Transcript of the High Representative's Press Conference on Vetting

Good afternoon to you all

I was just reflecting upstairs that I suppose I may not have too many more press conferences with you. I shall miss you all. But there is a little time to go before that happens yet.

Well thank you for coming. It seems some time since we had a press conference. So, I called this press conference this morning in order to outline the steps which I intend to take to further the policy I laid out to you some months ago, that I would follow as I moved towards the end of my mandate. And you may recall then that what I said was that I wanted to use the remaining months and weeks in order to do two things. First of all, to finish the tasks which I set myself nearly four years ago, and the second was to open the way for the next phase of BiH's development towards full sovereign statehood which would take place under my successor – who I anticipate will be announced this week.

So, this falls into the second of those two categories. Today I will be proposing legislation to be put before the BiH authorities which will carry forward the process of handing over the powers of the international community to the BiH authorities, which I foreshadowed some time ago. This is possible and indeed it is necessary, because BiH is now firmly on the road to the European Union. This process will begin now, but will of course be completed by my successor.

So, in pursuance of this strategy I have today written a letter to the Prime Minister and to members of the Parliamentary Assembly of BiH outlining draft amendments to

State legislation that would, when passed, place the vetting process, which currently is carried out by OHR, into the hands of the BiH's House of Representatives. And we hope that that could commence straight after the next elections of October 2006 so that the new government of BiH, elected in those elections, would be not vetted by OHR, but passing through a process of scrutiny by the domestic institutions. Now as you know, the vetting of ministers has been a very active part of my mandate and has so far been conducted by the International Community and coordinated by my Office. And you will recall that in carrying out that vetting process we checked people against the ICTY register, against the knowledge that is held about them and their past activities. In future, if this legislation comes into effect that will no longer take place.

Nikola Spiric, quite often somebody who leads the way in these matters, suggested a few months ago that the BiH authorities themselves were ready and capable of doing this job of scrutiny or vetting.

And I agree with him.

You may recall also that I raised this possibility in my speech to the BiH Parliament in July this year. I said then that the beginning of the SAA negotiations would trigger further steps in the continuing process of handing over responsibility for the running of the country from the OHR to the BiH authorities.

I think I would make the case, and many others would too, that the vetting process has undoubtedly improved the quality of governance in BiH. And it seems to me that it is also clear that it is in BiH's long term interest to preserve some process of vetting or scrutiny. But it is time to integrate that system of quality control for senior government officials, into BiH's own system of governance.

Before describing exactly what we are going to propose to do,

let me first explain why I think vetting is so important, especially important in a country like BiH.

In my inaugural speech nearly four years ago to the BiH Parliament I said that one of the key areas of my work would be to try to strengthen the systems that scrutinize government and prevent abuses of power.

During my mandate, it is a matter of some regret that we have all had very strong examples of how some candidates with frankly scandalous backgrounds have been nominated for ministerial offices that they were patently unfit to hold. Too often, political parties look on high-level posts as a reward for party loyalty and an opportunity to give jobs to their friends. Too often, they view these positions as a function of control or an opportunity to steal the people's money, rather than as a chance to advance the interests of the country and of its citizens. We have to protect the citizens of any democracy from the consequences of bad government and corrupt practices.

So, over my mandate, I have tried to take steps to improve the quality of government in BiH. And you will recall what those steps have been.

Politicians' immunity is now severely limited and in consequence those who were regarded as being "the untouchables" have now found that they can be brought before a court and tried for crimes. We have also severely limited the scandalous ability to grant and to receive Pardons. In addition, we have begun to establish, and I hope it will continue to be established, the principle that ministers holding executive offices must resign if they are served with a criminal indictment so as to stand aside from the process of ministerial responsibility while they clear their name through the courts as a private citizen. Those are the normal standards that operate in any European country and they have begun to operate here too.

So I hope that these measures combined will in the near future make political parties think twice before putting forward for high office individuals who have a questionable or obviously scandalous past.

But these measures by themselves are not enough in our view. BiH's decentralised, complex administrative system has to be shielded from incompetence and criminality in high-level posts.

And if BiH's aim is full EU membership then you must uphold the highest standards in public life.

So what new amendments do we now propose?

Well, the amendments I shall be placing before BiH's democratic institutions today, will give BiH's Parliament responsibility for ensuring that candidates are suitable for office by establishing a public and transparent process of parliamentary scrutiny for key executive appointments. Parliamentary confirmation of government appointments and open public scrutiny of that process is a feature of many established democracies.

