



**CENTRI CIVILNIH INICIJATIVA  
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Monitoring performance of the FBiH  
Government and Parliament**

**01.01 – 31.12.2015**



## INTRODUCTION

The intention of this report is to show and to point out the principal results of monitoring performance of the BiH Federation Government and the Parliament. Having in mind personal attendance of the members of the CCI's monitoring team, as well as accessibility of all available documents from the sessions (minutes, stenographs, reports), given *Report* was generated after careful analysis whilst observing past practices of fair and correct reporting.

Even besides all pre-election promises – which were indeed given at time when the remembrance of citizens' anger that was expressed at the social protests in Spring of 2014 was still very fresh – that situation from the previous mandate will not happen again, the political establishment in the BiH Federation had dealt with itself again throughout 2015, instead of dealing with the vital problems of its citizens and with implementation of reform processes.

In a certain way the situation is even worse, at least in the present course of the mandate – the previous government (namely, the ruling coalition) lasted more than a year (15 months precisely) after it was established, and this one, which was established at the end of March 2015, lasted only two and a half months.

So, in 2015 we were first waiting for the parties to agree on power-sharing, i.e. on ministerial positions, then we waited for the parties that established the government to stop fighting and to start working, and after they separated, without even spending 100 days together, we had witnessed a panic search after a new parliamentary majority. The search revealed all unprincipledness of domestic politicians and their readiness to swiftly change rhetoric and proclaimed objectives for the sake of governing and to conclude alliances for which they just recently claimed that they will never be part of.

Anyway, a year after the elections we were in a certain way still at the very beginning – coalitions were discussed, governments established, some people were dismissed and some new were appointed to the management of public institutions, agencies, enterprises....And, everyone was waiting for decisions of the Constitutional Court as during the previous mandate.

However, apart from similarity with the previous mandate in terms of political crisis and instability, where the authorities only dealt with themselves and where institutions waited for the parties to agree, there is one significant difference: unlike the previous mandate, they managed to establish a new ruling coalition relatively quickly for our circumstances and to reestablish parliamentary majority, which supports the Government that for several months had functioned as a minority government.

Having in mind that we still live in a country in which extraordinary elections cannot be announced – therefore the CCI has been for years now initiating changes to the Constitution and the Election Law, and here again we accentuate the necessity of such an action – this is a positive denouement that reflected on results in 4<sup>th</sup> quarter which in their turn positively influenced the overall results in 2015.

**POLITICAL CRISIS IN FBiH DURING 2015 MOST DRAMATICALLY REFLECTED ON PERFORMANCE OF THE HOUSE OF REPRESENTATIVES.** In the first 9 months the House of Representatives held only one regular session (in the second quarter, at time the coalition SDA-HDZ-DF was still functioning), and 6 extraordinary sessions. In 5 out of 9 months the HoR did not hold a single session. Its work intensity and productivity that was measured against measures considered and laws enacted were at the level of a low performing Cantonal Assembly (only 37 measures were considered and 7 laws were enacted). The House of Peoples was slightly better – beside the constituting session, it held 2 regular and 5 extraordinary sessions (at which it considered 78 measures and enacted 13 laws).

**CONSIDERING THE RESULTS, WE CAN SAY THAT THE FBiH PARLIAMENT HAS GENUINELY STARTED WORKING ONLY IN THE 4<sup>TH</sup> QUARTER OF 2015, A YEAR AFTER THE ELECTIONS.** Parliamentary majority was established before the end of new coalition negotiations, at the end of September, when, during the House of Peoples' vote on motion of no-confidence to the BiH Federation Government, SBB changed its earlier stance and supported the Government. Establishment of new parliamentary majority manifoldly increased work intensity and productivity, which was especially evident in the House of Representatives, which in 4<sup>th</sup> quarter held more sessions (8) and considered more measures (84) and adopted more laws (20) than in all three previous quarters combined. The House of Peoples also achieved its best results in 2015 during the 4<sup>th</sup> quarter. But...

