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TWINNING PROJECT

EU SUPPORT TO THE PARLIAMENTS OF BiH IN EU INTEGRATION TASKS



EU TWINNING FACTSHEETS

LEGAL APPROXIMATION IN BOSNIA AND HERZEGOVINA IN A NUTSHELL

► WHY TO APPROXIMATE BIH LAW TO EU LAW?

The Stabilisation and Association Agreement (hereinafter: SAA) entered into force on 1 June 2015 which opened a new phase in the relationship of the European Union and Bosnia and Herzegovina (hereinafter: BiH). The obligation of EU legal approximation of BiH stems from the SAA. Its Article 70 sets out that the EU legal approximation should be carried out based on a programme to be agreed between the European Commission and BiH, and gradually extended to all pieces of EU acquis related to the SAA taking into consideration a ten-year long period for its implementation.

For the time being there is no EU legal approximation plan, which means that legal approximation is currently performed based on the ad-hoc selection of requirements originated in the SAA.

► WHAT IS THE METHOD OF EU LEGAL APPROXIMATION?

STEP 1 PLANNING	STEP 2 DRAFTING	STEP 3 CONCLUDING PHASE
<ul style="list-style-type: none"> - Examination of primary EU law in the area - Examination of secondary EU law in the area - Examination of European Court of Justice rulings in the area - Examination of existing domestic legislation in the area - Examination of responsible authorities - Decision on milestones and deadlines 	<ul style="list-style-type: none"> - Examination of the preambles of secondary EU legislation - Harmonization of relevant terms - Harmonization of relevant legal instruments - Setting up the legal basis for executing authorities - Creation of financial guarantees of functioning - Setting up responsibilities for reporting to the European Commission 	<ul style="list-style-type: none"> - Creation of tables of concordance for the harmonized secondary EU law - Fulfillment of notification requirements - Sending regular reports as required by secondary EU law

The Project is implemented by the Consortium of the
Hungarian National Assembly, Austrian Parliament and Croatian Parliament



REPUBLIK ÖSTERREICH
Parlament



ORSZÁGGYŰLÉS



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➤ WHAT IS THE ROLE OF BiH PARLIAMENTS AT EACH GOVERNANCE LEVEL IN EU LEGAL APPROXIMATION?

Draft laws are first and foremost prepared by governmental bodies, however, the BiH Parliaments should carry out the following tasks in the EU legal approximation:

- **Control** if the supporting documents are attached to the draft;
- **Check** the relevant obligations of BiH in the SAA, and the connecting pieces of EU law;
- **Compare** the relevant provisions of the EU law with the provisions of the draft law;
- **Check and understand** the content of the supporting documents;
- **Request** from the responsible governmental bodies the needed documents and its changes in case something is missing;
- **Consult** the governments' representatives on the EU compliance of submitted amendments during the legislative process in Parliaments.

➤ WHAT DOCUMENTS ARE NEEDED TO BE SUBMITTED TO THE PARLIAMENTS TOGETHER WITH THE DRAFT LAWS DURING LEGAL APPROXIMATION?

The decisions on EU legal approximation adopted at each level of governance in BiH prescribe the procedure to be followed by the executive and define the documents to be prepared in connection to all draft regulations. The documents that have to be elaborated and attached to the draft laws of EU legal approximation nature and submitted to the BiH Parliaments include:

- Table of concordance,
- Statement on compliance of the draft law with the EU law.

At state level, the Directorate for European Integration at the Council of Ministers of BiH is dedicated to prepare these detailed documents, attached to each draft law.

In the Federation of BiH, the Office of the Government of Federation of Bosnia and Herzegovina for Legislation and Harmonization with European Union Regulations is the responsible body for supervising the preparation of law approximation documents as well as for issuing the statement on compliance of the draft laws with the EU law.

In Republika Srpska, the Ministry for Economic Relations and Regional Cooperation prepares and submits supporting documents.

