

Speech by High Representative Valentin Inzko To the UN Security Council



Monsieur le President, Vos Excellences, Mesdames et Messieurs,

Merci de me donner l'occasion aujourd'hui de vous présenter mon cinquième rapport en tant que Haut Représentant et le trente-neuvième au total. [Thank you for giving me the opportunity today to present my fifth report as High Representative and the 39th report altogether.]

Depuis ma dernière présentation au Conseil de Sécurité en novembre l'année dernière, la situation politique en Bosnie Herzégovine a continué de se développer de manière négative. Aujourd'hui, hélas, nous faisons face le plus sérieux et directs défis aux Accords de paix de Dayton-Paris depuis leur signature, il y a plus de 15 ans. [Since my presentation to you in November last year, the political situation has continued to develop negatively in Bosnia and Herzegovina. Today, regrettably, we face the most serious and most direct challenges to the Dayton-Paris Peace Agreement since it was signed over 15 years ago.]

C'est pour cette raison que – en accord avec mon mandat et en plus de mon rapport bi-annuel – je vous ai soumis un rapport spécial sur les récentes actions entreprises par les autorités de la Republika Srpska, qui enfreignent de manière évidente les Accords de Paix de Dayton-Paris. J'espère que mes rapports

et ma présentation d'aujourd'hui contribueront à une meilleure compréhension de la situation politique actuelle en Bosnie-Herzégovine et des défis qui s'imposent à nous. [It is for this reason that – in accordance with my mandate and in addition to my bi-annual report – I submitted to you a special report on recent actions undertaken by the authorities in Republika Srpska which clearly violate the Dayton-Paris Peace Agreement. I hope that my reports and my briefing today will contribute to a better understanding of the current political situation in Bosnia and Herzegovina and the challenges that lie ahead.]

More than seven months after the general elections there is still no prospect of a new state government being formed and many state institutions are under serious political, institutional and economic pressure with a clear impact on their efficiency and functionality. The European Union and the Euro-Atlantic integration processes have come to a complete halt and the economy continues to suffer.

The authorities in the Federation were formed only after months of deliberate obstruction in electing delegates to the Federation House of Peoples. The government formation process was stalled by lengthy political disputes and interventions, and when the appointment of the authorities was disputed through various legal challenges, I was forced to intervene – with the support of the Peace Implementation Council. In fact, there was broad consensus in the Peace Implementation Council that taking no action would have resulted in political and legal uncertainty – with the prospect of two parallel and disputed Federation governments and presidents, potentially no budget and a subsequent dissolution of parliament in the FBiH followed by new elections. These risks have been averted, and the Federation authorities now seem to work effectively.

The current situation in the Federation is also a dispute

between the ethnicity-based politics and a more civic-oriented version, and follows the overall division of the society in the country.

In this regard, the Bosnian Croat HDZ parties, which before the general elections advocated a third entity in Bosnia and Herzegovina, have organised a Council of Croat Cantons and Municipalities. While there are provisions in the Federation Constitution that foresee cooperation between cantons, such a development 15 years after Dayton is clearly not the direction we should be going in.

These developments would be bad enough at a time when governments should be re-doubling their efforts to deliver the deep reforms the country needs to tackle the serious economic and social challenges facing its citizens, as well as, of course, to make progress towards EU and NATO membership.

However, within this already difficult climate, the authorities in Republika Srpska have taken concrete actions which represent the most serious violation of the Dayton Paris Peace Agreement that we have seen since the Agreement was signed.

The conclusions and the decision on the referendum, which were adopted by the Republika Srpska National Assembly in April, are not only a clear breach of the Peace Agreement but also put into question all laws enacted by the respective High Representatives claiming they are in violation of the Peace Agreement. As such, the recent actions by Republika Srpska, if allowed to proceed, would have a major impact on the functionality and sustainability of Bosnia and Herzegovina. The High Representatives, in line with relevant UN Security Council resolutions, have enacted a significant number of decisions and laws which are fundamental for the state of Bosnia and Herzegovina, such as Bosnia and Herzegovina's

passport, flag, national anthem, the coat of arms or the single Ministry of Defence – not to mention many other key reforms like border police etc.

The holding of a referendum on the High Representative's powers and on his decisions would be a serious breach of the constitutional framework of the country and of Bosnia and Herzegovina's international obligations. It would also be contrary to Annex 10 of the Dayton-Paris Peace Agreement, as well as to a host of resolutions adopted by the Security Council under Chapter VII of the UN Charter. In other words, such referendum would challenge decisions of Security Council.

In addition, the conclusions seek to undermine the entire constitutional system of division of responsibilities between the State and the entities as established by the Annex 4 of the Peace Agreement, the Constitution of Bosnia and Herzegovina, and as further interpreted by the Constitutional Court of Bosnia and Herzegovina, also an institution established by the Peace Accords. All this would be endangered and undermined.

