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**PARLAMENT FEDERACIJE BOSNE I HERCEGOVINE - POSEBNOSTI USTAVNOPRAVNOG
POLOŽAJA I TENDENCIJE PROŠIRENJA NADLEŽNOSTI**

SAŽETAK:

Složeni političko-pravni sustavi, kakvi su i konsocijacijske federacije, gotovo beziznimno predodređuju osebujan ustavnopravni položaj njihovih predstavničkih tijela. Kompleksnost tih sustava određuju: pluralnost (podijeljenost) njihovih društava, policentričnost ustavnih poredaka, nepostojanje jedinstvenog demosa, hibridni (mješoviti) ustavni identiteti, poteškoće utvrđivanja standardnog načela hijerarhije pravnih akata, te, nerijetko, sukob unitarističkih, federalističkih i separatističkih snaga.

Dvodomnost Parlamenta Federacije BiH proizlazi iz dualističke prirode federacije kao složene državne konstitucije, koja teži da pomiri dva proturječna zahtjeva-onim za višim jedinstvom i zahtjeva za očuvanjem posebnosti. Očuvanje posebnosti se u Federaciji BiH primarno (dominantno) ogleda u očuvanju društvenih segmenata, odnosno konstitutivnih naroda, i to prvenstveno njihovog nacionalnog identiteta i političkog subjektiviteta. U političko-teritorijalnim jedinicama s heterogenim društvima, kakvo je i ono u većem bh. entitetu, egalitarni bikameralizam je najrelevantniji mehanizam za upravljanje u ovakvim zajednicama i dobra garancija za njihovo preživljavanje. U mononacionalnim federacijama manje je bitno hoće li gornji dom biti ravnopravan s opće predstavničkim domom, ali je zato to od presudne važnosti u višenacionalnim federacijama. Ton posebnosti Parlamentu Federacije BiH, zbog niza atribucija koje će biti obrađene u ovom radu, daje njegov gornji dom-Dom naroda, koji je posebno bitan za manjinske društvene segmente, jer kroz njega mogu izraziti i zaštititi svoje etno-nacionalne posebnosti.

Bosanskohercegovački federalizam je devolucijski, ali i asimetričan, nastao radi uvažavanja diverziteta u plurinacionalnom društvu, koji u takvom kontekstu, potvrđuju to empirijske zakonitosti, mora težiti ka decentralizaciji i jačanju ovlasti federalnih jedinica, što je u suprotnosti s klasičnim, agregacijskim federalizmom i njegovim trendom širenja nadležnosti federacije, što, opet, sve odgovara trendu preoblikovanja federalne države rješenjima koja su prilagođena njihovim posebnostima. Tvorci Daytonskog ustava, kao i onog Washingtonskog, kreirali su federalizam s rješenjima koja su bila prilagođena njihovim specifičnostima (prilikama, potrebama), odnosno inačicu federalizma koji je rezultanta empirijskog promatranja praktičnih slučajeva, više nego doktrinarnih promišljanja. Evidentno je decentralizacija, univerzalni europski trend 21. stoljeća, jer je opća pojava, napose u multinacionalnim federacijama, da se konstitutivni elementi (društvene skupine) nalaze u stalnom procesu samoosvješćivanja, insistirajući na vlastitom priznanju. U novije vrijeme se sve više u drugi plan stavlja opcija secesije, a nju nadomješta povećanje autonomije segmenata. Iz navedenoga, neprijeporno, proizlazi da je u multinacionalnom kontekstu, kakvo

je i ono u BiH i njenoj većoj komponentnoj jedinici, federalizam jedino moguće, ali i kompromisno rješenje, nasuprot izraženim zahtjevima koji se u osnovi kreću prema unitarizaciji i secesiji.

Kako ustavotvornu vlast u BiH obnaša više tijela, ne postoji jasna piramidalna organizacijska struktura, što generira česte sukobe nadležnosti nižih i viših razina vlasti. Vraćanje vlasti na subjedinice višerazinske vlasti, pogotovo s aspekta realizacije načela decentralizacije i supsidijarnosti, ne predstavlja korak unazad.

Ključne riječi: parlament, Dom naroda, dvodomnost, federalizam, konsocijacija, pluralno društvo, podjela nadležnosti

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**PARLIAMENT OF THE FEDERATION OF BOSNIA AND HERZEGOVINA-PECULIARITIES OF
THE
CONSTITUTIONAL POSITION AND THE TENDENCIES OF THE EXPANSION OF
COMPETENCES**

SUMMARY:

Complex political and legal systems, such as consociational federations, almost without exception predetermine the peculiar constitutional position of their representative bodies. The complexity of these systems is determined by: the plurality (division) of their societies, the polycentricity of constitutional orders, the absence of a single demos, hybrid (mixed) constitutional identities, the difficulty of establishing a standard principle of the hierarchy of legal acts, and, quite often, the conflict of unitarist, federalist and separatist forces.

The bicameral nature of the Parliament of the Federation of Bosnia and Herzegovina stems from the dualistic nature of the federation as a complex state constitution, which tends to reconcile two conflicting demands - the demand for higher unity and the demand to preserve distinctiveness. The preservation of distinctiveness in the Federation of Bosnia and Herzegovina is primarily (dominantly) reflected in the preservation of social segments, i.e. constituent peoples, primarily their national identity and political subjectivity. In political and territorial units with heterogeneous societies, such as in the larger entity of Bosnia and Herzegovina, egalitarian bicameralism is the most relevant mechanism for governance in such communities and a good guarantee for their survival. In mononational federations, it is less important whether the upper house will be equal to the general house of representatives, but that is why it is of crucial importance in multinational federations. The tone of distinctiveness to the Parliament of the Federation of Bosnia and Herzegovina, due to a series of attributions that will be dealt with in this paper, is given by its upper house - the House of Nations, which is especially important for minority social segments, because through it they can express and protect their ethno-national distinctiveness.

Bosnia and Herzegovina's federalism is devolutionary, but also asymmetric, created to respect diversity in a plurinational society, which in such a context, as confirmed by empirical laws, must strive towards decentralization and strengthening the powers of federal units, which is in contrast to the classic, aggregation federalism and its trend of expanding the jurisdiction of the federation, which, again, corresponds to the trend of reshaping the federal state with

solutions that are adapted to their particularities. The creators of the Dayton Agreement, as well as the Washington Agreement, created federalism with solutions that were adapted to their specifics (opportunities, needs), that is, a version of federalism that is the result of empirical observation of practical cases, rather than doctrinal reflections. It is evident that decentralization is a universal European trend of the 21st century, because it is a general phenomenon, especially in multinational federations, that constituent elements (social groups) are in a constant process of self-awareness, insisting on their own recognition. In recent times, the option of secession has been put more and more in the background, and it has been replaced by the increase in the autonomy of the segments. From the above, it irrefutably follows that in a multinational context, such as that in Bosnia and Herzegovina and its larger component unit, federalism is the only possible, but also a compromise solution, against the expressed demands that basically move towards unitarization and secession.

As constitutional power in Bosnia and Herzegovina is held by several bodies, there is no clear pyramidal organizational structure, which generates frequent conflicts of jurisdiction between lower and higher levels of government. Returning power to subunits of multilevel government, especially from the aspect of implementing the principles of decentralization and subsidiarity, does not represent a backward step.

Key words: parliament, House of Nations, bicameralism, federalism, consociation, plural society, division of competences