



**CENTRI CIVILNIH INICIJATIVA  
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Monitoring performance of the BiH Council of  
Ministers and BiH PA**

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## 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 the 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.

The government at the State level is in a very odd situation. Its most significant accomplishments are mostly the result of understanding and "outside" assistance, and its biggest failures are result of a destructive politics within the country – the same politics that the High Representative had mentioned in his annual report to the UN when talking about tendencies "of certain political stakeholders to revisit destructive plans from the past that lead to separations".

Despite the understanding that blockages from the lower levels of authority hinder faster movement to the European Union i.e. they hinder stronger and more comprehensive reforms, which should be undertaken (it being a kind of justification for modest results), it is completely clear that the work of (State) government achieved minimal results, and that in the reporting period progress happened exclusively thanks to what we call the "international community" and its pressures on one side, and lowering of the criteria on the other.

Actually, the biggest achievements of the State government in the reporting period are not the steps taken on the Euro-Atlantic path whereof it boasts, but the fact that the ruling coalition is still functioning and that the problems that exist within this coalition haven't metastasized to a degree where they would cause blockages of the system that the citizens had to endure in some previous years, or as he citizens of the Federation have been enduring in the last four months.

Recently conducted local elections were the last temptation that the coalition had managed to survive. And in a country like this, with this kind of problems and inclination of certain powers towards conflict, maintaining constrictive environment and a certain level of mutual respect and tolerance within the ruling coalition at the State level is not at all negligible. Although in any normal country it would actually be implied.

**WITH ONE SESSION MORE AND 15% LESS MEASURES DISCUSSED THAN IN THE PREVIOUS QUARTER, THE COUNCIL OF MINISTERS WENT THROUGH THE 3<sup>RD</sup> QUARTER WITHOUT ANY DRAMATIC CHANGES THAT DID HAPPEN IN MAJORITY OF OTHER INSTITUTIONS IN BIH WHOSE WORK WAS SERIOUSLY AFFECTED BY A COMBINATION OF ANNUAL LEAVES AND PRE-ELECTION CAMPAIGN.** The epilogue is that the overall results of the Council of Ministers in the first 9 months of 2016 are among the best ones this institution had achieved in the last 6 years in terms of work intensity and productivity. There were 49 sessions held and 1118 measures discussed. But...

**ANALYSIS OF DISCUSSED MEASURES INDICATES THE FACT THAT MOST OF THEM ARE DAILY-OPERATIONAL IN NATURE.** Truly significant measures that can systematically affect citizens' quality of life are almost negligible in the total volume of the measures. Laws for example make out only 1.7% of the measures discussed, and strategies 0.4%.

**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. The latest problem concerning the Rules of Procedure of the Stabilization and Association Committee is yet another completely senseless blockage.

**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 force for more significant progress and results still does not exist. And therefore...

**BIH COUNCIL OF MINISTERS' RESULTS IN THE LEGISLATIVE FIELD OF WORK ARE RATHER MODEST.** A total of 14 laws were determined in the first 9 months of 2016, whereof only two are organic laws and the others are only changes and addenda to the existing laws. It is slightly better than the last year's result, but it is for one third below the average of the previous mandate.

**THE MINISTRY OF JUSTICE PROPOSED THE MAJORITY OF THE LAWS THAT WERE DETERMINED IN THE REPORTING PERIOD – 5.** All other ministries together have determined only one law more, whereby three of them – Ministry of foreign affairs, Ministry of defense and Ministry for human rights and refugees – did not have any laws realized during the first 9 months of 2016.

**SERIOUSNESS OF THE PROBLEM CONCERNING THE LAWS IS SEEN THE BEST UPON ANALYSIS OF WORK PLAN'S REALIZATION.** Eighty-two per cent of the laws from the 2016 Work Plan were not realized three months before the end of the year. Namely – 46 out 56 planned laws.

**REALIZATION OF THE OBLIGATIONS FROM REFORM AGENDA HAS ALSO FALLEN BEHIND.** The latest BiH Council of Ministers' report on implementation of the Action plan under the jurisdiction of the BiH Council of Ministers reads that 53% of planned measures were completely implemented by the beginning of August 2016.

