

# Speech by the High Representative/EU Special Representative, Miroslav Lajčák to the OSCE Permanent Council



Excellencies, Colleagues, Ladies and Gentlemen,

First, let me thank you for affording me this early opportunity in my tenure as High Representative and European Union Special Representative to explain both where we stand in Bosnia and Herzegovina and where we are going.

There is a classic Irish story about a motorist, lost somewhere on narrow country lanes in County Donegal, who pulls up beside a farmer to ask directions to Cork. The farmer replies that, if he were heading for Cork, he wouldn't be starting from here.

The current situation in BiH – whether for its citizens or for the international community – is not dissimilar: we should not, twelve years after Dayton, be “starting from here”.

It could and should have been different. Two years ago, it looked like it would be.

As late as this month, we could and should have finally agreed on police reforms in line with the longstanding EU principles,

and so been relishing now the prospect of initialling and signing a Stabilisation and Association Agreement with the EU.

Having entered into such a contract, BiH institutions and citizens would have acquired a fail-safe road map showing the way towards eventual EU accession, burgeoning prosperity and full security. The road might still have been long and the drive strenuous, but both the route and the destination would have been clear to all.

Instead, we confront the need to plot an alternative route to the same destination: a destination that the overwhelming majority of BiH citizens want to reach and which their politicians *claim* they want to reach – but which the party leaders' actions and inactions, policies and pronouncements have belied these past eighteen months or so.

The recent failure to forge a political agreement on police reform was merely the last, albeit crucial, confirmation of the worsening political dynamic that we have witnessed in BiH since April 2006, when the first modest but mould-breaking package of reforms to the Dayton constitution narrowly failed to win adoption.

Since then, there has been a poisonous election campaign, characterised by intransigent and destabilising rhetoric; a prolonged process of government formation, leading to the unavoidable cohabitation in power of the more radical and intransigent parties; and a virtual halt to EU-compatible reforms and normal government activity at state level.

Although majorities of each of BiH's constituent peoples now accept the country as their common homeland, there is as yet no consensus on how this common state should be organised. Serbs' loyalty, as Republika Srpska Prime Minister Dodik never tires of telling us, is conditional upon the others' acceptance of the RS as a legitimate and permanent part of the

constitutional architecture.

Croats remain fundamentally dissatisfied with a two-entity setup that they feel consigns them to the status of a minority in all but a few Federation cantons.

Meanwhile, most Bosniaks want a constitutional order that will do away with the entities and provide for an effective central government, even if it also devolves many powers to multinational regions.

In theory, these separate stances should be possible to reconcile. In practice, the legacy of war and the logic of nationally based and zero-sum politics make this profoundly difficult.

Bosniaks regard the RS as illegitimate and potentially secessionist. Serbs and Croats, for their part, fear Bosniak domination in any unitary state. This fear is conditioned by the “demographic pessimism” characteristic of Central and Eastern Europe over the past 150 years or so and reinforced by old Yugoslav understandings of what it means to be a numerical majority or minority and to have (or not to have) a federal unit of one’s own. Nobody wants to be a minority. Everybody wants to have either a unit or a state of their own.

Police reform, despite being the key precondition for unlocking a SAA, failed because the strongest Serb and Bosniak politicians wanted it to fail. They wanted it to fail because they thought it would prejudice or pre-determine the sort of constitutional settlement they either wanted or loathed.

It thus became a surrogate arena in which to dispute the country’s future constitution. But the avoidance of agreement was also a means of perpetuating a status quo that enhances the power and short-term interests of political elites.

The RS parties had come to regard the preservation of the RS police in its present form as equivalent to the preservation

of Republika Srpska. They thus rejected my proposed 'protocol' and, in the end, repudiated the three EU principles as well. By doing so, leaders in the RS walked away from the October 2005 Agreement which they themselves had drafted and presented to the RS National Assembly.

By contrast, the major Croat parties were helpful throughout, understanding that doing what it took to access a SAA was to open up the prospect of constitutional reform and to guarantee BiH's future. SDA, the largest Bosniak party also decided to support compromise and act constructively.

It is clear to me that we have exhausted our options to secure an agreement on police reform any time soon. The requirement to do so will not go away, but no all-party agreement will prove possible so long as the currently polarised political environment prevails.

The EU will neither abandon this precondition to a SAA nor tolerate its imposition. The EU (and the international community) cannot want a SAA for BiH more than do its leaders and peoples.

This means we must work to produce a step-change in the domestic political dynamic – a step-change that will not only facilitate a SAA, but also constitutional reform and the consolidation of BiH as a peaceable, law-abiding, functional, and contented polity.

This is not to suggest that BiH will ever be uncomplicated in its governance. Few multinational states can be. But a BiH enmeshed in Euro-Atlantic structures will have the security, prosperity and self-confidence required to cope with its multinational essence.

