



# The role of BiH legislature in the EU accession process: “Euro-mindedness vs. Euro-capacity of Bosnia-Herzegovina’s Parliament”?

**Svjetlana Derajić**

## “Euro-capacity” of BiH legislators

This brief attempts to present the most significant pieces of a more elaborate research that explored the capacity of the Parliamentary Assembly of Bosnia-Herzegovina (BiH PA) and its Joint Committee for European Integration (JCEI) to carry out a variety of tasks assigned to the legislators during the pre-accession negotiations with the European Union (EU). The research was supported by the Open Society Fund in BiH. It was carried out following the methodology involving interviews with officials and the staff of JCEI and the Directorate for European Integration (DEI), the analysis of the Rules of Procedures (RoP) of both PA Houses and its working bodies’, as well as the analysis of JCEI’s minutes. In addition, a comprehensive desk research was carried out with the purpose of exploring the parliamentary practices of several countries during the pre-accession negotiations with the EU.

The research analyses the following issues:

1) internal capacity - how the BiH Parliament manages EU matters; 2) integration capacity - the capacity of BiH Parliament to define national interests in cases of conflicting interests emerging from the EU matters; 3) external capacity - how can the Parliament mobilize wider support for a successful accession.

## Watershed momentum

Bosnia and Herzegovina (BiH) signed the Stabilization and Association Agreement (SAA) with the European Union (EU) on June 16<sup>th</sup> 2008, thus confirming its lasting orientation to move

towards the integration into the European Union. BiH legislators have a significant role in adjusting a number of domestic laws to the EU’s legal legacy known as the *acquis communautaire*. This complex endeavour coincides with a dramatic economic and legal transformation in BiH. It also requires an immense effort and very often implies creation of certain branches of law from scratch. A particular focus of this research is placed on the capacity of the Joint Committee for European Integration (JCEI), a standing committee of the BiH Parliament tasked with monitoring and coordination of EU-related matters. The 2007 and 2008 European Commission’s progress reports on the country’s progress in fulfilling pre-accession criteria have identified deficiencies in the capacity of both the BiH Parliament in general, and JCEI specifically. These deficiencies should be remedied in a mid-term timeframe, i.e. in three to five years’ time. While some improvements would require a complex process of constitutional changes, others are of quite technical nature and relate to the deficiencies of the institutional capacity of BiH legislature’s structure. These are in particular the following:

- inadequate technical and human resources of the Parliamentary Assembly, cumbersome parliamentary procedures; and
- Committee for European Integration largely inactive, with minimal influence in the parliament.

In the interview given to a BiH daily, *Dnevni avaz*, on 27 November 2008, the Chair of JCEI said, among other things, that the current delay in adopting the EU-related legislation would be

## Summary

The accession to the European Union is among few issues in Bosnia-Herzegovina that are subject to doubtless consensus. It is considered to be the top priority for the country’s legislature. However, effective commitment is still lacking. There is an obvious contradiction between the “Euro-mindedness” and the “Euro-capacity”<sup>1</sup> of the Bosnian State Parliament. This has been mirrored in the functioning of the Joint Committee for European Integration (JCEI), whose influence the European Commission assessed as minimal. However, a “deparliamentarization” had previously occurred in most of the current EU members, and the national parliaments developed various practices to make their role during the pre-accession process more productive. This research has explored experiences of several national parliaments, and suggested measures applicable to the work of JCEI within the existing framework for parliamentary activity in BiH.

<sup>1</sup> Agh, Attila: “The EU Accession and ECE Parliament: A Hungarian Approach”, German Policy Study, October 1, 2001.

among the main obstacles to BiH's gaining the EU candidate country status in 2010. BiH PA, namely, needs to adopt legislation related to around 1,200 EU directives. However, in 2008, only 36 such laws have been adopted.

