

**DRAFT REPORT ON THE  
PARLIAMENTARY OVERSIGHT OF THE  
SECURITY SECTOR IN BiH FOR 2012.**

**Sarajevo, April 2013.**

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## Summary

Parliamentary oversight of the security sector is considered to be one of the main principles of democratic society and the state. In reality, the importance of this concept is realised in the constant and ongoing strengthening of all the tools utilised to ensure an efficient parliamentary oversight and control of the defence and security institutions, especially in countries undergoing a transitional process.

Parliamentary oversight of the security sector in Bosnia and Herzegovina, in spite of its evident headway in employing oversight functions, has not yet achieved its full capacity. For the purpose of this project, the Centre for Security Studies has prepared a Report draft aimed at providing an assessment work efficiency of the parliamentary committees. This report seeks to address the issue of fulfilling the key-responsibilities in the democratic oversight of the security sector in the year 2012. The objective of this research is to determine the improvement of the overall quality and efficiency in implementing parliamentary oversight of the security sector in Bosnia and Herzegovina. This segment of civil society involvement is important for achieving greater accountability and transparency of defence and security institutions over which Parliamentary Committees maintain oversight, consistent with positive legislation.

This research has thrown up many questions in need of further investigation. Further work needs to be done to establish a more comprehensive discussion amongst the members of Parliamentary Committees and representatives of defence and security institutions, in particular on the need of structural planning and implementing a more efficient parliamentary oversight of the security sector in the upcoming period.

## I. Legal Framework

The Constitution of Bosnia and Herzegovina, Entity Constitutions, and a particular set of laws (the Law for the Defence of Bosnia and Herzegovina<sup>1</sup> and the Law on the Intelligence-Security Agency of Bosnia and Herzegovina<sup>2</sup>) enable parliamentary oversight and control of the security sector in Bosnia and Herzegovina<sup>3</sup>. Moreover, the bylaws of both Chambers of Bosnia and Herzegovina's state Parliament stipulate that the Parliamentary Assembly (henceforth the PA) is responsible for "Making decisions about the resources and the extent of the oversight institutions of Bosnia and Herzegovina can exercise in the security sector, as well as the approving of the budget of the Bosnia and Herzegovina state institutions"<sup>4</sup>. Oversight and control of the budget are evident in the work of several Committees of the Bosnia and Herzegovina's Parliament: the Budget and Finance Committees (in both Parliament Chambers), the Joint Committee for the Defence and Security of Bosnia and Herzegovina (henceforth the JCDS) and the Joint Committee on supervision of the work of Intelligence and security agency of Bosnia and Herzegovina (henceforth the JCIO).

The aim of this analysis is to evaluate and validate the work of the two Joint Parliamentary Committees (the JCDS and the JCIO), and their competences in implementing the parliamentary oversight of the security sector; the following sections will highlight the legislative regulations which define the roles and responsibilities of the JCDS and JCIO.

The rules of procedure of both Chambers of Parliament clearly stipulate the responsibilities of the JCDS in "assessing and following the implementation of security and defence policies of Bosnia and Herzegovina; in following the work and assessing the progress reports of the Ministry of Defence, Ministry of Security and other executive bodies involved in the area of defence and security; finally, in assessing the execution of the budget for defence and reports on the institutional audit in the area of security and defence"<sup>5</sup>.

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<sup>1</sup> Available at: <http://www.mod.gov.ba/files/file/zakoni/Zakon-o-odbrani-bs.pdf>

<sup>2</sup> Available at: <http://www.osa-oba.gov.ba/zakonbos.htm>

<sup>3</sup>The security sector reform at the BiH state level has created the conditions for the establishment of the parliamentary oversight in the areas of defence and security. With regard to this, two working bodies have been established of both Houses of Parliament, in the beginning of 2004, henceforth referred to as the JCDS and the JCIO of Bosnia and Herzegovina.

<sup>4</sup> The Constitution of Bosnia and Herzegovina, Article IV, Paragraphs b) and c).

<sup>5</sup> Rules of the House of Representatives Parliamentary Assembly, article 54. and the Rules of the House of Peoples PA, article 48.

In keeping with the Rules of procedure of both Chambers of the BIH Parliamentary Assembly<sup>6</sup> the JCIO is responsible for monitoring the legality of the Intelligence-Security Agency (ISA), controlling the budget and analysing the expenditure of this Agency.

The current composition of both Joint Committees in the BIH Parliament consists of 12 members, 6 members from of each Chamber. The work of each Committee is governed by one chairperson and their first and second deputies; 4 female members in the JCDS (the Chairwoman, her first Deputy Chair, the Secretary and a member), and one female representative in the JCIO, serving as the Secretary to the Committee.

