Speech by the High Representative and European Union Special Representative, Paddy Ashdown, to the BiH Parliament

I am delighted to be able to speak to Parliament once again this morning, and to take your questions.

You have invited me to discuss the Venice Commission's report with which I substantially agree – it is a heavy weight report and I agree with its conclusions – as well as the Foreign Affairs Committee's conclusions on this important document.

The Venice Commission touched on two subjects. The need for constitutional change, and the powers of the High Representative.

Constitutional change is your matter, not mine. BiH must be made more functional. Constitutional reform must come. But this is a matter for BiH's peoples to agree amongst themselves. It is not a matter for the international community to impose or to draw up blue prints for. The international community can and should facilitate this, but you will have to do it.

But if I may. Just one word of advice. Don't let this distract you now. BiH has a huge opportunity in front it: to cross the threshold into the Stabilisation and Association Process – the SAA – this year before the 10th Anniversary of Dayton. This is the main task all BiH's politicians should be concentrating on, and working on together. The question of constitutional reform should come later. It will be much more easy to resolve

within the SAA than outside it.

So, this speech focuses mainly on the powers of the OHR and how they should change.

I will begin by describing the political challenges facing this country as I see them. They provide the context in which this discussion is taking place.

Progress to date

When I came to this Parliament on the first day of my mandate on 27th May 2002 , I set out what I hoped we could achieve during my time here.

If you recall, I set one overarching objective – which was endorsed by all BiH's politicians: to put this country irreversibly on course to effective statehood, and onto the path that leads to the Euro Atlantic institutions, to the EU and NATO. I said that, even if I was not to be the last High Representative, I hoped at least to get to the point where the end of the office of High Representative would be clearly within sight.

Three years on, we all know that this country still faces big challenges, not least the challenge to improve the lives of the hundreds of thousands of citizens who still have to struggle every day just to live in dignity.

Nevertheless, BiH has made huge advances in this period. We have assembled the broad framework of a modern, highly-decentralised European state on its way to the EU and on track to NATO.

Let me just list for you some of the achievements, because it is the context of this discussion, and because we sometimes lose sight of what has happened.

A single judicial and prosecutorial service is up and running.

We have created a State Organised Crime Chamber, capable of trying even the highest – and formerly most untouchable – in the land; and a War Crimes Chamber which conforms to The Hague ’s international standards and stands ready to try even our own criminals.

We have unified the customs service and made a reality of BiH’s FBI, the State Information and Protection Agency.

We have established the Indirect Tax Authority, which has been collecting revenue since the beginning of this year and is now preparing for the introduction of VAT at the beginning of the next. And revenue is up 10 percent on the equivalent period before the ITA started operation.

We have set up a single state intelligence structure, which is now operating as a modern intelligence service to European standards, under parliamentary democratic oversight.

We are fusing together, from two armies, a single BiH military force under a single defence minister and single joint command. This historic achievement – a milestone passed yesterday – puts BiH firmly on course not just for PfP, but also for membership of NATO itself through the creation of a professional army on the NATO model.

There have been other big achievements.

Mostar is progressing towards being a single unified city, under a single statute.

BiH is increasingly becoming a single economic space, and an easier place to invest in. The time taken to register a business in BiH will shortly be down to 10 days, the shortest in the region. Three years ago it was the longest.

And, contrary to what some like to claim, the result is that the economy is at last showing real signs of growth, albeit from a very low base. GDP is growing at 5.6 percent – the

fastest in the Balkans, and faster than the predictions of the international community. Inflation is at 0.5%, the lowest in the Balkans. Foreign direct investment was up 25 percent last year. Exports were up 25 percent, and industrial production is also up by a quarter.

There is, of course, a long way to go. BiH's economy is not yet growing at a sustainable rate, or at a rate which is yet making an impact on ordinary people's lives – but growth is, at last, beginning.

And there has been progress perhaps most markedly of all, after so long, on co-operation with the ICTY. Eight indictees were transferred to The Hague in the first four months of this year, compared to zero in the preceding nine years – a subject to which I will return in a moment.

The challenge now

So where does all of this leave BiH, as it approaches the tenth anniversary of Dayton ?

And what are the key priorities, for the rest of the year, and the remainder of my mandate as High Representative?

Well, as I said at the start, our over-riding twin strategic objectives have been long established; membership of NATO's PfP and the launch of formal negotiations on a Stabilisation and Association Agreement – the SAA – with the EU.

Having achieved so much, BiH is now within touching distance of achieving both these goals.

Only Ratko Mladic and Radovan Karadzic now stand between BiH and guaranteed peace within NATO's PfP – the first stage on the way to joining the most powerful military alliance in the world. And only those two men separate us from this destiny.

As for the EU, there are only two key issues which remain outstanding: the adoption of a law on the Public Broadcasting

System in line with Dayton principles and EC requirements; and agreement on police restructuring in line with EU principles.