**THE POOR RESULTS IN THE FIRST 9 MONTHS RESULTED IN THE FACT THAT PERFORMANCE OF THE HOUSE OF REPRESENTATIVES OF THE FBiH PARLIAMENT IN 2015 IS WORSE THAN ITS PERFORMANCE IN ANY YEAR OF THE PREVIOUS MANDATE.** Namely, it is significantly worse, taking into account the number of sessions held, the time spent in session, number of measures considered and number of realized laws. The results of the House of Peoples are not so conspicuously poor, but they are below past mandate's average by all parameters.

**THERE WAS A SIGNIFICANT CHANGE IN TERMS OF STRUCTURE OF CONSIDERED MEASURES IN BOTH HOUSES OF THE FBiH PARLIAMENT AT THE END OF 2015 IN RELATION TO THE PREVIOUSLY ANALYZED PERIODS.** So that the highest number of measures adopted in both Houses of the FBiH Parliament during the first 9 months of 2015 were the decision. At the end of the year the data indicate that the laws were considered the most. But, even that was not enough...

**THE TOTAL NUMBER OF COMPLETELY REALIZED LAWS AT THE LEVEL OF PARLIAMENT SIGNIFICANTLY INCREASED IN 4<sup>TH</sup> QUARTER, BUT THEIR NUMBER IS STILL VERY MODEST.** The full endorsement procedure was completed for 27 laws in the BiH Federation Parliament during 2015. It means that these laws were endorsed as proposals in the House of Representatives and in the House of Peoples. 10 more laws were endorsed as drafts in both Houses and were forwarded into further procedure, and three law proposals were endorsed in the House of Representatives and are now waiting for the vote of the House of Peoples. In order to understand how small this number is, we would like to bring to mind that the Work Plans in 2012 – the last year in which both Houses of the FBiH Parliament had worked by the Work Plans, had set out endorsement of almost 100 laws.

**BESIDES THE SMALL NUMBER OF LAWS, WE FIND THEIR STRUCTURE AND ENACTMENT MODE QUITE DISTURBING.** Only 6 out of 27 endorsed law proposals are new laws (whereof 2 are accompanying laws on

budget execution), while the remaining 21 laws are only changes and/or addenda to the existing laws. Only 22% of the laws were enacted under regular procedure. 59% of the laws were enacted under urgent procedure, and 19% under shortened procedure.

**COMPARISON WITH OTHER ENTITY PARLIAMENT IS DEVASTATING.** Members of the RS NA spent 381 hours in session during 2015, and members of both Houses of the FBiH Parliament spent together only 149 hours in sessions. In 2015 the RS NA endorsed two times more laws than the FBiH Parliament. Furthermore, the RS NA adopted 7 strategies, while the FBiH Parliament adopted only one strategy. And finally, the RS NA had in 2015 worked in accordance with the adopted Work Plan, whilst none of the Houses of the FBiH Parliament adopted the Work Plan.

**NONE OF THE HOUSES OF THE FBiH PARLIAMENT ADOPTED 2016 WORK PLAN BY THE END OF 2015, WHEREWITH THEY ARE VIOLATING THEIR OWN RULES OF PROCEDURE.** In the last 10 years the Houses of the BiH Federation Parliament had worked with an adopted Work plan in only two years – 2011 and 2012.

**WORK WITHOUT A WORK PLAN AFFECTS EFFICIENCY OF THE INSTITUTIONS AND THEIR FOCUS ON PROJECTED GOALS.** Absence of work plans is certainly one of the main reasons why performance reports of some institutions are considered three years after they were prepared. After that much delay one can certainly question usefulness of considering and adopting the reports.

**PARLIAMENT, NAMELY ITS HOUSE OF PEOPLES, WORKED THROUGHOUT ENTIRE 2015 IN INCOMPLETE COMPOSITION AND WITH INCOMPLETE COLLEGIUM.** The caucus of Serb people has 13 instead of 17 delegates. Due to failure to reach an agreement within the Caucus, the position of the Deputy Speaker of the House, to which a delegate of this Caucus is to be proposed, is vacant. We witnessed the same situation in the previous mandate when the position of Deputy Speaker was vacant for three full years.

