



**CENTRI CIVILNIH INICIJATIVA
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Monitoring performance of the BiH Council of
Ministers and Parliamentary Assembly
January 1 - December 31, 2016**



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.

It required many efforts, understanding and tolerance to maintain functional coalition at the state level, which has been the most constructive part of the government in BiH, considering all the internal (and not external) pressures and problems in the past two years.

This understanding implied the need to comprehend and accept the unacceptable behavior of the other side in the coalition, in some situations, as something that was impossible to avoid. And to continue the work after that, as simply, it was in the interest of BiH citizens and the only right solution.

Let us hope that, despite the opposite indications, this joint work will continue for the benefit of all.

And that the state government, besides creating conflicts and destruction and taking care of their own interest, will continue to show that politicians in this country can do serious things in the interest of citizens and behave responsibly and in a stately manner, as some of them in this composition have taken us by surprise.

Instability, intolerance, blockades and destructive behavior we have witnessed in the past two years at other government levels are threatening to spill over to the state level. However, let us hope that this will not happen, as the state level was somehow spared. And that significant steps forward achieved at the state level in the past two years, primarily on the country's EU path, and big hopes invested in the continuation of this process, will not fade away and become another missed opportunity state, after all the hard steps forward.

AFTER A SERIOUS DECLINE OF WORK INTENSITY AND PRODUCTIVITY IN BOTH HOUSES IN THE THIRD QUARTER OF 2016, BEFORE THE LOCAL ELECTIONS IN BIH, THE PARLIAMENTARY ASSEMBLY SIGNIFICANTLY IMPROVED ITS RESULTS IN THE LAST QUARTER OF THIS YEAR. Going from 53 measures that were considered in the third quarter to as many as 177 measures in the fourth quarter, the House of Representatives achieved their best results of the current term, and the House of People improved its result of 46 measures in the third quarter by jumping to 133 measures in the fourth quarter, and practically equalizing its record.

POLITICIANS' FOCUS ON LOCAL ELECTION CAMPAIGNING DURING THE THIRD QUARTER PREVENTED THE PARLIAMENT FROM ACHIEVING EVEN BETTER RESULTS IN 2016. However, both Houses demonstrated better efficiency and productivity in the year 2 of their term than in the same period of the previous term. And they adopted more laws. However...

DESPITE THE FACT THAT RELATIVE TO THE YEAR 1 OF THE CURRENT TERM, WHEN ONLY 15 LAWS WERE ADOPTED, IN 2016 THIS NUMBER INCREASED TO 25 LAWS. AND DESPITE THAT THIS IS MORE THAN THE PREVIOUS COMPOSITION ADOPTED IN THE YEAR 2, LOW LEGISLATIVE ACTIVITY CONTINUES TO BE A PROBLEM IN THE WORK OF THE PARLIAMENT AND IS IN DISHARMONY WITH THE REQUIREMENTS TO ADJUST TO EU STANDARDS. Perhaps, the best evidence of the humbleness of these results is a comparison between what was anticipated and what was accomplished. In 2016, the Parliament approved less than one third of the laws anticipated in their Work plans for 2016.

MORE POSITIVE RELATIONS WITHIN THE RULING COALITION UNFORTUNATELY HAVE NOT HAD A POSITIVE IMPACT ON ONE SPECIFIC CHARACTERISTIC OF THE BIH PARLIAMENT - IT STILL REJECTS A NUMBER OF LAWS THAT EQUALS OR EVEN EXCEEDS THE NUMBER OF ADOPTED LAWS . In 2016, for each of the 25 adopted laws, one law is rejected. This absurdity is even bigger if we know that 40% of the rejected laws came from the Council of Ministers, i.e. the Parliament rejects laws proposed by its own Council of Ministers.

INSUFFICIENTLY GOOD RELATIONSHIP BETWEEN THE COUNCIL OF MINISTERS AND PARLIAMENT IS VISIBLE FROM THE FACT THAT THE PARLIAMENT FAILED TO APPROVE EVEN A HALF OF THE LAWS THAT THE COUNCIL OF MINISTERS ENDORSED IN 2016. During 2016, PA BiH focused mainly on the backlog from 2015 and on approving the laws proposed by other proposers, and of 18 laws that the Council of Ministers endorsed in 2016, PA BiH approved only 8.