Our over-riding objective therefore, now more important than anything else , is to clear the two remaining obstacles in the EU Feasibility Study out of the way in the next few weeks so that BiH can catch up with its neighbours.

Commissioner Rehn told Prime Minister Terzic and me, when we saw him in Brussels last month, that despite the setbacks he will keep alive the hope that BiH could achieve this in time for the autumn, when in the next few months Serbia and Montenegro are due to start their EU negotiations.

It seems to me it is up to us to keep this hope alive and to make sure we do not kill that hope. I too remain confident that it can be done.

I remain confident that, subject of course to the Constitutional Court ’s decision expected this week, the PBS Law can still be passed in time in conformity with the EC’s principles.

And I remain optimistic, despite recent setbacks, that the thorny question of police restructuring can be resolved as well.

The more positive indications from the RS Government especially this last week on this matter last week are very welcome and very encouraging.

I know that police reform is not easy– any more than creating a single tax structure, a single judicial structure, a single intelligence structure, and a single defence structure were easy.

But we succeeded with those reforms. And they have been worth making, because of the wider benefits that they will deliver to the Entities, to the State and for the citizens of this

country.

So, we now have a few weeks left to finish the task.

By the middle of September – just under eight weeks' from now – police restructuring must have been agreed if this country is to get the green light to start SAA in time for the tenth anniversary of Dayton.

Now, let me tell you why that Dayton deadline matters so much.

It matters because unless BiH can qualify by the autumn this year, we will be into the election season and then tough political decisions will then get even harder to take.

It matters because BiH's neighbours are not waiting. They are already moving forward and leaving us behind.

Croatia . FYROM. Albania. Serbia and Montenegro – they are already on the road – and we are not.

They will not wait for BiH. And the EU will not wait for BiH. If BiH decides to turn itself into the refusenik of the Balkans, you can do so. But understand this. You can put your own future on hold if you want to – but not the whole region's. They are moving forward, and we are either with them or we are left behind.

So I appeal to you to forge a genuine political consensus – across parties, transcending government and opposition – on the EU reform agenda. These matters colleagues are just too important to become casualties of party political battles. Every single country that has succeeded in joining the EU in recent years has formed a consensus across political parties, has managed to put EU reforms above the day-to-day political fray, in the interests of the wider good. BiH needs to do that too to meet the deadline.

The future of the OHR

It matters too for this reason: the start of SAA negotiations is the trigger which releases a process of change, not just in BiH, but also in the role of the OHR, and the future of the IC in this country.

Once that threshold is crossed, then the scaffolding of the European Union starts to replace the scaffolding of Dayton , as BiH moves into the next phase of its journey to statehood.

Let me sketch out how such a transition could unfold and how such heavy weight international presence be transformed.

Once the SAA negotiations are underway, the Peace Implementation Council has made clear that it is ready to move forward rapidly to begin the process of phasing out the OHR, my job and my office, the Bonn Powers which have become such a dominant feature of the BiH political landscape since the war. The OHR could then be succeeded by an EU-led mission.

If BiH is in SAA negotiations, then that gradual transition process could start as early as November this year, and the OHR could be replaced by an EU-led mission from October 2006 – i.e. just after the next general elections.

Whether this happens, however, depends not only on BiH qualifying for SAA negotiations, but also on developments between now and next summer. The PIC will <u>not</u> withdraw the OHR unless it is absolutely sure that it is safe to do so.

So, it’s up to you. That’s the time line they have mapped out. The key transition of OHR to EUSR could happen as early as next year.

And I very much hope that it will. That is the case I put to the Venice Commission and that is the case I have been arguing to my colleagues in the international community. Because I am only too conscious of the extent to which the OHR has sometimes weakened the democratic prerogatives of BiH’s institutions, including this Parliament.

The Venice Commission has said – and you have said – that the Bonn powers have been necessary up to now – and I think that's right.

But the price has been a steady rise in dependence at the expense of independence. And this has made it more difficult for a culture of domestic responsibility to take root, and for a powerful civil society to grow.

So, ten years after Dayton , I think the time has come to face up to that fact, and to address it.

But let me warn you.

This will mean a big adjustment for BiH politics – and, incidentally, not only for the BiH authorities, but also, bluntly, for my IC colleagues too, some of whom have also become accustomed to being able to call on the Bonn Powers, in order to short circuit the cumbersome machinery of democracy, of which this Parliament should represent the beating heart.

It is fashionable to disparage the Bonn Powers. But a world without them is going to take quite a lot of getting used to. A world in which there is no *'deus ex machina'* to fast track difficult decisions and relieve the need to thrash out complex political compromises.

So my advice to you is if you want that to start to prepare, all of us, for this transition to a more normal international civilian presence, designed to meet the needs, not of the post- war BiH of 1995-96, but of the pre-accession BiH of 2005.

So, here's the bottom line. That transition could be as little as 15 months away – or it could be as far away as never, if BiH cannot make the transition to the EU and to NATO.

