

## SPECIAL FORMS OF CONTROL OF STATE ADMINISTRATION IN BOSNIA AND HERZEGOVINA

**Abstract:** The thematic conception of the work consists of legal issues of special forms of control of state administrative in Bosnia and Herzegovina (at the state level, the level of federal units and districts). The paper analyzes the structure of bodies that perform this type of control, starting with the ombudsman institutions (Ombudsman for Human Rights of Bosnia and Herzegovina, Ombudsman for Children of Republika Srpska), and with special reference to the institutions of auditors (of which there are four in Bosnia and Herzegovina). The author will present the organization of these institutions, the election of their members (ombudsmen and auditors), the way they act, and the possibilities they have, as well as the legal mechanisms they can use to protect both citizens and the public interest.

**Key words:** ombudsman, auditor, audit, state administration, public interest

### 1. Introductory remarks

In any modern democratic society, a democratic state that strives to achieve the principles of the rule of law, it puts all the executors of state power under the norms of positive law, because in the modern state man is not ruled by man, but by law. In order to achieve the above, it is necessary to supervise the work of those who exercise power on behalf of the people. In this regard, special attention should be paid to the control of administrative activities performed by administrative bodies (which is the final stage in the process of performing administrative administration), which is one of the principles of administrative functioning. Considering the number of tasks performed by administrative bodies, great attention is paid to the control of their work in all those countries that adorn themselves with the title of a state governed by the rule of law. Due to its great importance for strengthening legality, as well as specifics in the organization and functioning in relation to other organizations, there is a need for special legal regulation of the form and content of control of administrative bodies as the most important part of public administration in all countries.

In our law, as in most rights, no distinction is made between control and supervision, and in our legal theory we know how to label these terms as synonyms, although some authors state that they are two terms that differ in content. Depending on whether or not the control of

the administration is regulated legally, we distinguish between legal and illegal control of the administration, where the framework in the first case consists of legal, and in the second political instruments and mechanisms.

As general types of control and oversight of the administration, we see administrative and judicial (legal control) and government control and control by parliament (political control), but in addition to the above, we have certain special types of control of the administration that appear as special forms of external control. control through the ombudsman). The author of the paper will deal with these special forms of control with the intention of presenting them in the positive law of Bosnia and Herzegovina.

## 2. Special forms of state administration control

### 2.1. Control of state administration through the institution of ombudsman

The Human Rights Ombudsman of Bosnia and Herzegovina<sup>1</sup> is an independent body established to promote good governance and the rule of law, protection of the rights and freedoms of natural and legal persons guaranteed by the Constitution of Bosnia and Herzegovina and international agreements directly applicable in BiH in accordance with Annex I. The Constitution of BiH (in addition, the Constitution establishes the principle of direct application)<sup>2</sup> and to monitor the activities of BiH institutions, entities and the Brcko District in accordance with the law.<sup>3</sup>

The institution of the Human Rights Ombudsman of BiH was established by Annex VI of the General Framework Agreement for Peace in BiH in 1995, and began operating in 1996.

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<sup>1</sup> The name of this institution comes from the Swedish word “ombudsman” which would mean commissioner, representative, representative. This name originally meant an independent natural person who, on behalf of the National Assembly (Commissioner of Parliament), exercises control over the state administration and public services. In essence, this control consisted in the fact that the ombudsman has the authority to request information and explanations from the administrative authorities regarding the application of the law, as well as to initiate proceedings against the responsible officials (Kunić, 2001: 162–163). The ombudsman submits reports to the parliament and on that basis can raise the issue of trust in certain civil servants of the highest rank, ie ministers (See Lilić, 1995: 481). The ombudsman, as an institution that protects the rights of citizens and exercises control over state bodies, has existed almost since it became the first state. In China they were called mandarins, ephors in ancient Greece, while in the Roman state they were called plebeian tribunes. The modern institution of the ombudsman was established in Sweden in 1809 (See Kuzmanović, 2002: 479; Morait, 2018: 115).

<sup>2</sup> Art. II.2 of the Constitution of the Bosnia and Herzegovina (Annex IV of the General Framework Agreement for Peace in Bosnia and Herzegovina).

<sup>3</sup> Art. 1. Zakona o Ombudsmanu za ljudska prava Bosne i Hercegovine, *Službeni glasnik BiH*, br. 19/02, 35/04, 32/06, 38/06 and 50/08 (The Human Rights Ombudsman of Bosnia and Herzegovina Act – HROBHA).

The mandate of the first human rights ombudsman, appointed by the chairman of the Organization for Security and Cooperation in Europe, lasted five years, and the person appointed could not be a BiH citizen (Kazazić, 2005: 46).<sup>4</sup>

In 2006, a single state-level ombudsman institution was established, abolishing the entity ombudsmen (Dmičić, Pilipović, 2020: 250). The ombudsman institution consists of three persons.<sup>5</sup> The institution of ombudsman has its chairman, who rotates every two years, and whose task is to coordinate the work of the institution.<sup>6</sup> The order of presidency is determined in alphabetical order (Dmičić, Pilipović, 2020: 251).

