



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

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¹ The SAA governs relations between BiH and the EU under the three pillars of the Union - the European Community, Economic Policies and the Common Market; the Common Foreign and Security Policy; and Justice and Home Affairs. The agreement consists of ten chapters, which include the general principles, political dialogue, regional co-operation, free movement of commodities and labor, and harmonization of legislation. By signing the SAA, BiH is also opening its trade market - reducing or lifting customs duties on specific product groups envisioned by the agreement. Abolition of customs duties is expected soon for raw materials from the EU that BiH needs, as well as for other products that BiH has no opportunity to further develop. The SAA will significantly change local business conditions. The state will collect less revenue from customs duties, but the economy is supposed to benefit from the decrease of major costs related to import duties. Some agricultural products will retain the highest degree of protection, and some will enjoy protection even after the six-year transitional period expires.

² See the European Council's Decision on principles, priorities and conditions of the European Union and Bosnia and Herzegovina Partnership, COM (2007) 657, November 2007 at <http://www.eusrbih.eu/policy-docs/commission-docs/1/?cid=2124,1,1>. Within the framework of the Stabilization and Association Process (SAP), the EU has set up European Partnerships with countries of the Western Balkans, including BiH. The aim of these Partnerships is to prepare the countries for greater integration into the EU. The EU decided to apply to these countries the same methodology as that applied on the new Member States that joined in 2004. See at <http://www.eusrbih.eu/policy-docs/commission-docs/1/?cid=2124,1,1>, and for Bosnia and Herzegovina 2007 Progress Report http://www.eusrbih.eu/policy-docs/pdf/2007_nov_6-bih_progress_reports_en.pdf.

³ A survey by the Office of the High Representative suggests that "85% of BiH citizens want the European future, which is a huge support for the European process and a very strong message for all political leaders in Bosnia and Herzegovina," the High Representative, Lajcak said before the signing of the SAA between BiH and the EU. See at www.reciba.ba/usr/106/scr/pregled.php?d_id=19.

⁴ See, for instance, the EU pre-accession experience of the Slovenian Parliament in Zajc, Drago: "Uloga slovenskog parlamenta u procesu tranzicije, prilagodjavanja zakonodavstva i uclanjivanja u EU", *Politička misao*, Vol. XLII, 2005, br. 1, str. 111-132 (Zajc, Drago: "The Role of Slovenian Parliament in the Transition Process, Harmonisation of Legislation and Membership in the EU" (translation of the article title provided by the researcher).

Introduction

Bosnia and Herzegovina (BiH) signed the Stabilization and Association Agreement (SAA) with the European Union (EU) on June 16th 2008, thus confirming its lasting orientation to move towards integration into the European Union (EU). The accession process to the EU (EU accession) requires from a country to fulfil a number of criteria, and the pre-accession conditions have been defined by the Stabilization and Association Agreement (SAA)¹ and the supplementary document of the EU Partnership with BiH.²

The EU accession is among few questions in Bosnia and Herzegovina's (BiH) public life on which consensus, both in politics and general public, has never been doubted.³ At the same time, it is hard to recognize the existence of a real commitment, understanding and interpretation of the accession process. Consequently, the capacity of BiH institutions to deal with EU accession requirements remains weak and poorly coordinated.

The EU accession process is quite challenging for a country, imposing a number of legislative adjustments to the EU legal legacy known as the *acquis communautaire*. There are thousands of directives and regulations that should be incorporated into domestic legislation within a certain timeframe, which puts additional burden on domestic decision-making bodies.

BiH legislators, among other players involved, have a significant role in the EU accession process. The main portion of EU accession tasks are placed under the competences of the BiH's state-level Parliamentary Assembly (BiH PA), but the legislative process also implies a coordination of legislative work with the sub-national level of decision-making, i.e. with the entity parliaments in BiH, which hold important legislative powers. Like in other acceding countries, the success of BiH legislatures' work will depend on their ability to assess realistically the EU accession benefits, and their ability to define and represent the country's interests during the accession negotiations.⁴

A particular emphasis in this research is placed on the capacity of the Joint Committee for European Integration (JCEI), the standing committee in charge of monitoring and coordinating the EU-related matters in BiH PA.⁵ Although JCEI was established a couple years ago, its overall functioning has appeared to be ineffective so far. In fact, the capacity of BiH legislators, and JCEI in particular, is being assessed annually by the European Commission in the country progress reports. The 2007 report provided a list of deficiencies recognized in the work of BiH PA in general, and deficiencies in the work of JCEI in particular. Although the 2008 report confirms certain improvements, a lot remains to be done to ensure more efficient and effective functioning of BiH legislators when dealing with EU matters.