The Law on the Defence of Bosnia and Herzegovina stipulates that the “Parliamentary Assembly (PA) of Bosnia and Herzegovina carries out the democratic parliamentary control over the Armed Forces and over all the defence institutions at the state level (...) the Minister of Defence is duty-bound to submit regular reports on the issues under the Ministry’s jurisdiction to the PA and to the JCDS“<sup>7</sup>.

The legislation act which explicitly sets out the rules for parliamentary control over the intelligence-security sector work, the Law on the Intelligence and Security Agency (ISA), in its Article no. 18 <sup>8</sup>, clearly stipulates that Members nominated for the Committee (JCIO) shall undergo a security clearance performed by the Agency. The Collegia of both Chambers of the Parliamentary Assembly of Bosnia and Herzegovina shall prescribe requirements necessary for obtaining security clearance for the work in the Committee. Chairman selected from among the Committee members who must be a member of a party represented in one of the Houses of the Parliamentary Assembly of Bosnia and Herzegovina that is not a part of the governing coalition. Members of the Committee shall be nominated according to the principle of proportional representation of the political parties in the House of Representatives. Each of the three constituent peoples shall be represented on the Committee.

The Article no. 19. of the Law on the ISA, stipulates the responsibilities of the JCIO in “overseeing the legality of the work of the Agency; holding hearings on the appointment of the Director-General and Deputy Director-General of the Agency and expressing an opinion

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<sup>6</sup> Rules of the House of Representatives Standing Parliamentary Assembly, article 55. and the House of Peoples PA, Art. 49.

<sup>7</sup> Available at: <http://www.mod.gov.ba/files/file/zakoni/Zakon-o-odbrani-bs.pdf>

<sup>8</sup> Available at: <http://www.osa-oba.gov.ba/zakonhr.htm>

on such appointment; reviewing reports from the Chair regarding matters within the competence of the Chair, which shall include actions taken to correct any problems in the Agency made evident by an inspection, audit or investigation; reviewing reports from the Director-General regarding the operations and expenditures of the Agency and especially analysing manner of budget expenditure; reviewing reports from the Inspector- General, pursuant to Article 33 of this Law; calling upon employees of the Agency, through the Chair, to provide expert consultancy, where necessary for the purpose of exercising its oversight authority; providing an opinion on the detailed budget proposal for the Agency; and finally conducting inquiries regarding the work of the Agency, in accordance with Article 20 of this Law.“ The JCIO's is also responsible for the control of the budget expenditures, which is considered to be one of the most pertinent instruments of control. After conducting a thorough analysis of the previous budget expenditures, the JCIO gives an opinion on the budget proposal ISA submits, as stipulated by the Law<sup>9</sup>.

Consistent with the Article 20. of the Law on the ISA, If the Intelligence-Security Committee has grounds to believe that the Agency is performing its duties in an unlawful manner, it may conduct an investigation. This presumes the possibility of questioning the employees of the Agency and gaining the access to all relevant documents of the Agency. If the Intelligence-Security Committee finds that the operation of the Agency is unlawful, it may call upon the Chair and/or Director General to take essential measures and to initiate an assessment of liability. The Chair and/or Director General is obligated to inform the Intelligence-Security Committee about the findings of such assessment.

## **II. Legislative Activities of the Parliamentary Committees**

The Joint Committee for Defence and Security has completed most of the tasks set by the orientation work plan for the year 2012. A total of 3 bills were discussed:

- Bill on amending the Law on State Investigation and Protection Agency (second commission evaluation phase) and submitted it to further parliamentary procedure;
- Bill on Mine action in BiH (second commission evaluation phase, proposed by the Council of Ministers);

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<sup>9</sup> Available at: <http://www.osa-oba.gov.ba/zakonbos.htm>

- Bill on Parliamentary Oversight of the Defence and Security (first commission evaluation phase, proposed by JCDS).

The first two drafts of the bill did not receive majority support in parliamentary procedure. Hence, the final decision has been postponed until further notice, i.e. until additional information and special reports are prepared and submitted for review.

It is interesting that members of the JCDS, during the discussion in second evaluation phase on the Bill on Mine Action in Bosnia and Herzegovina, introduced eight amendments in total. The proposed amendments were related to the contents of mine action, the establishing of organizational units of the Agency for Mine Action BIH, as well as the structure and governance of the Agency. The final decision on this act has been postponed for one of the next BiH Parliament joint sessions.

The third Bill, proposed by the JCDS, also did not reach the majority vote in the ordinary term. The act passed through the parliamentary procedure in its first reading, but was opposed by the Ministry of Security of Bosnia and Herzegovina in the second. It has been agreed upon that, before submitting the act to further parliamentary procedure, necessary consultations with representatives of the Ministry of Security are to take place, with a purpose of finding a compromise.