BiH citizens with a law degree and a law degree only, a bar exam and at least 10 years of experience in the legal profession may be appointed as ombudsmen. Persons who should be appointed ombudsmen must enjoy a great moral reputation, and stand out significantly in the field of protection of human rights and freedoms of citizens.<sup>7</sup> During the election of the ombudsman, the Parliamentary Assembly of Bosnia and Herzegovina forms a special, ad hoc commission that publishes a public call and, after the competition procedure, determines the list of candidates who meet the conditions prescribed by law.<sup>8</sup> The list of candidates is submitted to the Parliamentary Assembly, which then simultaneously appoints three ombudsmen to the ombudsman institution for a term of six years (with the possibility of re-election). Ombudsmen are appointed and dismissed by the House of Representatives and the House of Peoples of the Parliamentary Assembly in accordance with their rules of procedure.<sup>9</sup>

Regarding the competence of the ombudsman, we see that he considers cases related to poor functioning or violations of human rights and freedoms by any institution in Bosnia and Herzegovina. The ombudsman acts upon receipt of a complaint or *ex officio*.<sup>10</sup> He undertakes may undertake general investigations, recommend appropriate or general measures. The ombudsman has the power to investigate all complaints of human rights violations committed by the armed authorities, followed by violations caused by the poor functioning of the judicial system or the improper processing of certain cases. We must emphasize that the ombudsman does not interfere in court proceedings, but can initiate court proceedings or intervene during

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<sup>4</sup> Article IV/2 of Annex VI of the General Framework Agreement for Peace in Bosnia and Herzegovina (Human Rights Agreement).

<sup>5</sup> Art. 8/1 of HROBHA.

<sup>6</sup> Art. 8/3 of HROBHA. It should be noted here that each ombudsman individually retains independence and autonomy and his scope (Radojević, 2018: 188).

<sup>7</sup> Art. 11 HROBHA.

<sup>8</sup> Art. 8/4 of HROBHA.

<sup>9</sup> Art. 8/6 of HROBHA.

<sup>10</sup> The Human Rights Ombudsman of BiH does not consider cases related to facts, decisions or events that occurred before December 12, 1995.

the proceedings. He may make recommendations to the authorities (authorities) participating as a party to the proceedings or be consulted by a party to the proceedings. A special circle of competences of the ombudsman is reflected in the control of the work of administrative bodies.

As ombudsmen are independent and autonomous in their work, and cannot receive orders, recommendations or any instructions from other entities (especially from the authorities), they are obliged to abide by the Constitution and the law, and the highest principles of justice. and morality.<sup>11</sup> Their position is incompatible with any public function, any political engagement, membership in a political organization, work in a state body, trade union, religious organization, judicial bodies, etc.<sup>12</sup> Ombudsmen enjoy immunity.<sup>13</sup>

All state bodies are obliged to cooperate with the ombudsman institution. This cooperation is established by law, which states that: (1) the authorities are obliged to provide the ombudsman institution with appropriate assistance in the investigation and control, (2) at the time of the investigation the ombudsman has access to any authority to verify the requested information. personal interviews and consideration of the necessary files and documents and (3) the ombudsman must not be denied access to files or administrative documents or other documents relating to the activity or activity under investigation.<sup>14</sup> The ombudsman has the right to require state bodies to submit documents that are confidential in nature (Dedić, 2001: 329). In such cases, the ombudsman will exercise the necessary discretion and will not make the same documents available to the public (Dmičić, Pilipović, 2020: 253).

The ombudsman may make recommendations to the authorities with a view to adopting new measures. The authorities that receive such recommendations are obliged to give a written answer and inform the ombudsman about the result of the recommendations within the deadline set by him. If the bodies to which the recommendations are made do not take appropriate steps to comply with them within the time limit set by the ombudsman, or if they do not inform the ombudsman of the reasons for not taking them, the ombudsman may point out the failure of that body to the responsible minister. If, in the end, the recommendations are not implemented in a case in which it was possible to find a positive solution, the ombudsman will include this problem in his annual report or compile a special report on the problem (with special reference to citing bodies or officials who have taken a negative stance). Although the institution of the Ombudsman of BiH has a wide range of powers and competencies, the possibility to amend or

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<sup>11</sup> Art. 15 of HROBHA.

<sup>12</sup> Art. 17 of HROBHA.

<sup>13</sup> Art. 16 of HROBHA.