This research starts from a hypothesis that BiH PA in general, and its JCEI specifically, do not have sufficient capacity to meet the EU requirements assigned to them. Many technical and political obstacles are reflected on the BiH parliamentary body, and this occurs almost on daily basis. These obstacles cannot be overcome by efforts of JCEI alone, and a higher level of political consensus is needed to eliminate such obstacles.

I Statement of Intent

The aim of this policy research is to explore whether the capacity of BiH legislature is sufficient to fulfil its share of responsibility in the EU accession process. The research



specifically analyses the deficiencies, and causes of deficiencies identified in the work of JCEI. The research also explores insufficiencies in the general capacity of BiH PA, which generate delays in decision-making procedures wherever such delays hamper the decision-making on EU-related matters. The purpose of the analysis is to point out those bottlenecks in the functioning of BiH PA and JCEI that can be overcome without a necessity to change the constitutional arrangements of the country. Albeit changes of the country's Constitution, the capacity of BiH legislature cannot be improved with the constitutional changes *per se*. Even if the Constitution were changed, it would take time for the changes to be transferred into daily practice.

II Methodology

This research paper has analysed provisions of the Rules of Procedures of BiH PA and JCEI in order to assess the position of the parliament and JCEI in the entire decision-making mechanism related to EU matters. The research also included interviews with senior officials of JCEI, professional staff of this committee and professional staff of the Directorate for European Integration (DEI).⁶ A comprehensive desk research was conducted with the aim of presentation of experiences and practices developed in several national parliaments during the EU pre-accession negotiations, such as the parliaments of Slovenia, Hungary, Poland, Bulgaria and Croatia, as well as parliamentary practices developed in a couple of older EU member states, which had nurtured a more matured parliamentary practice when starting the EU negotiations, such as Austria, Finland, Sweden, Spain, Portugal and Greece. The research will propose a series of measures that can be introduced into the parliamentary practice of BiH with the aim of strengthening the position of parliaments as the loci of policy formulation and decision-making.

This research does not provide an in-depth analysis of political issues in BiH, which have had considerable reflections on work of the parliament, but focuses on the technical capacity of legislators, starting from the presumption that the country's orientation towards the EU is an indisputable fact. Therefore, all recommendations aim to propose solutions within the existing framework of parliamentary activity, rather than to suggest more perfect solutions that would end up being inapplicable in the BiH context, and non-workable within the limits of the existing parliamentary capacity.

III Roadmap of the paper

The research provides an assessment of the capacity of BiH PA and JCEI to carry out tasks imposed by pre-accession arrangements with the EU. Furthermore, the research looks at the practices deployed in parliaments of several other countries in order to identify possible options for improvements of BiH legislators' capacity applicable in short-term and mid-term contexts. The research focuses on parliamentary practices in the pre-accession period, not covering the legislators' practices after countries get the full EU membership status. There is still a long way ahead of BiH, and the post-accession experiences would not be applicable in the short term. Finally, this research, in its major part, seeks to offer some workable and realistic options for more efficient work of BiH legislators within the existing constitutional set-up, and to propose improvements in the oversight function of JCEI in EU-related matters.

⁵ The Joint Committee for European Integration considers issues from the perspective of: general issues related to EU integration, monitoring the implementation of BiH's rights and obligations arising from international treaties in view of the CoE membership; coordinating work of working bodies related to EU integration and submitting opinions, recommendations and warnings to these bodies; analyzing impact of the integration strategy for BiH and drafting comprehensive reports; supervising drafting of feasibility studies and monitoring the implementation of pre-accession (Stabilisation and Association Agreement) and accession strategies of BiH; supervising harmonization of BiH legislation with the *acquis communautaire* (applicable EU legislation); cooperation with institutions of BiH (particularly with the BiH Directorate for EU Integration), institutions of the EU and other countries on matters related to integration; organizing public opinion debates on integration issues; collecting, archiving and systematic presentation of information by the Committee members regarding the EU; supervising the use of funds allocated by the EU; and also considers other issues related to the EU integration. (*elaborated in the Rules of Procedure of the PA BiH Houses*). See at <http://www.parlament.ba/index2.php?opcija=sadrzaj&id=22&jezik=e>.

⁶ The Directorate for European Integration (DEI) is a body of the BiH Government (the Council of Ministers). DEI is, among other tasks, obliged to provide expertise and justification concerning draft legislation and the need for its harmonization with the *acquis* and determine to what extent harmonisation would be required. DEI maintains very frequent contacts with JCEI and has delivered training and conducted information sessions on EU-related matters for JCEI members on several occasions.

