



**CENTRI CIVILNIH INICIJATIVA
ЦЕНТРИ ЦИВИЛНИХ ИНИЦИЈАТИВА**

**Monitoring performance of the BiH Council of
Ministers and Parliamentary Assembly
January 1 - December 31, 2017**



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.

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The performance of the state authorities in 2017 was marked by serious standstill on the European path of Bosnia and Herzegovina, tardiness in realization of the measures from the Reform Agenda Action Plan, poor legislative activity with regard to the plans of the BiH Council of Ministers and the Parliamentary Assembly, continuous instability, and then also the loss of parliamentary majority in the BiH PA House of Representatives and premature pre-election campaign for the general elections in BiH.

“Too many politicians are spending their time inventing new ways to provoke each other, instead of being focused on addressing the real citizens’ problems, unemployment and corruption”, warned in 2017 the international community, adding a comment to the premature pre-election campaign: “In any normal political system, this would be the time of hard work for the politicians, where they would try to achieve an array of accomplishments to be shown to the voters at the elections.”

Unfortunately, thanks primarily to the local politicians, but also to the lack of adequate assistance from the international community, BiH is far away from a normal state when it comes to building of a legal state and a functional system. So, instead of working(!) hard, we are witnesses of arguing and accusations, and of further fragmentation of the political scene.

On one hand the failure to address the problems leads to the possible blockage of the country after the forthcoming elections, and on the other to continuance of functioning of the country as the only state on the European continent that is systematically and with its highest legislative document violating the human rights of its citizens.

The attitude of politicians towards the judgments of the European Court for Human Rights, which have not been implemented for years now, actually shows all hypocrisy of the politics, its lack of interest in civilization values on which the European Union rests and its obsession only with personal and narrow-party interests.

And the hypocrisy can be also read for the selective approach to the decisions of the constitutional courts, as well as in the attitude towards the Dayton Peace Agreement. Everybody is accentuating what suits them the most, and ignores or even denies everything that doesn't fit into their political goals, which of course has nothing in common with the rule of law.

BIH PARLIAMENTARY ASSEMBLY I-XII 2017

PARLIAMENTARY MAJORITY IN THE BIH PA HOR CEASED TO EXIST IN 2017. First had the dissolution in the SDA Caucus reduced the ratio between members of the ruling coalition and the opposition to 50:50%, and then had the former parliamentary majority become minority with the continuance of dispersal. Out of the initial number of 24 members that the coalition SDA-SBB-SDS-NDP-PDP-HDZ had at the beginning of 2017, the coalition membership was reduced to 20 members by the end of 2017 and in the first quarter of 2018 to only 18 members out of total number of BiH PA members – 42.

However, inter-party conflicts in what before was the ruling coalition (conflicts between SDA and HDZ, SBB's announcement of leaving the coalition, and taking of opposite positions by the Alliance for changes and other

coalition parties on some very important strategic question) had in 2017 brought into question existence of not only a parliamentary majority, but also of the ruling coalition at the national level. Or it could be that it is being kept alive only because there is no realistic alternative to the existing situation and the possibility of changing the Council of Ministers in the last year before the general elections?

SO THE PARLIAMENTARY MAJORITY IN THE HOUSE OF REPRESENTATIVE HAS NOT EXISTED AS A FORMALLY ORGANIZED GROUP OF THE MEMBERS FOR A WHILE, BUT IT IS RATHER BEING ESTABLISHED FROM ONE SESSION TO ANOTHER, FROM ONE ITEM AGENDA TO ANOTHER. In this sense the most exposed case is adoption of a set of laws on excises, which was the key condition for continuance of BiH arrangement with the International Monetary Fund. The members of the Alliance for changes (SDS/DP), who are part of the current ruling conditions, didn't support this set of laws, but it was adopted thanks to the votes of the SNSD members and a HDZ 1990 member, who have been acting as the opposition in the BiH PA since the beginning of the term.

POLITICAL CONFLICTS BETWEEN AND WITHIN PARTIES OF THE RULING COALITION HAD ADVERSE REFLECTION ON THE WORK RESULTS OF THE STATE AUTHORITIES, PRIMARILY OF THE BIH PA. Only 11 laws were adopted in the BiH PA during 2017, which is the poorest result in the last 11 years during which the CCI has been monitoring authorities in BiH. It is three times worse than the results in the third year of previous mandate (2013, when 35 laws were adopted) and 5 and a half times worse than the results in the third year of the mandate before last (2009 when 62 laws were adopted).

