



**CENTRI CIVILNIH INICIJATIVA
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Summary Reports on Monitoring Performance of the FBiH
Government and the Parliament**

01.01. – 31.03.2016.



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.

Following a very brief period of relative stability in the last quarter of 2015, in 2016 we again became witnesses of government dealing with itself, namely with the problems in relations within the ruling coalition and with the obstructions in the work of the government's institutions.

Firstly, the arrest of the SBB's leader has jeopardized practically just established coalition, causing obstructions of the work in the Parliament and bringing to the surface the problems between the other two members of the ruling coalition as well as the fact that the FBiH Government does not function as a single harmonious organism, with precisely set and shared goal, but rather that ordinary method of governance in BiH is at work again— where each of the parties has “their own” ministries through which they implement political, and not the mutual, harmonized policy of the ruling coalition.

All of this has to some extent reflected on the work results of the BiH Federation authorities in the first quarter of 2016. However, not drastically – since the political crisis was rather controlled and has served the political battle for individual party goals.

CRISIS IN THE RELATIONS BETWEEN THE PARTIES OF RULING COALITION AND PARLIAMENTARY MAJORITY HAS NEGATIVELY AFFECTED ALL PARAMETERS THAT DESCRIBE WORK OF THE FBiH PARLIAMENT IN THE FIRST THREE MONTHS OF 2016. The House of Peoples held a single thematic session in January, with one agenda item, while one regular session of the House of Representatives and two sessions of the House of Peoples were postponed. One session of the House of Representatives was also adjourned in March. One session of the House of Peoples was also adjourned in March, but the reason for adjournment was not political in nature. By months, the results of the House of Representatives' performance in the first quarter of 2016 were: 0 – 38 – 5 considered measures. This illustrates that there was a more or less normal work pace in only one month.

THE EPILOGUE IS A DRASTIC DECLINE OF BOTH WORK INTENSITY AND PRODUCTIVITY OF THE HOUSE OF REPRESENTATIVES IN RELATION TO THE PREVIOUS QUARTER. After the new parliamentary majority was established after months-long of crisis, the House of Representatives had finally begun to achieve significant results in the last quarter of 2015, but these fell down in first quarter to almost one third in terms of work intensity (from 11 sessions in 4th quarter of 2015 to only 4 in 1st quarter of 2016) or to a half in terms of productivity (with 84 measures considered in the 4th quarter of 2015 to only 43 measures in 1st quarter of 2016). The House of Peoples also experienced a downfall by both parameters, but it has not been as deep as in the House of Representatives.

THE MOST SERIOUS PROBLEM IS DECLINE IN REALIZATION OF THE LAWS. From 17 finalized laws (adopted as proposals in both Houses) in the last quarter of 2015, realization has dropped to only 10 laws in the first quarter of 2016.

The work of the FBiH Parliament concerning realization of the laws in the first quarter of 2016 is much worse than even the adequate period of the previous mandate (14 laws were passed in the first quarter of 2012).

THE PARLIAMENT HAS BEEN WORKING WITHOUT A WORK PLAN FOURTH YEAR IN A ROW. Even besides announcement that the 2016 Work Plan will be adopted immediately after the Government determines and puts into procedure its Work plan, none of the Houses have meet this obligation by the end of first quarter of 2016. It is a continuity of irresponsible behavior towards their obligations, which affects results of the institutions, since the Work plan is in principle a key tool to improve institutions' efficiency and their focus on projected goals. The situation imposes the need to amend the Rules of Procedures by precisely defining individual responsibility and sanctions in order to put a stop to such violation of obligations.

THE 2016 BUDGET WAS ADOPTED ON TIME, ACCOMPANIED BY MPS' DISCONTENT WITH ITS CONTENTS AND GOVERNMENT'S DISREGARD OF THEIR DEMANDS; AND DEBT REPAYMENT FUNDS IN THE BUDGET HAVE EXCEEDED ONE BILLION KM. The FBiH Parliament adopted the 2016 FBiH budget by the end of 2015, namely in line with the Law on budgets in FBiH. The budget was adopted in the total amount of 2.598.862.123, 00 KM, which is for 230 million or 10.7% higher than the 2015 budget of the BiH Federation. This budget proposal includes debt repayment expenditures in the amount of approximately 975 million, exceeding the debt repayment funds planned in the 2015 budget of the BiH Federation for approximately 116 million. Debt servicing in this year, together with accompanying interest rates, amounts one billion and 98 million KM.