Problem description

I Background/causes of the problem

In the EU accession negotiations, BiH legislatures will discuss and adopt legislation required for harmonization with the *acquis communautaire*, but will also have to ensure that the laws they pass are beneficial for the people of BiH. However, the BiH parliamentary bodies are not the sovereign and autonomous loci of political decision-making and are consequently relatively weak and ineffective institutions in BiH. The development of BiH political institutions has been and will continue to be stunted by limited autonomy, authority, and capacity of these institutions. Due to the fact that both the executive and legislative functions of the country are heavily influenced by, and often subject to the direction of the OHR,⁷ parliamentarians see less importance, and are thus less active and responsible in carrying out their own governance functions. As a result, public participation and representation in government decision-making, the essence of a representative democracy, are the critical missing elements in BiH's democratic system.

The current state of affairs is not likely to improve automatically as the country steps further onto the EU accession path after signing the SAA. Quite the contrary, as many scholars and political practitioners keep warning, the EU accession has had a "deparliamentarisation" impact on EU member states.⁸ This issue is of even greater importance for the development of democracy in BiH.

Another constraining factor is that of ethno-nationalism, which continues to permeate politics, fragment the political spectrum, mute policy discussion, and complicate institutional design and operation of political structures.

Notwithstanding these constraints, it is inevitable that there will be a transition of power and authority from the OHR and/or the international community to the local political institutions. It is unclear, however, when this will occur, either formally or informally.⁹ However, the need for strengthening of legislative institutions, primarily those of the BiH state level parliament, in order for them to become more crucial players in legislative and policy decision-making processes, will be critical for preparing the institutions to fully carry out their roles and functions through the entire process of EU accession negotiations, as well as in the development of democracy in the country in general.

II Technical facts on the Parliamentary Assembly of Bosnia and Herzegovina

BiH PA is a small parliament. It is even smaller than the Slovenian Parliament of 90 MPs, which is the smallest parliament in the EU, and the capacity of which rose suspicions of whether it would be sufficient to carry out the EU-related work during the accession negotiations.¹⁰ Apart from its size, BiH PA lacks professional staff as well. There are too few professional staff to even begin addressing many committee needs, much less support individual MPs and caucuses. Committees lack staff, each having one secretary only, who must act both as clerks and researchers. There have been recent efforts in BiH PA that have at least helped to establish core specialized staff, more specifically, a drafting office and a Research Centre. While BiH PA developed a strategic plan, as well as a staffing plan, and secured a budget approval to pay the technical personnel, the staff planned for the years 2007 and 2008 are still to be hired, and

⁷ Elaborating on the Annex 10 of the Dayton Peace Agreement, the Peace Implementation Council at its session of December 10, 1997, requested the High Representative to remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws as he sees fit if Bosnia and Herzegovina's legislative bodies fail to do so. This legislative power has not been abolished since 1997. See at http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38612.

⁸ This paper refers to analyses of the process of decommissioning of national parliaments in the process of EU integration. One of these is Duina, Francesco and Oliver, Michael J.: "National Parliaments in the European Union: Are There Any Benefits to Integration?", *European Law Journal*, March 2005, Vol 11 No. 2, pp. 173-195.

⁹ In June 2008, the Peace Implementation Council (PIC) Steering Board agreed to postpone the closure of the Office of the High Representative until BiH meets the objectives and conditions defined earlier by the PIC. See the June 2008 Communiqué of the PIC Steering Board at www.ohr.int/pic/default.asp?content_id=41874.

¹⁰ The BiH State Parliament consists of 42 directly elected MPs in the House of Representatives, i.e. the lower house, while the upper house, i.e. the House of People consists of 15 MPs delegated from the two entity parliaments. See also the information about the Slovenian Parliament and its role in the EU accession process in Vehar, Primož: "The National Assembly of the Republic of Slovenia and EU affairs before and after accession", in O'Brennan, John and Raunio, Tapio edited: "National Parliaments within the Enlarged European Union – From 'victims' of integration to competitive actors?", Routledge, 2007, pp. 241-254.



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 sit 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 ministries, which have shared the building with BiH PA, will be moving soon to a newly-renovated building.

Legislative procedures do not open much room for proper debate and oversight. In BiH PA, the stipulated timeframe for passing of legislation is minimum two months,¹¹ yet many bills are sent late or addressed through the urgent procedure,¹² which eliminates even the possibility of amending of draft bills. The lack of a well-staffed and trained Legal Department (LGD) means that draft laws are not analysed properly before being passed on to the PA committees.