In Brčko District, the Mayor's Office covers the coordination and cooperation within the government bodies in this field and prepares the necessary documents for submission to the Brčko District Assembly.

➤ HOW TO CHECK IN THE BIH PARLIAMENTS THE COMPLIANCE OF THE DRAFT LAW SUBMITTED BY THE GOVERNMENTS WITH EU LAW?



➤ WHAT TO FOCUS ON DURING THE ACTUAL COMPARISON WORK OF BIH LAW WITH EU LAW?

The *evaluation and understanding* of the transposition of the draft on the agenda of the BiH Parliaments should be done *by the responsible structures in each BiH Parliament*. This means the assessment of the text article by article, paragraph by paragraph. During this work the *focus should be on checking the existence of elements* indicated in the table

ESSENTIAL ELEMENTS	ADDITIONAL ELEMENTS
<ul style="list-style-type: none"> - Terms and obligations - Deadlines - Allocation of all tasks to responsible authorities - Presence of fees, penalties - Transposition of forms, tables, numbers, values - Designation of authorities responsible for reporting to the EU 	<ul style="list-style-type: none"> - Level of piece of domestic legislation - Choosing the exact authority (as long as the authority is capable of performing the task) - Domestic procedure structure (how the tasks are performed) - Amount of fees, penalties

During this comparative analysis challenges are:

- **To find the compliance with EU law** (Depending on the obligations set out in the SAA, approximation is full or partial by the draft domestic legal regulation with EU law);
- **To transpose relevant provisions of EU acquis into the domestic regulation** (in BiH through which domestic rules the relevant provisions of EU acquis are to be affected. First the governance level (state level, entity level and Brčko District, or cantonal level), then the place of the norm in the hierarchy of legal acts to be decided).
- **To assess the transparency of domestic regulation** (the scope of legal rules has to be as detailed and concrete as possible, and - if relevant - the entitled authorities to be defined).
- **To check the content of transposing articles in domestic regulations** (the wording of the domestic rule has to be understandable, interpretable and implementable within domestic circumstances; simple copy-paste of EU law provisions should be avoided).

► WHERE TO TURN TO: THE RESPONSIBLE STRUCTURES FOR EU LEGAL APPROXIMATION IN BIH PARLIAMENTS

EU legal approximation lays special task on both political and administrative structures in each of the Parliaments of BiH. At political level, the committees responsible for European integration matters have the leading and coordinating role, while at administrative level newly established organisational units fully dedicated to deal with European affairs have to deal with this task. The political and administrative bodies which should carry out the EU legal approximation task are in the

Parliamentary Assembly of Bosnia and Herzegovina

➡ Joint Committee on European Integration + EU Section

Parliament of the Federation of Bosnia and Herzegovina

➡ Committees on European Integration + EU Offices
(2 separate committees + 2 separate EU units in the Houses)

National Assembly of Republika Srpska

➡ European Integration and Regional Cooperation Committee
+ Department for European Integration and International Activities

Brčko District Assembly

➡ Committee on European Integration and the Legislative Committee
+ EU advisor

WOULD YOU LIKE TO LEARN MORE?

You will find further information on the following links:

- EUR-Lex database for European Union law (the whole EU law is also available and searchable in Croatian):
<https://eur-lex.europa.eu/homepage.html>
- Court of Justice of the European Union (also in Croatian):
https://curia.europa.eu/jcms/jcms/j_6/en/
- Stabilisation and Association Agreement between the European Commission and Bosnia and Herzegovina:
<https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX%3A22015A0630%2801%29>
- European Commission report on BiH: Bosnia and Herzegovina 2020 Report Brussels, Commission Staff Working Document, 6.10.2020, SWD(2020) 350 final:
https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/bosnia_and_herzegovina_report_2020.pdf
- For the chapters of EU policies that are to be approximated: Commission Staff Working Document, Analytical Report {COM(2019) 261 final} published on 29 May 2019 (Analytical Report):
<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>
- European Commission web-site for Law by topic:
https://ec.europa.eu/info/law/law-topic_en