



**CENTRI CIVILNIH INICIJATIVA
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Monitoring performance of the FBiH Government and
the Parliament
during the 2014-2018 term of office**



INTRODUCTION

The intention of this report is to show and to point out the principal results of monitoring performance of the FBiH Government and the Parliament. 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), the *Report* was generated after careful analysis whilst observing past practices of fair and correct reporting.

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The current term of office in the Federation of BiH is marked with an almost permanent political instability caused by the problems within the ruling coalition. In fact, the only changing elements were the actors of the conflict and the scandals that burdened the public, demonstrating the worst face of politics and agreeing on one thing only – remaining in power at any cost.

The Government demonstrated a chronic lack of capacity (even the will) to create a functional system, to ensure political stability as a foundation of any economic progress and to start finding solutions to the most serious problems of the citizens and the society.

Instead, during the entire term we had the opportunity to witness conflicts involving partisan and personal interests, egoism of the political elite, absence of social sensitivity and utilization of blockades of the work of the institutions as a method of political fight.

In confronting the concrete consequences of this government's lack of accountability, all talks about reforms, agendas and EU integration proved to be empty – with such relations and the current intensity of the work and degree of realization of the programmed legislations and strategic documents, it is not possible to implement any serious reforms, and the EU is a completely unattainable goal.

The permanent crisis within the ruling coalition in the Federation of BiH, as produced by the parties that make up the coalition, left some serious consequences for the overall society, except for those who are most responsible for the crisis – the political parties and their leaders.

Thus, instead of accepting the responsibility for the results of the government in which they participate, members of the ruling coalition, with the elections approaching, are trying to create a distance among themselves passing the buck for the poor results onto the coalition partners and to relativize the government-opposition division and improve their ratings ahead of elections. And keeping all privileges of being in power.

DURING NO YEAR OF THE CURRENT TERM DID THE GOVERNMENT OF THE FEDERATION OF BIH FULFILL ITS OBLIGATION TO HOLD ONE REGULAR SESSION PER WEEK. The number of urgent and telephone sessions point to a serious problem in the work and planning. As many as 43% of sessions of the FBIH Government held during the observed period were either urgent or telephone sessions. In that...

TELEPHONE SESSIONS ARE USED FREQUENTLY FOR INADEQUATE PURPOSES. The FBIH Government used the telephone sessions to negotiate appointments and dismissals from managerial positions in public companies and administration. On the other hand, they adopted measures that require a serious approach and time and for which, in the least, it would have been more appropriate to have been discussed at regular sessions. For example, the Framework Energy Strategy, the Traffic Strategy, the Law on amendments to the Law on Executive Procedure or the Consent for implementation of the procedure for selling Hotel Ero Mostar.

THE ANALYSIS OF THE GOVERNMENT'S RESULTS IN THE CURRENT TERM INDICATE THAT GOVERNMENT'S HIGHEST PRODUCTIVITY WAS IN THE FIRST THREE QUARTERS, AFTER THE RECONSTRUCTION OF THE GOVERNMENT IN OCTOBER 2015, I.E., AFTER THE FORMATION OF THE NEW RULING COALITION; HOWEVER, ONLY TO SEE THE CONFLICTS SIGNIFICANTLY AFFECTING THE SUBSEQUENT RESULTS. The start of decline in government's productivity coincides with the beginning of the trial for the SBB leader, which was the key factor of deterioration of the relations within the ruling coalition. Soon, the relations between the other two members of the coalition deteriorated, which during the 3rd Quarter of 2017 and the 1st quarter of 2018 resulted in the worst results of the Government, after the results in the first half of 2015.

THE WORK OF THE FBIH GOVERNMENT IN THE CURRENT TERM CONFIRMS THE THESIS THAT QUANTITY DOES NOT NECESSARILY MEAN QUALITY. Namely, comparing the results accomplished in the previous term, which was also under the burden of political turbulences and problems in the functioning of the government, points to a somewhat higher productivity of the FBIH Government in the current term – by 13%. However, the analysis of the discussed measures indicates a rather low percentage of the significant measures – laws make up only 3% of the measures discussed during this term, while strategies make up only 0,2%. Which led to a decline in a number of endorsed laws and strategies compared to the results of the previous term.