III The BiH PA capacity to deal with EU matters

The 2007 and the 2008 European Commission's progress reports on the country's progress in fulfilling pre-accession criteria have identified deficiencies in the capacity of BiH legislatures, and lacking capacities of JCEI. It is required that these deficiencies be corrected in a mid-term timeframe, i.e. in three to five years' time.¹³ The accession negotiations can be cancelled if the country fails to fulfil the EU Partnership requirements.¹⁴ While some of the identified deficiencies could be improved only through a complex process of constitutional changes, others are of quite technical nature and are related to the institutional capacity of the BiH legislative structure. These are, in particular, the following deficiencies:

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

More specifically, BiH has experienced a years' long delay, failing to adopt around forty laws required by the EU Partnership. These pending laws are inevitable preconditions for the country to take further steps on its path towards the EU integration. The current delay in legislation adoption is seen to be among the main obstacles to the country's gaining the EU candidate country status in 2010.¹⁵ Namely, BiH PA needs to adopt legislation related to around 1,200 EU directives.¹⁶ However, in 2008, only 36 such laws were adopted. Although criticism for the delay should be addressed to the government, which has failed to make legislative proposals, the parliament is also to be criticized for not using the available procedural tools to initiate and accelerate legislative work on EU matters, or to alarm the public about weaknesses of the government's work.

IV Capacity of the Joint Committee for European Integration (JCEI)

JCEI was constituted with its current mandate in early 2007, after the 2006 General Elections had brought a new government in BiH. JCEI was formed as a standing committee consisting of twelve members of both BiH PA houses.¹⁷ The composition of this Committee includes all parties represented in BiH PA, roughly in the same proportion.

Apart from EU matters, JCEI is entitled to deal with issues related to the country's membership of the Council of Europe. At the same time, there is another standing committee in charge of

¹¹ Rules of Procedures, Art. 103 to Art. 125, at http://www.parlament.ba/files/user/docs/vazniji_propisi/Poslovnik_PD_-_H.pdf.

¹² Ibid, Art. 127.

¹³ The 2007 Progress Report on the EU and BiH Partnership recognizes that functioning of the BiH Parliamentary Assembly suffers from the following deficiencies:

- hampered by the intransigent and ethnically oriented position of the country's political leaders;
- slow parliamentary activities;
- infrequent meetings of the House of Representatives and the House of Peoples;
- Committee work affected by inter-ethnic divergences;
- Committee for European Integration largely inactive, with minimal influence in the parliament;
- slow input from the Council of Ministers;
- rotating chairmanship of the Parliamentary Assembly hinders efficiency;
- Members of Parliament vote along the ethnic lines and remain highly influenced by pressure groups pursuing individual interests;
- inadequate technical and human resources of the Parliamentary Assembly, cumbersome parliamentary procedures;
- no coordination of legislative agendas between the State and Entity parliaments.

¹⁴ The European Commission can halt the negotiations at any time if it becomes apparent that the formal fulfilment of the requirements set is not reflected adequately in the de facto implementation. See Ramljak, Daria: "Signing the SAA", BiH Directorate for European Integration Newsletter No. 4, November 2006 at www.dei.gov.ba.

¹⁵ Interview with the Chair of JCEI published on 27 November 2008 in the BiH Dnevnik avaz daily.

¹⁶ Directives are the EU legal instruments that are addressed to the Member States, committing them to pursuit of a particular objective. The way in which the objective is to be achieved in practice is left to the discretion of each member state. The member states are required to transpose directives in a sufficiently unambiguous and transparent manner by means of binding measures.

¹⁷ BiH PA Rules of Procedures, Art. 47 to 52, General provisions on joint committees, and the provision of Art. 57. listing competences of JCEI at http://www.parlament.ba/files/user/docs/vazniji_propisi/Poslovnik_PD_-_H.pdf.

international affairs, which is entitled to observe the country's membership of the Council of Europe, *inter alia*. It seems that the Council of Europe issues put additional burden on JCEI, which has insufficient technical and staffing capacity to deal with EU matters alone.

JCEI has established cooperation with several parliaments of EU member states, as well as with parliaments of some neighbouring countries. The committee also serves as a focal point for contacts with the European Parliament (EP) and holds annual meetings with EP members. The research capacity of PA is pretty modest, and it is therefore hard to expect policy analysis services to be provided to JCEI in an adequate manner. These needs are being partly met through training delivered by several international organisations to JCEI members. However, these trainings have not been institutionalised and the effectiveness is difficult to assess. JCEI members complain of duplication and overlapping in time and topics of the training programs. The Committee has considered recruitment of external experts, but no concrete action was taken so far in this direction.

