

The International Institute for Middle-East and Balkan Studies (**IFIMES**) in Ljubljana, Slovenia, regularly analyses events in the Middle East and the Balkans. Ambassador **Dr. Jožef Kunič**, President of the Slovenian Association for International Relations (SDMO) and member of the IFIMES International Institute, has presented his view of the Slovenian-Croatian relations with an emphasis on the unresolved border question. His article entitled "**THE SLOVENIAN-CROATIAN BORDER QUESTION – IS THE PATH TO SOLUTION THE RIGHT ONE?**" is here published in its entirety.



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1

THE SLOVENIAN-CROATIAN BORDER QUESTION – IS THE PATH TO SOLUTION THE RIGHT ONE?

The question of the border between the Republic of Croatia and the Republic of Slovenia has drawn a lot of attention of numerous analysts and politicians. Although much has been said on the issue, there seems to have been no active attempt to resolve the problem until very recently.

We have heard the opinion that Slovenia's blocking of Croatia's accession to the EU represented a small shock for Croatia. In any case it came as a surprise. The Slovenian Government has indicated several times that the field of foreign policy will be based on the principle of continuity. One such clear message of continuity was the appointment of the former Foreign Minister of the previous government to the position of the foreign policy advisor of the present government. However, it should be noted that the previous government, as well as its predecessor, were trying to make an impression that they were working on the problem, although it was obvious that there was no will to resolve it. Eventual disagreements and incidents were

followed by diplomatic notes and police interventions, but no serious activities were undertaken at the international level. Now the Slovenian government has decided to block the negotiation process and thus break the continuity of apparent striving for a just solution which actually represented the policy of appeasement.

We have also heard the opinion that we need some serious reflection and a new beginning in the process of resolving the border question. That process should be based on the principles of mutual respect, mutual benefit and good faith. The diplomatic meaning of those principles is clear. Unfortunately, they have not been respected till now by either side. Numerous statements expressed by both sides revealed a relationship far from mutual respect. In their negotiations with the other side politicians and others strictly pursued their own instead of mutual benefit. Nor have they acted in the spirit of good faith – deals were not respected and even written agreements were not implemented.

The above three principles should be supplemented by another one: both sides should recognise and accept the fact that the border question must be resolved (as soon as possible) and may no longer be used for short-term (sometimes nationalist) interests of political parties. They should realise that the national interests of both states must come before the personal and party-political interests.

SOLUTION LIES IN THE RESTORATION OF BILATERAL NEGOTIATIONS

2

Is it really important to resolve the question of the border between Croatia and Slovenia as soon as possible? We know that some EU member states have had certain unresolved border questions for a very long time. There are quite a few cases which have not been resolved nor have there been any attempts to resolve them. However, all those unresolved questions have some common features. As a rule such areas pose no difficulties for the inhabitants as they are practically unpopulated. On the contrary, the state border between Croatia and Slovenia is very densely populated and due to the unresolved border issues the inhabitants are daily faced with practical problems. Slovenia and Croatia should therefore resolve their border question as soon as possible since the open issues make life very difficult for the local population and consequently deteriorate the relations between the two states, which is harmful for both countries, Croatia and Slovenia.

One could argue that the border question will become irrelevant once we are all part of the EU. Unfortunately things are not as simple as that. In many aspects the EU politics are not unified. For the inhabitants of areas where the state borders are not defined it is still important where they have to pay taxes, where they have the right to send their children to school, how far their fishing boats can go etc. Even if the inhabitants themselves did not raise serious problems, there would always be those

who would take advantage of the situation, especially during pre-election periods. They might jump over the fence, show their backside to the other party, paint the border stones – there are many possibilities. This situation causes damage to both states and embitters the relations between their citizens. The preservation of the unresolved question after the EU accession would not be good for the two states nor for EU as a whole. The border question should therefore be resolved before Croatia joins the EU, if possible by not slowing down Croatia's accession process.

