For example, under the Labour Law, the obligation to publicly advertise a vacancy does not apply in cases of extension of an existing employment contract or in cases of transfer of employees,<sup>7</sup> thereby further undermining transparency in this area.

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3 The Law on Public Enterprises and the Law on Social Activities of 1991 constituted systemic laws in the field of public services, but were subsequently repealed.

4 Government of Montenegro, *Analysis with Identified Challenges and Recommendations on the Need to Establish a Normative Framework for Public Institutions*, 30 April 2024, available at:  
<https://www.gov.me/dokumenta/6c0e0649-886f-4f00-b480-0a94eda1fc83>

5 IA Held a Workshop on Regulating Recruitment in Public Institutions, 30 June 2025, available at:  
<https://institut-alternativa.org/ia-odrzao-radionicu-o-regulisanju-zaposljavanja-u-javnim-ustanovama/>

6 Institute Alternative, *Risk Map of Undue Influence and Corruption in Public Sector Recruitment*, available at:  
<https://mapa-rizika.me>

7 Labour Law, *Official Gazette of Montenegro*, Nos. 74/2019, 8/2021, 59/2021, 68/2021, 145/2021, 77/2024, 84/2024 (other law), and 86/2024.

In most public institutions, more detailed conditions and selection procedures exist for key positions, such as principals and teachers in schools, doctors in health care institutions, and the like; yet even in these cases, a number of shortcomings remain, the most significant of which are outlined below:

- **Preliminary assessment of candidates' abilities, where it exists, is not regulated in a manner that entails an obligation to select the best-ranked candidate;**
- The work of committees responsible for assessing candidates' abilities is insufficiently regulated, allowing for **improvisation and unequal treatment of candidates**;
- The duration of competitions for directors of public institutions is prescribed in some sectors, but for the majority of positions vacancy announcements may last **only three days**, as required under the Labour Law for commercial companies, public institutions and other public services founded or majority-owned by the state or a local self-government unit;
- Issues such as professional development, disciplinary responsibility, performance appraisal, and the maintenance of human resources records are **not regulated in greater detail**.

In order to lay the groundwork for a dedicated Law on public institutions, in 2024, the Government of Montenegro adopted the *Analysis with Identified Challenges and Recommendations on the Need to Establish a Normative Framework for Public Institutions*. Although the document also addressed other aspects of regulation of public institutions, from their establishment to budget planning, it identified a number of key challenges and gaps. In particular, the Analysis recommended that general labour regulations should apply to public institutions strictly on a subsidiary basis. In line with our earlier recommendations, it also highlighted the need to prescribe a minimum duration for recruitment competitions, in order to avoid the practice of competitions lasting only a few days and thereby creating space for non-competitive and politically motivated recruitment. Furthermore, the Analysis underlined that "it is important to prescribe the steps in the recruitment process and introduce mandatory assessment of candidates' abilities (currently, internal acts of institutions allow for discretionary decisions on whether written testing will be conducted, what share interviews will have in the total score, etc.)." The document further stressed the need to harmonise protection of the rights of employees in public institutions with those afforded to civil servants and state employees. Under the current legal framework, civil servants and candidates for such positions may lodge appeals with a specialised second-instance body – the Appeals Commission, within clearly defined deadlines and regulated procedures, whereas employees in public institutions may only seek protection through court proceedings. Finally, the Analysis pointed to the need to introduce an obligation to prepare human resources plans, to regulate recruitment competitions, and to define the methods and conditions for evaluating employees' work and performance. However, it devoted no additional attention to existing practices related to performance appraisal or to the determination of responsibility for breaches of work obligations in public institutions.

The Analysis also failed to address the existing human resources management capacities of public institutions – an aspect that will be critical for effective application of new provisions pertaining to recruitment, as well as for other related procedures such as professional development and human resources planning. In order to gain a clearer

picture of current human resources management capacities, we reviewed publicly available staff lists of several public institutions.<sup>8</sup> While these lists do not provide a comprehensive overview, they suggest that, aside from accountants and small units responsible for auxiliary and legal affairs, public institutions generally do not have human resources management units. This is hardly surprising, given that functions such as attracting new employees, organising their professional development, and planning training needs do not exist as such, nor are they envisaged under the current legal framework.

