



Croatian American Association

July 26, 2018

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Pompeo,

On behalf of the Croatian American Association (CAA), a non-profit, non-partisan membership organization representing tens of thousands of concerned Croatian Americans, we write to express our deep concern for the current political situation in Bosnia and Herzegovina (BiH). Many of our members are Croats originally from BiH who have deep concern for the future stability of Bosnia and Herzegovina. We all know what happened a mere 25 years ago and, thanks to the leadership of the United States, BiH has since had a period of peace. But the US must step up again if peace is to be preserved and progress made in a volatile region of the world.

As I am sure you are aware, the source of the impending instability is the fact that Bosnia and Herzegovina is facing a **constitutional crisis** and an **attack on the constitutional order and the rule of law by five Bosniak parties which are refusing to implement the Constitutional Court of BiH ruling in the “Ljubic” case.**

In December 2016, the Constitutional Court of BiH ruled in the “Ljubic” case that parts of the election law of BiH are unconstitutional as it does not allow constituent peoples (Bosniaks, Croats and Serbs) and Others to elect their own legitimate political representatives, as per the Constitution of BiH. The Constitutional Court of BiH in its ruling was explicit that the election law reform must ensure that members of one of the constituent peoples do not elect representatives of another constituent people or Others, in order to secure legitimate political representation.

The Court gave the Parliamentary Assembly of BiH six months to reform the law, and when the assembly failed to do so, due largely to the inaction of the Bosniak political parties, the Constitutional Court erased the unconstitutional clauses from the election law in July 2017.

As a consequence, the October 2018 general elections results cannot be fully implemented, meaning that after the election both the Parliamentary Assembly of BiH and the Parliament of the Federation of BiH (FBiH – one of the two entities making up Bosnia and Herzegovina) cannot be formed. Moreover, it will be impossible to elect and confirm in the Parliament the President of the FBiH and the Government of the FBiH, leading to the complete paralysis of the FBiH entity.

What makes this crisis unprecedented is the fact that after the elections, there will be no legislator in power who can legally and constitutionally fix this issue. BiH can run on autopilot until March 31, 2019. However, if the budget is not passed by then, which it cannot be without the full Parliamentary Assembly of BiH, then veterans and pensioners will not receive their benefits, public workers will not receive their salaries and BiH will be unable to pay its foreign debts. The outcome would be the worst political, constitutional and economic crisis since the war in 1990s.

This is exactly why it is crucial for the international community, but especially for the US which brokered the Dayton Agreement in 1995 and stopped the war in BiH, to react and protect the Constitution, the Constitutional Court rulings and the rule of law in Bosnia and Herzegovina.

We want to remind you that the Constitutional Court of BiH (**constitutional court at the BiH/state level**) has made a decision that the election law of BiH (**a law at the state level**) is not in accordance with the Constitution of BiH (**state constitution**) and explicitly ordered the Parliamentary Assembly of BiH (**the parliament at the state level**) to reform the election law of BiH and make it in accordance with the Constitution of BiH.

A group of five Bosniak parties has been ignoring the Constitutional Court ruling and the Constitution of BiH. This group has been trying to reform the election law at the Parliament of FBiH level where it has the majority of votes in both chambers of the parliament. This would be equivalent to a state legislator in the US trying to change a federal law which is binding on all states.

Moreover, the proposal of five Bosniak political parties is not only unconstitutional, but the process they try to use to resolve the election law is also unconstitutional. The proposed legislation in question contains the same stipulations that the Constitutional Court ruled unconstitutional in December 2016, thereby failing to implement the court order and ignoring the rule of law and the Constitution of BiH.

HNS, the Croat National Assembly of Bosnia and Herzegovina, an umbrella organization of all Croat political parties in BiH has warned the public and the international community in BiH about this “entity coup against Bosnia and Herzegovina” in their public letter on July 9, 2018. We support their efforts to implement the Constitutional Court of BiH ruling in the “Ljubic” case in the spirit of Dayton and respecting the principle of legitimate political representation, as outlined by the Constitutional Court of BiH.

We strongly believe that the solution for this constitutional impasse is dialogue followed by action that is consistent within the limits of the Constitution while upholding the rule of law and the Constitution of BiH. It is possible to find a solution that respects the Constitution of BiH and fully implements both the Constitutional Court of BiH ruling and the European Court of Human Rights rulings, as the IDPI think-tank from Mostar showed in their proposal (<http://www.en.idpi.ba/basic-principles-models-and-proposals-for-bih-election-law-reform/>).

Finally, we hope that the US, together with its European allies, will decisively reject the unilateral and unconstitutional moves currently underway in BiH and instead forcefully advocate that the rule of law, upholding the Constitution and respecting the Constitutional Court rulings must prevail. Respecting the Constitutional principles means reinforcement of the rule of law, and hence, a stronger and more functional Bosnia and Herzegovina. The full implementation of the “Ljubic” ruling is a crucial step towards stability and protection of the constitutional order in BiH and the region and, therefore, securing American investment in the security of this volatile region.

Sincerely,

John Z. Kosir, President
Croatian American Association
2021 L Street NW, Suite 101-277
Washington, D.C. 20036-4909