



**CENTRI CIVILNIH INICIJATIVA
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Summary of the report on monitoring performance of the
FBiH Government and the Parliament**

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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 Government and the Parliament of the Federation 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.

Deep political crisis within the ruling coalition yet again obstructed the work of government institutions in the BiH Federation. Primarily in House of Representatives of the BiH Federation Parliament that did not work more than three months.

On the other hand the Government is not functioning as a single concordant body with a precise common goal, but it rather uses the governing method traditionally used in BiH – the one where every party has its “own” ministries through which it implements party, and not the common and harmonized policy of the ruling coalition.

There are many problems – and most certainly they are not related to the Local Elections, as many have tried to argue – and they are in principle, as at the national level, a matter of concept, i.e. the matter of different views of the country's structure and power distribution (followed by distribution of money and political privileges) within the country.

Anyhow, the citizens are again the key victim of political disagreement in the government. The citizens are again hostages of the ruling parties and their incapability to design a functional system, constantly refusing to make citizens and their problems their number one priority. On the contrary, the conflict of the narrow-party and personal interests is still present, as well as obstructions of the institutions' work as a method of political battle.

And the BiH Election Law still does not lay down the possibility of announcing extraordinary elections, which has been the CCI's advocacy effort for a decade already.

CRISIS IN THE RELATIONS OF THE RULING PARTIES IN THE FBIH HAS MOST DRASTICALLY AFFECTED THE WORK OF THE FBIH PARLIAMENT. None of the BiH Federation Parliament's Houses has held a single complete session in the third quarter of 2016. The House of Representatives just started the 12th regular session, and the House of Peoples attempted to continue 14th session and to start 15th session, but the first session was suspended during the discussion, when it was concluded that the work is being done on the verge of the quorum, while the second session was suspended even before adoption of the agenda.

THE EPILOGUE IS THAT THE HOUSE OF REPRESENTATIVES ADOPTED ONLY 8 MEASURES DURING THE LAST THREE MONTHS OF THE REPORTING PERIOD (FROM JULY TO SEPTEMBER), WHILE THE HOUSE OF PEOPLES DID NOT ADOPT A SINGLE MEASURE. Regarding the laws – the BiH Federation got only one new law in the third quarter, while two were rejected. This one, newly adopted law, is at the same time the only measures from the Work plan that has been completely realized in the third quarter.

SO, MORE OR LESS, ANOTHER THREE MONTHS WERE LOST. THE OVERALL PERFORMANCE RESULTS OF THE FBIH PARLIAMENT IN THE FIRST NINE MONTHS OF 2016 BARELY DIFFER FROM THE ONES AT THE END OF FIRST HALF OF THE YEAR. THE RESULTS ARE UTTERLY DEVASTATING. It can maybe be best seen in the realization of planned obligations. Only 10 out of 144 laws, whose realization was planned in this year, have been completely realized after the first 9 months of 2016 i.e. only 7% of the planned laws. Three months before the end of the year!

NONETHELESS, BOTH HOUSES OF THE FBIH PARLIAMENT HAVE BREACHED THE PROVISIONS OF THE RULES OF PROCEDURE REGARDING PREPARATION OF WORK PLANS – The House of Peoples by failing to adopt the Work Plan, and the House of Representatives by a five-month long delay in respect to the deadline set forth in the Rules of Procedure.

THE ATTEMPT TO PREVENT DISCUSSION AND ENACTMENT OF BINDING DECISIONS ON CERTAIN DISPUTABLE MEASURES, WHICH WERE ON THE AGENDA, HAS LED TO A PHENOMENON QUITE RARE IN THE LOCAL INSTITUTIONS – SCHEDULING NEW SESSIONS WITHOUT FINISHING THE ONES THAT HAVE STARTED. BUT ALSO, TO HAVE THESE SESSIONS, TOGETHER WITH THE MEASURES ON THEIR AGENDA, AMONGST WHICH SOME WERE QUITE SIGNIFICANT, POSTPONED FOR MONTHS. The 14th session of the House of Peoples, which started on July 23, and had 25 items on the agenda, amongst which several important ones, such as the Debt Management Strategy, was suspended after the first item on the agenda, due to inter-coalition disagreement on the Law amending the Law on controlling legitimate exercise of the rights in the area of veteran–invalid care. The continuance of the session happened

two and a half months late – September 7 – but it was suspended before the delegates could vote on agenda items. Neither was session concluded nor were the decisions on already discussed measures past. On the other hand, 10th regular session of the House of Representatives, where one of the items on the agenda was *inter alia* the controversial Law on games of chance, has been four times scheduled and postponed since April, and the first attempt to hold this session had just recently its six month anniversary.