THE BIH FEDERATION PARLIAMENT DID NOT ADOPT A SINGLE STRATEGY IN THE FIRST QUARTER OF 2016. In the same period the RS NA adopted 4 strategies and spent two times more time in sessions than both Houses of the FBiH Parliament together.

RELATION BETWEEN GOVERNMENT AND PARLIAMENT WAS FAR BELOW REQUIRED LEVEL IN THE FIRST QUARTER OF 2016 – PARTIALLY DUE TO THE PROBLEMS IN FUNCTIONING OF THE RULING COALITION IN THIS PERIOD, AND PARTIALLY BECAUSE IT IS A CONTINUOUS PROBLEM RELATED TO INSUFFICIENT PARLIAMENT’S EFFICIENCY. Out of 20 laws that the Government considered as proposals, only 6 were finalized in the Parliament, while one was rejected.

BOTH HOUSES OF THE FBiH PARLIAMENT VIOLATE THEIR OWN RULES OF PROCEDURES. Provisions VI (Article 87 to 95) of the House of Representatives’ Rules of Procedures and provision VII (Article 80-85) of the FBiH House of Peoples’ Rules of Procedures were violated by failure to adopt the 2016 Work Plan. These provisions precisely set forth the obligation to plan the work of this institution. The problem of unexcused MPs’ absence at the plenary sessions of the House of Representatives is still present in the FBiH Parliament, despite the fact it represents violation of Article 10 of the Rules of Procedures and despite constant recommendations to change this situation, as well as despite the fact that this is one of the segments because of which FBiH Parliament has been for years now receiving qualified opinion of the FBiH Audit Office. Article 16 of the Rules of Procedures of the HoR sets forth pecuniary sanctions for failure to meet obligations in performing of MP function, which includes unexcused absence from the sessions of the Houses and working bodies. However, based on information available none of the MPs did get their incomes reduced due to being absent from the sessions.

PARLIAMENT, NAMELY ITS HOUSE OF PEOPLES, STILL HAS INCOMPLETE COMPOSITION AND 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, has been vacant for more than a year. Some of the activities concerning election of the Deputy Speaker amongst the Serb people have been initiated, and several candidates have been proposed, but there is still no tangible result.

THE FBiH PARLIAMENT STILL DEMONSTRATES SOCIAL INSENSIBILITY. Two full years have passed from the protests at which citizens clearly demanded termination of benefits that the politicians have awarded to themselves, amongst which is the so-called “white bread”. A year has also passed since the Draft Law amending the Law on wages and benefits in the FBiH bodies of authority was put forward into parliamentary procedure (proposed by the SBB’s member of the Parliament). This draft law also proposes termination of the “white bread” benefit, but termination of this benefit, which symbolizes politicians’ estrangement from the citizens they represent and their social insensibility, still did not happen. So there are no funds in the budget for many important things, as are persons with disabilities (some of the MPs reacted to this at time budget was being adopted), but there are funds for politicians’ privileges.

INDIVIDUAL ACTIVITY OF MAJORITY OF THE FBiH PARLIAMENT’S MEMBERS IS UNSATISFACTORY. 33 members of the House of Representatives and 17 delegates of the House of Peoples did not actively participate in the Parliament’s work in 2016 – they did not discuss agenda items, did not put forward a single MP question, did not launch a single initiative nor did they file amendments to any piece of the legislation. There are many more members who did not use some of the available possibilities for work in the interest of citizens and their electoral base.