ORIENTATION 2016 WORK PLANS OF BOTH BIH PA'S HOUSES WERE ADOPTED LATE, AS WELL AS ORIENTATION PLANS FOR 2017. The Work plan of the House of Representatives for the period March – December 2016 was adopted at the session of the extended Collegium of this House on March 16, 2016. The Collegium of the House of Peoples discussed and adopted the Work plan of that House on April 4, 2016. The Work plan for 2017 were not adopted by the end of 2016, as required by the Rules of Procedure. On the other hand...

THE BIH PA ADOPTED THE BUDGETS FOR 2016 AND 2017 IN LINE WITH LEGAL DEADLINES.

Proposal of the Law on budget of institutions in BiH and international obligations of BiH for 2016 was adopted by both Houses of the BiH PA on December 30, 2015, namely before the beginning of the year to which it relates . And the proposal of the Law on budget of institutions in BiH and international obligations of BiH for 2017 was adopted on December 15, 2016.

ONE OF THE MOST POSITIVE SEGMENTS OF THE PA WORK IS ITS TRANSPARENCY, WHICH CAN SERVE AS AN EXCELLENT EXAMPLE TO ALL OTHER INSTITUTIONS IN BIH AND BEYOND.

In the past several years, the PA BiH has reached a respectable level of transparency, which recently even improved, because the its web site has been redesigned to enable citizens to access the information about the parliament's work, documents of all previous compositions of this highest legislative government in BiH.

A POSITIVE SPECIFICITY OF THE STATE PARLIAMENT, IN BIH CONTEXT, IS SIGNIFICANT PARTICIPATION OF MPS IN DEVELOPMENT OF THE LAWS DISCUSSED AT THE PARLIAMENT'S SESSIONS.

During 2016 there were 72 laws in the BiH PA's procedure, whereof the BiH Council of Ministers proposed 38 laws, while remaining 34 laws were proposed by the members and delegates of the BiH PA either individually or in the framework of formal or informal groups. Interesting fact is that 19 laws proposed by the Council of Ministers were adopted and 10 were rejected, while 6 laws proposed by the MPs were.

PUBLIC HEARING ON THE PROPOSAL OF THE LAW ON CHANGES AND AMENDMENTS TO THE LAW ON TRAFFIC SAFETY THAT TOOK PLACE IN OCTOBER IS A POSITIVE EXAMPLE OF A QUALITY PUBLIC HEARING.

Considering that the proposed modifications include harsher sanctions and penalties for some traffic offences, it was extremely important for all interested subjects to be able to provide their comments and specific proposals to the proposed law. Representatives of competent ministries, professional agencies and experts participated in the hearing to reach best possible solutions during this stage.

SYSTEMIC DISCRIMINATION AGAINST BIH CITIZENS AND VIOLATIONS OF THE INTERNATIONAL LAWS CONTINUE.

The House of People continued to work without representatives of "Others", and there is no agreement about how to implement the Human Rights Court's verdict in the context of electing the members of the Presidency. In this context, there should be note of the initiative proposed by Denis Becirevic, MP in the House of Representative to task the Council of Ministers to prepare and introduce the proposal of changes to the Constitution of BiH within 90 days at the latest to ensure full and consistent enforcement of the decision of the European Court for Human Rights. The Council of Ministers considered and accepted the initiative on December 20, 2016, and tasked BiH Justice Ministry and Ministry for Human Rights and Refugees to implement the initiative. Certainly, it will be interesting to see an epilogue of this institutional response to the issue that the political establishment has tried to resolve for so many years.

EVEN BESIDES FAIRLY POOR RESULTS IN THE LEGISLATIVE ASPECTS OF STATE GOVERNMENT'S WORK, SIGNIFICANT PROGRESS HAS BEEN MADE IN THE BIH'S EUROPEAN PERSPECTIVE IN 2016.

Namely, Bosnia and Herzegovina had in this period *inter alia* submitted the application for membership in the EU, which the Council of the European Union accepted ; the Stabilization and Association Agreement entered into force eight years after its signing; after almost three years the results of Census of population and households conducted in our country were published; the "coordination mechanisms of the BiH's European path" was harmonized and adopted. And as a successful epilogue of the previous activities, the Council of Ministers received the EU Questionnaire on December 9, 2016.

LET US ALSO MENTION THAT MONEYVAL REMOVED BIH FROM THE LIST OF THE COUNTRIES THAT FAILED TO IMPROVE THE LEGAL FRAMEWORK REGARDING FINANCING OF TERRORISM.