## What does the draft version of the Law on Public Institutions fail to address?

In the work carried out to date on the Law on Public Institutions, some of the weaknesses and legal gaps identified in the Analysis have been addressed. However, contrary to expectations that the subsidiary application of the Labour Law would be explicitly prescribed, the approach taken in the existing draft versions remains unchanged from that found in sector-specific laws. These provide that "general labour regulations and collective agreements shall apply to employees of public institutions, unless otherwise provided by law."<sup>9</sup>

The draft version of the Law on Public Institutions introduces an obligation of human resources planning, but offers no additional guidance on establishing internal organisation of public institutions, nor on harmonising job descriptions or job catalogues across different sectors. Apart from sporadic, ad hoc analyses, there is currently a lack of reliable data on the number of employees across different sectors and organisational units within public institutions. Nevertheless, previously available data point to an unfavourable situation in this area. For example, according to a Government analysis from 2018, 57% of employees in entities performing activities related to the protection and preservation of cultural heritage at the local level are engaged in administrative and technical tasks. This may be regarded as a warning sign for potential shortcomings in staff allocation and, more broadly, in the context of rationalisation of the public administration.<sup>10</sup> However, there is no indication that similar efforts have been made to map the situation across all sectors in which public institutions operate in Montenegro. Furthermore, under the draft version of the Law, the mandatory content of human resources plans does not include identification of needs for consultancy services, service contracts, or other forms of

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8 The analysed lists are available at the following links:

List of Employees, Public Institution "Mirko Komnenović City Museum" and the "Josip Bepo Benković" Gallery, Herceg Novi, available at: <https://www.mighn.me/wp-content/uploads/2025/02/Spisak-zaposlenih-za-sajt-Javne-ustanove.pdf>

List of Employees, Public Institution Primary School "Risto Manojlović", Kolašin, school year 2021/2022, available at: <https://osristomanojlovickl.wordpress.com/about/>

List of Employees, Public Institution "Elderly Care Home Nikšić", 2025, available at:

[https://domstarihnik.me/images/Zaposleni/Spisak%20zaposlenih%20na%20dan%2002.09.2025\\_.pdf](https://domstarihnik.me/images/Zaposleni/Spisak%20zaposlenih%20na%20dan%2002.09.2025_.pdf)

List of Employees, Centre for Social Work Bar, available at:

<https://www.csrgc.me/images/Bar/biblioteka/Spisak%20zaposlenih%20maj%202025.%20godina.pdf>

List of Employees, Public Institution Primary School "Savo Pejanović", Podgorica, available at:

<https://614b661b31944.site123.me/zaposleni>

9 Draft Law on Public Institutions, 18 September 2025.

10 Government of Montenegro, Ministry of Culture, Information on the Human Resources Capacities of Authorities and Institutions Engaged in the Protection and Preservation of Cultural Heritage, September 2018

temporary engagement, nor does it require consideration of filling vacancies through internal reassignment or transfer of employees.

On the other hand, certain public institutions operate under guidelines and standards governing recruitment that are also found in other segments of the public sector. For example, pursuant to the Law on Social and Child Protection, a *Rulebook on the Detailed Conditions and Standards for the Performance of Professional Tasks in Social and Child Protection* has been adopted. This Rulebook provides a more detailed definition of professional tasks in social and child protection and specifies the conditions for their performance, including education requirements, professional licences, and similar criteria.<sup>11</sup> As a result, unlike other segments of the public sector where clear job descriptions or job catalogues are lacking, institutions in the field of social and child protection benefit from more developed guidance for defining their internal organisation.

## Misalignment with other legislative initiatives and public policies

A number of other highly significant initiatives in this area are unfolding in parallel, yet remain misaligned with the work of the working group and with the strategic vision for public administration reform. Among these developments are the amendments to the General Law on Education, adopted in June 2025, which address important issues related to recruitment and the governance of educational institutions – institutions that account for a substantial share of employment in the public sector. Notably, these amendments introduced an obligation requiring the competent minister to appoint the highest-ranked candidate as director of an educational institution, on the grounds that the appointment of second- or third-ranked candidates following a competitive procedure could, to some extent, undermine or render meaningless the selection process itself.<sup>12</sup> By contrast, the draft version of the Law on Public Institutions does not make the final decision on the appointment of directors conditional on candidates' ranking based on objectively determined criteria, even though it does require the submission and consideration of a development programme for the public institution, as well as interviews with candidates who meet the formal requirements.<sup>13</sup>

