

Extracts from RTRS's "CURRENT DEBATE" interview with Miroslav Lajčák High Representative / EU Special Representative for BiH

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Interviewer: Biljana Knezevic

In Banja Luka you again said that Bosnia and Herzegovina need to become for Constitutional Reform so as to become more functional, efficient and inexpensive cannot be put off. Do you have a specific proposal of the Constitutional reform in BiH?

Miroslav Lajčák: I do not and it wouldn't be good if I had one. Several proposals are already out there; both political and professional, so let me reiterate what I have said many times – that the next Constitution, because the country does need one, first and foremost should be the result of a political agreement between your politicians.

In April last year almost all political parties, both Serb and Croat and most of the Bosniak ones, gathered around the "April package" of Constitutional changes, which was rejected by the radical position of only one party. Do you think the "April package" should be adopted? Does it have your support?

Miroslav Lajčák: Yes, that is what happened in April last year and it is a fact that time cannot be reversed. Today we have a different political situation and a new solution needs to be found. As to what extent the new solution would encompass the

“April package”, whether at all, must also be a matter for your politicians to decide.

What is your opinion of the “April package”?

Miroslav Lajčák: My opinion is that any good idea that is still acceptable for the political parties today should be made use of.

The fact remains that the “April package” represents a huge compromise and consensus amongst almost all political parties in BiH. Can, or should, we tolerate the position that undermines the enormous effort of not only domestic politicians, but of the international community too. They were working for months to reach a compromise.

Miroslav Lajčák: I agree that the April package is the result of compromise and good will shown by the majority of political parties, however it did not get the support required in the Parliamentary Assembly, that is to say that it did not pass through the required democratic procedure – that is also a fact. We may regret that fact, but that doesn’t help us. We now need to draw conclusions to ensure that doesn’t happen the next time. We need to make an objective assessment of why it failed, who is responsible for that and what needs to be done to ensure it doesn’t happen again.

[...]

Will you tolerate radical positions that hamper hard won compromise and what is the message there to other politicians? Doesn’t that incite radical rhetoric?

Miroslav Lajčák: Radical positions only bring short-term support from a narrow section of the electorate. I believe it is clear to everyone today that prevents success at the state level, success, which is absolutely necessary. If we remain entrenched in our party positions, focussed on only our narrow party interests and refuse to be open and flexible in the name

of compromise and joint achievement then the country will remain in isolation.

[...]

In Mostar today agreement between Croat political parties on a concept for BiH's Federalisation has almost been reached; and it should be formalised in the coming days. Will you take the view that this is an indication of a desire of the Croat people and their political parties for a third Entity?

Miroslav Lajčák: I will respect any agreement that upholds the interests of all three constitutive peoples in BiH.

[...]

The Federalisation concept has open support from the Republika Srpska and now of Croat political parties that have united around that position.

Miroslav Lajčák: Any agreed concept is the best possible one. We have different constitutional systems in Europe. Europe has unitary states, centralised ones, we have federal states such as Germany, and perhaps Belgium too. So, there is no European regulation there. BiH needs to find a model that reflects its structure, its nature, the fact that its constitutional architecture is built on the existence of three constitutive peoples, two Entities, and then to set off from that starting point. Ultimately we have to adopt something that would be acceptable for all. I don't think that would get anywhere if we accept or reject any concept in advance.

You said yourself that BiH is inefficient, unsustainable and expensive.

Miroslav Lajčák: Compared to other states it is expensive.

Is the problem in the Republika Srpska or in the FBiH; the FBiH has ten Cantons, over 100 Ministries...

Miroslav Lajčák: The whole Dayton architecture was adopted at a time when it was necessary to stop the war and with the aim of preventing war happening again. Today, 12 years later, when BiH is to turn seriously toward European integration, it need to be able to function in a way that allows decisions to be taken quickly and effectively. BiH must keep pace with that other countries that have seriously intentions and ambitions to move closer to the European Union. Instead we are sending messages to one another; from Banjaluka to Sarajevo, and from Sarajevo to Banjaluka. That doesn't help. What helps is rolling up our sleeves and changing things.

[...]

You promised, when taking on the mandate, that you would get things in BiH moving forward. It is precisely because of that kind of promise and the determination you have displayed, that many, especially in the FBiH, have announced and lobbied for the use of the 'Bonn Powers' – even before you became High Representative. You have said that you will not hesitate to use them. All that created an atmosphere of tension in the RS, and a political euphoria in the FBiH Federation. Let's clear up on your position on 'Bonn Powers'.