After some rather worrisome situation caused by BiH politicians' irresponsible conduct, the Moneyval anti-Laundering Committee of the Council of Europe removed BiH from the list and prevented rather potentially serious problems for BiH citizens.

STATISTIC DATA DEMONSTRATE THAT IN 2016 THERE HAS BEEN AN INCREASE OF INDUSTRIAL PRODUCTIVITY AND EMPLOYMENT IN BIH, AND OTHER PARAMETERS ALSO POINT TO ECONOMIC GROWTH IN THE COUNTRY.

These accomplishments are far from the true needs of the country and from what may bring serious positive changes and stop the brain drain of young people to the West. However, it is a positive shift, and every positive shift is better than further decadence and hopelessness.

FOR THE FIRST TIME IN 6 YEARS, THE COUNCIL OF MINISTERS HELD ONE SESSION PER WEEK ON AVERAGE. THEY ALSO HELD 13 SPECIAL SESSIONS. The number of session in 2016 is the highest so far and equals the number of sessions the Council of Ministers held in the first two years of the previous four-year term, altogether.

REGULAR WORK, WITHOUT OBSTRUCTIONS AND BLOCKADES RESULTED IN THE HIGHEST NUMBER OF MEASURES CONSIDERED IN THE PAST 6 YEARS. For the first time, almost 1500 (1486) measures were considered in one year.

ANALYSIS OF REALIZED MEASURES POINTS TO THE BIGGEST WEAKNESS - SMALL NUMBER OF ENDORSED LAWS. Laws make out only 2 % of the measures discussed. In 2016, the Council of Ministers endorsed only 18 laws, or 11 laws less than in the previous year. Simultaneously, the Council failed to endorse 42 laws that were supposed to be realized in this year according to the Work plan for 2016. Among them are some rather important laws, such as Law on Veterinary Medicine, Law on Food and Law on Agriculture - three key laws that further agricultural development.

BOSNIA AND HERZEGOVINA IS THE ONLY COUNTRY IN THE REGION WITHOUT THE LAW ON FOREIGN AFFAIRS. Audit reports from the period 2003-2015 and CCI's earlier reports continually point to the need for adoption of the Law on Foreign Affairs. Current foreign policy is based on a document adopted by the BiH Presidency in 2003.

ALREADY POOR RESULTS OF THE BIH COUNCIL OF MINISTERS' RESULTS IN THE LEGISLATIVE FIELD OF WORK HAVE AGGRAVATED . Of 18 laws endorsed in 2016, only 8 laws were approved by the PA BiH, 6 were rejected and four are still in procedure. The Law on changes and amendments to the Law on Excise Tax was rejected, despite the fact that its adoption was one of the goals set in the Reform Agenda Action Plan.

BUT, THE FACT IS THAT THE LAWS, ESPECIALLY ORGANIC LAWS (THE ONES WHICH ARE NOT JUST CHANGES AND ADDENDA TO THE EXISTING LAWS) AND IN PARTICULAR STRATEGIES ARE DIFFICULTLY ADOPTED AT THE STATE LEVEL REGARDLESS OF ALL PRESSURES FROM THE EU AND THE FACT THAT THEIR NON-ADOPTION LEAVES CITIZENS OF THIS COUNTRY WITHOUT HUNDREDS OF MILLIONS OF EUROS OF GRANTS FROM THE EU IPA FUNDS. There are too many examples of consequences of irrational politics that produces internal conflicts in the country, and treats the EU as if it needs something from us, demanding from it to adapt to ours, often non-democratic, norms. Despite the EU Energy Community's treats of more severe sanctions, BiH still did not adopt the Energy Strategy at the State level and the BiH Law on Gas, which should had been adopted by the end of 2014. In previous years the country lost significant IPA funds intended for agriculture development due to lack of strategies on rural development and agriculture. The country almost lost funds approved for several huge infrastructural projects due to the problems with adoption of the Transport Strategy.

AND ON THE OTHER HAND IT WAS ACTUALLY THE CURRENT RULING COALITION AT THE STATE LEVEL THAT SHOWED HOW DIFFERENT ATTITUDE CAN LEAD TO RESULTS THAT BENEFIT ALL CITIZENS AND ALL PARTS OF THE COUNTRY. We should bear in mind the results of the Ministry of foreign trade and economic relations in enabling export of some BiH products in the previous period, as well as the attitude of State officials in certain disputable situations concerning relationships with the neighbors or

harmonization of the criminal law of BiH with the international law, which resulted in removal of BiH from the Moneyval's "gray list". However, the situation in the country and frequent narrow party and personal interests and politics based on the perception that someone else's success is a threat, and they base their survival on creating conflicts, are the top obstacle to achieving a more significant progress.

