



**CENTRI CIVILNIH INICIJATIVA
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Monitoring performance of the BiH Council of
Ministers and PA
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 Council of Ministers and Parliamentary Assembly of Bosnia and Herzegovina. 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.

Performance of the national authorities in Bosnia and Herzegovina during 2015 has actually revealed how little is needed to make the life in this country better – only if the politicians would start doing their job instead of constantly generating conflicts.

The European initiative, which accentuates economic and social measures, and which emerged as a form of response to the protests in BiH in February of 2014, represents an indicator that the EU has recognized the needs and the problems of BiH citizens. The initiative has caused a serious change in behavior of the domestic authorities only at the state level.

But still, instead of focusing on detected citizens' problems – unemployment, poverty, corruption, partyocracy, violation of human rights...- the politicians across the country continue to be self-centered, dealing only with their narrow-party or political interests. So in 2015 we had witnessed party clashes, battles for the "positions", laborious establishment of the government, dissolution of the coalitions, obstructions of work in the institutions, political violence, endangerment of media freedoms and human rights, violation of laws and the Constitution, hate speech...

The authorities at the national level were the most positive and constructive part of the government apparatus governance in the country during 2015 even though they were not immune to the negative influences from the lower levels of authority. The most significant successes of the European initiative are actually associated with the national authorities.

Of course, it can be much better and certain things do cause discontent, but any comparison with the previous term and with the general dysfunctionality that we had witnessed speaks in favor of the current government. Consideration of the intensity of negative energy at the entity level and permanent attempts to destabilized the national authorities and to annul all positive achievements, which the national authorities managed to successfully overcome, is the reason why citizens of this country should be more or less satisfied with its past performance.

It can and should be better. We do believe that, but it can be much worse. We know that.

Having in mind that the political crisis in the Federation has poured over to the state level, and that the BiH Council of Ministers was not complete at the beginning of 2016 and that we are still waiting for the newest problems to be solved, we can only hope that the situation will not deteriorate in the future. Any improvement will be just a new step forward.

EVEN THOUGH THE NEW COUNCIL OF MINISTERS WAS NOT APPOINTED AS SWIFTLY AS EXPECTED AND EVEN THOUGH THE PARTIES DID NOT DEMONSTRATE NECESSARY LEVEL OF CONSTRUCTIVENESS, THE ENTIRE PROCESS WAS INCOMPARABLY BETTER THAN ONE AFTER THE 2010 ELECTIONS. A total of 170 days passed between the elections in October 2014 and appointment of the new Council of Ministers. It is even 325 days shorter than it was needed to appoint the past Council of Ministers after the 2010 elections, which took one year and 4 months.

WORK INTENSITY OF THE COUNCIL OF MINISTERS WAS QUITE STEADY IN ALL QUARTERS OF 2015, ACCOMPANIED BY CONSTANT GROWTH OF EFFICIENCY AND PRODUCTIVITY. The number of sessions in first two quarters was 14 per quarter, and in the second two quarters the Council of Ministers held 15 sessions per quarter. The number of considered measures increased from 105, which was the number of measures considered by the Council of Ministers in “technical mandate” during the first quarter, to more than 279 measures in the second. The number continued to grow to 327 measures in the third quarter and subsequently to 419 measures in the 4th quarter (which is actually four times more than in the 1st quarter).

THE POOR RESULTS IN THE FIRST QUARTER ARE THE REASON WHY THE TOTAL NUMBER OF CONSIDERED MEASURES IN 2015 IS BELOW THE AVERAGE OF THE PAST MANDATE. If viewed individually, by years, the results in 2015 are only better than the last year’s results. Such results are a direct consequence of the laborious establishment of the government, but also of placing the narrow-party and personal interests before the general interests.

HOWEVER, THE INTENSITY OF THE WORK WAS FAR AWAY FROM ANYTHING WE HAVE SEEN IN ANY OF THE YEARS OF THE PREVIOUS MANDATE. In 2005, the Council of Ministers worked in sessions two times more than the average of the past four years. It held more sessions (58 against 40, which is the average of the past mandate) and the work in sessions was also longer (145 hours against 59 hours, which is an average of the past mandate).