The process of drafting of the Bill on Parliamentary Oversight by the JCDS of BiH was supported by the NATO Headquarters in Sarajevo and the OSCE Mission to Bosnia and Herzegovina. The drafting officially started in February 2012, and was finalized in November 2012, when the act was submitted for the consideration and entered into the parliamentary procedure. An important feature of this Law draft, according to its proponents, is stronger affirmation of JCDS as the key-body of the Parliament in conducting parliamentary oversight in the areas of defence and security<sup>10</sup>. This initiative has been founded on the positive experiences from the neighbouring Republic of Montenegro, whose Government in 2001, recognized the need to regulate this area with a special Law on Parliamentary Oversight, thus making a step forward towards the building of a more complete and comprehensive security system.

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<sup>10</sup> See Article 3. Bill on parliamentary oversight of the defence and security.

For the first time, the Bill has taxatively and precisely listed institutions which will be subjected to parliamentary oversight by the JCDS. The Bill has also established clear rules and procedures in the processes of initiating parliamentary investigations. The Article 28. of the Bill on Parliamentary Oversight states that the monitored institutions are obligated to submit the documentation related to the subject of an investigation within 30 days and take all the necessary steps in determining and evaluating the situation. This article is of great importance for the future work of this Joint Committee for Defence and Security, given that the prior experiences of parliamentary investigations demanded more time in gathering all the necessary documentation.

The JCIO has been entrusted with preparing and submitting several bills to the parliamentary procedure. The first in line was the Law on Parliamentary Oversight of the ISA (since JCIO was not included in drafting of the Bill on Parliamentary Oversight), followed by amendments of the Law on the ISA and amendments of the Law on the Protection of Classified Data. However, the political events taking place in 2012, inter alia the long and painstaking formation of a new parliamentary majority which lasted for more than six months, have significantly slowed down the work dynamics and the legitimacy of the JCIO. Consistent with the Law on ISA, article no. 18., the Intelligence-Security Committee shall have a Chairman selected from among the Committee members who must be a member of a party represented in one of the Chambers of the BiH Parliament that is not a part of the governing coalition. Members of the Committee shall be nominated according to the principle of proportional representation of the political parties in the Chamber of Representatives. Each of the three constituent peoples shall be represented on the Committee.

### **III. Oversight Activities: Oversight Tools of the Parliamentary Committees and their Influence on the Accountability of the Executive Structures**

According to the Rules of procedure of Parliament Chambers, the JCDS monitors and assesses the reports of the “Permanent Committee for Military Affairs, the Ministry of Defence, the Ministry of Security, as well as the other executive bodies dealing with security and defence”<sup>11</sup>. The minutes of the sessions point towards the fact that JCDS had covered a

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<sup>11</sup> The following are considered as other executive bodies: Ministry of Foreign Trade and Economic Relations,



great number of topics during the session. The JCDS' agenda, points 10. and 11., included deliberation on the issue of transparent destruction of documents of the Ministry of Foreign Affairs, the Report on the work of the JCDS for the year 2011, the Orientation working plan for the year 2012, the Report on the work of the Council for Citizens' Appeals of the BiH Parliament, the work Report for the year 2011 and the work Plan for the year 2012 of the Independent Council<sup>12</sup>, as well as the Report on the work of the Parliamentary Military Commissioner for the year 2011. The JCDS' practice of assessment and analysis of reports/ other documents in a relatively short time period calls into question the thoroughness of the oversight process. The JCDS, according to the Rules and procedures of both Parliament Chambers, is also responsible for following and assessing the participation of the armed forces, police and state officials in peace-support missions in the world. Committee's report from 2012 clearly indicates that the JCDS has come to a decision on the participation of the armed forces, the police and state officials in peace-support missions on two occasions. The first decision concerned the police forces from Bosnia and Herzegovina and their participation in the UNMIS mission (Sudan), the other was related to the army police of the armed forces of Bosnia and Herzegovina being sent to the international security aid in the Islamic Republic of Afghanistan. Both times the JCDS adopted the decisions and submitted them to the Parliament of BiH for approval. However, due to the administrative delays in procedures, the House of Peoples gave its consent only after the units were sent to their respective missions.

The JCDS's work plan for 2012, aimed at fulfilling the function parliamentary oversight, has foreseen 11 field visits to Bosnia - Herzegovinian institutions:

- Visit to the Ministry of Defence and to the Joint Staff of Armed Forces of Bosnia and Herzegovina planned for the first quarter of 2012;
- Visit to the Ministry of Security and the Operational-Communications Centre 112, planned for the second quarter of 2012;
- A visit to the Command of the 4th Infantry Brigade of the Armed Forces of Bosnia and Herzegovina in Čapljina and to the Regional office "South" of BiH Border Police, planned for the second quarter of 2012;

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the Ministry of Civil Affairs and other agencies which act independently or within other ministries dealing with defence and security.