**ADOPTION OF THE 2015 BUDGET WAS DELAYED, AS IT WAS ITS REVISION, BUT THE 2016 BUDGET WAS ADOPTED ON TIME.** The budget for 2016 was adopted on December 29, 2015 in line with the obligations set forth in the Law on budgets in the BiH Federation in the amount of approximately 2.6 billion KM. The largest discontent with the proposed FBiH Budget for 2016 was expressed in the House of Peoples regarding the amount of planned transfers to the lower levels of authority and the failure to plan the funds for culture and sport. The largest discontent in the House of Peoples, mainly from the opposition parties, was expressed with regard to the increased amount of the funds at the disposal of Prime Minister and ministers, increased transfer for political parties, failure to set an amount for the assistance to the people affected by floods...

**ON A MORE POSITIVE NOTE, WE CAN POINT OUT THAT BOTH HOUSES OF THE BIH FEDERATION PARLIAMENT ACCEPTED THE REFORM AGENDA DURING THE ANALYZED PERIOD.** However, the very first measure that involved enactment of the FBiH Labor Law has already caused harsh reactions and completely contrary opinions in the public. Protests were organized before the Parliament's building at the time the House of Peoples of the FBiH Parliament discussed the law. An updated Action plan for realization of RA's obligations at the FBiH level, which contains 61 measures, was developed in December 2015.

**IN TERMS OF TRANSPARENCY, SIGNIFICANT DIFFERENCE BETWEEN THE HOUSE OF REPRESENTATIVES AND THE HOUSE OF PEOPLES IS STILL VERY EVIDENT.** House of Peoples of the BiH Federation Parliament is still the only institution in BiH that transparently and in great detail publishes incomes of every individual delegate.

**EVEN BESIDES ALL PROBLEMS AND POOR RESULTS THE PARLIAMENT STILL DEMONSTRATES SOCIAL INSENSIBILITY.** Even besides continuous petitioning to have the Law on wages and benefits in the FBiH institutions amended and to terminate politicians' privileges, which are in disproportion with the social-economic situation in the country (but also with the results of their work), implementation of that resolute unisonous public standpoint is continuously rejected. So there are no funds in the budget for many important things, but there are funds for politicians' privileges.

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**UNLIKE THE PARLIAMENT, THE BIH FEDERATION GOVERNMENT DID NOT SUFFER FROM DRAMATIC OSCILLATIONS IN ITS WORK DURING 2015.** Work intensity at the regular sessions was at a uniform level throughout all four quarters and on average the Government held one session per week. The difference lies in urgent and teleconference sessions, with only a few items on the agenda. The number of such sessions was significantly lower in the second quarter, while the first coalition was still functioning (only 3 in relation to approximately 10 sessions in other quarters).

**IN THIRD AND FOURTH QUARTER WE OBSERVE A GROWTH TREND IN EFFICIENCY OF GOVERNMENT'S PERFORMANCE.** We first have to conclude that the Government "in technical mandate" had unusual productivity for a government with such a status, and a total of 443 measures were considered in the 1<sup>st</sup> quarter. In the 2<sup>nd</sup> quarter the conflicts within the coalition at that time resulted in a slight decline in the number of considered measures, to 423. In the 3<sup>rd</sup> quarter, whilst working as a minority government, the FBiH Government achieved a significant increase of 160 considered measures, only to additionally improve productivity for 100 measures more during the 4<sup>th</sup> quarter.

**THANKS TO THE PRODUCTIVITY GROWTH DURING THE SECOND HALF OF THE YEAR, THE OVERALL PERFORMANCE RESULTS OF THE GOVERNMENT IN 2015 (THE NUMBER OF CONSIDERED MEASURES IS 2130) ARE ONLY WEAKER THAN 2014 RESULTS IF WE COMPARE THEM WITH THE PREVIOUS MANDATE.** The number of measures considered in the first three years of previous mandate was below 2000, and in the last year it was 2630.