THE COUNCIL OF MINISTERS HOWEVER ENDORSED THE HIGHEST NUMBER OF STRATEGIES IN THE PAST SIX YEARS- 9. And the number of endorsed strategies in the first two years of the current term, is higher than the total results of the previous composition. Unfortunately...

SOME VERY IMPORTANT STRATEGIES SUCH AS: BIH DEVELOPMENT STRATEGY, SOCIAL INCLUSION STRATEGY AND EMPLOYMENT STRATEGY IN BIH FOR THE PERIOD UNTIL 2020 ARE NOT AMONGST DETERMINED STRATEGIES. These are all long awaited strategies that should provide main guidelines of future economic and social development of the country and also provide quality approach to the IPA II funds.

AMONG THE UNREALIZED STRATEGIES IN 2016 IS ANTIDISCRIMINATION STRATEGY. It is interesting that the anti-discrimination strategy was supposed to be adopted by the institutions that practice discrimination - gender discrimination (the Council of Ministers) and ethnic based discrimination (the Parliamentary Assembly). For the sake of recollection, the Council of Ministers has violated the Law on Gender Equality, which prescribes that the smallest representation of one gender should be 40%, and the Parliamentary Assembly has violated the European Court ruling, as there is still no place for "Others" in the House of People .

BY END OF 2016,THE COUNCIL OF MINISTERS REALIZED A LITTLE OVER HALF OF THE MEASURES FROM THE REFORM AGENDA ACTION PLAN . The implementation of the Reform agenda is not satisfactory, and cumulatively (both entities and state level) approximately 34% of the measures were realized. According to the latest information of the Council of Ministers, the percentage of the realization is at 53% of the measures that fall under the jurisdiction of the Council of Ministers of BiH.

THE COUNCIL OF MINISTERS HAS BEEN CONSTANTLY VIOLATING THE LAW ON FINANCING OF BIH INSTITUTIONS AND ITS OWN RULES OF PROCEDURE. Draft 2017 budget was determined exactly one month earlier than the last year's budget– 03.11.2016 – but the Law explicitly defines that "the Council of Ministers shall submit draft budget for the next year to the BiH Presidency by October 15 of the current year at latest", and that "the BiH Presidency shall submit budget proposal to the BiH Parliamentary Assembly by November 1 of the current year". It means that Council of Ministers' delay has, besides violating the Law, also prevented the BiH Presidency of meeting its budget related obligations on time.

ANNUAL WORK PROGRAM FOR 2017 WAS NOT ADOPTED ON TIME - BEFORE THE START OF THE YEAR TO WHICH IT RELATES. The same happened with the 2016 Work plan, which was endorsed on February 9, 2016 rather than by the end of 2015. Of the positive things in the context of programming, the emphasis is on the adoption of the Midterm Work plan of the Council of Ministers for the period 2016-2018, which was adopted in early 2016.

THE BIH COUNCIL OF MINISTERS' TRANSPARENCY IS CONTINUOUSLY AT A SATISFACTORY LEVEL. The positive image is tarnished only by failure to conduct public discussion when adopting the budget and the work plan allowing so-called "discretionary" budget spending by chair and deputy chair of the BiH Council of Ministers aimed at maximum transparency in spending of the budget funds, which CCI

perceives as unacceptable practice to spend budget funds without clear and transparent criteria is inadmissible, and therefore an institution and not an individual should be making a decision about any spending of the budget funds and this anomaly should be eliminated.

CONCLUSION

Rather than recommending better work intensity and some specific steps that the state government should undertake in the upcoming period, the Centers for Civic Initiatives urge the government not to allow the results to date to be invalidated, but instead to continue to work in the interest of citizens, because obstructions and blockades will be of no use to anyone.

Only going back to true citizens' problems and focusing the energy on their resolution can lead to better quality of life of this country's citizens and to approximation to the European Union and its standards.

The government needs to develop a culture of dialogue and mutual understanding to allow for necessary changes to happen (including the Constitutional changes and modifications to the Election law) to achieve better functionality and to create mechanisms to eliminate blockades and resolve contentions issues. It is to demonstrate that the politicians have the necessary level of responsibility and capability to lead the country without being subject to permanent oversight of the international community.