The one we have chosen after much thought is quite closely modelled incidentally on that which exists in the United States and the process is divided into two separate parts. The first part relates to eligibility and the second part to suitability. Now you will recall that every candidate who puts their name forward for election is assessed as to eligibility by the Election Commission. But you will also realise that in the governments of BiH it is possible for Prime Ministers to appoint people to hold executive positions who are not deputies and would not therefore have passed through the eligibility process. So, there is a system which establishes their eligibility and then there is a separate system which establishes their suitability.

So these procedures will require Ministerial candidates to

provide their detailed information about their personal history, professional qualifications, activities during the war, and financial dealings.

This information, which will be put on to this sheet – a copy of which will be handed out to you – it is very full and it is very detailed. This information will then be verified by SIPA and the BiH Election Commission.

The length of this process will take approximately one calendar month, as we see it.

On the basis of that information relating to eligibility, the Chair of the Council of Ministers will then decide which candidates to put forward as nominees, and the confirmation process, which deals with suitability, the confirmation process by Parliament will then begin.

The parliamentary confirmation process will be public;the personal history dossier, that is this dossier, submitted with each nomination will be public and will be published. Obviously confidential information as to bank account numbers, etc. will not be published. But the rest of the dossier, the full dossier, it is a very full form, will be published.

If these amendments are passed a Parliamentary Committee on Confirmation will be established. That Committee on Confirmation will be part of the Council of Ministers, and will include one member of each party represented in the House of Representatives. One member of each party. Now quite deliberately we have done that in order to give an extra weight to small and opposition parties so that large parties that may have dominance cannot corrupt the system. The Committee will review the qualifications of nominees. Any member of the Committee will be able to call on a nominee to testify in public, before the Committee regarding his or her suitability for office. The Committee will then make a recommendation to Parliament. It is a recommendation. It is

not binding. Parliament does not have to accept the opinion of the Committee in making its recommendation.

On the basis of this information, that is in the public dossier, plus the hearings process, plus the Committee's recommendation, the House of Representatives will then vote, as it does now, to confirm each nominee individually. In the case that the House votes against the recommendation of the Committee, parliamentarians will have to explain to the public why they've gone against the recommendations of the Confirmation Committee.

Now, let me be very clear and very blunt. These provisions apply at present only to the State level. In my view all executive officials playing a role in BiH's governance should be submitted to these procedures. But we are trying to establish them first at the State level. I hope they will then be emulated at the entity and cantonal levels as well.

Both SIPA and the Election Commission have confirmed to my Office that they can and are content to perform the functions required by them in this process.

So let me finish, if adopted these amendments will increase massively the transparency of governance in BiH.

These amendments will open government up to public scrutiny. It will be in effect, the citizens who are if they wish to be, observing this process, spectators of the process. It will in effect be the citizens who do the vetting, not the High Representative, because all of that information will be made public. They can then make their own views known to their elected representatives and through the medium of the media in BiH.

And by the way, here I have a plea to make to all of you in the media. The role of the media in ensuring that this process is public and proper, and that public opinion is mobilized in order to defend quality candidates and turn down corrupt ones,

the role of the media in this process will be vital to its success. The aim of my proposal is to open the vetting process to public scrutiny. But you are the people who unlock the door to that public scrutiny and I appeal to the media to play its part in this process and I appeal to you also to ensure that this legislation when it is put through Parliament is not so amended as to make it toothless and meaningless. We will want to know why members of Parliament may wish not to be subject to full scrutiny. I have no doubt that there will be some who do not like the idea of public scrutiny of senior government executive positions. I hope the media will pay very close attention to the passage of this legislation and to any amendments entered to weaken it as it goes through Parliament.

So these amendments will now go to the Collegium of the House of Representatives. There is no reason, no reason whatsoever, why they should not be adopted by the spring, in time to be implemented at the general election in October next year. And if they are implemented, then the OHR will relinquish its duty of vetting and hand that over to Parliament and the people of BiH

Thank you very much.

RTQs

Rubina Cengic, Nezavisne Novine:

I have to admit that it appears to me as if these amendments are being introduced at a very odd time. We have just been witness to how two governing political parties appointed a judge to the Constitutional Court in the Federal Parliament last week. As far as democracy and procedure is concerned no faults can be found – an open competition was announced, a large number of candidates were chosen, the voting was secret, the ballots were placed in a box and so on. And you are well

aware of how it all ended. Why exactly are you optimistic that these procedures you have envisaged so well will in reality be adhered to and applied as you have envisioned? If after the next elections we end up with a parliament in which two or three political parties have the majority I'm afraid that all such well conceived procedures will fail.