Available at: <https://www.parlament.ba/Default.aspx?langTag=bs-BA&pril=b>

<sup>12</sup> as an independent body of the police structure

- Visit to the State Investigation and Protection Agency - SIPA, planned for the second quarter of 2012;
- Visit to the Agency for Forensics, planned for the second quarter of 2012;
- Visit to the Agency for Police Support, planned for the third quarter of 2012;
- Visit to the Command of the Support Brigade of the Armed Forces of Bosnia and Herzegovina – Rajlovac, planned for the third quarter of 2012;
- Visit to the Police Forces of Brčko District, planned for the third quarter of 2012;
- Visit to the Regional Office “Northeast” of BIH Border Police, planned for the third quarter of 2012;
- Visit to the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, planned for the third quarter of 2012;
- Visit to the Ministry of Foreign Trade and Economic Relations of BiH, including discussions on the topic: “Import/export of arms and military equipment, state and related problems” and the presentation of “Tracker 7.0”, planned for the fourth quarter of 2012”<sup>13</sup>.

Out of the 11 planned visits, only 2 were recorded: the visit to the Ministry of Defence, the State Investigation and Protection Agency – SIPA. The JCDS completed its visits Directorate for the Coordination of Police Bodies, the Command of the Brigade for Tactical Support to the Armed Forces, and the Ministry of Security, with a delay of several months compared to its planned deadlines. The visit to the Centre for Peace Operations – PSOTC, which was not initially planned, also took place in the year 2012. The official website of the JCDS lists only two reports on the visits, one referring to the Directorate for the Coordination of Police Bodies and the other to the Ministry of Defence. As there is no available information on the other visits, it remains unclear whether the JCDS members are satisfied with the situation and whether enough was done in the implementation of the institution oversight process.

The JCIO could not conduct systematic oversight over the Agency in the year 2012, nor was it able to realise its planned visits to organisational units of the ISA<sup>14</sup>. A similar relation could

<sup>13</sup> Report of the JCDS of BiH in 2012. year.

<sup>14</sup> According to the work plan for 2012, the JCIO, with the aim of fulfilling the oversight functions has considered several visits to organisational units of the Intelligence-Security Agency, i.e. visits to the field office in Brčko, the training centre in Banja Luka and the field office in Mostar, as well as the headquarters of the Intelligence-Security Agency and the Interface Centre.

be observed in the previous period (2011), when JCIO has realised only one of total eight planned visits to the ISA. In addition, the annual report of the Chairperson of the Council of Ministers on the activities of the ISA for 2011 has not been considered in 2012, even though this is a mandatory task of the Committee according to Article 19. of the Law on the ISA of Bosnia and Herzegovina.

It is important to emphasise, again, that delays in the submitting of the mandatory materials to the JCIO on behalf of the Presidency of Bosnia and Herzegovina as well as the Council of Ministers caused serious consequences to the work of the ISA, for instance annual platform (for 2011) on the intelligence-security policy of Bosnia and Herzegovina not being adopted. Provided that BiH Council of Ministers continuously failed to catch up with its deadlines and preset obligations, the JCIO has taken an initiative, in accordance with the work plan, and assessed this material in the end of February 2012. However, this activity has not been completed even until today, nor was it put on the Committee's session's agenda in 2012.

The JCIO's work plan for the 2012 included evaluation of several reports, including but not limited to, Report on the work of the JCIO for 2011, the Report on the official visit to the Republic of Turkey, the Report on the Jahorina workshop in 2011, the Report on the monitoring visit to the Ministry of Foreign Affairs of Bosnia and Herzegovina, the Report of the Ministry of Defence on the issued permits for 2011, the Report of the Inspector General of the ISA on the appeals lodged against the Agency and the Report on the bilateral visit between the Parliaments of the Czech Republic and Bosnia and Herzegovina. Informative overviews have been drafted for some of the reports, though with very scarce information, while the majority of other activities remained secret to the public. In other words, the public was deprived of the information on objections or suggestions about the form or content the Committee members might have in relation to design, actions and measures taken by the Government.

The report drafted by the JCIO on the monitoring visit to the Ministry of Foreign Affairs (in 2012) is one of the atypical reports. Namely, the report clearly indicates that the reason for this visit was the letter of the Deputy Minister for Foreign Affairs (dated on January 23. 2012.) on the observed irregularities in the work of this Ministry. The JCIO responded to this letter by paying an official visit to this institution. The Committee members concluded that the implementation of the Law on the Protection of Classified Data was not legal. Other

shortcomings were also discovered, especially in terms of fulfilling the requirements for the certification of the Central Registry, utilised for the exchange of confidential data with the European Union. The findings were conveyed to Dr. Zlatko Lagumdžija, newly appointed the Minister of Foreign Affairs<sup>15</sup>.