<sup>14</sup> Art. 25 of HROBHA.

revoke measures and orders of public authorities is excluded from its competence, but they can make proposals for changing the criteria used in their adoption (Dedić, 2001: 329).

What sets the institution of ombudsman in BiH apart from the same institutions around the world is the “liberal” relationship that has the way of addressing the institutions, and initiating proceedings, in accordance with modern tendencies in comparative law (Radojević, 2018: 189). Also specific are the powers under which he supervises the exercise of the right to legal aid (Radojević, 2018: 189).

The Institution of the Ombudsman of BiH submits an annual report on the work to the Parliamentary Assembly of BiH (House of Representatives and House of Peoples of the Parliament of BiH), the Presidency of BiH, the Parliament of the Federation of BiH and the National Assembly of RS. In cases of public importance and where urgency is required, the ombuds institution may draw up a special report. The annual report and the special report are published.<sup>15</sup>

Proceedings before the ombudsman can be initiated in two ways: (1) by a citizen’s complaint and (2) *ex officio*.<sup>16</sup> Initiation of proceedings *ex officio* may follow on anonymous complaint of citizens, after the control of institutions by the ombudsman (meaning periodic control that does not exist in certain countries), then the proceedings may follow after the publication of certain texts in the press, concerning irregularities in work of public bodies and the like (Milkov, 1997: 594–595). It should be noted that every citizen has the right to file a complaint to the ombudsman, regardless of the violation of a constitutional or legal right, but it is still the ombudsman who decides whether to take it into consideration and to what extent (Kunić, 2010: 149).

In his work, the ombudsman must have access to relevant documents and no one can deny him or restrict his access to data of interest (we classify this as an obligation of institutions to cooperate with the ombudsman).<sup>17</sup> The powers of the ombudsman vary from state to state, and relate to submitting criticisms, warnings, making recommendations, all with the aim of eliminating illegalities in the work of state institutions. The ombudsman has broader powers in certain countries and narrower powers in certain countries. Somewhere an entity performing this function may repeal or even annul an administrative act, in some countries it may submit

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<sup>15</sup> Art. 34 of HROBHA.

<sup>16</sup> In some countries, citizens can also initiate proceedings when they are not authorized to do so (eg Sweden, Finland).

<sup>17</sup> Art. 25–27 of HROBHA.

or propose amendments to laws, dismiss certain persons, initiate criminal proceedings against civil servants, while somewhere it is limited to a purely “existing” institution.

The institution of the Ombudsman for Children of the Republika Srpska was established in 2008 with the adoption of the Ombudsman for Children Act by the entity parliament. It is an independent institution that protects, monitors and promotes the rights of the child.<sup>18</sup> In his work, the ombudsman for children is independent and autonomous in performing his duties determined by law, and no one has the right to influence his work and actions.<sup>19</sup> The Ombudsman for Children is authorized to give recommendations and opinions to the entity government and parliament in order to amend laws and other regulations if he considers that they violate the rights of the child, or if he deems it important for the realization and protection of children's rights.<sup>20</sup> Within the competence of the Ombudsman for Children, we note the following: (1) monitoring the compliance of laws and other regulations in the Republika Srpska relating to the protection of children's rights with the provisions of the Constitution of the Republika Srpska, the United Nations Convention on the Rights of the Child and other international instruments and interests of the child, (2) monitoring the implementation of the obligations of the Republika Srpska arising from the United Nations Convention on the Rights of the Child and other international documents relating to the protection of the rights and interests of the child, (3) monitoring the implementation of all regulations relating to the protection of rights and interests (4) monitoring the violation of the rights and interests of the child, (5) advocates for the protection and promotion of the rights and interests of the child, (6) proposes measures to protect and promote the rights of the child, as well as to prevent harmful actions that endanger the rights and interests child, (7) informs the public about the state of the child's rights and (8) performs other tasks determined by law.<sup>21</sup>

The task of the Ombudsman for Children is to acquaint the youngest members of society with the manner of exercising and protecting their rights and interests, and to advise them regarding the use of mechanisms for the protection and exercise of their rights and interests.

The Ombudsman for Children is obliged to initiate proceedings before the Constitutional Court to assess the constitutionality and legality of laws, other regulations and general acts, when he finds that they are not in accordance with the Constitution, ie the law.<sup>22</sup>

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<sup>18</sup> Art. 1 Zakona o ombudsmanu za djecu, *Službeni glasnik RS*, br. 103/08 and 70/12 (Ombudsman for Children Act – OCA).

<sup>19</sup> Art. 3 of OCA.

<sup>20</sup> Art. 7 of OCA.

<sup>21</sup> Art. 5 of OCA.

<sup>22</sup> Art. 8 of OCA.