The same period also saw the adoption of the Law on Health Care.<sup>14</sup> This law likewise regulates several important aspects that are not fully aligned with the intentions set out in the draft version of the Law on Public Institutions. For example, it sets the maximum number of members of the board of directors of a health care institution founded by the state or a municipality at seven, whereas the draft version of the Law on Public

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<sup>11</sup> Ministry of Labour, Employment and Social Dialogue, Rulebook on the Detailed Conditions and Standards for the Performance of Professional Tasks in Social and Child Protection, 31 October 2023, available at: <https://www.gov.me/dokumenta/579cd2aa-fb52-4b06-bf60-b5fb16eb64c1>

<sup>12</sup> President of Montenegro, Decree Promulgating the Law on Amendments to the General Law on Education, Podgorica, 1 August 2025, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/575/3738-22004-26-1-25-19-23.pdf>

<sup>13</sup> Draft Law on Public Institutions, 18 September 2025.

<sup>14</sup> President of Montenegro, Decree Promulgating the Law on Health Care, 1 August 2025, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/615/3778-22026-28-2-25-1-9.pdf>

Institutions provides for a management board of between three and five members, including a chair.

At the same time, both the adopted Law on Health Care and the draft version of the Law on Public Institutions reflect a tendency to reduce political influence over the appointment of directors and management boards, by prescribing, either for board members and directors, or only for directors in the case of the Law on Health Care, that they must not be members of political parties. This provision, however, is not accompanied by other, more substantive safeguards aimed at limiting undue political influence. For instance, although directors of health care institutions may not hold party positions, they are appointed by the Government or the competent line minister as a political office-holder, following the submission of development programmes the assessment of which is not governed by clear or predictable criteria. In effect, depoliticisation as a complex concept is unduly simplified and reduced to party membership alone.

In practice, political engagement may take various forms and is not necessarily limited to holding a formal party function. And yet, we observe a lack of precise and explicit safeguards relating to integrity and prevention of conflicts of interest, despite the fact that such issues are relatively easy to verify (for example, prohibited lobbying activities, donations to political parties, registration as a lobbyist, or violations of the Law on the Prevention of Corruption). In the meantime, the working group has agreed on a new version of the Law that introduces integrity checks for members of boards of directors and directors. However, this procedure is not elaborated in a manner that would clearly identify key circumstances warranting the exclusion of candidates, such as conflicts of interest or breaches of the law.

Although the Law provides for introduction of mandatory human resources planning in public institutions, the draft version largely replicates provisions currently applied in ministries and administrative bodies. Human resources planning, as defined in the current draft of the Law, does not encompass all the elements necessary to ensure effectiveness or transparency of human resources management. In particular, the assessment of candidates' suitability is insufficiently elaborated, as it does not provide for testing of practical performance of tasks relevant to specific positions, despite allowing for written testing or interviews. Moreover, the draft suggests that suitability assessments may be conducted using only one of these methods – either testing or an interview – while key evaluation standards are not prescribed at all. The draft version also fails to elaborate the selection process and role of employees' representatives in management bodies, potentially exposing them to undue influence. The issue of transfer of employees represents another neglected area, despite being particularly susceptible to abuse in practice. We recall that, following an initiative by Institute Alternative requesting an inspection of the procedure used to fill a director's position in a majority state-owned company, the Labour Inspectorate found no irregularities in the fact that Nikola Rovčanin was transferred by mutual agreement from Vodovod Pljevlja and subsequently appointed Executive Director of the Electric Power Company of Montenegro (EPCG) without prior public advertisement. The justification provided was that directors have the same status as other employees in this respect, and that any alternative interpretation, e.g. one that would exclude directors from the possibility of transferring between entities on the basis of transfer agreements, would

amount to selective application of the Labour Law.<sup>15</sup> Other recent cases likewise point to ambiguities in the interpretation of employee transfer practices between the private and public sectors.<sup>16</sup> However, the draft version of the Law does not address these issues in greater detail. It merely states that "an employee with a permanent employment contract may be permanently or temporarily transferred, without a public advertisement, to another public institution performing the same activity as the institution from which the employee is transferred, or to a public institution performing a different activity, to an appropriate position, on the basis of an agreement between the directors of the respective public institutions and with the consent of the employee."