**BIGGEST PROGRESS IN FOURTH QUARTER WAS ACHIEVED IN THE AREA OF LAW ENACTMENT (WHEN AFTER 10, 13 AND 13 IN THE PREVIOUS QUARTERS, 21 LAWS WERE ENACTED), BUT EVEN THIS IMPROVEMENT DID NOT HELP THE GOVERNMENT TO MOVE AWAY FROM THE POOREST RESULTS IN THE PREVIOUS MANDATE.** A total of 57 laws enacted (41 as proposals, and 16 as drafts) equals the result of 2011, while it is below the result of 2012 for even 31 laws, and the result of 2012 being the best result of the previous mandate.

**A SPECIAL PROBLEM IN THE CONTEXT OF LAW ENACTMENT IS THE FACT THAT ALMOST HALF OF THEM WAS FORWARDED INTO PARLIAMENTARY PROCEDURE UNDER URGENT OR SHORTENED PROCEDURE.** The BiH Federation Government had in 2014 enacted 42% of the laws under urgent and/or shortened procedure by using advantages of the „urgent and shortened law enactment procedure“ mechanism, namely the advantages to work less on the preparation without the need to involve the public into the process. Then, in 2015 the percentage increased, so that from 57 enacted laws 49% of them were enacted under urgent and/or shortened procedure.

How are we then to be surprised by changes and addenda to the Labor Law that were made in January 2016, only 4 months after the organic law was adopted under the urgent procedure – without conducting a comprehensive regulatory impact analysis. How are we then to be surprised by the overwhelming discontent of the citizens with the appointments and parties' personnel policies, when we know that the "Law on changes and addenda to the Law on civil service in the FBiH" has been enacted in 2015. It is simply not done like that.

**UNFORTUNATELY THE GOVERNMENT SPENT A SIGNIFICANT PERCENTAGE OF PRECIOUS TIME IN 2015 ON "POLITICIZED EMPLOYMENT".** During 2015 we had 194 different approvals and decisions by which individuals were appointed to and dismissed from management and supervisory boards of the public enterprises and institutions. A bit less than 14% of the measures realized at the sessions of the BiH Government during one year

related to this topic. There were also other appointments, which we did not mark as “political influenced appointments” – appointments to the coordination bodies, working groups, appointments of members of working commissions for preparation of documents, appointment of interim commissions, ex- officio appointments of ministers to certain bodies, etc.

**IN THE OBSERVED PERIOD THE CCI HAS DETECTED 43 MEASURES AMONGST REALIZED MEASURES OF THE GOVERNMENT THAT CAN MORE SIGNIFICANTLY (INSTITUTIONALLY AND SYSTEMATICALLY) ASSIST SOLVING OF THE MOST IMPORTANT CITIZENS’ PROBLEMS (UNEMPLOYMENT, CORRUPTION, POVERTY, EU PROCESSES).** Of course only when these measures are put into effect, since these are mostly laws, programs and certain strategies.

**2016 BUDGET WAS ALSO ADOPTED UNDER URGENT PROCEDURE, AND THE LAW ON THE BUDGETS OF FBiH HAS BEEN THUS VIOLATED.** It is commendable that the 2016 Budget was adopted in the BiH Federation Parliament before the end of the year (as defined by the Law on Budgets of the FBiH), but it is very bad that it was adopted under urgent procedure and not under the regular procedure, which would be transparent and subject to public discussions. At the same time, a section of the Law on budgets in the BiH Federation has been violated for the umpteenth time. This section stipulates that “after consideration by the Government, the Prime Minister submits the budget proposal for next year to the Parliament no later than November 1 of the current year for the next fiscal year”. However, the Government endorsed the budget on December 23 instead in October.

**THERE WERE PROBLEMS WITH THE 2015 WORK PLAN OF THE GOVERNMENT IN ALMOST EVERY SEGMENT – TIME OF ADOPTION, STRUCTURE, REALIZATION...** Work plan of the FBiH Government for 2015 was actually adopted in July, namely after half of the year to which the plan relates had passed. Furthermore, the Plan contained 70 measures that were already realized at the time Plan was adopted, as well as some measures that were realized at the time when the Government that passed this plan did not even exist. And finally, even with such a concept, more than a half of the measures were not realized. The lowest realization relates to the most significant types of measures. Out of 104 planned laws only 27 laws were adopted, and about of 8 planned strategies, only three were adopted.