THANKS TO A RESPECTABLE NUMBER OF LAWS THAT WERE ADOPTED IN 4TH QUARTER, THE COMS OF BIH SIGNIFICANTLY IMPROVED ITS RESULT IN THIS AREA. While the number of endorsed laws was two times lower than the (nine-month) average of the previous mandate, making endorsement of the laws the worst segment of the BiH Council of Ministers’ performance in the first nine months, the result of 2015 -29 endorsed laws – exceeds the average of the past mandate. On the other hand, the productivity in the last quarter – 7 laws a month, on average – was at the level needed for realization of the laws envisaged in the 2015 Work plan of the BiH Council of Ministers. But, due to poor results in the first nine months, two-thirds of the laws envisaged by the 2015 Work plan of the Council of Ministers were not realized by the end of the year.

WORK PLANS OF THE BIH COMS FOR 2015 AND 2016 WERE ENDORSED LATE WITH REGARD TO THE DEADLINE SET FORTH IN THE RULES OF PROCEDURES. Work plan of the BiH Council of Ministers for 2015 was endorsed on May 7, 2015, which is the biggest delay in the last 10 years if we exclude 2011

when the Plan was not endorsed at all. On the other hand, the Work plan for 2016 was adopted on February 9, 2016.

THE COUNCIL OF MINISTERS PASSED SEVERAL MEASURES IN THE REPORTING PERIOD AND THEIR POSITIVE CONSEQUENCES ARE ALREADY FELT. Intensive work has led, *inter alia*, to the opening of the possibility of export of milk and dairy products to the EU, and moderate reactions to the obstacles that appeared on that road indicated that necessary determination and ability to face serious problems exist within the state authority. This determination and ability have led to some other accomplishments. For example...

DIFFICULTLY REACHED COMPROMISE HAD LED TO BIH BEING REMOVED FROM THE MONEYVAL GRAY LIST. Harmonization of BiH criminal legislation with the international law has been completed by the endorsement of long overdue changes and addenda of the BiH Criminal Code. The epilog was an assessment of significant progress BiH had made, and the country was removed from the Moneyval's "gray list".

THE HIGHEST NUMBER OF STRATEGIES IN THE LAST FIVE YEARS WAS CONFIRMED IN 2015 - EIGHT. The new Council of Ministers endorsed all eight strategies. These are: the Strategy for Combating corruption in Bosnia and Herzegovina, BiH Strategy for prevention and fight against terrorism, Framework strategy for implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence in BiH, Strategic framework for BiH, Strategy for judicial reform in BiH, Strategy for admission and integration of BiH citizens who return to BiH in line with Readmission Agreement, the Strategy for integrated border management and Revised Communication Strategy of the BiH Council of Ministers.

THE BIH COUNCIL OF MINISTERS ALSO ADOPTED THE ECONOMIC REFORM AGENDA AND ACTION PLAN FOR ITS IMPLEMENTATION. The Reform agenda contains the most important reforms that our country's authorities should implement aimed at acceleration of the European path of BiH and strengthening of sustainable, efficient and stable economic growth. The Action plan for implementation of the Agenda at the BiH Council of Ministers' level was revised near the end of 2015, and the BiH Council of Ministers implemented 17 out of 33 "general measures" contained in the Action plan by the end of 2015 (half of the total number of measures).

EVEN BESIDES SOME POSITIVE SHIFTS, THERE ARE STILL MANY PROBLEMS THAT ARE RESULT OF EXCLUSIVENESS POLICY AND THAT CAN EASILY BE SOLVED THROUGH COMPROMISE AND MUTUAL RESPECT BETWEEN ACTORS AT THE POLITICAL SCENE AS WELL AS BYH WORKING IN THE INTEREST AND NOT TO THE DETRIMENT OF ALL CITIZENS. BiH could lose funds of the European Union that were basically already approved at the Western Balkans Summit Vienna 2015 due to the inability to reach an internal agreement on preparation of the Transportation Strategy of BiH. The funds would be used for the construction of transportation infrastructure, namely for implementation of five existing infrastructure projects.