TRANSPARENCY OF THE BIH FEDERATION PARLIAMENTT IS AT AN ACCEPTABLE LEVEL, BUT THERE IS A LOT OF ROOM FOR IMPROVEMENT. With regard to previously presented information there have been some changes in terms of transparency. The House of Peoples has so announced electronic delivery of answers to the MPs' questions. At the same time this House has stopped publishing information on incomes of the MPs on its web site. Since the beginning of 2016 the House of Representatives has started to regularly publish announcements of the working bodies' sessions. The House of Peoples also publishes all information on public procurements on its website.

The failure of the authorities to respect provided procedures again, as in the last mandate, draws the Constitutional Court into the country's political life. At the end, when violation of the Constitution is proved, no one is held responsible for the senseless spending of court's time, as well as the citizens' time and money, on cases that are often clearly not in the line with legal regulations and that are classical political abuses.

Instead of having the Constitutional Court's decisions in such situations followed by the resignations of persons directly responsible and the ones from whom, in a normal country, it would be expected to resign out of "moral reasons", we have a situation where the authorities try to minimize a very serious problem (which violation of Constitution certainly is), beforehand to make the expected decision of the Court senseless, reducing it to a mere technical issue, without any significance.

We have witnessed two decisions of the Constitution Court in the reporting period – one due to Government's decisions (i.e. due to the contents of the Regulation on exercise of authority in companies with State's capital assets under the competence of FBiH), and the second one due to procedural mistakes in the House of Peoples (enactment of the Labor Law). None of these have caused any confession and self-criticism, let alone any resignations, but the ones who violated the Constitution have rather insulted the Court, calling its decisions political.

A new appeal was filed with the FBIH Constitutional Court in the reporting period (at the end of February), but this time to assess constitutionality of the national composition of the Government in the period from June 15 to October 28, 2015.

Instituting a proceeding before the Constitutional Court was also mentioned in relation to implementation of the Constitutional Court's decision in the House of Peoples and again the reasons were procedural in nature since the conclusion concerning the Decision was adopted before discussion and adoption of the agenda.

Violation of Rules of Procedures, laws, and even the Constitution, is not a rare phenomenon in the political life of Bosnia and Herzegovina and is present at all levels. It is in complete non-conformity with the rule of law concept that is the foundation of the European Union we are striving to reach. And it has to finally stop. Individual responsibility within government's institutions has to be also introduced for this kind of violation.

UNLIKE THE PARLIAMENT, WHICH EXPERIENCED A DECLINE BY ALL PARAMETERS IN RELATION TO THE RESULTS ACHIEVED IN THE LAST QUARTER OF 2015, THE FBIH GOVERNMENT HAS IN THE FIRST QUARTER OF 2016 MAINTAINED CONTINUOUS GROWTH OF PRODUCTIVITY, WHICH HAS BEEN PRESENT SINCE THE 2ND QUARTER OF LAST YEAR. From 423 considered measures in 2nd quarter of 2015, and more than 583 and 631 measures in 3rd and 4th quarter of 2015 respectively, we arrive to 852 measures that were considered in the first three months of 2016. The efficiency of Government's performance has also significantly increased, so that the average of considered measures per session increased almost for one third – from 29.6 measures per session, which was the average of the last quarter of 2015, to 40.6 measures, which is the average of the 1st quarter of 2016.

HOWEVER, GOOD RESULT HAS BEEN SIGNIFICANTLY RELATIVIZED BY THE FACT THAT TOO MUCH ENERGY AND TIME IS STILL SPENT ON “POLITICALLY-BASED RECRUITMENT”. In the first quarter we have also documented 93 dismissals, namely new appointments to executive, directorial and managerial positions, which is actually 11% of all measures adopted at the sessions of the FBIH Government.

On the other hand the laws make only 3% of all enacted measures, and strategies 0.2%.

Additional discontent is caused by the fact that “Law amending the Law on civil service in FBIH” was adopted in October 2015 and that it is actually a very bad solution that cannot lead to a successful reorganization of the public administration in FBIH, more rational civil service, or to boosting its efficiency, accountability, transparency, etc. Therefore, very fierce criticisms that the Ambassador Lars-Gunnar Wigemark, head of the EU Delegation to BiH and EU Special Representative to BiH, directed towards the Government in first quarter of 2016 is rather quite justified.