FOR A COUNTRY WITH THE AMBITION TO GET INTEGRATED INTO THE EU ITS STATE PARLIAMENT IS PLANNING TOO SMALL NUMBER OF LAWS IN ITS ANNUAL WORK PLANS. HOWEVER, THE DEGREE OF REALIZATION OF SO MODESTLY DESIGNED PLANS REVEALS THE REASON FOR THE GROWING LAG OF BIH AFTER OTHERS. Only 8 out of 49 laws planned in the 2017 work plans of the BiH PA's Houses were adopted. It thus means that the realization of the plan for 2017 is only 16.3%, i.e. that the BiH PA had ended 2017 with 84% of unrealized legislative obligations that should have been completed in this year.

DUE TO EXCEPTIONALLY SMALL NUMBER OF ADOPTED LAW, THE PROBLEM OF UNFAVORABLE RATIO BETWEEN ADOPTED AND REJECTED LAWS HAS COME INTO THE FOREFRONT IN THE REPORTING PERIOD, MAKING THE BIH PA GLOBALLY SPECIFIC. The BiH PA is namely famous for the fact that the number of rejected laws is usually very close to the number of adopted laws, and sometimes even exceeding it. In 2017 the number of rejected laws is same as the number of laws adopted in this year – 11 (3 in HoPs and 8 in HoR).

BOTH HOUSES OF THE BIH PA HAD SERIOUS DELAYS IN ADOPTION OF THEIR ORIENTATION 2017 WORK PLANS. Both plans were adopted in March 2017 instead the end of 2016. The tradition of delay has been continued with adoption of the 2018 Work Plans.

(UNLIKE THE LAST YEAR BUDGET) THE 2018 STATE BUDGET WAS ADOPTED WITH A DELAY. Instead of being adopted by the end of 2017, the proposal of the Law on Budget of BiH Institutions and international obligations for 2018 was adopted on January 15, 2018 in the House of Representatives and on January 25, 2018 in the House of People.

THE BUDGET INSUFFICIENTLY RECOGNIZES THE NEEDS OF THE FEMALE PART OF THE POPULATION. The gender equality commission of the BiH PA House of Representatives had at the end of 2017 in cooperation with the Agency for Gender Equality of BiH and the BiH Ministry for Human Rights and Refugees, and with the support of the "UN Women" Office in BiH, organized a session to discuss "How to attain gender responsive budgeting: the role of the parliaments" at which it was stressed that the underrepresented gender was not so much or not at all included in the budget so far, and that a small portion of the funds is allocated for the new jobs for women, their education, for mothers, in vitro fertilization, construction of safe houses... Therefore it is important to conduct high quality public discussion in the budget adoption process at all levels of authority, so that the women have the opportunity to bring forward the

problems they are facing and to request budget funds for tackling these problems. The authorities in BiH must regulate the issue of gender responsive budgeting better through adoption of appropriate and adequate laws.

THERE WAS NO READINESS IN 2017 WITHIN THE BIH PA HOUSE OF REPRESENTATIVES TO CONTINUE ACTIVITIES ON DEVELOPING PRECONDITIONS FOR PREPARATION OF THE LAW ON INVESTIGATING ORIGIN OF PROPERTY OF OFFICIALS IN THE BIH INSTITUTIONS. Although the House of Peoples of the BiH PA had on April 4, 2017 adopted a conclusion on establishment of an inter-departmental working group for drafting of the abovementioned law, the proposal of the Conclusion was rejected at the continuation of 51st session of the House of Representatives of the BiH PA on September 13, 2017.

THE EUROPEAN INTEGRATION PROGRAM OF BIH STILL HAS NOT BEEN ADOPTED. After the “coordination mechanism” of the BiH’s European integration process was adopted, the key condition for final adoption of this program was put in place during 2016. The program represents a strategic i.e. a planning document for the accession of BiH to the EU that should provide an overview of all BiH obligations, dynamics of their realization, the plan for meeting the EU membership criteria, the plan for harmonization of domestic legislation with the Acquis, as well as an assessment of costs for implementation of the program.

BIH DID NOT MEET THE OBLIGATIONS FROM THE ENERGY COMMUNITY TREATY EVEN BY THE END OF 2017. BiH still hasn’t met obligations from the Energy Community Treaty that relate to adoption of the national laws on electricity and gas regulator, electricity transmission and market, and establishment of a regulatory body for the gas market at the national level. Although the Proposal of the Law on regulation of the electricity and gas was harmonized between the national and entity levels of authority in BiH, the entities, according to Janez Kopač, director of the EU Energy Community Secretariat, have been obstructing and blocking the process of adoption of this law, whereat he warned that such situation is unacceptable and unsustainable. BiH is the first member of the Energy Community that was imposed sanctions three years ago due to the failure to meet the obligations from the Energy Community Treaty.