On the other hand, the latest draft version of the Law on Public Institutions, dated September 2025, introduces a positive development in that it incorporates our recommendation allowing competitions for appointment of directors to be announced at least three months prior to the expiry of the incumbent's mandate. This reflects the acceptance of our recommendation that, for the purposes of depoliticisation and limiting undue influence over senior management in public administration, vacant director positions in public institutions should be advertised three months in advance, thereby avoiding acting appointments to the greatest extent possible. Nevertheless, the procedure for selecting directors is not defined in a manner that effectively prevents abuse, as not all procedural steps are clearly regulated. Moreover, the draft does not envisage that a development programme of a public institution should be prepared and presented during the selection process. Such a procedure is envisaged in certain existing by-laws, such as the *Rulebook on the Verification of Competencies, Knowledge and Abilities of Candidates for the Selection of Directors of Public Educational Institutions*, adopted by the Ministry of Education, Science and Innovation.<sup>17</sup> The further drafting process of the Law on Public Institutions should therefore take into account existing, well-developed procedures applicable to specific public institutions, assess their outcomes, and, where appropriate, incorporate them into the final version of this important piece of legislation.

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<sup>15</sup> Institute Alternative, *Public Sector Under the Labor Inspectorate's Scrutiny: Fewer Inspections, More Initiatives*, July 2025, available at:

<https://institut-alternativa.org/en/public-sector-under-the-labor-inspectorates-scrutiny-fewer-inspections-more-initiatives/>

<sup>16</sup> Vijesti Online, Post Office: *Claims by the Inspectorate Regarding Recruitment without Public Advertising Are Unfounded*, available at: <https://www.vijesti.me/vijesti/ekonomija/712276/reagovanje>

<sup>17</sup> Ministry of Education, Science and Innovation, *Rulebook on the Verification of Competencies, Knowledge and Abilities of Candidates for the Selection of Directors of Public Educational Institutions*, available at:

<https://www.gov.me/dokumenta/c126e9f6-ac66-4c03-bf1d-228ba6daa887>

## Recommendations for improvement

Given that a number of issues remain unregulated in the current draft versions of the Law, the following section highlights our key recommendations, which would represent a meaningful departure from existing practices of non-transparent, non-merit-based recruitment.

### Further specify the conditions governing the appointment of management bodies and directors

Drawing on comparable solutions introduced through the amendments to the Law on Civil Servants and State Employees, adopted in July 2025, the conditions for appointment of members of management bodies and directors of public institutions should be clearly defined. In particular, it should be stipulated that such positions may not be held by a person who:

- has been convicted by a final court judgment of a criminal offence rendering them unfit to perform a public function;
- has, within the past three years, been dismissed, suspended, or subjected to a disciplinary measure for violations of laws governing prevention of corruption;
- has been found to have breached provisions relating to prohibited donations to political entities or election campaigns;
- has engaged in prohibited lobbying activities within the past three years;
- has been entered in the register of lobbyists in the previous year, in accordance with the law governing lobbying.

Prior to appointment, an integrity verification procedure should be conducted, covering the conditions listed above.

### Define the principle of political neutrality and the consequences of its violation

For the purpose of depoliticising public institutions, the principle of political neutrality applicable to directors and employees of public institutions during the performance of their duties must be prescribed and clearly defined, with violations carrying clearly defined consequences in practice:

*"A director of a public institution shall be politically neutral in the performance of their duties and shall exercise their function on behalf of all citizens, serving all equally, regardless of political affiliation. The expression of political views in the course of performing a public function shall be considered a serious breach of official duty."*

### Enable a comprehensive elaboration of the procedure for selecting directors of public institutions

To ensure the objectivity and reliability of the selection process, the current practice that requires candidates to submit a pre-prepared development programme should be replaced with a **competency assessment procedure under which the programme is developed in real time during the assessment, submitted electronically and under a code.**

To ensure legal certainty, a clear deadline should be prescribed for conducting the competency assessment once the list of candidates who meet the requirements of the public competition has been established.

**Clear criteria must also be defined for evaluation of development programmes and interviews with candidates who meet the requirements of the public competition.** Such criteria may include knowledge of the current situation and challenges in the relevant field, alignment of proposed objectives with identified problems and priorities, strategic orientation, and the measurability of proposed objectives.