Regarding Bosnia and Herzegovina's state-level judicial institutions, which are specifically targeted by the referendum, I must point out that the state has exclusive competence under the Constitution of Bosnia and Herzegovina for international and inter-entity criminal law enforcement. The Court of Bosnia and Herzegovina and Bosnia and Herzegovina's Prosecutor's Office are institutions created with a view to enable the State to carry out precisely those competences at state level. On technical point, this referendum would be binding.

My approach to this challenge to the Dayton-Paris Peace Agreement has been clear and fully consistent with my firm belief that dialogue should always be given a chance. In this

regard, I expect the Republika Srpska authorities to put the adopted conclusions and the referendum decision out of force in the coming days. Should this not happen, given my responsibilities to uphold the Peace Agreement, I will have no choice but to repeal the conclusions and referendum decision.

In this regard, I have strong support from the Peace Implementation Council and the highest levels of the European Union.

In addition to the conclusions and the decision on the referendum, the authorities of Republika Srpska and in particular its President, have continued openly to question the **territorial integrity** and **sovereignty** of Bosnia and Herzegovina by repeatedly threatening the sustainability of Bosnia and Herzegovina and by frequently advocating for the dissolution of the country. The authorities of Republika Srpska have also continued to undermine and question other key state-level institutions in the country. The policy behind is to show that these institutions are dysfunctional – and therefore not needed at state-level. The Republika Srpska authorities have also continued to deny that genocide took place in Srebrenica in 1995, a fact confirmed by international tribunals.

Mr. President, seven months after the general elections, the overall political situation in the country remains tense and has made formation of government at the state level almost impossible. The legislative process at the state-level remains at a standstill – and as a result there has been no progress addressing EU and NATO-related reform agendas.

I believe it would be a mistake to view these latest developments in Bosnia and Herzegovina as a short term negative trend. We have in fact witnessed a downward trend in

political stability for five years now, following the rejection of the April 2006 package of constitutional amendments.

While we must now focus on the immediate difficulties, I believe it is also important to have a critical look at what we need to do to secure a functional and viable country in the long term. It is clear that we need to support the ownership principle in Bosnia and Herzegovina.

The Peace Implementation Council has continued to express strong concern about developments in the country, in particular about the events I have mentioned. At the same time, the Peace Implementation Council has noted that – with the exception of the objective related to the Brcko District – there was little progress in implementing the conditions required for closing the Office of the High Representative.

On the state and defence property objective, there has been regression as the Republika Srpska authorities unilaterally adopted an entity Law on State Property in December, which – had it entered into force – would have led to all state property in that Entity being registered as Republika Srpska property. This would have made a comprehensive negotiated solution on state property impossible. Therefore, I had to suspend the application of this law, pending a decision on its constitutionality by the Constitutional Court of Bosnia and Herzegovina. On defence property, Republika Srpska continues to refuse granting the state the right of ownership over defence property.

In contrast, there has been progress addressing the outstanding conditions on the Brcko electricity issue. I hope that we will be able to resolve remaining issues soon. However, before this process will be recommended the Republika Srpska is required to give proper and specific assurances on

the constitutional status and rights of the Brcko District in the future as well as on the terms of the Final Award – as the Federation has done already.

As I have mentioned before, the entire international community must take the deteriorating situation in Bosnia and Herzegovina very seriously. Further erosion of the state, its institutions and the rule of law will push Bosnia and Herzegovina into deeper crisis and instability. This could also have negative consequences for the entire region in Southeast Europe.

In this regard, allow me to say a few words on how I think the International Community should approach Bosnia and Herzegovina in the future.

We all agree that the future of Bosnia and Herzegovina is within the European Union and Euro-Atlantic institutions. The EU and NATO, therefore, have an important role to play in Bosnia and Herzegovina in assisting the country to fulfil the requirements for its aspirations to membership in both organizations.

At the same time, the need for an international presence with an executive mandate in Bosnia and Herzegovina is still evident. There are still serious challenges to the state of Bosnia and Herzegovina coming from within the country, which demand the presence of the Office of the High Representative and EUFOR with an executive mandate. We should have sufficient tools to prevent attempts aimed at rolling back the previously agreed reforms and at creating instability.

It is important that Bosnia and Herzegovina remains on the International Community's agenda until the job is completed. There are some who believe that it is time now to leave Bosnia

and Herzegovina on its own, some talk about international fatigue in Bosnia and Herzegovina. I do not share this view, and believe that such moves would open the door to those who would attempt to weaken and eventually divide the state and could lead to renewed disorder. The international community has achieved tremendous results in Bosnia and Herzegovina over the past 15 years, however, it is clear from the current political situation that we have not yet achieved a lasting and sustainable political settlement that would ensure a durable prospect for peace.

Our continued attention on Bosnia and Herzegovina is the way to get to the objective that we all want to reach – where Bosnia and Herzegovina is able to solve its problems institutionally and where it can move towards full Euro-Atlantic integration with full ownership of responsibilities.

I am truly convinced that this can become a reality. I will, as High Representative, continue to dedicate all my efforts to assist and support Bosnia and Herzegovina's efforts in this direction.

Thank you.