The EU Energy Community imposed sanctions on BiH in 2015 due to the failure to endorse the Energy Strategy and the BiH Law on gas, which should have been adopted by the end of 2014. The sanctions are very mild for now because some of the members were quite considerate, but due to the irresponsible behavior of local politicians these sanctions could become serious, measured in hundreds of millions of Euros for exceptionally important energy projects that are financed with the EU funds.

The country has already lost IPA funds for development of agriculture due to the lack of rural development and agriculture strategy.

And there is also the most significant request in all talks with the EU – establishment of a functional coordination mechanism on EU matters, which still has not been harmonized even though the BiH Council of Ministers did endorse it (in a rather odd manner, deprived of a transparent procedure).

THE BIH COUNCIL OF MINISTERS FOSTERED REGIONAL COOPERATION IN 2015 – THE FIRST JOINT SESSION OF THE BIH COUNCIL OF MINISTERS AND THE GOVERNMENT OF REPUBLIC OF SERBIA WAS HELD ON NOVEMBER 4, 2015. The topic of the session was strengthening of economic relations between the two countries and intensification of cooperation in the area of sustainable development and environment protection, water management, energy, railway and road transport infrastructure, cross-border cooperation and improvement of regional security, as well as improvement of cooperation in the youth and sports sectors.

RECAPITULATION

Visits and speeches of the highly ranking EU officials marked the year 2015 in the BiH Parliamentary Assembly. Minister of Foreign affairs of the Federal Republic of Germany Frank-Walter Steinmeier and his colleague from the United Kingdom Philip Hammond were first to visit the Parliament (16.01) followed by the visit (23.02) of High Representative of the European Union for foreign affairs and security policy and Vice-President of the European Commission Federica Mogherini.

Domestic politicians are trying to erase these visits from their memory, but these prominent guest did not for a moment hide the fact that the reason of their engagement and of the new initiative for BiH lies in the protests from February 2014, which they, if not the local party leaders, have at least recognized as an authentic voice of the citizens that must not be ignored.

In his speech delivered to the BiH Parliament the Head of German diplomacy explicitly underlined that the authorities must focus on the citizens' needs and demands: "During last year's protests, the people in your country showed what matters to them. They want to overcome the standstill and to see social-economic problems being tackled. They want to fight against corruption and a solution for unemployment. We want to help you to focus on the citizens in the EU accession process".

The High Representative of the European Union for foreign affairs and security policy said: "Unemployment remains the challenge for this country and the fact that 60% of young people in this country are without a job should be the real incentive for real reforms. Citizens want to see the current situation change." She added that the reform is also necessary in the healthcare sector, the education sector and social services, putting into place a functioning market economy, and regulations to strengthen the rule of law and administrative measures. She underlined that one of the key segments of reform is deepening of administrative capacity, which should lead to the development of a more efficient government at all levels, stressing that another priority should be the establishment of a well-functioning coordination mechanism on EU matters.

Maybe the coordination mechanism or the delay and problems in establishing of the latter best portray the difference between declarative and substantial support in actions of the BiH politicians, as well as the difference between EU and BiH citizens' expectations on one side, and politicians' attitude and results of their work on the other. The irrationality of domestic politicians is clearly seen in hundreds of millions of lost pre-accession assistance and in the fact that their actions and rhetoric are in dissonance with the EU warnings that they should start dealing with citizens' problems.