DURING THE CURRENT TERM THE FBIH GOVERNMENT ENDORSED 166 LAWS (133 PROPOSALS AND 33 DRAFTS), WHICH IS BY 74 LAWS LESS THAN IN THE PREVIOUS TERM (TOTAL OF 240 ENDORSED LAWS). At the same time, the FBIH Government adopted nine (9) strategies, while the Government in the previous term adopted 12 strategies.

WITH RESPECT TO THE REALIZATION OF THE MOST SIGNIFICANT MEASURES THAT POTENTIALLY MAY IN A LONG-TERM SYSTEMATICALLY AND POSITIVELY IMPACT THE QUALITY OF CITIZENS' LIVES, THE PROBLEM OF THE FBIH GOVERNMENT IS BEST VISIBLE WHEN LOOKING AT THE REALIZATION OF THE PROGRAMMED OBLIGATIONS. Realization of the planned laws by years is as follows: 27 endorsed laws out of 104 planned laws in 2015; 33 out of 106 in 2016; 34 out of 96 in 2017, and 17 laws were endorsed in the first six months in 2018 out of the 92 planned in this year's Work plan. So, the best that the FBIH Government

succeeded to realize in respect to an annual plan is only a little over one third of the laws from the plan for that particular year.

POOR REALIZATION OF THE PLANNED OBLIGATIONS RESULTED IN A FAILURE TO ADOPT A SET OF MEASURES THAT IF WELL CREATED AND IMPLEMENTED COULD HAVE HAD POSITIVE EFFECTS ON THE QUALITY OF LIVES OF FBİH CITIZENS. Let us mention that the FBİH Government failed to create or endorse as many as 18 strategies from the Work plan of the Government in the current term of office. And an enormous number of laws too. Thus, an additional absurdity is that some of the unrealized strategies were not planned in the work plans of subsequent years, as if the need for them suddenly stopped.

THE STRUCTURE OF THE ENDORSED LAWS CAUSES ADDITIONAL CONCERNS. More than a half of the laws that the Government of the Federation of BİH endorsed during the current term of office relate to amendments to the existing laws. Only 47% are new, so called "basic laws".

GOVERNMENT'S ACTION PLAN TO COMBAT GREY ECONOMY HAS NOT BEEN ADOPTED YET. Even though it should have been completed in early May 2017 and despite the claim from the institutions that they have been working to prepare it, this important document did not appear at the sessions either by the end of 2017 or by the end of the 2nd quarter of 2018. On the other hand...

ESCALATION OF CONFLICTS BETWEEN THE COALITION PARTNERS AND RE-ARRANGEMENT OF PRIORITIES IN FAVOR OF THE SO CALLED NATIONAL ISSUE COMPLETELY SHIFTED THE FOCUS FROM REFORM AGENDA, WHICH SHOULD HAVE OPENED AND ACCELERATED REFORM PROCESSES IN THE COUNTRY AND EU INTEGRATIONS. Realization of the Reform Agenda Action plan 2015-2018 is seriously delayed. The last year of the timeline anticipated for the realization of the Action plan was entered with less than 50% of fully realized measures.

GOVERNMENT'S ANNUAL WORK PLAN, AS ONE OF THE KEY DOCUMENTS THAT SHOULD DEFINE THE GUIDELINES FOR THE WORK OF THE GOVERNMENT AND ENCOURAGE EFFICIENCY, MEASURABILITY AND TRANSPARENCY, WAS NEVER DURING THE CURRENT TERM ADOPTED ON TIME, THAT IS, BEFORE THE BEGINNING OF THE YEAR TO WHICH IT RELATES. Lack of interest or capability of the political parties in the ruling coalition to ensure that MPs attend the sessions led to rejection of the Government's Work plan for 2018 by the House of Representatives. This is an accurate symbolic presentation of the situation in the ruling coalition and their attitude toward their own obligations.

NEVER DURING THE CURRENT TERM OF OFFICE DID THE GOVERNMENT COMPLETE ITS OBLIGATIONS REGARDING THE BUDGET IN A TIMELY MANNER. Not a single draft budget in the last five years, since the new Law on the Budgets in FBİH has taken effect, was adopted within the deadline prescribed by the Law. Compared to the previous term of office, budget funds were increased by over two billion KM, in sum, and the highest budget ever was adopted in the last year of the current term of office.