In relation to other bodies, the Ombudsman for Children has the authority to propose measures to prevent harmful conduct that endangers the rights and interests of the child. The Ombudsman for Children is obliged to submit a report on his work to the National Assembly of the RS once a year.<sup>23</sup>

The Ombudsman for Children in the Republika Srpska is elected by the entity parliament on the proposal of the RS president. In the process of determining the candidate's proposal, consultations are held with scientific and professional institutions as well as representatives of the civil sector dealing with the protection of children's rights. The Ombudsman for Children is elected for a term of four years and the same person may be elected to this position no more than twice in a row. A person with a law degree can be elected as an ombudsman, and at least 10 years of experience in the legal profession, must be well acquainted with United Nations Conventions, international documents, the Constitution and regulations of Republika Srpska, as well as other regulations governing the protection of children's rights and interests. and to present work that expresses experience in jobs that are important for the work within the competence of the Ombudsman for Children. After all, it must be a face of high moral reputation and professional qualities.<sup>24</sup>

### ***2.2.State administration control through the institution of auditors***

The Audit Office of the Institutions of Bosnia and Herzegovina is an independent, professional and apolitical institution established with the aim of promoting transparent and accountable management of public resources by conducting audits based on the principles of efficiency, effectiveness, economy and rule of law. The Audit Office of the Institutions of BiH is the supreme audit institution established by a law passed by the Parliamentary Assembly of BiH, which began operating in 2000. The Office, as an external and independent auditor, supervises the work of institutions at the state level.

As the main goals of the Office, by conducting audit activities, we see: ensuring an independent opinion on the execution of the state budget and financial reports, ensuring an independent opinion on the use of resources and management of state property by the Council of Ministers, contributes to reliable reporting on the use of budget funds, transparent and quality

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<sup>23</sup> Art. 17 of OCA.

<sup>24</sup> Art. 18–19 of OCA.

management of public revenues, expenditures and state property.<sup>25</sup> The Audit Office informs the responsible institutions and the public about its findings and recommendations through timely and public publication of audit reports, and if relevant, other forms of information.<sup>26</sup>

The Audit Office is responsible for: (1) financial audits, (2) performance audits and (3) other specific audits.<sup>27</sup> The Office is responsible for auditing all institutions at the state level (including the Parliamentary Assembly, the Presidency, the Council of Ministers, all institutions financed from the state budget, certain institutions whose funding is not provided for in the budget). The Office monitors and supervises financial resources collected by state institutions, including loans, credits and grants received by Bosnia and Herzegovina from other states and international organizations, as well as funds received by institutions, organizations on behalf of a loan or grant from international institutions, or state-owned bodies, companies and other state-owned companies and companies and companies where the state owns 50% plus one share. The audit also includes all financial, administrative and other activities, programs and projects managed by one or more BiH institutions and bodies, including processing and proceeds from the sale of property, privatization and concessions.<sup>28</sup>

The Audit Office is an apolitical body and must not support or be affiliated with any political party or organization.<sup>29</sup> In performing its duties and exercising its competencies in accordance with the law, the Office is independent and is not subject to the management or control of any other person or institution.

The framework principles governing the Office, in accordance with international standards, are those established by the ISSAI framework, ie with two significant declarations – the Lima Declaration (ISSAI 1) and the Mexican Declaration (ISSAI 10). According to the Lima Declaration, supreme audit institutions can achieve their goals efficiently and objectively only if they are independent in their work from the auditee and external factors. The Mexican Declaration proclaimed eight postulates of public sector audit independence: (1) the existence of an appropriate and functioning constitutional and legal framework, (2) the independence of the heads of the supreme audit institution and its members, (3) a sufficiently broad mandate and full freedom to perform the supreme institution function. for auditing, (4) unrestricted access to information, (5) rights and obligations regarding reporting on their work, (6) freedom in

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<sup>25</sup> Art. 3 Zakona o reviziji institucija Bosne i Hercegovine, *Službeni glasnik BiH*, br. 12/16 (Law on Audit of Institutions of Bosnia and Herzegovina – LAIBH).

<sup>26</sup> *Ibid.*

<sup>27</sup> Art. 8 of LAIBH.

<sup>28</sup> Art. 17 of LAIBH.

<sup>29</sup> Art. 3 of LAIBH.

deciding on the content of reports and the time of their publication and distribution, (7) the existence of effective mechanisms for monitoring the implementation of recommendations, (8) financial and managerial autonomy and the availability of adequate human, material and financial resources.