Criticism for the legislative delay should be addressed primarily to the government, which failed to make legislative proposals. Still, the parliament is also to be criticized for not using available procedural tools to initiate and accelerate legislative work on EU matters, or to draw the public's attention to the weaknesses in the government's work.

### **Internal capacity**

BiH PA is a small parliament, even smaller than the Slovenian Parliament of 90 MPs, the capacity of which rose suspicions of whether it would be able to carry out the EU-related work during the accession negotiations. Apart from its size, the BiH Parliament lacks professional staff as well. Each Committee has one secretary only, who must act as both as a clerk and a researcher. While the BiH Parliament developed a strategic plan and a staffing plan, and secured the budget approval for payment of technical personnel, the staff planned for 2007 and 2008 are still to be hired, and no new staff will be brought on through the 2009 budget. At the same time, MPs themselves are overwhelmed with multiple committee responsibilities; several MPs serve on up to six committees. Finally, the parliamentary secretariats and committees also lack basic office space, equipment and IT skills. Space is expected to become less of a problem now for BiH PA, as most of the government ministries will be moving soon to a newly renovated building.

### **What about EU commitment of the Parliament?**

As has been the case with most European parliaments, BiH PA formed a standing committee to be in charge of EU matters specifically, i.e. the Joint Committee for European Integration (JCEI). JCEI is a joint, standing committee of both BiH PA houses, consisting of twelve members. The composition of this Committee includes all parties represented in BiH PA,

roughly in the same proportion as the distribution of seats in PA. Beside EU matters, JCEI also deliberates over issues related to the country's membership of the Council of Europe. It seems that the Council of Europe matters put additional burden onto JCEI, which has insufficient technical and personal capacity to deal with EU matters alone. The Committee holds one session per month, on average. Most of JCEI members do not speak foreign languages, which is an additional deficiency to the modest staffing and resources available. The engagement of external experts has been considered, but no concrete action was taken so far in this direction. A part of the reason for this lies in the fact that the distribution of BiH Parliament's budget is based on the size of parliamentary groups, not on the pursuit of key strategic priorities.

Most of JCEI members are not high-ranking politicians. The overall political weight is not of minor importance under the BiH circumstances, where much of the institutionalization job is still to be done. In the absence of proper institutions, politically driven initiatives can temporarily fill the gaps. The fact that parties delegate light-weight politicians to the JCEI indicates that the main political players do not consider this committee important.

### **European Union's Parliamentary Standards**

There is no blueprint for functioning and structuring of parliamentary work in the EU accession process. National parliaments of EU member states have obtained various prerogatives as regards to European affairs: from the right to be informed of EU draft legislation, to the right to give more or less binding opinions. Most often, the role of parliaments in European affairs was regulated by national constitution acts, which highlights the importance attached to these matters, at least at a symbolic level. This has not been the case in BiH so far and is not likely to happen without considerable political turmoil.

The accession process requires rapid transposition of a huge number of Community directives and regulations into national law. All candidate countries have introduced some kind of fast-track procedure for getting the EU legislation through parliaments.



### Comparative review of parliamentary practices related to EU matters

The research has explored parliamentary practices in countries which joined the EU in 2004 and 2007, such as Poland, Slovenia, Hungary and Bulgaria, but also included experiences of several older EU members for purposes of presentation of practices of more advanced parliamentary democracies, such as Austria, Sweden, Finland, and the group of southern European countries, such as Spain, Portugal and Greece. A particular focus of the comparative review is placed on functioning of parliamentary committees for European Affairs (EACs) and those good parliamentary practices applicable to BiH JCEI. The full version of the policy study provides a comprehensive and detailed comparative analysis of parliamentary practices in ten EU member states. For purposes of this brief, only the main characteristics of parliamentary work related to EU matters are given in the following table:

### Recommendations: Incremental rather than groundbreaking improvements

BiH PA and JCEI should look for incremental improvements to overcome the institutional deficit.