BESIDES VIOLATING ITS OWN RULES OF PROCEDURES AND THE LAW ON THE BUDGETS, THE GOVERNMENT ALSO VIOLATES THE GENDER EQUALITY LAW OF BİH. In the current Government, women manage only 4 out of 17 ministries, which is in disharmony with the Law that precisely defines the situation in which no gender should be represented in percentage below 40% and everything else is considered discrimination that in line with this law must be eliminated.

VIOLATION OF THE CONSTITUTION BY GOVERNMENT INSTITUTIONS IS A PARTICULAR PROBLEM THAT LEFT THE EXCEPTION-TO-THE-RULE SPHERE LONG TIME AGO AND THAT REPRESENTS A SERIOUS SOCIETAL PROBLEM. A SLOW IMPLEMENTATION OF VERDICTS OF THE CONSTITUTIONAL COURTS SEEKING TERMINATION OF UNCONSTITUTIONAL ACTIONS ONLY ADDS TO THE PROBLEM.

There is an entire set of laws that must be amended or replaced by new ones in order to implement the verdicts of the Constitutional Courts of FBiH and BiH. Many of them have been waiting for realization for many years while new verdicts keep coming. In general, implementation of the decision of the Constitutional Courts calling for amendments to different legislations takes far too much time, including their preparation by responsible institution and their subsequent adoption in the FBiH Parliament.

IT WOULD BE BETTER IF SOME MEASURES WERE NEITHER ENDORSED BY THE GOVERNMENT NOR APPROVED BY THE PARLIAMENT DURING THE CURRENT TERM OF OFFICE.

We must mention the Law on Civil Service, which was endorsed by the Government and approved by the Parliament despite the objections of both BiH public (including the CCI) and representatives of the international community in BiH and for which the European Commission stated that it is a setback that took the Federation of Bosnia and Herzegovina ten years back with respect to public administration reform.

During the passage of the law we saw all cynicism and hypocrisy of the government that justified the passage of the law as an obligation listed in the Reform Agenda. Hence, the reform requirement to depoliticize (!) public administration was used as an excuse to pass the law that reinforces the control of political parties over recruitment in public administration.

And the ruling political parties demonstrated how much they cared for their control over jobs, which, in fact, are their means to remain in power. And they care so much that they were ready to enter into conflicts with the international community or to violate the Constitution, as in the end was concluded in the verdict of the Constitutional Court of the Federation of BiH. Yet...

DURING THE CURRENT TERM OF OFFICE AND AT THE LEVEL OF FBiH GOVERNMENT WE HAD THE OPPORTUNITY TO WITNESS A SIGNIFICANT CONTRIBUTION TO RULE OF LAW AND BUILDING A COUNTRY WITH A RULE OF LAW.

However, the ruling coalition, Government or Parliament are not to take the credit for that. It is about the systemic response to the contentious acts passed by the Government and Parliament via appeal to the Constitutional Court filed by the Vice President of the Federation of BiH, Milan Dujmovic from DF. It began with a contentious Regulation on exercise of powers in state-owned companies in FBiH, which was the reason why DF left the ruling coalition after only two months spent in power. And, which was declared unconstitutional by the Constitutional Court, on the appeal of Dujmovic. A whole set of laws continued to be overturned (including the Law on Civil Service), whose unconstitutionality was brought up by Dujmovic; however, the ruling coalition did not pay attention to that until the verdict of the Constitutional Court.

What is missing in this entire story is a normal reaction of political actors that is characteristic of developed democratic societies. And that means – resignation or dismissal of those who are most responsible for passage of

the unconstitutional acts. Unfortunately, no one from the authorities bore the consequences of these unconstitutional actions. On the contrary, some even benefited from them. Which is utterly devastating for any society.

FBIH PARLIAMENT 2014-2018

POLITICAL CRISIS IN THE FEDERATION OF BIH DURING THE CURRENT TERM OF OFFICE REFLECTED MOST DRAMATICALLY ON THE WORK AND THE RESULTS OF THE PARLIAMENT, ESPECIALLY OF THE HOUSE OF REPRESENTATIVES. The Parliament made multiple breaks lasting several months; the sessions of both Houses were discontinued; then they were resumed on several times and lasted 4-5 months without adopting any measures; the nature of the work during the current term of office was more special than regular, etc. Ultimately, the House of Representatives held 60 sessions, of which only 23 were regular sessions and the House of People held 44 sessions, of which only 21 were regular sessions.