**REALIZATION OF STRATEGIES IN THE FIRST 9 MONTHS OF 2016 IS ABOVE THE AVERAGE OF PREVIOUS MANDATE.** Moreover, since it had taken over the responsibility a year and a half ago, the number of strategies that the current Council of Ministers determined is almost identical to the number of strategies determined during the entire previous four-year mandate – 8 in 2015 and 5 in first 9 months of 2016. 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. On the other hand the BiH Justice Sector Reform Strategy is adopted, but more than a year has passed without the action plan for its implementation being adopted. Furthermore, the Strategy covered the period 2014 – 2018. Everything is simply going too slow and taking too long.

**THE PROCESS OF ESTABLISHING "COORDINATION MECHANISM" LASTED UNACCEPTABLY LONG, ESPECIALLY HAVING IN MIND THAT IT WAS ONE OF THE MAIN CONDITIONS FOR SUBMISSION OF A CREDIBLE APPLICATION FOR THE EU MEMBERSHIP.** A harmonized approach to policy development and coordination between different parts of administration is still largely missing and adoption of a new strategic framework for public administration is needed since no progress has been reported in this area, which was also accentuated in the last annual report of the European Commission.

**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.

**THE BIH COUNCIL OF MINISTERS' TRANSPARENCY IS CONTINUOUSLY AT A SATISFACTORY LEVELU.** The positive image is tarnished only by failure to conduct public discussion when adopting the budget and the work plan. Just to mention in this context that the budget does not any longer provide a

possibility for 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 was a multiple recommendation of the CCI. However, this option was kept for the members of the BiH Presidency and it is 6% from the total amount of so-called “current reserves” funds. Basically, spending of the 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.

## **BiH PARLIAMENTARY ASSEMBLY I-IX 2016**

**UNLIKE THE COUNCIL OF MINISTERS THE BIH PARLIAMENTARY ASSEMBLY EXPERIENCED A DRAMATIC DECLINE OF THE WORK INTENSITY AND PRODUCTIVITY IN THIRD QUARTER.** The House of Representatives went from 10 sessions held in the second quarter to only three sessions in the third quarter, and the House of Peoples went from 5 to 2. Consequently, the number of measures discussed in the House of Representatives declined from 129 to 53, and in the House of Peoples from 65 to 36. None of the Houses held a single session in September, which most certainly had an effect on these poor results.

**THE WORST QUARTERLY RESULT OF CURRENT MANDATE ALSO BROUGHT THE COMPLETE NINE-MONTH RESULTS IN 2016 DOWN TO A MODEST LEVEL.** So the results that the House of Representatives and the House of People achieved in the first 9 months of 2016 are amongst the worst results in the last six years. The House of Representatives discussed 258 measures and the House of Peoples 161 measures at their sessions.

**THE BIH PA CONTINUES THE SAME YEARS-LONG PRACTICE OF ADOPTING A SMALL NUMBER OF LAWS WHILE ON THE OTHER HAND IT REJECTS A NUMBER OF LAWS THAT EQUALS OR EVEN EXCEEDS THE NUMBER OF ADOPTED LAWS.** In the first 9 months of 2016 the BiH Parliamentary Assembly adopted only 18 laws, which is approximately 1/5 of the laws set for adoption in the 2016 work plans of the BiH PA's Houses, and it rejected the same number of laws, whereat 2 more laws were withdrawn from the procedure, and any further procedure was stopped for 9 laws. This makes the total number of laws that did not have a successful adoption procedure higher than the number of adopted laws.

The only positive thing is that the number of rejected laws proposed by the Council of Ministers is relatively small – five out of 18. This was not the case in some past periods when the Parliament had rejected significant number of laws that came from the Council of Ministers and which indicated only formal existence of the ruling coalition – that was established only to share the power and not to work on the common goals that are of interest to all citizens.

**THE LAWS ADOPTED BY THE BIH PA ARE STILL THE “MOST EXPENSIVE” LAWS IN OUR REGION.** If we take the average of total net incomes of members in both Houses of BiH PA, which range from 4.600 to even 6.500 KM and place it into context with number of laws adopted by the BiH PA in first 9 months of 2016 we arrive to the data that every law adopted in this nine-month period costs the citizens of this country approximately 150.000 KM. If we are to add all other obligations that are calculated on the net incomes of members and delegates in the BiH PA than the mentioned figure would be significantly higher.