UNLIKE THE COUNCIL OF MINISTERS, WHICH HAD CONTINUOUS GROWTH BY ALL PARAMETERS DURING THE REPORTING PERIOD, BOTH HOUSES OF THE BIH PARLIAMENTARY ASSEMBLY HAD A DECLINE IN WORK INTENSITY AND PRODUCTIVITY AFTER RELATIVELY GOOD RESULTS IN THE FIRST QUARTER. THEY INCREASED WORK INTENSITY AGAIN IN THE LAST QUARTER AND ACHIEVED THE HIGHEST DEGREE OF PRODUCTIVITY IN 2015. The number of measures considered in the House of Representatives of the BiH PA during 2015 dropped from 97 measures (1st quarter) to 90 measures (2nd quarter), and then to 68 (3rd quarter), only to have this downward trajectory corrected by the best result of 2015, 150 considered measures. Results of the House of Peoples by quarters look like this: 73 – 45 – 46 – 136.

PERFORMANCE INTENSITY OF BOTH THE BIH PA HOUSE OF REPRESENTATIVES AND THE HOUSE OF PEOPLES IN 2015 WAS THE HIGHEST IN LAST 5 YEARS. Both Houses in 2015 had the highest number of sessions and the highest number of hours spent in session than in any of the years of previous mandate (HoR had 25 sessions against 19 sessions, which were the average of the previous mandate, and HoP had 16 sessions against 10 sessions, which were the average of the previous mandate). On the other hand, the number of considered measures is on the average of the previous mandate.

IT COULD BE SAID THAT THE MOST SIGNIFICANT PROBLEM IN THE WORK OF THE BIH PA IS LOW REALIZATION OF THE LAWS. Only fifteen laws were endorsed, which is slightly better than the result of the first and the last year of the past mandate, but much worse than in 2012 and especially in 2013, when 35 laws were endorsed. Utterly low realization of organic laws has been quite disturbing for many years now, and it is one of the most serious problems on the BiH's path to EU integration. If we take into account the Law on asylum, which was endorsed in both Houses, but in different wording and now is being harmonized, the year 2015 with only 6 organic laws that were endorsed has the same best result in the realization of organic laws as the year 2012 of the previous mandate. Out of 85 laws that were endorsed in four years of the previous mandate, only 14 are organic laws, and the remaining 71 are just changes and addenda to the existing pieces of legislation.

SIGNIFICANT SPECIFICITY OF THE BIH PA IS CONTINUOUSLY HIGH NUMBER OF REJECTED LAWS. Many laws were rejected in BiH PA during 2015 – eight in total, but it is still less than in the previous years when the number of rejected laws occasionally exceeded the number of endorsed laws, which is certainly a negative peculiarity of the BiH Parliamentary Assembly in a global framework. A drastic example of such practice is the year 2014 – when 21 laws were rejected in the BiH PA on the total of 14 laws that were endorsed.

Significant improvement in relation to the previous laws is a low number of laws, amongst the rejected ones, that were proposed by the Council of Ministers (only two, and one of them was subsequently endorsed with some changes). Over the past years, rejection of many Council of Ministers' laws by the parliamentary majority of the identical party composition as the Council of Ministers was a sign of both dysfunctionality of the state authority and the senselessness of a government that was established on mathematical grounds rather than on the programming principles.

EVEN BESIDES VERY POOR RESULTS IN ASPECT OF LEGISLATIVE ACTIVITIES, SIGNIFICANT STEPS WERE MADE ON THE EUROPEAN PATH OF BIH IN 2015. At the very beginning of the year, the BiH PA

adopted the Statement on the commitment of all levels of authorities in BiH to implement necessary reforms within the EU accession process. The Statement made way for entry into the force of the Stabilization and Accession Agreement, seven years after it was signed, which practically unlocked the path to the EU. As previously mentioned, the changes and addenda to the BiH Criminal Code were finally adopted and thus Bosnia and Herzegovina avoided the so-called “gray” list of Moneyval. The reform agenda for Bosnia and Herzegovina was also adopted. On the other hand...