Even though there are some examples which may suggest that the JCIO has actively worked on the implementation of the oversight process, the fact is that the Committee did not realise its legal obligations according to Article 19. of the Law on the ISA, i.e. did not draft any reports or opinions for further parliamentary procedure, nor did it put forward any amendments for the work plan for 2012.

As a result, one can draw a conclusion that the activities of the JCIO BiH, due to both objective and subjective work conditions, did not come up to the expected level of the implementation dynamics of planned systematic oversight of the intelligence and security sector in Bosnia and Herzegovina.

#### **IV. The Role of the Parliamentary Committees in the Security Budget Cycle**

As previously noted, the JCDS of BiH has the jurisdiction in giving opinions, recommendations and amendments to the defence budget, while the JCIO is entitled to provide opinions on the detailed budget proposal for it. The assessment of annual audit reports submitted to Parliament by the Audit Office of the Institutions of Bosnia and Herzegovina fall under the jurisdiction of the Committee on Finance and Budget of BiH. Therefore, the JCDS is more oriented towards informing the public about the state of the financial operations in the institutions of defence and security.

During the year 2012, the Chairwoman of the JCDS has repeatedly and publicly emphasised the growing problem pertaining to the lack of *financial discipline* in the Institutions of Bosnia and Herzegovina and alarming findings of the Audit Office on the financial reports of Ministry of Defence. So far, no adequate measures were taken on reported cases of irresponsible behaviour of authorities. The Audit Office of the Institutions of Bosnia and Herzegovina has exercised its functions only to reviewing the situation and giving

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<sup>15</sup> See in Archive of the 6th session, official website of the JCIO:  
[https://www.parlament.ba/sadrzaj/komisije/zajednicke\\_komisije/OSA\\_nadzor/arhiva\\_sjednica/default.aspx?wsrid=28&wsid=509&langTag=bs-BA&pril=b](https://www.parlament.ba/sadrzaj/komisije/zajednicke_komisije/OSA_nadzor/arhiva_sjednica/default.aspx?wsrid=28&wsid=509&langTag=bs-BA&pril=b)

recommendations, and did not initiate the other relevant mandated procedures, for instance sanctioning of certain institutions for over excessive spending of the budget.

The reprimanding and sanctioning yielded in positive results in 2012. The first institutional reproach was pointed against the Ministry of Defence. This was followed by a conclusion of the Committee for Finance and Budget on the reduction of spending on individual budget items for 20% in 2013. This is considered to be a positive step forward in complying with the findings of the Parliamentary Committees and a concrete measure taken in sanctioning of institutions for the excessive spending of budget funds.

The JCDS has exerted a higher level of oversight functions in 2012, compared to other bodies of the BiH Parliament. The debate on the Budget of BiH institutions and international obligations of Bosnia and Herzegovina in 2013 revolved, in large part, around the spending units for defence and security. The JCDS proposed several amendments. One of those was related to establishing funds in the amount of 1,000,000 KM for the work of the MoDBiH in 2012, to be used for destruction of unstable MaMED.

Other amendments were related to the increase of Border Police budget in "procurement of materials" and to the increase of the budget for "gross salaries and benefits" in the Ministry of Defence.

Several ambiguities were noticed in the oversight process of the ISA budget. The audit of the ISA budget by the Audit Office is limited, since there is only a partial access to information on Agency's financial operations. In addition, Agency's last annual financial report was published in 2007, which points towards the fact that the general public remains deprived of any information on financial activities this institution.

Given the situation, the legislative control practice of budget needs to be improved through a stronger role and involvement of relevant institutions, primarily the Parliament of BiH, the Audit Office of Institutions of Bosnia and Herzegovina and the BiH Prosecutor's Office. Well developed and functioning communication of these institutions is viewed as the only assurance for an enhanced control of the budget and reproach of those responsible for excessive budget spending.

## **V. Interaction with Authorities, Security Sector and Independent Oversight Actors (Including Civil Society Organizations and the Media)**

The JCDS has, during 2012, intensively cooperated with domestic and international representatives in Bosnia and Herzegovina. Representatives of the media and civil society organizations also had the opportunity to follow the daily work of the JCDS and to participate in some of the events organized by this Committee; for instance, the two workshops organised by the JCDS in the third and fourth quarter of 2012, attended by representatives of state defence and security institutions, intelligence sector, international organizations and NGO in Bosnia and Herzegovina.