What, then, is my strategy, my road map?

When I amended the law on the Council of Ministers, the rationale was to tackle the dysfunctionality of state

institutions. Many impediments to effective governance – whether embedded in the procedures of the Council of Ministers and Parliamentary Assembly or reflected in various infringements by the entities on the constitutional prerogatives of the state – undermine the Dayton constitution. We cannot transcend Dayton until we implement it.

At the same time, I will continue to promote the EU agenda through a public information campaign designed to acquaint BiH citizens more fully with the realities and benefits of EU membership and to stimulate a veritable groundswell of popular pressure on political elites to make the compromises required to achieve a SAA.

Given the national-political fragmentation of BiH, the limited reach of the mostly partisan media and the disengagement of too many citizens, this will not be easy. But we must try, nonetheless, to ensure that the “push” of OHR and the Bonn Powers is gradually replaced by the “pull” of real enthusiasm for what the EU can offer to countries prepared to make the effort to meet its standards.

In this same vein, OHR will continue to support and coordinate reforms in the economic sphere and justice sector. The rule of law and a common economic space are prerequisites not only to investment and growth, but also to EU membership. I have therefore organized several sets of meetings on the rule of law and chaired a conference on economic development.

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In this regard I envisage a renewed assault on organised crime and corruption. They are not simply corrosive in their own right, but the perceived impunity of politicians and high-profile criminals makes the citizen feel powerless and

disenfranchised.

What has been the response to my decisions of last week?

[The leaders of various RS parties, specifically PM Dodik, are claiming that I have acted unjustly and that I am undermining the stability of BiH. Dodik is threatening to recall all representatives of his party from their positions in state institutions, specifically the State-level government.

I have made an extra effort to explain the substance of my decision of last week to Mr. Dodik. There was a great deal of advance consultation with international community actors and advance information provided to BiH leaders. On Monday, I travelled to Banja Luka to explain in detail my decision to Mr. Dodik.

All of you must know that I will stand by my decisions. I will fulfill my mandate and uphold the Dayton Peace Agreement. Anyone challenging the authority of the High Representative, the Peace Implementation Council and the Dayton Peace Agreement is playing with fire. I am confident that this attitude should have strong support from the international community.

Working with other international community actors on the ground and coordinating civilian peace implementation is a key part of my mandate under Annex 10 of Dayton. The OSCE Mission is a key partner.

I would like to thank Permanent Council for this engagement in BiH. Your mission is the largest international civilian organisation in BiH, with the most extensive field presence in the country and twelve years of experience. It will, in my opinion, continue to have an important role in three areas of the country's transition:

- Developing responsive and accountable governance, whether on the municipal level or in a functional state

parliament;

- Promoting justice, ensuring that war crimes cases are properly prosecuted and respect for human rights improves; *and*
- Creating an education system that inculcates both civic virtues and mutual respect while equipping youngsters for a common European future.

Some of the OSCE Mission priorities will bring about long-term gains; education reform is so fundamental and so difficult that it will take many years to complete. We have made a start in providing the legal frameworks and establishing the institutions, but implementing the laws and making the various agencies work is much harder. This requires changing of minds. But without changing the outlook of the young generations, this country will face serious problems in the future.

Other OSCE priorities are immediately relevant to the road map I have set out, most notably the responsibilities of OSCE in the security sphere under Annex 1 of the Dayton Peace agreement.

So is the elaboration of a comprehensive domestic strategy for dealing with more than 10,000 potential war crimes cases – and making sure that the domestic judicial system can cope.

This and the establishment of genuine, inter-state cooperation in the prosecution of war crimes are shared objectives.

In my recent address to the State Parliament, as well as during a brainstorming session my office organised with representatives of the national justice sector and international community; it has been stressed that the obstacles rising from regional judicial co-operation in war crimes proceedings, despite some positive results at expert level obtained through an OSCE driven process; continue to increase impunity gap for war crime suspects.

If all the countries in the region are, in the near future, to share common values of judicial co-operation it will be important that they solve such obstacles between them as Europeans.

Similarly, the OSCE Mission's role in monitoring war crimes trials transferred by the Hague Tribunal to BiH helps ensure that such trials are seen as legitimate by all, thereby contributing to post-war understanding and reconciliation.

Given the reductions in the OHR and UNHCR presence in the field in recent years, the OSCE also provides vital reporting on the state of both refugee returns and human rights in the country's remoter regions.

The OSCE keeps us informed of what is happening on the ground.

In conclusion, I would like to reiterate that I am convinced that the European path is the only solution for achieving long-term stability in the whole region. It is the best way forward for BiH.

For now, it appears that the international community is forced to focus on Dayton implementation. Let us hope that all BiH leaders respect Dayton, make BiH workable, and decide to allow the country to continue on its path towards Europe.

Thank you.