CCI HAS BEEN FOR YEARS NOW WARNING OF UNACCEPTABILITY OF THE SITUATION WHERE BIH STILL DOES NOT HAVE A RELEVANT STRATEGIC DOCUMENT FOR ACCESSION TO THE EU: “EU INTEGRATION PROGRAM OF BIH”. It is a document that would consolidate all existing obligations and simplify planning and monitoring of the entire EU accession process, whilst providing dynamics for realization of all segments of BiH’s European path together with a plan for harmonization of domestic legislation with the EU legislation and cost assessment.

THE BIH PARLIAMENTARY ASSEMBLY WAS LATE WITH ADOPTION OF KEY DOCUMENTS IN 2015 – WORK PLAN AND BUDGET. Due to the irresponsibility of the Council of Ministers in “technical mandate” the BiH PA endorsed the 2015 budget on May 18, 2015, instead the end of 2014. And, instead of being endorsed before the beginning of the year to which they relate. The work plans were endorsed in February (for the House of Representatives) and in May (for the House of Peoples). Neither House of Representatives nor the House of Peoples of the BiH Parliamentary Assembly adopted their 2016 work plans on time, before the end of 2015, thus continuing years-long negative practice and undermining their commitment to serious work on reforms and Euro-Atlantic integration. On the other hand, the 2016 budget was endorsed on time – by being adopted in both Houses of the BiH PA before the end of 2015, as regulated by the Law.

POSITIVE SPECIFICITY OF THE BIH PA, AMONGST THE LEGISLATIVE INSTITUTIONS IN BIH, IS THE SIGNIFICANT NUMBER OF LEGISLATIVE PROPOSALS THAT THE MEMBERS OF THIS INSTITUTION FILE. Laws proposed by the members of the BiH PA represent 42% of the total number of laws that were in parliamentary procedure during 2015. Eleven members of the BiH PA proposed 15 pieces of legislation in 2015.

BIH INSTITUTIONS STILL CONTINUE TO SYSTEMICALLY DISCRIMINATE BIH CITIZENS AND TO VIOLATE INTERNATIONAL LAWS. The BiH PA House of Peoples is still functioning without a representative of “Others”. Even though the European Union is not presently insisting on implementation of the decision of the European Court for Human Rights in the case “Sejdić-Finci” - it does not use it to condition the BiH progress on the European path. Such “flexibility” of the European Union cannot be an excuse for the domestic authorities to give up on implementation of the decision, since the reason for implementation of the decision is not part of any EU demands and it does not rest on the fact that we will lose any benefits, primarily the financial ones, if we fail to implement the decision, but the reason for implementation of the decision should (and has to) rest on the fact that BiH does not want to be a country that violates fundamental human rights of its citizens.

THE MEMBERS OF THE BIH PA SHIFTED SOCIAL SENSITIVENESS TOWARDS UNPRIVILEGED CITIZENS FROM A DECLARATIVE LEVEL INTO THE PRACTICE. The changes and addenda to the Law on wages and other benefits in the institutions of BiH were endorsed at the beginning of March 2016 and the so-called “White Bread” has been terminated. The compensations for work on Boards of Director and Supervisory Boards, as well as compensations for work in ad hoc commissions during the working hours, were canceled at the

end of 2015 (November 10). However, the wages of the BiH PA's members are still inappropriately high and in dissonance with the social-economic situation and with the results achieved.

THE BIH PA'S TRANSPARENCY IS CONTINUOUSLY AT AN ENVIABLE LEVEL. The BiH PA has for a long period a time been an institution that reached a respectable level of transparency. This also relates to the BiH PA's website that represents an excellent example to other institutions that want to grow in this context in terms of its functionality, amount of the data and regular update.

CONCLUSION

Centers for Civil Initiatives urge the BiH Parliamentary Assembly to adopt the work plans of both Houses as soon as possible, and we urge the BiH Council of Minister to remain focused on the topics and the work that the citizens have already recognized as positive, by increasing their performance intensity and efficiency (here we are not talking about the attempts to reinstate “white bread” or to divide public broadcasting services along the national lines, but about attempts to protect and to strengthen domestic economy, whilst generating opportunities for its development).