JCEI has not taken any concrete action yet to establish cooperation and coordination with the entity parliaments. One reason for this is the fact that only one entity parliament has so far formed its own committee for European Integration, while the other is expected to form it in 2009.

The main characteristics of current JCEI capacities are the following:

- still waiting to be moved into more suitable premises;
- two civil servants work for this Committee. These are more administrative service providers, rather than substantial analysis providers. There is a lack of "institutional memory", which would prevent occurring gaps after each elections and formation of the Committee with newly elected members. The staffing plan foresees one more civil servant position that has not been filled yet due to the lengthy hiring procedures conducted by the Civil Service Agency. In addition, one more position has been foreseen, but it is not certain when the recruitment would in fact take place;
- there is no special budget incentive for JCEI, because the distribution of the BiH PA budget is based only on the size of parliamentary groups, not on the pursuit of key strategic priorities;
- satisfactory cooperation with the Directorate for European Integration (DEI). DEI provides expert and binding opinions for each piece of legislation, concerning necessity of harmonization with the *acquis*;
- The BiH PA library is a satisfactory resource although improvements are desirable. In addition, there are electronically accessible databases to help provision of substantive analysis necessary for the work of JCEI. Only one PC is available for the staff.
- policy analysis training for staff is needed;
- Most of JCEI members are not high-ranking politicians, and most of them do not have influential political positions in their respective political parties. 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 in place, politically driven initiatives can temporarily fill the gaps. The fact that parties delegate light-weight politicians to JCEI shows that the main political players do not consider this committee important.



Policy Options

I European Union's Parliamentary Standards

There is no blueprint for functioning and structuring of parliamentary work in the EU accession process. Specific sets of criteria are normally set for each country in the Partnership documents and the SAA. On the candidate's side, the benefits of joining provide a strong incentive to meet the requirements, even in cases where these demands conflict with other priorities. The parliaments in EU member states are driven by considerably different requirements and they work in different environments. National parliaments of EU member states have obtained various prerogatives as regards the European affairs: from the right to be informed of EU draft legislation, to the right to give more or less binding opinions.¹⁸

Most often, the provisions on the role of parliament in the European affairs were included in 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 structure of the accession process assigns the central role to the national government. The negotiating process and the tasks to meet the membership conditions primarily involve the executive, with a much lesser role for other branches of government. In all cases, the executive has privilege over the legislature in terms of political attention and allocation of resources, both human and financial. As in BiH, in most EU candidate countries the governments were mainly responsible for preparation of approximation bills and adoption and evaluation of legislation, while the parliaments served as vehicles for adoption of acts transposing EU legislation. Yet scholars working on democratization have tended to assume that the EU has vigorously encouraged the development of democracy by pressing applicants into implementing democratic human rights regimes and open political systems. This paper suggests that although the EU has enormous potential influence, caution is needed in assuming the extent to which the EU has shaped governance overall.¹⁹ 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. 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 a fast-track procedure for getting the EU legislation through parliaments. This technocratic approach assumes very limited parliamentary involvement in the accession process beyond the formal structures.

Most parliaments have established European Affairs Committees (EACs) devoted to the sifting and/or scrutiny of EU draft legislation. However, in some of older EU member states, the EU-related matters were assigned to the already existing committees in charge of foreign affairs, as the EU matters were treated as foreign politics.

II Comparative review of parliamentary scrutiny of EU matters

In this chapter, the research provides an overview of parliamentary practices developed during the EU accession in several EU member states. The analysis explores parliamentary practices in countries which joined the EU in 2004 and 2007, such as Poland, Slovenia, Hungary and Bulgaria, but also includes experiences of several older EU members in order to introduce

¹⁸ See, for instance, Wehner, Joachim: "Budget reform and legislative control in Sweden", *Journal of European Policy*, 14:2 March 2007, pp. 313-332. Scandinavian countries, Sweden, Finland and Denmark have designated significant competences to their national parliaments during the EU accession negotiations. The Danish Parliament has had even a stronger role, as the Danish Government remains strictly bound to the Parliament's positions taken in certain stages of the EU accession. See also in Zajc, Drago: "Uloga slovenskog parlamenta u procesu tranzicije, prilagodjavanja zakonodavstva i uclanjivanja u EU", *Politička misao*, Vol. XLII, 2005, br. 1, str. 124, concerning the models of parliamentary powers considered for application in the Slovenian Parliament during the EU accession.

