

Conclusions of the RSNA

7th Special Session

11 November 2019

1. The RSNA hereby endorses the Information paper on the unconstitutional transformation of BiH's Dayton structure and its impact on the RS position and rights.
2. The RSNA rejects all acts that are unconstitutional and incompatible with the General Framework Agreement for Peace in Bosnia and Herzegovina. The RSNA will continue to act in accordance with the fundamental constitutional principle according to which BiH came into existence by virtue of the Dayton Accords and according to which it is composed of two entities, the RS and the FBiH. Any position or activities that are contrary to this fundamental constitutional principle will result in the violation of the constitutional and legal organisation of BiH, RS and FBiH and undermine peace and stability.
3. The RSNA deems that any attack against the constituent peoples and equal entities is an attack against the Dayton Agreement and constitutional-law structure of BiH as a complex state union. The RSNA will respond to any unlawful and unconstitutional actions and activities of domestic and foreign factors aimed at undermining and modifying the Dayton Accords.
4. We reiterate that BiH was created through the consent of the RS and FBiH and it is only through a consent of both entities that it can exist, hence any aspiration to change the complex Dayton structure is absolutely unacceptable and may result in detrimental consequences.
5. The RSNA demands that the signatories and witnesses to the Dayton Accords, as well as all representatives of the international community, should respond to the issuance of any act calling for the dissolution of the Dayton Accords, as well as any activity that is contrary to the provisions and principles thereof, and should enable the initiation of the necessary procedures whereby BiH, RS and FBiH would return to the framework foreseen by this international treaty.
6. Should the Dayton Accords signatories and witnesses, and members of the international community, choose not respond to the attempts to dismantle the Dayton Accords, the RSNA will launch the procedure to enact a new RS constitution, which will be referred to the citizens for the vote in a referendum. The new RS constitution will be based on the original principles of the Dayton Accords and enable the RS to restore the competences it has been deprived of and to function in accordance with the Dayton Accords.
7. The RSNA hereby orders all relevant RS institutions to take, without any delay, all necessary action to prepare a comprehensive report on the circumstances and activities that resulted in the RS's decision to consent to the agreements that resulted in the BiH Defence Act, BiH Indirect Taxation Act, the BiH HJPC Act, and any other legislation derogating RS competences, including legislation imposed by the High Representative to BiH, which jeopardise the constitutional and legal position of the RS as guaranteed by the Dayton Constitution.
8. The RSNA will respond to any attempt to determine the future status of the RS through any unconstitutional territorial reorganisation of BiH, any activity undermining the territorial organisation of the City of East Sarajevo, or any other activity seeking to transform and dismantle the Dayton Accords and the structure of the state union created thereby.
9. The RSNA recognises only the entities and constituent peoples in BiH as having sovereign authority, hence any imposition of sovereignty beyond it will be deemed to be unconstitutional and anti-Dayton in nature. BiH has a limited and derived sovereignty that manifests in its interaction with third parties. Internal sovereignty belongs to the RS and FBiH.

10. In this respect, the RSNA notes, as the most important principle of the Dayton Accords and Annex 4 thereof, the rights of the constituent peoples in keeping with the principles enshrined in the BiH Constitution and international documents promoting the rights of peoples, which are integral to the constitutional system in BiH, including the right to self-determination, which means, under the Dayton Accords, the preservation of the Dayton structure and broad autonomy of the entities. The competences of BiH as conferred by the BiH Constitution are limited and itemised in Article 3.1 whereas the competences that belong to the entities include those that are not exclusively vested with the BiH level by the BiH Constitution. This is further corroborated by the protections of entity rights and the rights of the constituent peoples.

Should the rights of peoples to self-determination as proclaimed in the UN Charter be denied, and should activities conducive to the deconstruction of the Dayton Accords be further supported, the RS maintains the right to make an ultimate decision on its future status.

11. The RSNA rejects any action to modify the original Dayton Accords and Annex 4 thereof, the BiH Constitution, which is the foundation of the existence and operations of all institutions and officials at the BiH level, hence the RS will respond as appropriate to any such action that is incompatible with the BiH Constitution. Any action contrary to the position of the RSNA as the supreme legislative and constitutional-law authority of the RS will be deemed a violation of the RS's sovereignty and constitutional structure. Such actions should be qualified as a criminal offence under the RS Criminal Code.