Within its competences, the Audit Office performs two significant audits – financial and performance audit. In performing financial audit activities, the Office reviews the financial statements and related accounts of institutions in order to assess whether they are reliable and whether the balance sheets fully reflect the results of budget execution.<sup>30</sup> The Office assesses whether the managements of the institutions of Bosnia and Herzegovina apply laws and other regulations well and whether they use funds for appropriate purposes, then, the Office evaluates financial management, evaluates internal audits and internal control systems.<sup>31</sup> In its financial audit reports, the Office provides two types of opinions: (1) an opinion on the financial statements and (2) an opinion on the compliance of activities, financial transactions and information with the relevant laws and regulations governing the audited entity. In addition to the opinion, the financial audit reports also contain the findings of the performed audit. In addition to the financial audit, the Office has the right to review or examine a particular aspect of the work of all or part of the institution, program or activity, in terms of cost-effectiveness, efficiency and effectiveness with which that institution uses its resources (performance audit).<sup>32</sup> It should be noted that in addition to the term “performance audit”, in theory but also in practice, there are often other names for this type of audit (not only in our country but also in the world). Thus, we notice terms such as: audit of success, audit of 3E (economy, efficiency and effectiveness), audit of value for money...

The Audit Office of the Institutions of BiH is managed by the Auditor General with two deputies. The Auditor General and his deputies shall be appointed by the Parliamentary Assembly of Bosnia and Herzegovina for a term of seven years, without the possibility of re-election.<sup>33</sup>

Every year, after consulting with his deputies, the Auditor General adopts the annual audit plan of the Audit Office of the Institutions of BiH for the next year, taking into account the requirements of the law. The audit plan is submitted to the Parliamentary Commission of the PABiH, in the form of information, before the beginning of the new financial year.<sup>34</sup> The

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<sup>30</sup> Art. 13/1 of LAIBH.

<sup>31</sup> Art. 13/2 of LAIBH.

<sup>32</sup> Art. 14 of LAIBH.

<sup>33</sup> Art. 21 and 24 of LAIBH.

<sup>34</sup> Art. 12/1 of LAIBH.

Parliamentary Assembly or a parliamentary committee may at any time request that the Office carry out a special audit, but the Office shall decide whether to carry out such an audit and shall inform the applicant in writing.<sup>35</sup>

The Supreme Audit Institutions, together with the people's representatives, are the most important mechanisms for monitoring the spending of public funds in modern societies (in addition to serving to promote the responsible spending of public funds by the authorities). Representative bodies rely heavily on the professional work and objective information collected by the audit service. Relevant parliamentary committees are often seen as a contact group with the audit service, and as a body that promotes public accountability and strengthens the role of the audit service. The main goal of the existence of these accountability mechanisms is certainly the effort to spend public funds in a proper and efficient and legal way, but also to ensure that shortcomings are identified in a timely manner and effectively eliminated. It is believed that this “attention” of the parliamentary body as the highest representative body of citizens puts some pressure on the executive and administrative authorities and contributes to creating a more favorable environment for the implementation of the recommendations made by the auditors in their reports. The Audit Office of the Institutions of BiH submits to the Parliamentary Assembly individual reports on: financial audits (and compliance audits), performance audits and special audits. The Office also submits an annual audit report on the main findings and recommendations and an annual report on the audit of budget execution.<sup>36</sup> The reports of the Office shall be submitted to the House of Representatives and the House of Peoples, as well as to the competent commissions of both houses. In addition, the Auditor General (with his deputies or together with other relevant staff of the Office) attends parliamentary sessions at which audit reports are considered and presents the main features of a given audit cycle.

The Main Audit Office of the Public Sector of the Republika Srpska is an independent institution that professionally, in accordance with the law and the ISSAI framework, performs parliamentary oversight of the public sector, ie conducts audits to ensure an independent opinion on the application of laws and other regulations. , financial reports, use of funds and management of public property in RS public sector institutions.<sup>37</sup> The Audit Office, through audit reports, prepared on the basis of financial audit and performance audit, and other specific forms of audit , constantly informs the public and public institutions about the management of

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<sup>35</sup> Art. 18 of LAIBH.

<sup>36</sup> Art. 16/6 of LAIBH.

<sup>37</sup> Art. 3 Zakona o reviziji javnog sektora RS, *Službeni glasnik RS*, br. 98/05 and 20/14 (RS Law on Public Sector Audit – RSLPSA).

public funds, ie whether the funds owned by Republika Srpska are used. in an economical, efficient and effective way.<sup>38</sup>

As already mentioned, the Main Audit Office performs three types of audits: (1) financial audit, (2) performance audit and (3) other specific audits.<sup>39</sup> The first or financial audit includes an audit of the financial statements and a compliance audit, which would mean that the General Service will determine the following when compiling its report: (1) whether the audited financial statements present financially and objectively, in all material respects; condition of assets and resources, business performance, cash flows and budget execution, in accordance with the prescribed financial reporting framework and (2) assess whether regulations are applied, whether funds are used for appropriate purposes and evaluate financial management, internal audit function and system internal controls.<sup>40</sup> On the other hand, in the performance audit, the Main Service examines activities, programs and projects within the competence of the RS Government and public sector institutions in terms of economy, efficiency and effectiveness.<sup>41</sup> The National Assembly of the Republika Srpska or the Audit Committee of the NARS may request that the Main Service perform special audits (for which it is necessary to provide special funds).<sup>42</sup> The Main Audit Office may perform a special audit at the request of the Government of the Republika Srpska, with the consent of the Audit Committee of the National Assembly.<sup>43</sup>