THE TOTAL INCOMES OF THE BIH PA’S MEMBERS ARE STILL DISPROPORTIONATE TO THE SOCIAL AND ECONOMIC SITUATION IN BIH, AS WELL AS TO THE RESULTS THAT THIS INSTITUTION HAS ACHIEVED. There were no changes in salaries and total incomes of the members of both Houses of the BiH PA during 2017, which means that their total incomes range between 4.800 to 6.500 BAM.

The CCI believes that despite of the fact that some earlier benefits of the BiH parliamentarians have been significantly reduced or terminated there is still room for additional improvements, which would actually mean harmonization of their salaries with the so-called “European standard” i.e. the salaries should not exceed 3-3.5 average salaries in BiH. This would, to a certain extent, bring the salaries in line with the results of their work. Namely, they could be increased once the BiH authorities manage to ensure economic development, larger investments, new jobs and better salaries in BiH.

We would like to remind that the Proposal of the Law on amending the Law on Salaries and Remunerations in the BiH Institutions had been in the parliamentary procedure, and according to this Proposal the maximum amount of severance pay is limited to approximately 9.960 BAM (12 average salaries) instead of the current 25.000 – 30.000 BAM, but there was no readiness, i.e. necessary majority in the BiH PA House of Representatives to adopt this law.

THE TRANSPARENCY OF THE BIH PARLIAMENT CONTINUOUSLY REMAINS THE MOST POSITIVE SEGMENT OF ITS WORK. Over the past several years the BiH Parliamentary Assembly has reached a quite respectable level in terms of its transparency, which has been additionally improved with a redesign of the official website of this institution. On the other hand...

SYSTEMATIC DISCRIMINATION OF BIH CITIZENS AND VIOLATION OF THE INTERNATIONAL LAWS BY THE BIH INSTITUTIONS IS UNFORTUNATELY CONTINUING. The House of Representatives of the BiH PA

is still functioning without representatives of the “Others”, and a year before the election there are still no signs of any agreement about the way to implement the judgment of the International Court for Human Rights in Strasbourg regarding election of the BiH Presidency.

Poor functionality of the BiH authorities at the different levels, concept discordance and tediousness in harmonization of decision through the so-called “coordination mechanism” have become particularly visible during preparation of the answers to the EU Questionnaire, which hasn’t been completed and submitted in 2017 even besides numerous promises and repeatedly postponed deadlines.

The expectations of the European Commission to have the Questionnaire submitted within 6 months proved to be overly optimistic. The process that took Macedonia, Albania and Montenegro 4 months, Croatia 3 months, Serbia 2 months, BiH could not complete in 6, 9 and not even in 12 months (as the domestic authorities were voluntarily postponing deadlines), but it was done in 15 months.

Whereat, according to already seen matrix, attempts have been made to present that evident failure (having in mind the time needed to create something that represents just the basic information about the situation in the country and nothing more as an exceptional result of the current authorities and to use it for the pre-election promotion.

Something that would shame someone steady and more respectful of the public, who would feel the need to offer an apology to the citizens, if not to resign, is here being presented as the biggest success on the EU path so far.

THE BIH COUNCIL OF MINISTERS HAD IN 2017 THE LOWEST WORK INTENSITY IN THE CURRENT TERM. It held 49 sessions, which is for 22% (or 14 sessions) less than the number of sessions in the previous year. Thereat it held only 40 regular sessions, while 8 were extraordinary sessions and one session was a joint session of the BiH Council of Ministers and the Government of Republic of Croatia. Although according to the Rules of Procedure of the BiH Council of Ministers regular sessions should be held at least(!) once a week, not a single session was held in 14 out of 52 weeks of the observed period (27%).

ALTHOUGH THERE HAS BEEN A SIGNIFICANT DROP IN THE NUMBER OF HELD SESSIONS, THE PRODUCTIVITY IS JUST SLIGHTLY BELOW THE LAST YEAR'S RESULT. A total of 1467 measures were considered in 2017, which is only 20 measures below the number of measures considered in 2016.

BUT QUANTITY DOESN'T NECESSARILY IMPLY QUALITY. In the reporting period the Council of Ministers mostly dealt with different reports, information, plans and programs that make 38% of all measures considered. Decisions, approvals, conclusions, administrative decision and request make another 33%. Approximately 10% falls off on answers to MPs' questions and initiatives. But, there were very few significant measures that systematically and in the long term regulate certain areas – laws make only 2.4%, and strategies 0.3%.