**Interviews should be structured in such a way that identical questions are posed to all candidates**

Following the competency assessment for the selection of directors, a **report should be prepared containing individual scores awarded by each member of the selection committee or management board, along with reasoned explanations** referencing the criteria used to assess development programmes and structured interviews. In any event, it would be advisable to provide for by-laws and a mandatory evaluation template for the assessment of criteria in the selection of directors and other employees.

Following the completion of the competency assessment procedure, the management board should be obliged to appoint the highest-ranked candidate within a clearly defined deadline.

**Centralise human resources management services by sector and/or on a territorial basis**

With a view to **optimising** the public administration, as envisaged in the current Public Administration Reform Strategy, we consider it necessary to legislate the **centralisation** of human resources management services. Under this approach, centralisation would be organised at the central level by sector of activity (such as culture, social and child protection, etc.), and at the local level according to a territorial principle, so that, depending on the size of the local self-government unit, a single human resources management service would suffice for all local public institutions.

This approach is considered the most appropriate primarily because the existing capacities of public institutions are insufficient to support a decentralised system in which each institution would independently organise the testing of job candidates. **In practice, public institutions often do not even have established human resources management units.** Moreover, maintaining a decentralised model would have implications for the already excessive level of employment in the public sector, as it would require additional recruitment and professional training of staff responsible for human resources management. **At the same time, full centralisation through the Human Resources Administration would also pose significant challenges.** **Although this institution conducted 686 recruitment procedures and vacancy announcements in 2024,<sup>18</sup>** extending its remit to cover recruitment procedures and vacancy announcements for public institutions, of which there are at least 324,

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<sup>18</sup> Report on the Work and State of Affairs in the Administrative Areas of the Ministry of Public Administration for 2024, 27 March 2025, available at:

<https://wapi.gov.me/download-preview/136df69f-4749-4882-9b81-b4cf89fb26fa?version=1.0>

would require a substantial strengthening of its human and spatial capacities. For this reason, while such a model cannot be excluded in the longer term, we consider the **partially centralised model** proposed here to be the most feasible option in the short term. Nevertheless, we emphasise that the competent Ministry of Public Administration, together with other ministries responsible for the sectoral oversight of public institutions, should assess the readiness of these institutions to implement the procedures envisaged by the Law on Public Institutions and prioritise the transfer of employees with the required skills, accompanied by appropriate professional development in human resources management.

Ultimately, only through centralisation can efficiency in the implementation of new recruitment procedures be ensured, alongside an adequate assessment of competencies and the level of transparency required. By contrast, decentralising these procedures and leaving their implementation to each public institution individually would make transparency significantly more difficult to achieve. Accordingly, under this model, public institutions operating within a given sector, such as culture, at the central level would be supported by a single, centralised human resources management service responsible for:

- human resources planning;
- advertising vacant positions;
- organising competency assessments and appointing members of selection committees;
- publishing the results of competency assessments;
- maintaining human resources records;
- assessing professional development needs, and related tasks.

### Limit the use and duration of acting appointments

**We welcome the adoption of our recommendation** that vacant director positions in public institutions be advertised three months prior to the expiry of the mandate, in order to minimise the use of acting appointments. However, where the exceptional use of an acting appointment is unavoidable, it should be limited to a maximum duration of six months, without the possibility of renewal. Where possible, the acting director should be appointed from among existing employees.

### Ensure access to documentation relating to public competitions and vacancy announcements

All candidates applying for competitions to appoint directors, as well as for vacancy announcements for other positions in public institutions, **should be granted access to documentation relating to the relevant public competition or vacancy announcement**. This should include access to development programmes or tests submitted by other candidates, as well as records of conducted interviews, with due protection of personal data. Such protection should, in part, already be ensured by enabling candidates to submit development programmes electronically and under codes.

## Set upper limits, within the criteria for the internal organisation of public institutions, on staffing levels in general and support services, and on the number of managerial positions relative to the total number of planned posts

With regard to criteria governing the internal organisation of public institutions, and with a view to optimising the public administration, we consider it necessary to clearly distinguish administrative sectors (general and support services) from direct service providers. Upper limits should be prescribed for positions within general and support services, determined through consultation and dialogue with public institutions (for example, a maximum of 10% of the total number of positions). In addition, an upper limit should be set for the number of managerial positions in relation to the total number of employees.