Miroslav Lajčák: I have repeatedly made my view on that clear; the Bonn Powers are a part of my mandate, I have accepted my mandate in a whole and I have no right to reject a part of my mandate...particularly such an important part of my mandate. But let me explain my view of the 'Bonn powers'. I have already used the example of a football referee. The 'Bonn Powers' are the yellow and the red card that I have in my pocket. The referee goes out onto the field at the beginning of the game; all the players are aware of the fact the referee has the yellow and red cards, but no one knows in advance when, in what minute, if at all, he will use them.

Can you imagine a situation in which you would use the yellow or the red card? What would have to happen?

Miroslav Lajčák: A violation of the Dayton Agreement, the constitutional order of this country, non-cooperation and obstruction of cooperation with the Hague Tribunal, activities of a terrorist nature...

Have noticed examples of violation of the Dayton Agreement?

Miroslav Lajčák: Aggressive rhetoric – yes, but that somebody would actually violate – no.

The fact is that your predecessor, Christian Schwarz-Schilling, has added fuel to the fire by using the Bonn Powers to impose the Law on the Memorial Centre Srebrenica – Potocari, and he did that at the end of his mandate. It seems that by doing so he left a “hot potato” in your hands, since that decision has complicated relations in BiH. What is your position on the exemption of Potocari from the constitutional-legal order of the RS?

Miroslav Lajčák: The Bonn Powers are frequently interpreted in a simplified way as only restrictive: for removal, abolition etc. But they also enable decisions to be adoption; impositions. That was the case with the Memorial Centre Srebrenica – Potocari.

Having looked at the OHR's legal analysis I did not get the impression that the Memorial Centre was exempted from the competence of the Republika Srpska: that is not possible, because that would mean there had been a violation of the Dayton Agreement. I trust that legal analyses which says that that the solution was in line with the competence of the High Representative.

What I do not hide is that the communications when that Decision was taken were not ideal and that caused misunderstanding and ambiguities.

You have said that you yourself do not find this decision completely clear and that you do not know how and why the

confusion came about. Is it clearer now?

Miroslav Lajčák: I have said that I am not happy with the effect it caused and I am currently trying to find out why this misunderstanding came about and that it should be resolved. Today I discussed this with RS Prime Minister Milorad Dodik. Of course, I am not indifferent to the fact that the legal analysis made by the Ministry of Foreign Affairs of the Russian Federation is different from the legal analysis of my organisation, and I shall see this issue through to an end so that we can see whose analysis is right.

[...]

Srebrenica is still an open issue in BiH. What is your view of Srebrenica's status and has this question, according to you, been politically manipulated?

Miroslav Lajčák: Srebrenica is a very sensitive issue in your country. You know that, but maybe you are not, simply because you live here, aware of the degree to which it is an emotional issue in the world – outside BiH – and the degree to which it has become a symbol of the tragedy that happened there and of the country as a whole.

The first thing you should know is that many countries and many people form their opinion of this country based on Srebrenica. A terrible tragedy happened there. Genocide. We all need to act with that in mind. You asked whether there are attempts of political manipulation. My answer is yes and we should not allow that. It is not fair, first of all towards the victims of Srebrenica, and their families for anybody to build a cheap political campaign on their tragedy.

You have said that the goal is to restart the reforms that have stalled and Police reform first of all. In what way do you think it is possible to reach compromise and agreement if the key issue are demands from Bosniak politicians to abolish the RS Police, and from Serb politicians, that it remain?

Miroslav Lajčák: I have a bit different view on that, not such a black-white one as you do, but that is your right.

Firstly, politicians in this country have agreed about the fact that a European future is the right future. Secondly, that view is supported by a significant majority of the citizens of this country and thirdly, reaching agreement on police reform is a condition for signing the Stabilization and Accession Agreement.

The SAA is no ordinary agreement, it opens up the start of a process which then has no further crossroads, one which has clear sign-posts, and that rapidly leads towards the EU.

If the people agree on this, and all the politicians know that the Europe issue is exactly that issue, if we all know that the police reform is a condition to move forward, then we do not have any justification not to sign that agreement.

We have to return to this issue once again to see what has been done, why we have not reached an agreement, and then to look for a compromise so that an agreement can be signed as soon as possible. That will allow BiH to sign the Stabilization and Accession Agreement. There is no excuse for not doing this.

[...]

**When do you see the police reform process starting back up?
What will be your role in that?**

Miroslav Lajčák: As soon as possible is the first answer and very active, is the second answer.

How come you are such an optimist if you know that you have arrived in a place where people have difficulties in finding a common language?

Miroslav Lajčák: Because there is simply no alternative to the integration process. Of course, we cannot get out of this

situation without sacrificing some of our interests. But, what is the alternative? To call a spade a spade: we either compromise, and have an [SAA] agreement, or we move towards self-isolation.

You will strive for compromise: but with or without the 'Bonn Powers'?

Miroslav Lajčák: As far as possible without the Bonn Powers.