¹⁹ Grabbe, Heather: "How does Europeanization affect CEE governance? Conditionality, diffusion and diversity", *Journal of European Public Policy* 8: 6 December: 1013-1031.

²⁰ See in Magone, Jose: "South European national parliaments and the European Union: an inconsistent reactive revival", in O'Brennan, John and Raunio, Tapio edited: "National Parliaments within the Enlarged European Union – From "victims" of integration to competitive actors?", Routledge, 2007, pp. 116-131.

²¹ See in Magone, Jose: "South European national parliaments and the European Union, An inconsistent reactive revival", in O'Brennan, John and Raunio, Tapio: "National Parliaments within the Enlarged European Union – From victims of integration to competitive actors?" Routledge, 2007, pp. 116-131.

practices of more advanced parliamentary democracies, such as Austria, Sweden, Finland, and the group of southern European countries, such as Spain, Portugal and Greece. The legislators' experience in the last three countries mentioned is interesting for review, as the transition to democracy took place in these countries in the mid-1970s, and was going in conjunction with the EU accession. However, this does not mean that these three parliaments have not developed some working techniques and instruments to make governments more accountable.²⁰ The three parliaments have been characterized as slow adaptors to the EU multi-level governance system. As in BiH, the EACs in these parliaments were, in many ways, constrained by resources. Their powers have been mainly soft and post-facto.²¹

A particular focus of this comparative review is placed on functioning of EACs and those parliamentary practices applicable to BiH JCEI. The main characteristics of parliamentary work related to EU matters are given in the following table:

Country	Main characteristics of parliamentary work on EU matters
Poland	<ul style="list-style-type: none"> EACs formed in both houses of parliament; appointments not expertise-driven, but rather a «sort of reward» for leaders of political parties; EU bills have their first reading in sectoral committees; parliament used resolutions to strengthen political pressure on the government.
Hungary	<ul style="list-style-type: none"> EAC formed a decade prior to joining the EU; the government had to present a report annually on integration policy to the legislature; in 2002, the Grand Committee was formed; EAC is headed by the chief lawyer, and staff consist of five legal advisors, a coordinator and two secretaries, altogether 11 people; the EU section of the Library had six librarians, two researchers and one lawyer working on EU matters, i.e. 9 people; the parliament's EU Department has six advisors and one secretary; in 1997, all parliamentary committees were invited to establish their own EU integration sub-committees, but many of them existed only on paper.
Slovenia	<ul style="list-style-type: none"> the constitution act regulates relationship between the executive and the legislature in terms of EU matters; intensive use of resolutions to strengthen political pressure on the government; Committee for Foreign Affairs and the Commission for European Affairs confirm officially all governmental negotiating positions; standing parliamentary committees deliberate on EU matters prior to the engagement by the EAC; in 2002, the Parliament established a formal path for communication with civil society, i.e. the Fora for future Europe.
Bulgaria	<ul style="list-style-type: none"> EAC formed in 1995; composition of EAC reflects the distribution of seats between the parties in the parliament; did not develop a training plan for staff, only sporadic introduction for MPs to the best practices occurred; main non-legislative activities included participation in the EU parliamentary network, formal presentations, and protocol meetings with representatives of EU institutions or other member states.
Austria	<ul style="list-style-type: none"> two committees for European affairs, the EU Main Committee and a specialized Standing Sub-Committee. Both can pass binding opinions; composition of the EU Main Committee changes according to competences of members for certain matters; the upper house can form an additional committee of five members: the chairman of the Standing Sub-Committee and one representative of each parliamentary group; the lower house of the Austrian Parliament has its own committee for European affairs whose opinions are not binding.
Finland	<ul style="list-style-type: none"> the Constitution requires from the government to furnish the parliament with information regarding preparation of EU affairs; the Grand Committee acts as the EU affairs committee of the parliament; the Grand Committee has 25 members and 13 substitute members of which several are prominent MPs; «U» matters are the EU Directives, and «E» matters are the EU Green and White Papers. The fast-track procedure adopted for «U» matters; structural committees discuss the subject, and are obliged to deliver their opinion to the Grand Committee.
Sweden	<ul style="list-style-type: none"> Riksdag powers in EU matters enshrined in the Riksdag Act, whose legal status is somewhere between the boundaries of a regular law and the constitution; the government is obliged to keep Riksdag continuously informed of developments in the EU and account for its actions in the EU; the government is obliged to confer with the EU committee regarding the conduct of negotiations prior to decisions that the government deems as being of significance, and on other matters that the EU committee determines; all 16 standing committees monitor EU activities within their respective areas; EAC is composed of 17 members and 30 deputies, whereas in practical political processes there is no difference between the members and deputies; political parties proportionally represented; EAC members are, in the same time, members of other structural committees.