**TRANSPARENCY OF THE BIH FEDERATION GOVERNMENT IS AT AN ACCEPTABLE LEVEL, BUT THERE IS A LOT OF ROOM FOR IMPROVEMENT.** Why the Government of Croatia can, and the BiH Federation Government does not even want to try introducing webstreaming of its sessions? Why does not Prime Minister Novalić accelerate the process of signing Minutes of the sessions so that these documents could be publicized earlier than it has been done so far? Why preliminary agenda is not published before the Government’s session? Why materials that were considered and adopted are not available after the Government’s session on the website as a download option? Why is not the problem of public accessibility of ministers’ responses to MPs’ questions solved institutionally?

**WE HAVE TO ACCENTUATE THAT THE GOVERNMENT CONTINUES TO VIOLATE THE BIH LAW ON GENDER EQUALITY.** Only 4 out of 17 ministries of the current BiH Federation Government are led by women. Even though it is a significant improvement in relation to the previous mandate, this ratio is still in discord with the Law, which precisely defines that equal representation of women and men exists in case when one of sexes is represented with at least 40% in an institution. Everything else is thus considered to be discrimination, and in accordance with the Law it has to be eliminated.



## CONCLUSION

Endorsement of the Work plan of the Government for 2016 was slightly delayed – February 2, 2016. We can only hope it will positively reflect on performance of the Government in this year, as well as on its commitment to projected goals. However, we still insist on having the Budget and the Plan for a certain period of time adopted before the beginning of that period.

The Centers of Civil Initiatives send a “package” of initiatives for improvement of performance in the forthcoming period to the government institutions of the BiH Federation. Here we would like to present some of them:

1. Initiative to establish a functional “Office for cooperation with the non-governmental organizations”;
2. Initiative to amend Regulation on annual planning and reporting aimed at additionally improving the contents and expediency of the annual work plan;
3. Initiative to introduce the practice where measures that are part of the annual work plan would have priority on the agenda aimed at improving process of monitoring realization of the annual work plan;
4. Initiative to prepare and to determine a normative-legal document (e.g. a framework law on citizens’ participation) by the end of first half of the current mandate of authorities in BiH. The document would set forth minimum procedure for citizens’ participation in legislative drafting in BiH, with a special accent on the process of conducting public discussions;
5. Initiative to develop and to enact a Law on lobbying (modeled after high quality legislative solutions of the neighboring countries and the EU standards);
6. Initiative to enact “Decision on publishing materials from the sessions of the FBiH Government”, modeled after the practice of the Government of Montenegro. This decision should cover use of several mechanisms (good practice) that can significantly increase performance transparency of the BiH Federation Government in a short period of time;
7. Initiative to develop a database of MPs question and Ministers’ responses so that all questions and responses would be clearly visible on the websites of the FBiH Government and the Parliament;
8. Initiative to stop abusing mechanism of urgent and shortened enactment procedure and to have the laws and other measures important for the citizens and the community in general enacted under regular procedure, using ample public discussion and respecting proposed high quality solutions. By the force of arguments, and not by the argument of force.
9. Here we would like to once more accentuate a very significant initiative that we forwarded to the Prime Minister of the BiH Federation, Mr. Novalić in mid-2015. The initiative relates to the issue of so-called “rules of appointment”. The initiative was forwarded with the aim of having the FBiH Government to initiate public dialogue about the need to limit influence of political parties on the community’s life, namely to determine (in line with the European standards) the exact number of positions to which politicians/authority can appoint their people after the elections, as well as to enable (and legally guarantee) merit-based recruitment to all other positions in the country,
10. And finally – once more we would like to accentuate the need to upgrade the electoral legislation of BiH so that the BiH Election Law would contain precise deadlines for establishment of the government, whilst introducing a possibility to announce extraordinary elections when deadlines are not observed, work of the institutions is blocked and when political actors cannot reach an agreement in a “reasonable” amount of time.