The Main Audit Office is authorized and obliged to audit financial statements and compliance of activities, transactions and information with legal and other regulations and budget execution of the National Assembly of the Republika Srpska, the Office of the President of the Republika Srpska, the General Secretariat of the Government of the Republika Srpska and ministries, the Council of Peoples. Republika Srpska, Tax Administration of Republika Srpska, Pension and Disability Insurance Fund of Republika Srpska, Health Insurance Fund of Republika Srpska, Public Fund for Child Protection of Republika Srpska, Employment Bureau of Republika Srpska, Consolidated annual financial report for users of the budget of Republika Srpska, adequate number of local units self-government and public enterprises and other institutions and entities in accordance with the Annual Audit Plan, which is compiled by the Auditor General with the assistance of the Deputy, applying the Law on Audit of the RS Public

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<sup>38</sup> Art. 19 of RSLPSA.

<sup>39</sup> Art. 13 of RSLPSA.

<sup>40</sup> Art. 18 of RSLPSA.

<sup>41</sup> Art. 19 of RSLPSA.

<sup>42</sup> Art. 23/1 of RSLPSA.

<sup>43</sup> Art. 23/2 of RSLPSA.

Sector and international standards.<sup>44</sup> In addition, the Main Service has the authority under the RSLPSA to audit public institutions, public and other enterprises in which the RS has a direct or indirect ownership stake. Then, the Main Service may audit any funds provided to any institution for the implementation of projects by international organizations, such as loans or donations to the Republic, funds allocated from the budget to the institution or organization and all other budget institutions financed from the budget and funds and other extra-budgetary funds established by law. The powers of the General Services include and all financial, administrative and other activities, programs and projects that are managed by one or more institutions, including process and proceeds from the sale of assets, privatization and concessions.<sup>45</sup> In its work, the Main Service may request written data and documents of interest, including data in electronic form, and access to them may not be denied or restricted (the same applies to the premises of the institution where the audit is performed).<sup>46</sup>

The Auditor General and Deputy Auditor General are appointed by the NARS on the proposal of the President of the RS. President entities propose to the National Assembly a list of candidates which previously prepares commission consists of five members. The list of candidates is determined after a public competition. The Auditor General and his Deputy shall be appointed for a term of seven years.<sup>47</sup> Audit Office of the public sector of RS shall be financed by the budget of the Republika Srpska.

The main audit service is obliged to submit the final report to the institution in which the audit was performed and to the National Assembly, in accordance with the law. A copy of the report will be simultaneously submitted to the Government and RS president. Copies may also be submitted to another institution, the Republika Srpska Public Prosecutor and the Ministry of the Interior. The Audit Office will publish audit reports immediately upon submission of such reports.<sup>48</sup>

The Audit Office of Institutions in the Federation of BiH was established in 2006 as the supreme audit institution in the entity of the Federation of BiH, which aims to ensure independent opinions on budget execution and financial reports, use of resources and management of state property by the Government, budget institutions. in the Federation of Bosnia and Herzegovina and public institutions in the Federation of Bosnia and Herzegovina, how it will contribute to reliable information on the use of budget funds, transparent and quality

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<sup>44</sup> Art. 17 and 18 of RSLPSA.

<sup>45</sup> Art. 16/3–4 of RSLPSA.

<sup>46</sup> Art. 39 and 40 of RSLPSA.

<sup>47</sup> Art. 10 of RSLPSA.

<sup>48</sup> Art. 21/1 of RSLPSA.

management of public revenues, expenditures and property in the Federation of Bosnia and Herzegovina.<sup>49</sup> The Audit Office has the task of informing institutions and the public about its audit work. He is apolitical and independent in his work.<sup>50</sup> Thus, it cannot be controlled by another institution or another person.