This research proposes the following prioritization of improvements to be considered in the work of BiH PA and JCEI:

**1. BiH PA should introduce a fast-track procedure for handling EU-related bills as has been done in all national parliaments of EU countries.**

The current Rules of Procedures contain provisions regulating the shortened procedure, which still allows amendments, and the urgent procedure, which excludes the possibility of amendments. The urgent procedure is applicable to non-negotiable EU matters, while the shortened procedure will be more applicable to negotiable EU matters. This way, the speed of EU legislation adoption could be doubled in relation to the regular scrutiny timeframe.

**2. The Council of Europe (CoE) matters should be excluded from the competences of JCEI.**

The CoE issues place additional burden on JCEI. A clearer division of work and relieving JCEI of CoE issues would be achieved if the whole scope of CoE issues were to be assigned to the Committee for Foreign Affairs.

**3. JCEI should conduct public hearings on EU matters with ministries and civil society organisations, as has been done by the Portuguese and Slovenian parliaments.**

Factor	Country									
	Poland	Hungary	Bulgaria	Slovenia	Austria	Finland	Sweden	Spain	Greece	Portugal
1. the constitution act regulates relationship between the executive and legislature in terms of EU matters;	√	√	√	√	√	√	√			
2. EU bills have first reading in sectoral committees;	√	√		√	√	√	√			
3. parliament used resolutions to strengthened political pressure on the government;	√			√						√
4. parliament holds regular hearings on EU matters;		√		√	√	√	√	√		√
5. political parties proportionally represented in the EU committee;	√	√	√	√	√	√	√	√	√	√
6. political leaders involved through a Grand Committee for EU matters;		√			√	√				
7. parliament has a formal path for communication with civil society;				√						√
8. fast-track procedure	√	√	√	√	√	√	√	√	√	√



### Svietlana Derajić

graduated at the Law Faculty in Sarajevo and did her MA in European Studies through the joint MA program of the University of Bologna and the University of Sarajevo. Since 1995 she was deployed with a number of democracy and social development programs implemented in Bosnia-Herzegovina by international organizations. She also was engaged on evaluation of some EU-funded programs. Since 2003 she is with the USAID Mission to BiH, the Democracy Office. From 1995 through 2002 she was the member of the Municipal Council of the Center of Sarajevo and the member of the Council of the City of Sarajevo

This is the way to strengthen knowledge on EU matters of JCEI members and staff, as well as to familiarize the wider broader public with the level of effort that needs to be invested in the accession process. This is a low-cost effort, as civil servants from ministries will help preparation of hearings. In addition, some civil society organisations are skilful in organising public hearings and they can cooperate with JCEI when appropriate.

#### **4. JCEI's staff training plan should be developed on annual basis.**

It is of crucial importance to allow professional development of JCEI staff in order to ensure institutional memory regardless of knowledge and expertise of JCEI members. This is a longer-term and costly approach.

#### **5. Commissioning of external experts to provide substantive analysis on EU related issues is needed wherever such expertise is missing in-house.**

Although a relatively costly effort, several options should be assessed. Cooperation with the academic community, as has been done by the Portuguese Parliament, could be considered. In order to systematize external resources, JCEI should propose forming of a parliament-owned database of relevant experts and civil society organisations in the field of EU matters. There are already solid IT resources available in the parliament, which implies that creation of such a database should not represent a significant additional budgetary burden.

#### **6. JCEI should use resolutions and interpellations as incentive tools to intensify parliamentary scrutiny of EU matters.**

These parliamentary tools will make the role of BiH PA in the EU accession process more visible, and help raising of public awareness of the overall EU accession process. These activities do not require additional resources.

#### **7. JCEI should have the support of the whole BiH PA and should be complemented with a high-level committee, as has been the case in Austria, Hungary and Finland.**

Such a body, or involvement of political leaders in dealing with EU matters, will facilitate political compromise and increase accountability. JCEI should propose formation of the new com-

mittee through a resolution or an interpellation with the aim of initiating substantive plenary discussion that would result in such a deci-

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