THE PERFORMANCE RESULTS OF BOTH HOUSES IN THE FIRST NINE MONTHS OF 2016 ARE WORSE THAN THE RESULTS IN 2012, AS THE SECOND YEAR OF THE PREVIOUS MANDATE, AND IN CASE OF THE HOUSE OF REPRESENTATIVES THE RESULTS ARE DRASTICALLY WORSE. The number of sessions that the House of Representatives held in the first 9 months of 2016 is even three times lower than in the appropriate period of the previous mandate. The number of discussed measures is two times lower.

A DECLINE HAS BEEN ALSO NOTED IN REALIZATION OF LAWS. A total of 16 laws were adopted in the first 9 months of 2016, while a total of 20 laws were adopted in the appropriate period of the previous terms of the office, and 22 in the appropriate period of the 2006-2010 term of the office.

BESIDES THE LAWS, THE BIH FEDERATION PARLIAMENT HAS VERY MODEST REALIZATION OF STRATEGIES. Since the beginning of the current term of the office (in almost 2 full years), the FBiH Parliament only adopted (in both Houses) the Medium-term Strategy for Development of the Agricultural Sector in the FBiH, midway through the last year. The House of Representatives of the BiH Federation Parliament adopted the Debt Management Strategy in April of 2016, but the House of Peoples still have not voted on this strategy.

EVEN BESIDES EXTREMELY POOR RESULTS AND MONTHS-LONG INABILITY TO CONVENE, THE MEMBERS OF THE FBIH PARLIAMENT RECEIVE THEIR SALARIES REGULARLY AND ENJOY ALL AVAILABLE PRIVILEGES. There are 83 out of 98 members of the House of Representatives and 47 out of 54 delegates of the House of Peoples on the FBiH Parliament's payroll.

THE PARLIAMENT ELUDES TO TERMINATE CERTAIN PRIVILEGES THAT THE SOCIETY HAS ALREADY FOUND TO BE COMPLETELY UNACCEPTABLE. The Law amending the Law on wages has been in the procedure since January 2015. The Law's main intention is to terminate so-called "white bread", but it still has not been adopted although the Government has already given its positive opinion.

BASICALLY THE MOST POSITIVE THING ABOUT THE BIH FEDERATION PARLIAMENT CONCERNS THE HOUSE OF PEOPLES, WHICH HELD TWO THEMATIC SESSIONS IN THE REPORTING PERIOD. THE CCI HAS BEEN SUGGESTING THIS FOR A WHILE AS A MODEL TO EFFICIENTLY AND TRANSPARENTLY TACKLE KEY PROBLEMS OF THE SOCIETY. The

first session was held on January 22, 2016 and the topic discussed was “Information about situation in the electric-power sector of FBiH with proposal of measures”. The second thematic session of the House of Peoples of the FBiH Parliament was held on June 30, 2016 and the topic discussed was “Information about situation in the healthcare sector of FBiH with proposal of measures”. It has to be emphasized that the Parliament held the last session dedicated to the healthcare ten years ago, and this is a sector with alarming problems.

IN THE MIDDLE OF 2016 THE HOUSE OF PEOPLES OF THE FBiH PARLIAMENT HAD FINALLY MET ITS CONSTITUTIONAL OBLIGATION BY ELECTING DEPUTY SPEAKER AMONGST THE SERB PEOPLE. Unfortunately, almost year and a half passed between first part of the constituting session and having the House of Peoples’ management in full composition. We have to once more underline the years-long problem of incomplete Serb people Caucus, and the fact that this problem is not being addressed at all.

FBiH GOVERNMENT I-IX 2016

IN THE FIRST 3 QUARTERS OF 2016 THE BIH FEDERATION GOVERNMENT HAD CONTINUOUS, IN THE THIRD QUARTER EVEN DRAMATIC, DECLINE OF PRODUCTIVITY. With 852 measures discussed in the 1st quarter of this year the number dropped to only 565 measures in the third quarter. And the number of laws that the Government endorsed reduced from 21 in the first quarter to only 8 in the third quarter – two and a half times less.

THE LOWEST WORK INTENSITY IN THIS YEAR WAS RECORDED IN THE THIRD QUARTER. Only 17 sessions were held, compared to 26 sessions that were held in the previous quarter. There is a certain curiosity that a bit more than half of the sessions held in the first 9 months of 2016 were regular sessions. 42% of the sessions were so-called conference/telephone sessions at which the decisions about appointments and dismissals from managerial and governing positions in public companies and administrations were discussed as urgent matters.