The High Representative, Paddy Ashdown:

That is up to you. I don't elect the parliament, you do. We have given this country the chance to join Europe. We have given it the structures of a light level state, decentralized in the last three and a half, four years. They are all assembled. This country now has a future. That can be wrecked at any time by parliamentarians who come into power, who want to throw away the opportunity which the people have won in this country.

But listen, the days when the High Representative selects the parliament and selects the government are over. It's the ballot box that will do this, and if the people of this country cannot elect a Parliament that will act in their interests, but rather act in a way which confines BiH to the ethnic straightjacket you can't have the future that is now on offer for you. So, you didn't hear from me optimism, you heard from me reality. These are the systems that can be put in place for a modern European democracy. No democracy is proof against the foolishness or corruptness of a Parliament. It can happen in Britain too. So, that is a question you should ask yourself, rather than me.

Now, on the question of the Constitutional Court . Look, I have been very concerned about what has happened. The Constitutional Court in this country has a right to strike down the judgments of any court in the land – any judgment in the land. To get the structure of the Constitutional Court wrong could reduce the whole structure of the rule of law in this country to a heap of dust. It would be a very, very, very

bad thing if the Constitutional Court, the highest court in Bosnia and Herzegovina was simply reduced down to the level of a political playground – that every decision that went there was a decision taken on the grounds of ethnicity or on the grounds of what is of benefit to a ruling party, and I'm talking about of economic benefit to a ruling party. That would be a disaster for BiH.

I'm not talking about a procedure which was improper, the procedure was proper. I'm not talking about the qualities of an individual candidate; I'm not talking about an individual in this occasion. I'm talking about a principle. And the principle is that those who are elected to the Constitutional Court are elected to put the interests of the nation as a whole, not the interests of one ethnicity against another, first. They are required to be people of the highest, not only moral standing, but also technical qualifications. If we reduce that down through a non-transparent fashion to yet another of the political playgrounds on which ethnic politics can have full sway in Bosnia and Herzegovina we will suffer greatly in the future.

So yes, I am concerned about that decision. It was in my view insufficiently transparent and it was in my view a decision which could lead to the simple ethnicization of a court that ought to be above ethnic politics and ought to be the final bulwark for the rule of law in this country.

I did frankly think as to whether or not we should put the selection of Constitutional Court judges into a system like this and in the end I decided we should not do it. The reason we should not do it is because you should not mix politics and judicial matters. They are two different issues and they must be kept separate. But, I think there is a case for considering how you can make appointments of judges to the highest court in the land subject to a more transparent process and proper scrutiny. There is a case for that and I hope that is a case that will now be considered. It would be a tragedy for this

country having built the rule of law highly effectively over the last three and a half years, if the highest court in the land were now to move in a direction which simply made it yet another ethnic playground.

Mirela Čosić, BHT:

My question is not entirely in connection to this topic. You mentioned that your successor will be named very soon. Can you confirm that it will be Mr. Christian Schwarz-Schilling? Secondly, yesterday you passed a Decision rationalizing judicial salaries. It was said that this will produce savings amounting to millions, however it was not said by exactly how much the judges' salaries will be reduced.

The High Representative, Paddy Ashdown:

I cannot make an announcement about my successor because the choice has to be made formally by the international community and announced by the international community. I anticipate that that is an announcement which will come during the pick, and I cannot anticipate that announcement today.

As to how much the judges salaries will be reduced – that depends. You will know that one of the purposes of this is to harmonize salaries across BiH. At present salaries are much higher in some areas than in others. So it depends where the starting point is. Overall, salaries will be reduced and overall they will be reduced back over time to a given harmonized level. But that means that salaries in different cantons, some of which are higher than others, will be reduced by more than others. For instance, looking at it as I recall it when I looked at these figures last week, the salaries of Brčko judges were reduced by only, I think, two percent. The salaries in other areas will be reduced by much more than that. So there is a variable level.

Does that give you an answer? Okay, thank you.

Sead Numanović, Dnevni avaz:

Today in Hague General Gotovina entered his plea to charges of war crimes and crimes against humanity. At the same time NATO was conducting searches of houses in Bosnia and Herzegovina looking for persons that support Karadžić or for Karadžić himself. But it seems that the authorities in Republica Srpska are not doing anything?

The High Representative, Paddy Ashdown:

It's not up to me to say how much the authorities of Republica Srpska are or are not doing. It is up to Carla Del Ponte in the Hague , she is the criterion for this and also our security forces who are aware of these things – I'm not. What I can say is that thanks to the extreme pressure which was put on last year, including of course the 59 who I removed and the 10 before Christmas that if you recall, initiated the last years Christmas RS crisis, or the New Years' RS crisis. I can say that as a result of that pressure 11, for the first time 11 war criminals have been transferred to the Hague with the cooperation of….by the Banja Luka authorities and the Belgrade authorities, either alone or working in cooperation with each other. And that is good news. It does mean that Mladić's most senior generals are now in the Hague , with the exception of Tolimir.

