

Weekly column by Christian Schwarz-Schilling, High Representative for BiH: “Attacking the Independence of the Judiciary Undermines the Economy”

Among the first words that foreigners learn in Bosnia and Herzegovina are *veza* and *stela* [both words for contact]. This is what people believe you need in order to get ahead in life and it is symptomatic of a society where concepts such as the rule of law are relatively new.

To be sure, connections are important in all countries, not just in Bosnia and Herzegovina, and can certainly help get things done. Most of us would rather do business with people we know than with complete strangers. It often makes a positive difference if we can put a face to the voice on the other end of the telephone.

But in Bosnia and Herzegovina the power of connections goes beyond that. Here, many people see connections – particularly connections with politically influential individuals – as a means of getting around the system, not as a means of making the system work more satisfactorily.

Why pay tax if you have a connection in the tax administration?

The answer to that, of course, is that taxes represent the income that governments need in order to provide social services. Tax dodgers aren't simply getting round the system; they are withholding money that can be used to pay nurses and

schoolteachers, for example.

Honest citizens cannot prosper in a country where corruption is omnipresent, where the right connections are the only way to get things done, and where “untouchables” can behave as though laws don’t apply to them. In such a society, honest citizens have to pay higher than necessary prices for goods and services whose quality is routinely lower than it should be.

Your neighbour, your boss or a local politician might find a way to avoid paying taxes, but that does not change the need for teachers and nurses. It just means that the government has less money to pay them. In addition, a climate of corruption scares away the investment that is needed in order to create jobs – so those who are looking for employment suffer because of those who refuse to play by the rules.

The bottom line is this: connections only work for the well-connected. This is why the international community has devoted so much time, money and effort to promoting the rule of law in Bosnia and Herzegovina . And the first prerequisite of upholding the rule of law is to uphold the independence of the judiciary.

Much has been achieved in this field in the past 11 years, and this is already paying a dividend in terms of increased foreign investment.

The progress that has been made, slowly and uncertainly, must not be taken for granted. The independence of the judiciary has to be understood, it has to be supported, it has to be defended, it has to be championed in print and on television and in everyday life – because it is being attacked by politicians who believe the best institutions are the sort that are under their control.

In Bosnia and Herzegovina , politicians are no longer able to control judicial appointments, nor are they able to control

judges' and prosecutors' actions. This means that the law can be applied and can be seen to be applied in an even-handed manner.

The creation of the High Judicial and Prosecutorial Council (HJPC) – whose creation was a precondition for the opening of talks on a Stabilisation and Association Agreement with the European Union – has been central to this. The HJPC has supervised the scrutiny of judicial appointments and helped reform the laws that regulate salaries for judges and prosecutors. Today, the HJPC is helping to set and raise standards by administering a comprehensive training programme for court personnel. It also provides an independent disciplinary procedure to monitor the work of judges and prosecutors.

The results of all this? Well, for one thing, individuals who were once seen as being above the law have been tried and convicted.

The work of the HJPC is crucial for the future of Bosnia and Herzegovina . Only an independent judiciary can ensure that everyone is equal before the law. This is a basic building block of a functioning democracy and it is a basic building block of a just and prosperous society.

When elected politicians make threats against the judiciary, citizens must understand that these same politicians are undermining civil rights and driving away the investment that is needed to create jobs. Attacking the independence of the judiciary means attacking the interests of citizens, undermining the economy and diminishing the promise of prosperity.

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