WORK INTENSITY AND PRODUCTIVITY OF THE BIH FEDERATION GOVERNMENT IN THE REPORTING PERIOD EXCEEDED THE RESULTS OF THE RS GOVERNMENT, BUT THE RS GOVERNMENT COMPLETED MORE LAWS AND STRATEGIES, BEING THE MOST SIGNIFICANT DOCUMENTS. The RS Government adopted and put into procedure 26 different laws, while the FBIH Government did 24 laws. In the reporting period the RS Government adopted 6 strategies, whilst the FBIH Government adopted only two.

Inter alia the FBIH Government still did not prepare an Employment Strategy for the period 2016-2020 nor was preparation of the strategy included into planning documents.

THE FBIH GOVERNMENT WAS AGAIN LATE WITH ADOPTION OF ITS ANNUAL WORK PLAN. The 2016 Annual Work Plan of the FBIH Government was adopted on February 2, 2016, which means that Government's Rules of Procedures, which precisely define the obligation to adopt the Work plan for a certain year before the end of previous year, was violated. In the last 10 years the Work Plan of the FBIH Government was adopted on time only once. Anyway...

THE 2016 WORK PLAN IS AMBITIOUS, WELL-STRUCTURE, BUT IN MANY WAYS IT IS BASED ON PLANNED BUT UNEXECUTED MEASURES FROM PREVIOUS YEARS AND IT IS NOT COMPLETELY HARMONIZED WITH THE BUDGET. The draft Work Plan should be adopted before the draft Budget in order not to make a wish list out of the Government's Work Plan, but to have a realistically feasible document. The ground logic of planning, and principles of program budgeting, require firstly development of activities, and after that a budget is assigned to these activities. The process we currently have at the BiH Federation level is opposite, and

many planned activities remain unexecuted, because the lack of funds to execute the plan is subsequently (accidentally or intentionally) observed.

The 2016 Work Plan of the FBiH Government has 435 measures, whereof 106 are laws. This year's projection of 106 laws, with the legislative plan from 2013, is the most ambitious one in the last 10 years. On the other side, plan is one thing, and execution is something completely different, so that we must recall a total of 192 unexecuted measures from the 2015 Work Plan, whereof 77 were the laws that were not adopted.

AFTER THE FIRST QUARTER THE PACE OF THE ANNUAL WORK PLAN'S EXECUTION IS FAR AWAY FROM BEING ADEQUATE. Out of 435 measures that were to be executed in 2016, only 61 measures or 14% were executed in the period 01.01.-31.01.2016. Out of 106 laws that were planned in the 2016 Government's Work Plan, only 13 laws or 12% were adopted during the first quarter. If we are to add the number of executed unplanned laws, we arrive to a figure of 24 laws that the FBiH Government adopted in the first quarter of 2016 – 20 as proposals, and 4 as drafts.

THE FBiH GOVERNMENT ALSO VIOLATES RULES OF PROCEDURES, LAWS AND THE CONSTITUTION. Rules of Procedures of both Houses of the FBiH Parliament are being violated by failing to answer MPs' question within set deadline. Failure to adopt the Work Plan by the beginning of the year to which it relates is violation of the Government's Rules of Procedures. Failure to meet deadlines when adopting the budget (instead of adopting the budget by October 31 at latest, the Government adopted Budget proposal on December 10) violates the Law on budgets in the FBiH. Composition of the Government, in which only 4 out of 17 members are women, violates the Law on gender equality in BiH (which defines representation below 40% as discrimination). Furthermore, the decision of the Constitutional Court from January 2016 confirms that the Government was violating the Constitution in the previous period.