While conducting parliamentary oversight of the security sector, the JCDS significantly interacted with numerous representatives from institutions of defence and security. The highlight of this interaction is enhanced cooperation with the Prosecutor's Office of Bosnia and Herzegovina, members of the Committee on Security of the Parliamentary Assembly of the Federation of Bosnia and Herzegovina as well as members of the Committee for Security of the National Assembly of the Republika Srpska. The JCDS build itself as the most successful and recognizable factor in the area of defence and security in Bosnia and Herzegovina by establishing a regular and frequent contact with representatives of the OSCE Mission, the NATO Headquarters in Bosnia and Herzegovina, EUFOR, USAID, other diplomatic and consular missions in Bosnia and Herzegovina, representatives of respective foreign parliaments of many countries and their working bodies dealing with the defence and security.

The progress is also evident in the work of the JCIO. The Joint Committee has, within the planned timeframe for 2012, organised two workshops directly related to the democratic control of the intelligence-security sector. Representatives of security agencies, institutions of defence and security in BiH, as well as representatives of different NGOs had the opportunity to participate in both workshops. The overarching aim was to address the problems and ambiguities in the work of the ISA, especially in terms of financial auditing of intelligence and security sector. The key obstacle in performing effective audit duties in the ISA is the Law on the Protection of Classified Data (LoPoCD). The Article no. 6. of the LoPoCD<sup>16</sup>

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<sup>16</sup> Available at: <http://www.msb.gov.ba/Zakoni/zakoni/?id=3403>

states that only a certain few institutions are authorized to access the classified information, and the Audit Office is not yet included on the list. The JCIO has committed itself to full compliance with the Law on the Protection of Classified Data BiH by encouraging other government bodies to act more responsibly and to strive in achieving effective oversight of the ISA BiH.

One can conclude that both Committees (the JCDS and the JCIO) have made a significant progress and established effective channels of communication and cooperation with the representatives of domestic and international institutions in Bosnia and Herzegovina.

The JCIO has made a major breakthrough in enhancing cooperation with the civil society. A workshop on "The Participation of Civil Society in Oversight of the Intelligence and Security Sector", addressing several questions on the role and participation of local non-governmental organizations in the oversight of the intelligence and security sector of Bosnia and Herzegovina are a good example of this. The workshop focused on the specific responsibilities of JCIO and the relevant legislation on protection of classified information. Unfortunately, the workshop did not trigger an initiative for further advancement of the relations.

## **VI. Institutional Capacity (Resources, Infrastructure, Expertise)**

Given the current capacities both Committees encompass, their work can be characterized as fairly successful. Institutional capacities of the JCDS and the JCIO are very limited and share the fate of the other parliamentary committees. In addition to the logistical support of the Common Services of the PA, the JCDS and the JCIO receive a very significant expert support by international and intergovernmental organizations, primarily the NATO Headquarters in Sarajevo, OSCE Mission to Bosnia and Herzegovina, the Geneva Centre for the Democratic Control of Armed Forces, USAID and the Norwegian Institute for International Affairs. This is an important segment of support on a bilateral basis provided by individual countries, mostly in the exchanging the experiences and best practices.

Both JCDS and JCIO have their own premises, with all the necessary logistical resources. The plenary sessions and other events are managed by the Common Services of the Parliament of Bosnia and Herzegovina. The Heads of both Committees' Secretariats were occasionally left

vacant (during 2012), but it did not reflect on the continuity or quality of their work. The JCDS has, at the end of the year, officially filled the position of the Secretary to the Committee. The situation within the Secretariat of the JCIO of BiH was somewhat different. During the first half of the year, the technical and expert support was provided by the Committee Secretariat and an Expert Associate, while in the second half, these tasks were performed only by the Secretary to the Committee, given that the expert associate could not perform his duty. It should be noted that the services of Research Centre of the Parliamentary Assembly were also at both Committees' disposal.

One might have the impression that the JCDS and JCIO work under restrictive budgetary restraints, however, they are in a slightly better position because they can rely on considerate assistance of external actors. Notwithstanding the above, one should not that quality financial and professional support for both Committees should increase in the future, as external support decreases day-by-day.