Spain	<ul style="list-style-type: none"> • EAC established in 1985 on the eve of full accession to the EC; • constrained by resources in many ways; • holds regular hearings with members of the government; • very active in organizing hearings with civil society; • had around 30 members representing all parties according to their respective strength in parliament • was a Joint Committee with members from both houses of the parliament; • non-legislative committee, providing non-binding opinions on different EU legislative acts; • meeting once a month on average.
Greece	<ul style="list-style-type: none"> • EAC established in 1990; • committee consists of 31 members, of whom 16 are MPs and 15 are MEPs; • the committee's work tends to focus on hearings of government ministries dealing with EU issues; • the committee shares human and material resources with other committees.
Portugal	<ul style="list-style-type: none"> • the EAC engaged universities to make assessments on the Treaties, which were then posted on the Internet for public usage.

Similarly to BiH, the accession negotiations in the countries joining the EU in the 2004 and 2007 waves, as well as Spain, Portugal and Greece, started and continued without any specific parliamentary authorization or mandate.²² Most often, MP's loyalty to the government turned out to be stronger than their commitment to enhancing the parliament's role in European affairs. As a result, considerable exchange of opinions among political players was party-based, i.e. took place outside the legislature.

While the group of countries joining the EU in 2004 usually formed EACs in their national parliaments years prior to gaining the membership, the older EU members formed such parliamentary bodies on the eve of getting full membership or even after becoming the fully-fledged member states, as was the case with the Greek Parliament. In several candidate countries, such as Hungary, Austria, and Finland, in addition to forming EACs, the parliaments formed special committees composed of political groups' leaders. These committees acted as effective fora for making political compromises, when the governments needed consensus of the opposition. This option is considered to be applicable in the context of BiH parliamentary practice. The existence of a high-level political committee would have potential to generate high-level discussion on EU matters and increase the responsibility of key political players for the entire EU accession process.

The composition of EAC also matters. It has been demonstrated as an advantage if EAC's members were fluent in foreign languages. BiH JCEI currently lacks such capacity, as only few of its members are fluent in foreign languages, most notably English and French. Those who speak foreign languages and have expertise in EU matters are even rarer. Similarly to other acceding countries', it seems to be more difficult to overcome the lack of know-how than institutional deficits, i.e. the lack of professionalism and expertise in the European policy field. Policy expertise is an essential prerequisite for greater leverage. However, this deficiency is not likely to be amended soon, at least not before the next elections, but engagement of external experts can help in remedying of this deficiency.

Although the oversight power varies among the reviewed parliaments, in all cases the EAC's scrutiny was only politically, not legally binding, meaning the executive did not need the approval of the parliament to take a position regarding an EU issue. In Slovenia, Austria, Sweden and Finland, in addition to the regular scrutiny process, parliamentary instruments such as interpellations, resolutions and ultimately, the vote of no confidence, were frequently used, or strongly signaled. The BiH PA rules contain provisions regulating resolutions and interpella-

²² Gyori, Eniko: "The role of the Hungarian National Assembly in EU policy-making after accession to the Union: a mute witness or a true controller?" in O'Brennan, John and Raunio, Tapio edited: "National Parliaments within the Enlarged European Union - From "victims" of integration to competitive actors?", Routledge, 2007, pp. 220-240.

tions, but this institution has not used any of these so far.²³ If these parliamentary tools were used more often, the BiH PA would be in the position to increase its own visibility and help raising of public awareness of the overall EU accession process. These activities do not require additional resources.

²³ There was an initiative proposing adoption of a resolution in BiH PA to speed up work related to EU matters in the Parliament. This initiative was proposed by an opposition parliamentary caucus and aimed to get more room for engagement of external experts who would provide lacking expertise. This initiative was considered by JCEI in February 2008, and although the committee did not reject the initiative, the consideration was subject to strictly procedural, not substantial reasoning. JCEI ultimately found the proposal not fully in accordance with the Rules of Procedure. However, the committee failed to provide any substantial comment on this initiative. Minutes on the 10th session of JCEI, February 5, 2008 at <http://www.parlament.ba/ksjednica/2/0/150.html>.