ANYWAY, WORK COORDINATION BETWEEN THE FBiH GOVERNMENT AND THE PARLIAMENT WAS EXCEPTIONALLY BAD IN THE REPORTING PERIOD. In the first 9 months of 2016 the Government approved 48 different laws, whereof 32 were proposals. And in this period the Parliament completely (as proposal in both Houses) adopted only 11 of these laws.

The Parliament still did not discuss any of the five strategies that the FBiH Government approved in 2016.

COMPARISON WITH THE RESULTS ACHIEVED IN THE PREVIOUS MANDATE INDICATE GREATER VOLUME OF CURRENT GOVERNMENT’S WORK, BUT A LOWER LEVEL OF REALIZATION OF MOST SIGNIFICANT AND SYSTEMATIC MEASURES. The current Government held more sessions and discussed more measures in the first 9 months of 2016 than the government in the first 9 months of 2012, as the second year of the previous mandate. But, at

the same time, it realized 23 laws and 2 strategies less. On top of this the current government's result in realization of laws planned by the Work Plans is two times worse.

THE GOVERNMENT DEDICATED 10% OF ITS WORK IN FIRST NINE MONTHS OF 2016 TO “PERSONNEL ISSUES”. A total of 229 decisions and approvals endorsed in the reporting period relate to dismissals and new appointments of managers to the managerial structures of public companies. Majority of these appointments could be classified as “political appointments”, while on the other hand the legal norms define these positions as apolitical, i.e. the best candidates should be appointed to these positions regardless of their party affiliation or connections.

THE ISSUE OF FAIR AND MERIT-BASED APPOINTMENT AND DISMISSAL OF CIVIL SERVANTS HAS BEEN MADE EVEN MORE COMPLEX IN THE FBiH WHEN A VERY BAD LAW ON CIVIL SERVICES IN FBiH WAS ADOPTED AT THE END OF 2015. In the middle of 2016 the FBiH Constitutional Court issued a decision that temporarily discontinues application of certain Articles of the Law on Civil Service in FBiH, which prevented an attempt of legalizing political employment and accrual of new costs. However, there is still no political will to introduce high quality amendments to this Law in order to get a more modern, high quality, more efficient, more accountable and depoliticized public administrations, i.e. everything that the FBiH was asked to do as part of the public administration reform.

ANALYSIS OF THE SITUATION IN PUBLIC ADMINISTRATION RED-FLAGS THAT THERE IS A GIGANTIC AND OVER-DIMENSIONED APPARATUS IN WHICH EMPLOYMENT IS DONE ALONG THE PARTY LINES, WHILE ON THE OTHER SIDE THERE IS LACK OF SKILLED STAFF THAT CAN AND KNOWS HOW TO COMPLETE PROCESS OF PREPARATION OF LAWS AND STRATEGIES IN A HIGH QUALITY WAY, WHICH IS A SERIOUS PROBLEM. THIS IS PROBABLY ONE OF THE REASONS OF CONTINUOUSLY LOW REALIZATION OF GOVERNMENT’S OBLIGATIONS SET OUT IN THE WORK PLAN. During the first three quarters the Government approved only 25 (24%) out of 106 laws set out in its 2016 Work Plan of the Government. The Work Plan still contains 49 unrealized basic laws, many of which are very significant for the citizens of FBiH. The government approved 2 out of 20 Ministry of justice's planned laws; four out of 16 laws of the FBiH Ministry of labor and social policy; three out of 11 laws of the Ministry of agriculture, water management and forestry, eight out of 20 laws of Ministry of finance, two out of 9 laws of Ministry of energy, mining and industries, while not a single law out of 5 laws planned by the Ministry of health was approved.

REALIZATION OF PLANNED STRATEGIES IS EVEN WORSE THAN LEGISLATIVE REALIZATION. Out of 12 strategies that the Government's 2016 Work Plan had set out for adoption, only one was realized by September 30 – “Traffic Strategy in the BiH Federation for the period 2016 – 2030”. Curiosity being that this strategy was approved at a by-phone session of the Government.

Realization of the reform agenda is not going as planned. Besides examples of formal fulfillment of the Agenda commitments through solutions that are actually in disagreement with the set goals (as in case of the Law on civil service), there are many other unrealized (undetermined) measures from the aforementioned Action Plan that the BiH Federation Government has to address. In terms of the laws there are: Law on public – private partnership (plan, March 2016), Law on concessions (2016), changes to the Law on Income Tax – two rates (March 2016), Law on organization of pension and disability insurance fund (December 2015), etc.