## **VII. Political Culture and Political Will (Party Politics, the Attitude of the Committee Members and the Role and Influence of the President of the Committee)**

During 2012, the political headway in Bosnia and Herzegovina has been a hostage to a great number disagreements and disputes between the governing structures. The report of the European Commission on the progress of Bosnia and Herzegovina for 2012<sup>17</sup>, rated the year as one the worst since 1995, Bosnia and Herzegovina being marked as the only country in the region that has not yet applied for membership in the European Union. The mere fact that the pre-election government has functioned in its technical mandate for more than a year, until the new government majority was formed in May 2012th, illustrates the lack of seriousness of governing structures to act responsibly towards the citizens. The insurmountable differences and poor political culture in Bosnia and Herzegovina dominates the public sphere in a very specific way. The new government also failed to meet numerous deadlines for meeting the requirements of the integration and reform process in Bosnia and Herzegovina. Moreover, the

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<sup>17</sup> Available at:

<http://www.nezavisne.com/novosti/bih/Ocekujе-nas-jedan-od-najgorih-izvjestaja-Evropske-komisije-159514.htm>



attempts of enhancing cooperation between the three leading authorities in Bosnia and Herzegovina were never quite successful.

Even the members of these Parliamentary Committees are not immune to the actions of political elites and country's internal political developments. The negative political atmosphere among the main political parties in Bosnia and Herzegovina is often transmitted to the PA, which affects the work of MP's, hampering the processes BiH Euro-Atlantic integration. These problems become viable with the process of BiH Institutions budget approval and adoption, the process of appointment of heads of security institutions, the process of destroying weapons etc. These results in a lack of political will, negative climate in the Parliament functioning and poorer political relations, which hinders the improvement of the security environment in the country and undermines the functionality of the security sector.

Despite this, the JCDS is constantly trying to act towards the improvement of all the segments of defence and security, in particular by proposing a number of initiatives, inter alia, the initiative on the process of finding solutions for the surplus ammunition and mines and explosive devices, the implementation of parliamentary investigation<sup>18</sup>, the efficient application of legal provisions regarding import and export of arms and military equipment, the status of prospective and non-prospective military assets, as well as the irregularities in the operations of specific institutions of defence and security in Bosnia and Herzegovina.

The lack of financial discipline, which dominates the work of some of these institutions, has also been the subject of deliberation by the Chairwoman of the JCDS, Ms. Dušanka Majkić.

The Committee's Chairwoman repeatedly highlighted the excessive spending of the budget and criticized the passiveness of responsible institutions for not instigating investigations against the accountable persons. She herself has pointed out that the only solution for this problem is a consistent enforcement of existing laws (i.e. Law on Auditing Institutions of Bosnia and Herzegovina) and not the adopting of the proposed amendments.

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<sup>18</sup> Regarding the suggestion of the JCDS, a decision has been made by both Houses of Parliament, that for the needs of the investigation of the complete process of ammunition and explosives destruction, weapons and military equipment an investigative committee be formed on behalf of both Houses of Parliament, which by now seems very committed to its work. The investigative committee is responsible to submit final reports to both Houses of Parliament. More on this available in the Minutes of the 21st Session of the House of Peoples of Bosnia and Herzegovina.

Other members of the JCDS did not remain silent with regards to these issues. Mr. Šefik Džaferović (Second Deputy Chair of the JCDS and SDA representative in the House of Parliament) in a discussion about the audit reports on the financial operations of the BiH Institution for 2011, proposed to consider the idea of installing misdemeanour charges, as a solution for the current situation which repeats itself year after year. Mr. Beriz Belkić, also a member of the JCDS, has repeatedly pointed out the need for the analysis of the existing Laws on auditing Institutions of Bosnia and Herzegovina, as a repressive measures to unlawful spending of budget funds.

However, the impact of these two Parliamentary Committees cannot be effective if there is no political will of the ruling majority, and if there is no possibility of cooperation and mutual agreement to contribute to the improvement security environment in Bosnia and Herzegovina. This is evident in several previous examples, for instance the procedure for the consideration and adoption of proposed legislation in 2012. Their mobility is quite hampered by poor coordination and political will of the delegates in both Houses of the Parliament, limited resources and, ultimately dominant political interests. The example is the JCIO, whose members in the current setup were unable to fully dedicate to realization of planed obligations. In addition, a frequent occurrence is that the activities of these and other parliamentary committees overlap with the activities of the Houses of the Parliament, and in most cases some of the problems in the work of institutions remain insufficiently noticed.

In the case of adoption of Bill on the Parliamentary Oversight, is apparent that there is no awareness of the public and governmental institutions about the importance of parliamentary oversight and control. A very large number of comments on the Bill, submitted by the Ministry of Security, are in favour of the need to raise awareness about the importance of democratic oversight of security institutions.

## **VIII. Key Achievements and Weaknesses of the Democratic Oversight of the Security Sector in Bosnia and Herzegovina**

Parliamentary oversight of the security sector in Bosnia and Herzegovina started in 2004. It is considered to be a step forward in the development of democratic processes in the country. This development favours the fact that the exercise parliamentary oversight in BIH has been established on the best practices of democratic principles from various different countries, despite the ideological deficit of the past political system and control of executive authority activities. Most probably this has led the members of the Parliamentary Committees to use the tools available to them in oversight of the security structures and with its activities achieve remarkable results in this demanding field. The selfless role in promoting their activities is carried out by representatives of the international community and their contributions, which significantly enhance the work of Parliamentary Committees.