The Audit Office of the FBiH Institutions is responsible for: (1) financial audit, (2) performance audit and (3) other specific audits.<sup>51</sup> The competence of the Audit Office includes all public institutions in the Federation of Bosnia and Herzegovina including: (1) the Parliament of the Federation of Bosnia and Herzegovina, (2) the President of the Federation of Bosnia and Herzegovina, (3) the Government of the Federation of Bosnia and Herzegovina and its ministries, (4) extra-budgetary funds that may be established by law and (5) public funds, institutes and agencies.<sup>52</sup> Also, the competence of the office includes: (a) assemblies and governments of cantons in the territory of the Federation of Bosnia and Herzegovina, (b) municipalities in the territory of the Federation of Bosnia and Herzegovina, (c) all budgetary institutions financed directly from the budget. adopted by Parliament, set Stine Canton and general inland Council, (d) non-budgetary funds may be established by law, (e) the funds as a loan or a grant for Bosnia and Herzegovina is provided to an institution, or project in the Federation of Bosnia and Herzegovina from međ international bodies and organizations, and (f) funds provided from the budget of any other institution, organization or body.<sup>53</sup> The jurisdiction of the Audit Office also includes a company in which the state has a 50% ownership stake plus one share or more. The audit shall also include all financial, administrative and other activities, programs and projects managed by one or more institutions and bodies referred to in this Article, including processing and proceeds from the sale of property, privatization and concessions.<sup>54</sup>

The Auditor General and his Deputy shall adopt the annual audit plan, which shall inform the competent parliamentary committee.

With regard to financial audit, the Audit Office, in accordance with adopted auditing standards, reviews the financial statements and related accounts of audited institutions in order to assess whether the financial statements are reliable and whether the balance sheets fully reflect the results of budget execution. It assesses whether the heads of institutions apply laws

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<sup>49</sup> Art. 3/1 Zakona o reviziji institucija u Federaciji BiH, *Službene novine Federacije BiH*, br. 22/06 (Law on Audit of Institutions in the Federation of Bosnia and Herzegovina – LAIFBH).

<sup>50</sup> Art. 3/2–3 of LAIFBH.

<sup>51</sup> Art. 8 of LAIFBH.

<sup>52</sup> Art. 11 of LAIFBH.

<sup>53</sup> *Ibid.*

<sup>54</sup> Art. 13 of LAIFBH.

and regulations, use funds for appropriate purposes, assesses financial management, internal audit functions and internal control systems. The Office conducts an ex-ante audit during the financial year, including monitoring the implementation of recommendations from previous audits and analyzing the measures taken on the basis of those recommendations.<sup>55</sup>

The Audit Office has the right to inspect or test (performance audit) of a particular aspect of the business all or part of the institutions, programs or activities in terms of economy, efficiency and effectiveness with which this institution uses its resources and on what must notify the appropriate institution and Parliament of FBiH, ie the competent parliamentary commission.<sup>56</sup>

The FBiH Parliament or the Parliamentary Audit Committee may request the Office to conduct a special audit, providing special funds. Following a special audit, the Audit Office submits a special report to the Commission or Parliament.<sup>57</sup>

The Office is obliged to submit the final report to the audited institution and the Parliament of the Federation of Bosnia and Herzegovina. The report shall be submitted to the Government of the Federation of Bosnia and Herzegovina and the President of the Federation of BiH at the same time, and may be submitted to any other competent institution. The Audit Office shall make the audit reports public after their submission.<sup>58</sup> The Audit Office is funded from the federal budget.

The Auditor General and Deputy Auditor General are appointed by the Parliament of the Federation of Bosnia and Herzegovina, at the proposal of the President of the Federation of Bosnia and Herzegovina, according to the ranking list of candidates prepared by the selection committee. The Parliament of the Federation of Bosnia and Herzegovina appoints a commission for the election of six members from both houses of the Parliament of the Federation of Bosnia and Herzegovina, of which two members must be from opposition parties. The Commission determines whether all candidates meet the requirements of the competition, evaluates the candidates who meet the conditions of the competition and determines the ranking list of candidates which it submits to the President of the Federation of Bosnia and Herzegovina. The Auditor General and his Deputy shall be appointed for a term of seven years and may not be from the same constituent peoples.<sup>59</sup>

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<sup>55</sup> Art. 14 of LAIFBH.

<sup>56</sup> Art. 18 of LAIFBH.

<sup>57</sup> Art. 16/1 of LAIFBH.

<sup>58</sup> Art. 5 of LAIFBH.

<sup>59</sup> Art. 24 of LAIFBH.

The Audit Office of the Brčko District of Bosnia and Herzegovina was established in 2007. The Office performs its duties in accordance with the law, and is an independent body that is not subject to the management or control of any institution or individual. It is completely apolitical and must not support or be associated with any political party or organization.<sup>60</sup> The Office applies auditing standards approved by the Coordination Board of Supreme Audit Institutions of BiH.<sup>61</sup>

The Coordination Board of Supreme Audit Institutions in Bosnia and Herzegovina is the main coordinating body of the same institutions. Its headquarters are in Sarajevo. The Coordination Board consists of Auditors General and Deputy Auditors General of the Audit Office of the Institutions of Bosnia and Herzegovina, the Main Audit Office of the Public Sector of the Republika Srpska and the Audit Office of the Institutions in the Federation of Bosnia and Herzegovina. The scope of work, ie the competence of the Coordination Board includes: (1) establishment of consistent guides and instructions based on INTOSAI auditing standards, (2) exchange of professional experiences and aspirations to ensure consistent audit quality, (3) organization and coordination of SAI development activities in BiH, (4) assigning audit responsibility for joint activities, and (5) determining representation in international bodies.