12. The RSNA hereby obligates the RS representatives to the BiH Presidency, the BiH PA House of Representatives and House of Peoples, and the BiH Council of Ministers not to participate in the procedure to amend the Rules of Procedure and other documents should such amendments aim to reduce the number of Serbian votes and votes from the RS required for deciding on the matters within their remit.

13. For years, BiH has seen a systematic and illegal centralisation through unlawful actions of the High Representative and brutal violations of BiH's constitutional structure. The RSNA shall not accept any activity that may result in an unlawful centralisation of BiH and demands that all authorities, both in the RS and joint institutions of the state union of BiH, should focus their activities on the restoration of constitutional competences of the entities.

14. While observing sovereignty and the rule of law, the RSNA shall initiate the closure of the Office of the High Representative. The presence and actions of the High Representative as an unelected official without any responsibility with self-proclaimed sweeping executive, legislative and judicial powers that are not subject to any review whatsoever violate Annex 10 of the Dayton Accords, which clearly provides for the HR's powers. Annex 10 which, with the consent of the entities comprising BiH, introduced the HR's role and provided for the HR's legal authority, does not include any provisions granting the HR authority to issue any binding decree. The HR's further presence and actions are unacceptable and unproductive as his statements contribute to misunderstanding rather than understanding in BiH.

15. The RSNA rejects the HR's Bonn powers as utterly unconstitutional, unlawful and illegitimate since the application thereof is a blatant violation of the constitutional-law organisation of BiH and fundamental human rights and international instruments protecting them.

16. The RSNA shall raise the issue of the membership and procedures of the BiH Constitutional Court. The BiH Constitutional Court lacks legitimacy due to the presence of foreign judges as its members who employ political rather than legal means to inflict immeasurable harm on the RS. Further presence of foreign judges on the BiH Constitutional Court is unacceptable as no country in the world has positions reserved for foreign judges, which only proves that BiH is not a sovereign country. The presence of foreign judges on the Constitutional Court is incompatible with the commitment to BiH's EU future. In practice, the BiH Constitutional Court has jurisdiction that is atypical in the modern constitutional judiciary, which it is further expanding, which is absolutely unacceptable.

17. The RSNA orders the RS Government to initiate negotiations with the FBiH Government to urgently agree on the BiH Constitutional Court Bill, which will provide for its composition and functioning in accordance with the fundamental principles of the BiH Constitution and eliminate all barriers to further progress of the state union towards the EU, and prepare a bill to rehabilitate all individuals from the RS who were unlawfully dismissed by way of HR decrees.

18. The RSNA obligates the RS Government and other relevant institutions to launch a reform of the judiciary institutions at the BiH level—the Court of BiH, BiH Prosecutor’s Office, and the HJPC system—which the High Representative imposed through unlawful decrees contrary to the Constitution. The Court of BiH Bill must end the extended jurisdiction of the Court vis-a-vis the criminal codes of the entities, and enable the formation of an autonomous appellate court, the jurisdiction of which should be limited to the cases adjudicated by the Court of BiH. Reforms are necessary also to ensure that the BiH Prosecutor’s Office be independent, accountable and free from domination of one political party or constituent people or influence of the international community. Entity-level institutions should have the authority with regard to the appointment and oversight of the entity judges and prosecutors, and the competence with regard to judges and prosecutors at the BiH level should be equally distributed among entity institutions.

19. The RSNA orders the RS Government to analyse the effects of unconstitutional transfers of authority from the entities to the BiH level, including the competences transferred on the basis of the so-called inter-entity agreements in the areas of defence and indirect taxes and report to the RSNA thereon with a view to initiating talks among the entities and legitimate representatives of the constituent peoples concerning the effectiveness thereof. In particular, the RSNA orders the RS Government to conduct preparations to enable a potential disengagement from the BiH VAT system and opening a separate account for VAT from the RS since the operations of the BiH ITA and the method of distribution of the revenues collected are detrimental to the RS and its citizens.

20. The RSNA shall continue to act in accordance with the Resolution on the protection of the constitutional structure and military neutrality, by which Srpska is bound to military neutrality. The RSNA supports cooperation with the NATO and its key members on security issues, but opposes BiH’s membership in NATO, primarily because it deems that the formation of a NATO border with Serbia to be unacceptable and because of the enormous costs of membership in this alliance for the RS and BiH. In case of any violent attempt at BiH’s accession to the NATO alliance, the RS will hold a referendum for its citizens to vote on the RS membership in any military alliance.