And the question to ask of Ratko Mladić is: why are you a coward? If your generals have had the courage to face up to the charges in the Hague , what are you doing stoking? What are you doing flitting from safe house to safe house in Belgrade , living the life of a fugitive? Why are you a coward Ratko Mladić? That is the first question. And the second is this, now that Gotovina has been transferred to the Hague we know two things. We know that this can be done and we know that Europe is completely implacable; the international community's authorities are completely implacable in insisting that it is done. We have one down, we have two to go. This job

is not finished until Karadžić and Mladić are in the Hague together with Župljanin, Tolimir, and the others who are indicted on the Hague list.

And I want to make it very clear that unless there is progress on this matter, then there is pain to come. It is as simple as that. If we can solve this issue there are good times to come. If we can't solve this issue there is pain to come. That's what's happened before and it will continue to happen since. The fact that you are in SAA now does not in any way reduce, indeed Gotovina's arrest increases now, the isolation of and the spotlight, the sharpness of the spotlight that now falls on Banja Luka and Belgrade . Get this job done, and get it done quickly. Unless you do there are bound to be sanctions to come.

Jasenko Krehić, BH Radio 1:

In your answer to the first question you said that the days the High Representative selects the parliament and selects the government are over and that it is not the High Representatives job to do so, and that the ballot boxes will do so from now on. Could you just tell me which parliaments and governments did the High Representative appoint? Did he do so in 1996, 1998, 2000? Which year did he do so?

The High Representative, Paddy Ashdown:

That is history and I don't comment on history.

Rubina Cengic, Nezavisne Novine:

I would like to ask you to answer just one more question. Some of the candidates' information will be kept confidential in the future. Could you clarify what information exactly will be kept confidential?

The High Representative, Paddy Ashdown:

Just simply the personal details of for instance bank account

numbers. Obviously, for reasons that you will all understand it would be improper to publish details like bank account numbers which could lead to damage to that persons individual lives. So all public information will remain public. I think there are certain small personal items. If I am a member of parliament in Britain I have to fill in a form which tells them what shareholdings I have, what firms I am involved with, whether or not I have received any gifts from anybody from abroad, a whole host of information. But none of that does not include my personal bank account details and so on. Exactly the same will apply here.

So, any matters related to their public holdings or financial details will have to be published. Any matters related to their own bank account numbers, individual confidential matters related to health of course, do not have to be. But, those are issues for Parliament to decide on.

You would like to know members of Parliament bank account numbers would you?

Rubina Cengic, Nezavisne Novine:

Well, if someone has a debt of 7 million to a bank of course I would like to know.

The High Representative, Paddy Ashdown:

Yes, but that is not your job to investigate. Forgive me, but if somebody has a debt of 7 million to a bank account this is not to say that SIPA will not be investigating it. It is not to say that the authorities will not be investigating it. They will be. That information will have to be provided. The appropriate information will have to be provided to the authorities that provide confirmation of the information. But it is not provided to the press. I'm sure the press and the public would not demand to know somebody's bank account numbers, that is a private piece of information that authorities may need but the public does not.

But let me be very clear. The full information, leaving aside that very small amount of personal details, the full information about bank account holdings and so on will have to be published and the full information will have to be checked also by SIPA. It is pretty simple. If you want to see what happens, take a look and see what happens in Britain, France, Germany and anywhere else.

Mirela Čosić, BHT:

One more question. In March you passed a Decision Enacting the Law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina and that Decision is still in effect. However, there are cases, to be exact the case of the Ravno Municipality Board passing a decision to put the land in the border region up for auction. What is your comment on this situation? Who exactly has the authority to prevent this from going through?

The High Representative, Paddy Ashdown:

I don't know the details of the situation as provided to OHR, we will see if we can find the answer for you. Let me say to you that I established a Property Commission, a State Property Commission that would look at all State property more than a year ago. Unfortunately that Commission is only now meeting for the first time. I hoped that it would do its work more quickly. As soon as it's done its work we can start relaxing the freeze on the sale of property. But it is important that this is done in a proper measured fashion. So it is up to the State Property Commission to begin to draw up the decisions that would be necessary to allow me to release this ban.

If you believe there has been an individual infringement, presumably you do, about a single case. Is that what you are referring to? Then let us have the details and we will take a look at it.

Okay. Thanks very much.