THE BIGGEST PROBLEM IN THE WORK OF THE COUNCIL OF MINISTERS IN 2017 ACTUALLY LIES IN THE LOW REALIZATION OF THE MOST SIGNIFICANT MEASURES AND ACTIVITIES, ON ONE SIDE, AND IN THEIR POOR "PERMEABILITY" IN THE PARLIAMENT ON THE OTHER. Only 27 laws were determined in 2017. One third of the number relates to the set of laws on excises (Law on amending the law on excises, Law on amending the law on indirect taxation system, Law on amending the law on payments to the single account and revenue distribution) that were determined in 2017 three times in a row, only to be withdrawn by the CoMs the first time, and rejected in the House of Representatives the second time. They were finally adopted at the end of the year with the support of the parliamentary majority that was established only for that occasion and consisting of SDA, SBB, HDZ, HDZ 1990 and SNSD.

ALREADY MODEST RESULTS OF THE COUNCIL OF MINISTERS WERE ADDITIONALLY MADE SENSELESS BY THE PARLIAMENT'S ATTITUDE. Only 5 put of 27 laws determined at the Council of Ministers in 2017 were adopted in the Parliament! The same number of laws was rejected and withdrawn from the procedure, 1 was returned to be additionally processed, and five were still in the parliamentary procedure at the end of the year. Six laws determined by the Council of Ministers in 2017 were not even classified as "laws in parliamentary procedure" by the end of 2017.

CURRENT CONVOCATION OF THE BIH COUNCIL OF MINISTERS IS WORSE IN REALIZATION OF LEGISLATIVE ACTIVITIES THAN THE PREVIOUS CONVOCATIONS IN THE ADEQUATE COMPARED PERIODS. In the third year of the mandate before the last (2009) the BiH Council of Ministers determined 65 laws or 2 and a half times more than the current convocation, and the BiH CoMs in the last mandate (2013) determined 34 laws, i.e. 26% more than the current one.

THE NUMBER OF DETERMINED STRATEGIES IS ALSO AT THE LOWEST POINT IN THE CURRENT MANDATE. Only 4 strategies were determined in 2017 – two times less than in previous year. All of them – although all strategies are important for the area they "cover" – are not the ones that were expected the most. There is still no BiH Employment Strategy, Strategy on cooperation with diaspora, BiH Healthcare System Reform Strategy, Framework strategic document for energy sector development in BiH,...

THE RURAL DEVELOPMENT STRATEGY WAS FINALLY DETERMINED AND SENT INTO PARLIAMENTARY PROCEDURE IN 2017, BUT AT THE VERY BEGINNING OF 2018, AND THE FAILURE TO ADOPT THE STRATEGY HAS CAUSED LOSS OF TENS OF MILLIONS OF EUROS OF ASSISTANCE FROM PRE-ACCESSION EU FONDS FOR THE FARMERS. So BiH will not be the only country in the region that is not using pre-accession funds for their farmers, having in mind that due to non-

existence of the strategy, it had been endangering its own agricultural production and almost a fifth of the jobs that exist in the agriculture sector according to the estimates. But, it is now already a story of unreasonable policy that victimizes its citizens and easily gives up on their wellbeing, but not on their interest, conformism and budgetary benefits.

THE COUNCIL OF MINISTERS' WORK PLAN FOR 2017 WAS ADOPTED WITH ONE MONTH DELAY AND HAS BEEN AMBITIOUSLY ANNOUNCED AS A PLAN THAT REALIZES 100 DEVELOPMENT AND INVESTMENT PROJECTS AND THAT IS DEDICATED TO THE EU INTEGRATION PROCESS, MEETING OF "PARTNERSHIP FOR PEACE" OBLIGATIONS AS WELL AS TO FURTHER IMPROVEMENT OF REGIONAL AND INTERNATIONAL COOPERATION. However, worsening of the relations within the ruling coalition and beyond made this Plan a mere list of (unrealized) wishful thinking. Eight out of 42 laws planned for 2017 (19%) and 2 out of 10 planned strategies for 2017 were adopted.

THE 2017 WORK PLAN OF THE COMS ALSO ENVISAGED PASSING OF THE STRATEGY TO COMBAT DISCRIMINATION IN BIH. It is interesting that the Strategy to combat discrimination should be passed by the institutions that are discriminating – the BiH Council of Ministers is conducting gender based discrimination, and the BiH Parliamentary Assembly is discriminating against the national affiliation. Namely, the BiH Council of Ministers is violating the Law on Gender Equality that sets minimum representation of a gender at 40%, and the BiH PA is still violating the judgment of the International Court for Human Rights as there are still no place for representatives of the so-called "Others" in its House of Peoples.