Every year, the Audit Office audits the public administration, the Assembly of the Brčko District of BiH, judicial institutions, public funds, institutes, other institutions financed from the budget of the Brčko District of BiH, public companies, companies in which the District has an ownership share of over 50%, institutions or activities that receive budget funds or donated funds from other levels of government from the country or abroad, either as a loan or a grant for the Brcko District of BiH. The authority of the Office includes all financial, administrative and other activities, programs and projects managed by one or more institutions of the District, including the procedure and revenues from the sale of property, privatization and concessions.<sup>62</sup>

The main tasks of the Office are: (1) ensuring transparency of public spending by presenting audit reports to competent authorities and institutions in the Brcko District of BiH, media and the general public in accordance with the law, (2) increasing accountability in spending public money by auditing financial systems, reports, transactions, review or examination of a particular aspect of business, program or activity in terms of economy,

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<sup>60</sup> Art. 4 Zakona o reviziji javnog sektora i institucija Brčko Distrikta Bosne i Hercegovine, *Službeni glasnik BDBiH*, br. 18/18 (Law on Audit of the Public Sector and Institutions of the Brčko District of Bosnia and Herzegovina – LAPSIBDBH).

<sup>61</sup> Art. 48 of LAPSIBDBH.

<sup>62</sup> Art. 11 of LAPSIBDBH.

efficiency and effectiveness (performance audit), (3) increase the quality and reliability of financial processes through recommendations to bodies affecting budget management, (4) ensuring legality in the work of budget and other users who use public money, identify deviations and suggest measures to eliminate deviations and (5) provide access to legislative and executive authorities of the Brčko District of BiH information through the submission of audit reports, on the basis of which they can perform controls, reviews and take actions to free spending of public money.

The Office is responsible for performing: (1) financial audits, (2) compliance audits, (3) performance audits, and (4) special audits.<sup>63</sup> The Office shall submit a report on each audit to the Assembly and the District Government, as well as to the institution in which the audit was conducted.<sup>64</sup> If the report is negative, it is submitted to the Prosecutor's Office of BDBiH.<sup>65</sup> In addition, the Office may, if it deems it necessary, submit a special report to the District Assembly.<sup>66</sup>

The Auditor General and his deputies are appointed by the Assembly of the Brčko District of BiH at the proposal of the President of the Assembly on the basis of an established list of candidates drawn up by a commission of five members after a public competition. The Auditor General and Deputy Auditors General shall be appointed for a term of seven years.<sup>67</sup> The BDBiH Audit Office is also funded from the District budget.<sup>68</sup>

### ***3. Concluding remarks***

The modern state exists for the sake of its citizens, its basic task is to create conditions for satisfying the largest number of needs of the largest number of people, ie to create an appropriate “climate” that would lead to the general satisfaction of the citizens themselves. In this regard, the state is the largest public body, it is an institution that has huge resources, precisely for the realization of all its functions, of which there are many, and these resources belong to the citizens and society. Like any other institution, the state must have a certain leadership that will manage all these resources on behalf of the citizens. That staff is elected by

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<sup>63</sup> Art. 8 of LAPSIBDBH.

<sup>64</sup> Art. 17/1 of LAPSIBDBH.

<sup>65</sup> Art. 17/2 of LAPSIBDBH.

<sup>66</sup> Art. 21 of LAPSIBDBH.

<sup>67</sup> Art. 26 of LAPSIBDBH.

<sup>68</sup> Art. 5 of LAPSIBDBH.

all citizens. But, these people are also people, so it is logical to think that they may fall into some kind of temptation (after all, these are large material resources that he has to manage). How to control these funds? How to determine if one of those elected representatives of the government has lost his compass? There are different ways of control and supervision of public institutions that manage state funds, ie citizens. We have regular ways (judicial, parliamentary, governmental, “self-control”, etc.) and special ones. In special forms of administrative control in our country, we see the control of administrative bodies through the institution of ombudsman (Ombudsman for Human Rights of BiH and Ombudsman for Children of RS) and the institution of auditors, Office for Audit of Institutions of BiH, Main Audit Office Federation of BiH and the Audit Office of the Institutions of the Brčko District of BiH). These institutions, which operate independently, which are non-political, must determine in the best possible way whether there have been illegal or incorrect actions in the work of the institutions. However, no matter how positively these institutions are regulated (which we can rightly say by analyzing the legal regulations of BiH), the validity of the control will depend on the persons performing the given functions. If these people fail, then they schedule institutions, which is certainly not healthy for one state or society.

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