A CURIOSITY IS THAT THE CRISIS IN THE RELATIONS, WHICH RESULTED IN THE BLOCKADE OF THE PARLIAMENT'S WORK, ESCALATED AFTER THE SESSION DURING WHICH THE RULING COALITION GAVE A VOTE OF CONFIDENCE TO THE CURRENT GOVERNMENT OF FBIH. After the failure to adopt the Annual report on the work of the FBIH Government for 2016 and the failure of the House of Representatives to adopt the Report on execution of the 2016 budget, the opposition requested a motion for a no-confidence to censure the Government. The parties of the ruling coalition for a moment forgot about their differences and squabbling and backed up the Government. However, the time will show that remaining in power is the only thing on which the ruling parties can agree. After the session during which the parties of the ruling coalition demonstrated their unified support to the Government, it took almost a year (from July 26th, 2017 to June 19th, 2018) to hold the next regular session. Three regular sessions attempted to be held in the meantime were postponed, discontinued or simply not held due to the failure to adopt the agenda. And both special and thematic sessions were also postponed.

ALTHOUGH THE PREVIOUS TERM OF OFFICE WITNESSED PERMANENT POLITICAL TENSIONS, THE RESULTS OF THE CURRENT TERM OF OFFICE, IN BOTH HOUSES OF THE PARLIAMENTS, ARE, ALMOST ON ALL PARAMETERS FAR FROM THE RESULTS OF THE PREVIOUS TERM OF OFFICE. Both Houses held less sessions and discussed far less measures than their predecessors; they realized far less laws, strategies and demonstrated even more irresponsibility in the context of the adoption and realization of their planned obligations.

FOR PEOPLE WHO ARE ELECTED IN DIRECT ELECTIONS, REPRESENTATIVES IN THE FBIH PARLIAMENT, PRIMARILY THOSE FROM THE RULING COALITION, THEY SHOW A DISTURBING LACK OF INDEPENDENCE IN THEIR WORK AND DECISION-MAKING. Apathetic waiting for leaders to agree or, on the other hand, verbal conflicts "on command", became a rule in the Parliament of FBIH. Practically, not a single serious issue or a crisis was tried to be solved from inside. Instead of being guided by the interests of citizens, representatives (most of them) obediently served the interests of their parties and leaders. And with no exaggeration can we say that they are co-responsible (although the responsibility is also with many who are both in and out of the country) for removing the power from the Parliament into the centers of political parties and even into the hands of party leaders. Which is a defeat of parliamentary democracy in this country.

THE RESULTS OF THE WORK IN SUCH CIRCUMSTANCES PRESENTS BEST THE DAMAGES FOR THE CITIZENS OF THE FEDERATION CAUSED BY IRRESPONSIBLE POLITICS THAT ARE FOCUSED ON PARTICULAR INTERESTS. Only 94 laws were adopted during the term of office. This is in the level of one annual Work plan. And only 6 strategies were adopted. Which is three times less than the number of strategies adopted in the other entity, during the same period.

A SET OF EXTREMELY IMPORTANT MEASURES, WHICH SHOULD HAVE BEEN ADOPTED IN THIS PERIOD, WAS NOT CONSIDERED OR ADOPTED, OR VOTING WAS POSTPONED. Many laws were not adopted even though they were needed. Let us remind of the Law on Forests whose passage was unsuccessfully attempted for the third mandate. Whilst the forest resources have been relentlessly destroyed.

IN REGARD TO THE NUMBER OF PASSED LAWS, THE NUMBER OF OVERTURNED LAWS IS EXTREMELY HIGH. 22 laws were overturned, 18 in the House of Representatives and 4 in the House of People. Among them is the Law on amendments to the Law on Games of Chance as well as the Law on Pension and Invalid Insurance of FBiH, which was overturned twice. And the list of overturned laws also includes the Law on amendments to the Law on Registration Books referring to harmonization of this issue with the verdict of the Constitutional Court.

REALIZATION OF SOME MEASURES IS DELAYED TO THE POINT OF THEIR STULTIFICATION. For example, some reports on the work of public institutions are considered after delay of one year or even two years. This fully stultifies their significance, i.e. the controlling function of the Parliament in this context.