THERE WAS NO SIGNIFICANT PROGRESS MADE IN REALIZATION OF THE MEASURES FROM THE ACTION PLAN OF THE REFORM AGENDA AT THE STATE LEVEL DURING 2017. Realization of the revised Action plan is implemented at much slower pace than planned. Namely, as on 31.12.2017 19 measures (56) out of 34 general measures in the Action Plan of the Reform Agenda were realized, 8 measures are being implemented, while 7 measures were not realized.

THE COUNCIL OF MINISTERS IS (ALSO) CONTINUOUSLY LATE WITH MEETING ITS OBLIGATIONS CONCERNING ADOPTION OF THE BUDGET. The BiH Council of Ministers determined the draft Budget of the institutions and international obligations for 2017 on November 3, 2016 instead of doing so by October 15 at the latest, thus disabling the BiH Presidency to meet its obligation on time. There were no improvements made with adoption of the 2018 Budget. On the contrary, the delay is even greater so that the BiH Council of Ministers determined the draft 2018 Budget on November 22 instead of doing so by October 15.

THE AGREEMENT ON COOPERATION BETWEEN THE BIH COUNCIL OF MINISTERS AND NON-GOVERNMENT ORGANIZATIONS IN BIH WAS ADOPTED AND THEN AT THE END OF NOVEMBER. The signatories to this Agreement made the commitment to dedicate their capacities to building a prosperous, fair, open, plural and democratic society in BiH. They also have confirmed their commitment to cooperation in meeting the conditions for the full membership of BiH in the European Union.

THE COUNCIL OF MINISTERS HAS SIGNIFICANTLY IMPROVED ITS ATTITUDE TOWARDS THE OBLIGATION TO PROVIDE ANSWERS TO THE MPS' QUESTIONS. The Council of Ministers had in 2017 provided answers to 351 out of 442 MPs' questions (85%), along with additional 56 answers to the MPs' question that were set in the previous years of the current BiH PA's mandate. This is the best annual result concerning delivery of the answers to the MPs' questions in the BiH PA House of Representatives over the past 11 years in which the CCI has been conducting monitoring. The situation in the House of Peoples is similar, and percentage of answered questions in 86%.

THE UPDATED DEVELOPMENT AND INVESTMENT PROGRAM OF THE BIH INSTITUTIONS FOR THE PERIOD 2018-2020 WAS ADOPTED AT THE 122ND SESSION OF THE BIH COUNCIL OF MINISTERS AS SUPPORT TO THE BIH INSTITUTIONS IN PLANNING THE INVESTMENTS AND TAKING OF HIGH QUALITY INVESTMENT DECISIONS. The Ministry of finances and treasury has updated the Public Investments Program and harmonized it with the 2018 Budget. The updated program contains information

on 277 projects for the period 2018-2020 worth one billion and 946.66 million KM. The amount of one billion and 261.48 million BAM relates to 175 projects under implementation, and 685.18 million BAM is for 102 proposed projects. The value of projects that directly contribute to the social and economic development of BiH is 938.96 million BAM.

CONCLUSION

THE CENTERS FOR CIVIL INITIATIVES insist that the changes to the electoral law, in addition to satisfying the judgment of the European Court of Human Rights and the judgments of the Constitutional Court of BiH, should be directed towards the creation of mechanisms for eliminating system blockages and the normal functioning of political life, in accordance with the standards of developed democratic societies. This implies, above all, the introduction of the possibility of calling for extraordinary elections. It is simply unacceptable for the state institutions to be held prisoners of party clashes, and the citizens held hostages and made victims of all this without being able to resolve this situation in a normal, democratic, and legal way.

Moreover,...

THE CENTERS FOR CIVIL INITIATIVES CALL TO RESPECTING OF THE RULE OF LAW PRINCIPLES.

We are living in a country in which the government institutions are not respecting the laws and the Constitution or the Constitutional Courts' decisions. There is an array of judgments of the constitutional courts that haven't been implemented at different levels of authority for years, and even decades. Those responsible for such situation bear no consequence.

The current scandal with the Criminal Code of BiH and the indolence of the authorities in this case show again that the representatives of the international community are taking more care of this country and its citizens than its politicians, who have the constitutional duty and expensively paid business obligation to do so.

Exceeding the deadlines set by the Constitutional Court and inconsistency of the solution offered by the competent ministry with the EU standards, and endangering the functioning of the judicial institutions and the possibility of prosecuting serious cases of crime and corruption, is simply to be utterly condemned and leaves us questioning what kind of interests lie in the background.

Instead of building a legal state, a portion of local politicians seems to be doing everything to prevent it from blooming and to have everything done so far destroyed.