## Introduce an obligation to prepare job catalogues

An obligation should be introduced, together with a clearly defined deadline in the transitional and final provisions, for competent authorities to prepare and publish job catalogues for public institutions by sector, including job descriptions and conditions for employment in those sectors, e.g. culture (with relevant sub-sectors), social and child protection, health care, education, and others.

## Expand and clarify the scope of human resources planning

Human resources plans should clearly identify and quantify the need for consultancy services, service contracts, and other forms of temporary engagement, while also planning for the filling of posts through internal reassignment or transfer of employees, and presenting this information in a clear and transparent manner.

In this regard, we consider that the article of the Law relating to human resources planning should be supplemented with the following elements:

- *the number of persons temporarily engaged on the basis of service contracts, contracts for temporary and occasional work, and consultancy services;*
- *the number of persons whose engagement is planned on the basis of service contracts, contracts for temporary and occasional work, and consultancy services;*
- *the number of persons for whom a need for reassignment has been identified.*

## Clearly define all steps in recruitment procedures

**In line with the above comments regarding competitions for the appointment of directors, we consider that all steps in recruitment procedures should be more clearly and precisely defined.** In particular, all deadlines should be clearly specified in order to ensure procedural predictability (for example, the current draft does not set a deadline for the director to adopt a decision, but merely requires that the decision be delivered to candidates within five days of its adoption). In addition, the sharing of information on job vacancies via social media channels of the initiators, competent authorities, and public institutions should be explicitly permitted, given that, in practice, the absence of such an explicit provision often results in resistance to the use of social media.

## Provide for testing of practical performance of tasks as part of competency and knowledge assessments

**Written testing and interviews** should form the basis of competency assessments for all posts, with the possible exception of technical and auxiliary positions and the lowest-ranking posts. In addition, depending on the nature of the post, candidates' skills should be assessed through practical tasks, problem-solving exercises, or similar methods.

## Specify limitations and transparency safeguards for employee transfers within the public sector

The solution contained in the draft version of the Law does not provide safeguards against the potential misuse of employee transfers beyond those already set out in general labour regulations - namely, an agreement between institutions and the consent of the employee. We consider this insufficient and potentially detrimental to efforts to strengthen public advertising of vacancies and the accompanying recruitment procedures. Accordingly, additional limitations and safeguards should be introduced in the use of this mechanism, such that:

- an employee may be transferred only where filling posts through transfer is envisaged in the human resources plan;
- decisions on transfers take into account performance results, work experience, and the needs of the receiving public institution;
- transfer agreements are published on the websites of the public institutions concerned and the competent authority;
- transfers to managerial posts (i.e. posts involving the management of organisational units within a public institution) are not permitted;
- transfers from other legal entities (other than public institutions) are not permitted.

## Ensure representativeness in the selection of employee representatives in public institutions and strengthen their role

In line with existing good practices, the Law should specify that the employee representative in the governing bodies of a public institution is to be the candidate who has received the majority of votes cast by employees through a secret ballot,<sup>19</sup> or, alternatively, a representative nominated by the employees' trade union through a regulated procedure. Defining the basis of this procedure in the Law would prevent undue influence in the selection of employee representatives, with the competent body merely confirming the outcome of the process. Their role could be further strengthened by granting them **observer status in recruitment procedures, including the appointment of directors and similar processes**.

**In this context, it is also necessary to amend the provision governing the dismissal of employee representatives** (which currently provides that a member of a public institution's management board from among employees may be dismissed if they

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<sup>19</sup> For example, existing statutes of public institutions define the procedure for selecting employee representatives as follows: "Employees of the Centre nominate members of the Management Board by secret ballot, by a majority of the total number of votes cast by employees."

fail to represent employees' interests as defined by the institution's statute). This provision is formed in overly broad and vague terms, and may undermine the purpose and substance of the role of employee representatives in these bodies. Accordingly, consistent with the manner of their selection, an employee representative should be dismissed solely through a clearly defined procedure that reflects the majority will of all employees and includes an assessment of their effectiveness in representing employees' interests.

## Sources

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<https://www.gov.me/dokumenta/579cd2aa-fb52-4b06-bf60-b5fb16eb64c1>
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<https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/575/3738-22004-26-1-25-19-23.pdf>
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