A PARTICULAR PROBLEM IS OCCASIONALLY LONG PROCEDURE FOR PASSAGE OF LAWS. The procedure for passage of Energy Efficiency Law for example took 4 years and 9 months – since its first appearance in the Parliament. The procedure for passage of the Law on amendments to the Law on Foreign Direct Investment took three and a half years. Among the laws that are still in procedure is the Law on Compulsory Traffic Insurance, which has been waiting to be realized for more than six years. The CCI insists on limiting this procedure to six months to increase institutions' efficiency and reach faster legal solutions that are needed in the society.

PARLIAMENT'S INEFFICIENCY FURTHER UNDERMINES THE ALREADY MODEST RESULTS OF THE GOVERNMENT IN THE CURRENT TERM OF OFFICE. Out of 133 laws that the Government endorsed during this term of office, a one fourth of them never came to be on the agenda of the parliamentary sessions. And, every tenth law was overturned.

BOTH HOUSES OF THE PARLIAMENT SHOW UTTER IRRESPONSIBILITY EVEN IN PROGRAMMING THEIR OWN WORK. During the current four-year term of office, the House of People adopted a Work plan only for one year, while the House of Representatives adopted a two-year Work plan. However, they were unacceptably late even then – the House of People adopted its Work plan for 2017 in September of the same year. So that program could only be the plan for the last three months of the year and not in any case the annual work plan, which both Houses are obligated to have under their Rules of Procedure.

REPRESENTATIVES AND DELEGATES IN THE FBiH PARLIAMENT ON SEVERAL OCCASIONS WARNED ABOUT VIOLATIONS OF THE RULES OF PROCEDURES BY LEADERSHIP OF THE HOUSES WHO FAILED TO CONVENE SESSIONS WITHIN THE SPECIFIC TIMELINE OR TO INCLUDE CERTAIN DOCUMENTS IN THE AGENDA. The conclusion that it would make sense to hold sessions in Parliament on a weekly basis comes

from the fact that many documents and decisions wait inappropriately long time to be discussed. Rules of Procedures are violated by not adopting the minutes of the completed session at the beginning of the first following session. During the observed period, we recorded a number of cases where as many as six minutes were adopted simultaneously. Given that the minutes are not accessible to the public until they are adopted, this practice is demonstration of lack of transparency in the work of the Parliament.

THE HOUSE OF PEOPLE OF THE FBİH PARLIAMENT TOOK MORE THAN A YEAR AND A HALF TO FULFILL ITS CONSTITUTIONAL OBLIGATION, TO ELECT THE SERB VICE PRESIDENT. Let us point once again to the longtime problem of the incomplete Serb People Caucus in the FBİH Parliament; yet no one is doing anything to resolve this problem.

DESPITE THE EXTREMELY POOR RESULTS THE FBİH PARLIAMENT STILL CONTINUES TO DEMONSTRATE SOCIAL INSENSITIVITY. Despite the continued initiatives to amend the Law on Salaries and Remuneration in the bodies of authority in FBİH to abolish privileges of politicians, which are in disharmony with social and economic situation in the country (and the results of government's work), the resolute position of the public is refused to be carried out. So, the Budget lacks funds for many important things (for example the budget line for employment of Roma population is reduced by nine times!), but there are funds for many privileges of politicians.

CONCLUSION

Let us remind that during mass protests in early 2014 the citizens named politics of permanent conflicts, government's self-obsession and neglect of the citizens' interest as causes of the protests.

Back then, under the pressure and ahead of elections the politicians pledged that it would not happen again and that they would turn to finding solutions to the real problems of the citizens. However, the promise ended up as all other election promises.

There have been no demonstrations in 2018. However, citizens do protest. These protests might be even more serious than in 2014. Young and working age people are massively leaving the country. And, other than employment, they are increasingly citing political situation, instability and lack of prospects created by the politicians as the motives for their leaving.

Ahead of these elections, the parties that (also) made the backbone of the government during the past period, show that they do not know how and do not have the intention to change either their vocabulary or politics.

By relying on corrupt parts of the society, on this mass entrenched in public institutions and companies, they neglected the needs of the so called "ordinary" normal citizens of the country, and rather than working to find solutions to the real existential problems they continue to engage in politicking, nationalistic and chauvinist excesses to generate conflicts. They are focused exclusively on remaining in power, regardless of the consequences for the citizens or the country.