Croatia is eager to join the EU as soon as possible. However, it would be an illusion to think that all the citizens of EU member states want Croatia to join the EU as soon as possible. In fact, many are convinced that the enlargement is unnecessary, and some even believe it is harmful for them. Nor are all the member states enthusiastic about rapid enlargement and it comes in very handy for them to have such unresolved questions as the General Gotovina case and the state border issue raised by Slovenia. Of course they would not say it loudly, but their actions do not negate such suspicions. One of the leading foreign political magazines in the world wrote that due to the financial crisis the EU will focus on economic issues and that the recession will force EU member states to concentrate on the recovery of domestic economy. It is fully possible that some of the major EU member states will not be keen on the enlargement. Although the European Commission (and especially those in charge for the enlargement) stated that its goal is to conclude the process of Croatia's accession as soon as possible, the positions of some of the major member states are anything but insignificant. The Slovenian-Croatian border question is certainly a topic that may be used anytime by Slovenian political actors for their own promotion and in order to block Croatia's accession process. It would be useful for Croatia to realise that. But even if the Slovenian side agreed that Croatia may join EU without any further preconditions, it should not be surprising if some other reason for blocking the accession process appeared. Croatia should therefore take great care that no EU member state finds any reason to postpone its accession.

Slovenia has realised that Croatia's EU membership would be useful. Most of the political elite is therefore in favour of the accession, but they are also aware that some political elements will use the unresolved border question for their own benefit, to call a referendum and exert other populist pressures, which will block the accession process. Although accession to the EU does not depend on the resolution of the border question, it *de facto* represents a condition.

If a third party is to decide on the border question without the possibility of lodging a complaint, there is not much chance that the question would be resolved before the first possible date for Croatia's accession. The court proceedings would be very time-consuming and it is not certain whether both sides would agree on the selected court or on the modalities of the proceedings on time. A similar problem might arise in case of arbitration: first the two sides would have to agree on questions such as which arbitration should be used, who would be the arbiters, what arbitration rules would

be applied etc. Moreover, the two sides would first have to agree what the third party should decide on: the complete border or only some parts of it and, in the latter case, what parts. Finally, in case of a third-party intervention, both states would have to realise and recognise publicly that they are not able to come to an agreement on the basis of the principles of mutual respect, good faith and mutual benefit.

The solution obviously lies in the restoration of bilateral negotiations. Since the unfavourable atmosphere in both states prevents practically any productive talks between their delegations, mediation appears to be one of the possible ways which may result in a relatively fast solution. It is not a coincidence that in their coalition agreement the new Slovenian Government partners included the text which enables such mediation.

Of course the European Commission and especially its Enlargement Commissioner did not overlook any of the above facts. Both states have eagerly carried out many lobbying activities in order to win the sympathy of as many important persons as possible at the EU and wider level. However, that did not contribute much to the solution of the border question. After Slovenia showed that it seriously intends to insist on resolving the border question before Croatia can join the EU, the European Commission realised the gravity of the situation and presented a very logical proposal which is neutral and face-saving for both countries, in a sense that the two countries should not snitch on each other before court or trust a third party rather than their negotiators or neighbours.

4

MEDIATORS DO NOT MAKE DECISIONS

The proposal for bilateral negotiations with mediation through a group of distinguished international mediators is an excellent one. There were some comments that the group of mediators would now decide on the border. Mediators do not decide on anything. They connect, look for compromises and propose them, substantiate their proposals. But the decisions are only made by Croatia and Slovenia. However, the above proposal is not nearly enough to resolve the problem.

Both sides will have to make their citizens understand that the solution put forward to the two parliaments by the two delegations in the presence of the mediators is beneficial for their respective country. In order to achieve that two preconditions have to be fulfilled. Firstly, the solution needs to be a compromise, which means that both sides will have to make concessions in points of less importance for one and more importance for the other side. They would have to respect the decision of the other side on what is important and to what extent. Although many points are of symbolic nature, this is sometimes important. It would be useful if each side satisfied the other side on some points which would help the other side to create a positive public opinion. Secondly, the two countries have to create the atmosphere which will be conducive to achieving such a compromise. Both sides need to make an end to

actions which spoil the positive atmosphere. They should avoid statements such as: one side took the money from the other side, the other side is not credible, the other side profited at the expense of the first side in the history, the other side may thank the first side's fighters that it still has the sea etc. They should also take all the necessary measures in order to avoid any border incidents. Unless these preconditions are fulfilled, any concluded agreements may, due to the short-term political interests, experience a similar destiny as the Drnovšek-Račan agreement.

And finally, the statements saying that now is not the right time for negotiations because at least one of the two sides is awaiting elections should not be taken seriously. Practically always at least one of the two sides is awaiting some kind of election and according to that logic there will never be the right time for negotiations. Each government has to find enough courage to stand up to the opponents and to start and continue the negotiations despite a perhaps less favourable moment, showing that it has put the long-term interest of its country before its own short-term interests.

Ljubljana, 29 January 2009

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5



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1