THE BIH FEDERATION DOES NOT HAVE EMPLOYMENT STRATEGY SINCE 2016. THE LAW REGULATING EMPLOYMENT IN PUBLIC SECTOR HAS BEEN RULE UNCONSTITUTIONAL, WHILE THE BIH FEDERATION GOVERNMENT CONSTANTLY PROLONGS THE DECISIONS ON MORATORIUM ON EMPLOYMENT IN PUBLIC ADMINISTRATION, AND NEVERTHELESS THE NUMBER OF EMPLOYEES UNDER SERVICE CONTRACTS IS INCREASING. However, the statistics show a positive trend in terms of employed people. Summatively, the number of employed over the past four years in the BiH Federation increased for 16.751 persons, and number of unemployed decreased for 2.228 persons. Currently, the administrative unemployment rate in the BiH Federation is 44.9%, which is still far above the European average (which is 15-20%). Even though there is an increase in number of employed, it is simply not enough, which is best portrayed with a piece of information that over the last 8 years the number of employed in the BiH Federation increased for 25.467 persons, while the number of pensioners increased for 68.274 persons.

ONE THEMATIC SESSION OF THE FBiH GOVERNMENT WAS FINALLY HELD IN THE THIRD QUARTER. It was dedicated to the state of agriculture in the BiH Federation and it had resulted in several significant conclusions. We would like to point out that agriculture sector is only one of the sectors in which problems must be subject of an in-depth analysis, followed by thematic sessions of the FBiH Government and Parliament at which the solutions to these problems would be discussed.

NEITHER DID THE FBiH GOVERNMENT NOR ITS 2015 BUDGET RECEIVE A “POSITIVE OPINION” OF THE OFFICE FOR AUDIT OF THE BIH FEDERATION INSTITUTIONS. When it comes to the FBiH Government, the fact that the BiH Federation Auditor two years in a row based the “qualified opinion” on the same critique indicates completely irresponsible behavior of the government. The budget of the BiH Federation has been receiving auditor’s adverse opinion for many years now. The auditor has been constantly warning about tens of millions KM that are distributed and spent without any clear criteria, irresponsibly and non-transparently. The Public Procurement Law, Law on the Budget, the Law on execution of the budget, the Rulebook on accounting of budgets in the FBiH, Accounting policies for the BiH Federation budget users and Treasury, as well as various Instructions are being breached. And yet again no one is assuming responsibility – political, moral, disciplinary, or let alone criminal.

NO PROGRESS WAS MADE IN TERMS OF THE LAW ON GENDER EQUALITY IN BIH. The FBiH Government still violates this law, ignoring the obligation it sets forth statutory minimum of 40% quota of the less represented gender.

CONCLUSION

IN THE REPORTING PERIOD THE BIH FEDERATION GOVERNMENT PASSED THE DECISION ON ACCEPTING NEW DEBT UNDER EXTENDED ARRANGEMENT WITH THE IMF. The Decision, which was recently confirmed by the Parliament, increased the BiH Federation's debt for approximately 720 million KM. And while the preliminary announcements stated that the credit funds will be used to aid implementation of economic policies aimed at intensification of the reforms to improve business environment and attract investments, generate jobs in private sector and increase economy growth potential, it turned out that first IMF's funds will be spent on salaries of the politicians and civil servants due to budget insolvency. This was the exclusive reason why the obstruction of the Parliament's work was temporarily ceased.

The government should not have sent this type of symbolic message. At the same time this message is the best warning to this country's citizens that they have to monitor work of the authorities, preventing them of spending this one million KM we got from the IMF on themselves instead on proclaimed economic goals and growth of employment.

The Centers for Civil Initiatives invite authorities' representatives to do their job, to stop dealing with obstructions for narrow-party or personal interest and to make interests of this country's citizens their priority.

Aimed at mitigation of the consequences of government crisis, we would recommend continuous sessions of the Parliament in order to realize accumulated measures and obligations set forth in the Work plan and the Reform Agenda.

We expect the Government to intensify its work, and to focus on planned laws and strategies, as well as to start drafting high-quality amendments to the existing Law on civil service, which would be in line with SIGMA principles and EU standards.

Furthermore, prompted by constant delays in enactment of documents that are crucial for the work of institutions, we warn of the need to start developing the 2017 Work Plan and the budget on time and in line with regulations, and to have these documents adopted by the end of 2016 under regular procedure and in a transparent way.