Although all acceding countries developed outreach activities aiming to increase public interest and support for EU integration, the hereby reviewed parliaments of Portugal and Slovenia developed their specific approaches. The Portuguese Parliament developed cooperation with the civil society that resulted in rising requests of the public for more intensive dissemination of information and consultation with the public about developments in the EU. Thus, the EAC engaged universities to make assessments of the Treaties, which were then posted on the Internet for public usage. This way, the parliament has indeed become a central player in educating the public and an alternative source of information for the population. The Slovenian Parliament established a formal path for communication with civil society, i.e. the Fora for future Europe. These experiences can be easily applied by BiH PA and JCEI. An increased communication and cooperation with external experts and civil society organizations can help this committee exercise its powers for spreading of knowledge on EU affairs to the public, improve the relations of legislators with the people and get support for their work. However, the budget constraints could be an obstacle to JCEI's more extensive use of external expertise, as well as development of more frequent contacts with civil society groups. However, civil servants from the government ministries and some experienced and skilful civil society organizations can help organization of hearings, which would decrease the burden of cost considerably.

Recommendations for incremental improvements of legislators' capacity

This research has considered a variety of deficiencies in the capacity of BiH PA and JCEI related to their ability to deal with EU matters. It has also reviewed practices of national parliaments developed in several EU member states during the EU pre-accession processes. Although some of the reviewed practices are by all means desirable, they are not likely to be adopted by BiH PA or JCEI. Some of the reviewed practices would imply changes in the country's constitution act, such as those to ensure priority of EU matters in the legislative procedure, and to increase the number of parliament members. On the other side, recruitment of additional civil servants to provide better services to legislators is not feasible in the timeframe of a year or two due to budget constraints.

BiH PA and JCEI should rather look for incremental improvements, which should be carefully planned having in mind a longer-term development of legislators with the prospects of EU membership.

In the timeframe of two coming years, JCEI should adopt its own development plan with an approximate budget. In order to create such a plan, JCEI should be supported by DEI, which would be expected to provide expert support in planning the workload of this committee.

This research proposes the following recommendations for the work of BiH PA and JCEI:

1. JCEI should have the support of the whole BiH PA and should be complemented by 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 establishment of this new committee through a resolution or an interpellation, in order to initiate substantive plenary discussion that will result in formation of the grand committee for EU integration.

2. BiH PA should introduce a fast-track procedure for handling EU-related bills, as has been done in all national parliaments of EU member states.

The current Rules of Procedures contain provisions concerning 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.

3. 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 of JCEI of additional tasks would be achieved by assigning the whole scope of CoE issues to the Committee for Foreign Affairs.

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

This is the way to strengthen the knowledge on EU matters of JCEI members and staff, as well as to familiarize the wider 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 the government ministries would help preparation of hearings. In addition to this, some civil society organisations are very skilful in organising public hearings and they can cooperate with JCEI when appropriate.

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 academic community, as has been done by the Portuguese Parliament, could be considered. In order to organize 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 is already a solid IT structure available in the parliament, implying that creation of such a database should not represent a significant additional budgetary burden.

6. 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 the knowledge and expertise of individual JCEI members. This is a longer-term and costly approach.

7. JCEI should use resolutions and interpellations as incentives for increase of parliamentary scrutiny of EU matters.

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

A sub-conclusion of this research aims at drawing attention to the "deparliamentarization" processes during the EU accession. Many scholars and analysts draw attention to the trend

²⁴ The term "democratic deficit" denotes the growing concern that decision-making and accountability have shifted away from the governments, and especially the legislatures, of member states, and to the EU, without a concomitant transfer of decision-making authority to the directly elected European Parliament. See, for instance, Williams, Margit Bessenyey: "Exporting the Democratic Deficit", *Problems of Post-Communism*, Jan/Feb2001, Vol. 48 Issue 1, pp. 27, 12p, 2bw; (AN 4009149).

²⁵ See more about the impact of the EU accession process on national parliaments in Anel, Katrin: "Democratic Accountability and National Parliaments: Redefining the Impact of Parliamentary Scrutiny in EU Affairs", *European Law Journal*, Jul2007, Vol. 13 Issue 4, pp. 487-504, 18 p.

of exporting the EU democratic deficit²⁴ into EU candidate states.²⁵ Parliaments appear to be weaker than the executive due to the lack of sufficient capacity to receive, process and deliver information needed for initiation of legislative processes and carry out effective oversight of legislation implementation and functioning of the executive. The BiH PA is not likely to be an exception to this trend. From a longer-term perspective, the marginalization of legislature will have implications on the democratic deficit problem. It runs against the EU advocacy in favour of stable democratic institutions and development of capable law-makers, but parallels the problem in the EU itself. The EU's own democratic deficit is well known, and the marginalization of legislatures within the EU's existing political system is one of the reasons for creation of the European Parliament. Yet the EU is in danger of exporting aspects of its own democratic deficit to the aspirant countries through the accession process.

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