**THE BIH PARLIAMENTARY ASSEMBLY DOES NOT KEEP UP WITH COUNCIL OF MINISTERS' TEMPO.** In the first 9 months of 2016 the BiH PA mostly dealt with backlogs from the previous year. The BiH PA

adopted only 2 out of 14 laws that the Council of Ministers determined in the first 9 months of 2016. It rejected one law. Other laws are in parliamentary procedure, and majority of them was not placed on the agenda in the reporting period i.e. the Parliament did not discuss any of them in any form. This delays their potential implementation and effect they might have on the citizens' quality of life.

**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 –IN THE FIRST 9 MONTHS OF 2016 THE MEMBERS AND DELEGATES OF THE BIH PA PROPOSED THE SAME NUMBER OF LAWS AS THE BIH COUNCIL OF MINISTERS.** During the first 9 months of 2016 there were 65 laws in the BiH PA's procedure, whereof the BiH Council of Ministers proposed 34 laws, while remaining 31 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 13 laws proposed by the Council of Ministers were adopted and five were rejected, while 5 laws proposed by the MPs were adopted and 13 were rejected.

**ORIENTATIONAL 2016 WORK PLANS OF BOTH BIH PA'S HOUSES WERE ADOPTED LATE, WHICH ALSO AFFECTED BIH PA'S PERFORMANCE EFFICIENCY.** The orientational 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 orientational work plan of that House on April 4, 2016. In the first quarter of 2016 the BiH PA was working according to so-called "ad hoc" principle without an adopted plan, which should not be characteristic for the highest legislature in BiH or any other government institution in BiH. Additional objection relates to non-existence of precise deadlines for realization of planned measures.

**THE BIH PA ADOPTED THE 2016 BUDGET 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 even though the BiH Council of Ministers failed to determine draft budget on time. But, the fact that the budget was forwarded into parliamentary procedure only 13 days before the end of the year caused non-transparent adoption of the budget, without a public discussion and a possibility for MPs to file amendments. This certainly has to be taken into account when adopting the 2017 Budget.

**FOR MANY YEARS NOW THE CCI HAS BEEN WARNING ABOUT UNACCEPTABILITY OF THE SITUATION WHERE BIH STILL DOES NOT HAVE A RELEVANT STRATEGIC DOCUMENT FOR ACCESSION TO THE EUROPEAN UNION: "PROGRAM OF BIH EUROPEAN INTEGRATION PROCESS".** The last precondition for adoption of this document was met by endorsement of the "Coordination Mechanism". The document should consolidate all existing obligations and simplify planning and monitoring of the entire BiH European integration process. It should also specify dynamics for implementation of all segments of the BiH's EU path, the plan for harmonization of domestic legislation with the EU legislation, and give a cost assessment. The BiH Council of Ministers has on June 14, 2016 tasked the Directorate for European Integration to organize preparation of the Program and to start activities on establishment of an information system for the Program of the BiH European integration process.

**WHILE SERIOUS OBJECTIONS CAN BE MADE IN MANY SEGMENTS OF THE BIH PA'S WORK, ITS TRANSPARENCY IS ALMOST IMPECCABLE.** The BiH Parliamentary Assembly has for a long period of time

been an institution that reached a respectable level of transparency. In terms of functionality, amount of the data and regular update its website efficiently keeps all interested parties informed about work of this institution.

## CONCLUSION

**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 THE FIRST 9 MONTHS OF 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 at its session held on September 20; 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. However, one has to be aware that these are only first steps and that serious work on country's transformation and its harmonization with the "European" standards is yet to come. This will definitely require much higher responsibility within the political establishment of the country unlike the one we have been witnessing throughout the years.

Finally, we urge representatives of the ruling coalition, who are members of the BiH Council of Ministers and the BiH Parliamentary Assembly, to increase work intensity and productivity in the forthcoming period and to try to reduce consequences that the local elections' campaign had on performance of the State government, primarily of the BiH PA.

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 CCI strongly condemns conscious obstructions of the attempts to make the life of this country's citizens better that are motivated with narrow-party or personal interests.