During the reporting period, the JCDS completed almost all planned activities and their active role and cooperation with other actors greatly reflected the importance of parliamentary oversight of the security sector. Proactive approach of the JCDS was visible in a series of activities aimed at improving the overall environment, in which the security institutions operate, as well as active solving and mapping the problems in the functioning of the executive branch. The JCIO, however, did not entirely fulfil part of its tasks, primarily in the systematic monitoring of the institutions. During the initial period of their work, certain activities in relation to the entrusted responsibilities have been carried, however the course of events in the second half of the year showed structural weaknesses in the oversight process of the intelligence and security sector.

Certain deficiencies in the work of these two Parliamentary Committees are related to the issue of transparency, and the public's accessibility to the information. Although the JCDS is subjected to public scrutiny, information on a number of activities are not available to the public. It must be noted, however, that all the sessions of the JCDS were available to the public and all interested parties could directly gain insight into the activities of the Committee. The information on the work of JCIO, for obvious reasons, are less accessible to the public, but there is some room for improvement in transparency.

Improvement of the both Committees' work should also be reflected in the better monitoring of implementation of decisions taken by its members. One gets the impression that the comments and recommendations of both Committees indicate that they do not follow the actions of institutions to which the decisions relate, and the monitoring of the implementation of these decisions should be brought to the attention of Committees' members. On a positive note, the members of these Committees inform the public on these issues through the media, and exert additional pressure on institutions to conduct its activities in a transparent and more accountable manner. It is also noticeable that there is greater interest and activities taken by the JCDS in the oversight of the defence sector and to a smaller extent on the security sector. The proposed amendments to the Law on parliamentary oversight, which foresees establishing two subcommittees for defence and for security within the Joint Committee, should improve and standardise this type of oversight in the sector.

The lack of cooperation between JCDS and the other authorities, involved in governance and control of the ISA, is still noticeable. This deficiency is most evident in the relation to the timely adoption of the ISA's annual platform which significantly obscures the work of the Committee, and brings into the question the work of the Agency.

Some of the detected weaknesses in the work of these Committees are reflected in the lack of adequate capacity for its member's functioning, due to the many tasks and responsibilities they are entrusted with. Therefore, full capacity-building of the Secretariat is an imperative.

Also, in the case of Bill on Parliamentary Oversight, it is apparent that there is no full awareness of governmental institutions and the public on the importance of parliamentary oversight and control. A number of comments on the Bill, submitted by the Ministry of Security, and the indifferent approach of the public to this Law, are certainly in favour of the need to campaign for the awareness-raising on the importance of democratic oversight of security institutions.

## **IX. Recommendations for improving the Parliament's Performance**

1. Adopt the Special Law on Parliamentary Oversight in the Defence and Security Sector, which would further regulate the work of the relevant Committees of the Parliamentary Assembly.
2. Initiate adoption of the special Law on Parliamentary Oversight of the Security and Intelligence Sector.
3. Make an evaluation of the planned responsibilities and make the necessary amendments to the work plan.
4. Devote more attention to enhancing transparency of both Committees' work and improve the process of informing the public about the activities of the Committees.
5. Improve the promotion of the importance of Parliamentary Oversight to executive authorities and the public.

## **X. Publications, reports and analysis of international and national organizations of importance for democratic governance of security**

- Nine-month report on the work of the Parliamentary Assembly of BiH 01.01. - 30.09. 2012th, Centres for Civic Initiative, Sarajevo.
- Various authors (2012) Comparative analysis of democratic performance of parliaments of Serbia, Bosnia and Montenegro: A study on the strengthening of the Parliamentary Assembly of Bosnia and Herzegovina, Sarajevo.
- Report on progress of BiH (2012) The European Commission, Brussels.
- Report of the Joint Commission for the supervision of the ISA in 2011. year.
- Report of the Joint Commission on Defence and Security in 2011. year.
- Parliamentary control of the defence and security sector in Montenegro - What next? (2009) Alternative Institute, Podgorica.
- Work Plan of the Joint Committee on supervision of the work of ISA for 2012.
- Work Plan of the Joint Commission on Defence and Security for 2012.
- Semi-annual report on the monitoring of the Parliamentary Assembly for the period from 01.01. - 30.06.2012. CCI, Sarajevo.
- Rules of the House of Representatives Standing Parliamentary Assembly and the House of Peoples PA.
- The reports from the House of Representatives and House of the People plenary sessions.

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