INSTEAD OF ANNOUNCED RESTRICTIVE PUBLIC SPENDING, WE GET AN INCREASE OF ITEM "ALLOCATIONS FOR EMPLOYEES' WAGES AND BENEFITS" FOR ALL 16 MINISTRIES IN THE 2016 BUDGET. The total increase under this item is 3.560.624 KM for all 16 ministries. The funds available to the Prime Minister and the Ministers, to the President and Vice Presidents of the Federation, as well as transfers for political parties have been also increased. At the same time, there are insufficient funds in the Budget for: paraplegics and quadriplegics, cancer screening, assistance to persons affected by natural disasters, etc.

THE BIH FEDERATION GOVERNMENT STILL DOES NOT SEE THE NEED TO IMPROVE TRANSPARENCY OF ITS WORK, AND THE LATTER COULD BE ASSESSED AS JUST ACCEPTABLE. For the time being, and even besides several recommendations that were sent, the FBiH Government does not intend to make the agenda of its sessions available as announcement, it does not want to enable "download" option for measures adopted at the sessions. Neither stenographs nor minutes are made public automatically. The web site does not provide an overview of ministers' answers to MPs' question; and it takes unacceptably long time to receive the minutes of the sessions...

While the government of the neighboring Republic of Croatia publishes video recording of all sessions on its official web site, the sessions of the Government in the BiH Federation are only tape recorded and stenographs are made. However, these stenographs are not made public automatically, and certain parts of the stenographs cannot be obtained even under the current Freedom of Information Act. For example, an attorney's office failed, even under the Freedom of Information Act, to obtain minutes from the sessions at which programs of incentives in agriculture for 2011, 2012, 2013 and 2014 were discussed. The request was rejected, and Government's

explanation read that the material in question is confidential. One cannot but to wonder what is confidential in approved annual agriculture incentives.

THE LAWS SHOULD BE ADOPTED IN REGULAR PROCEDURE, RESPECTING THE RULES THAT REGULATE THAT PROCEDURE. We can understand Government's efforts to accelerate the processes, since the citizens expect more efficient and effective government that is of course accountable and transparent in its work. However, it should not be done by force, while violating the regulations. Moreover, there is a justified need not to adopt reform laws under urgent procedure in order to avoid amendments to these laws being made in a very short period of time, noting that "Regulation on regulatory impact assessment" has to be respected when preparing and adopting important measures. Therefore we are very happy to observe FBiH Government's commitment expressed in the 2016 Work Plan in terms of a higher number of laws for which regulatory impact assessment has been planned, as well as the laws for which regulatory impact analysis will be conducted. These were the recommendations of the Centers for Civil Initiatives presented in the analysis "Regulatory impact – a term unknown in BiH".

CONCLUSION

AT THE END WE ARE PLEASED TO NOTE THAT IN LINE WITH FREQUENTLY PRESENTED CCI'S RECOMMENDATIONS ABOUT THE NEED TO MINIMALIZE EXTRAORDINARY WORK, AS WELL AS URGENT AND SHORTENED ENDORSEMENT PROCEDURES, THE FBiH PARLIAMENT SHOWED THAT IT CAN WORK DIFFERENTLY. It is the first time in a reporting period that all sessions held were regular, and that urgent procedure was not used in adoption of the laws. Additionally, the House of Peoples of the FBiH Parliament had at the last three sessions, which were held in this period, sent into regular procedure all the laws that the Government forwarded into procedure with the proposal to be considered under urgent procedure.

YET ANOTHER VERY IMPORTANT CCI'S INITIATIVE CONCERNING THE EXECUTIVE AUTHORITIES COULD BECOME REALITY IN THE NEXT FEW DAYS. As announced after the meeting of entity prime ministers and the chairperson of the BiH Council of Minister, a joint session of the BiH Federation and Republika Srpska Governments will be held in a month's time. The topic of the meeting will be harmonization of the economy related laws in both of the entities. The CCI has been underlining the need of holding such a meeting for a longer period of time and we find it can potentially have numerous benefits.

At the end, while reiterating that the CCI has been for years now insisting on changes to the Constitution and the Election Law, which will make the country more functional and at least allow extraordinary elections at time of blockages and inability to reach a political agreement, we join the demands to create possibilities for conducting elections in Mostar. We find current situation unacceptable and responsibility for such situation obvious.