And, by the way, we don't have to wait 15 months to start the

process.

Once BiH has crossed the SAA threshold, there are some things we can start with straightaway.

There are some tasks which are currently carried out by the OHR, but which we could, almost immediately, start transferring out of the OHR and into BiH's democratic institutions, most notably this parliament and the Council of Ministers.

In one sense this has already started to happen. Contrary to some opinion, the figures are clear. The use of the Bonn powers to impose laws has declined in each of the last three years – and will continue to do so.

This year, I have not imposed a single law; and I have used the Bonn Powers to amend laws on just three occasions, usually at the request of the BiH authorities.

And the number of removals has also declined significantly. We have so far had only two removal decisions this year, both of which I would have preferred not to have taken, but which in the end I had no option but to take.

And now we have also begun to reverse the removal process. In March, I started to review the cases of those individuals that have been removed in the past. Five individuals have had their bans lifted so far. More will follow. I hope that, from now on, the lifting of bans will far outnumber removal decisions which we may have to take in the future.

But we can go further.

There are other areas where the OHR is heavily involved, performing functions which can now be transferred to domestic institutions, or for which some domestic remedy ought soon to be established.

Let me give you some examples. Take the vetting of ministerial

candidates, for example.

The OHR vets candidates for key ministerial posts in the governments at the state, entity and cantonal level.

Nikola Spiric suggested a few months ago that the BiH authorities are capable of doing this job. I agree with him.

Parliamentary confirmation of government appointments is a feature of many established democracies. Why not in BiH?

During my mandate, I have seen how candidates with scandalous backgrounds have been put forward for ministerial offices which they were clearly unfit to hold.

It should be your role to stop this, not mine.

So, I have asked my office to work with you to prepare draft legislation which will be made available to you shortly to set up a process of parliamentary scrutiny of key executive appointments. I hope you will carefully consider it.

If such a process can be established, then the OHR's role in the vetting process can be brought to an end.

Then there is the issue of legal interpretation. As many of you are aware, over the years the OHR has played a major role in interpreting the BiH Constitution.

We should not be doing this any longer now there is the Constitutional Court

That is why the Ministry of Justice is currently chairing a working group which is finalising constitutional amendments which will allow the government in BiH to consult the Constitutional Court, not the OHR, on draft legislation before it is enacted. When this happens, OHR's role, here, too can vanish.

I've also asked the Working Group to review the question of

the judges from the International Community who sit on the Court. Currently they sit on the Court indefinitely. I am not in favour of this.

I expect the Working Group's amendments, which will limit the term of international judges, to be before you shortly. I hope they will have your support.

Then there is the question of legal drafting.

In recent years, the OHR has drafted huge chunks of the new laws in this country. We shouldn't be doing this either – you should.

And soon we won't be – so you will have to. You need to prepare for that – and you should start soon. You need to start thinking how you will start to do this.

Finally, there is the delicate and important issue of standards in public life. I have focused a lot of attention on this over the last three years. Why?

Because there is a desperate need to rebuild trust in politics in BiH. And we need to protect BiH's international reputation, so as to help attract inward investment, which is so vital for jobs.

The first step in cleaning up BiH's politics was restricting immunity for politicians, in January 2003. This commanded widespread public support. And it was the right thing to do. Politicians make the law. But they shouldn't be above the law.

Now we have set the standard that holders of high executive office should stand aside from that office when they are criminally indicted. This principle has not always been accepted, including most recently by Dr Covic. But I think this, too, commands broad public support; it's the kind of standards BiH should be setting and I hope it would carry the

support of this parliament.

If so, then you should consider passing a resolution of this parliament, which would entrench this principle in parliamentary practice. After which this will be a matter for you, not me.

Conclusion

So you see – there is much to be done. Much to be getting on with – as soon as we are through that SAA gateway and onto the long road to Europe.

I have tried to set out before you today a little of how I see the next phase of BiH's continuing journey to statehood.

I have tried to set out the issues that this transition will raise, both for the international community and above all for the BiH authorities, and to which thought now needs to be given.

I have made clear that some of these issues are of a quite fundamental character. So, frankly, the sooner you are able to start to tackle them, the better.

Let me make clear that we are at the beginning of this process, not the end. The ideas I have set out for you are only ideas. They are not a blueprint and they are certainly not instructions. They will need to be the subject of extensive debate in this parliament, and with the relevant BiH institutions, governmental and non-governmental, in the weeks and months ahead.

This is your future, and no one else can decide it but you.

But, now, as we approach the tenth anniversary of Dayton , it is right that attention should increasingly focus on what form that future will take, and on how BiH can move from democracy under the tutelage of the International Community, to a fully fledged, decentralised, modern, sovereign democratic state.

Whether the next phase of that transition begins by the OHR transforming itself into an EU-led mission in the course of the next year depends, above all, on getting the SAA negotiations underway; and that in turn means resolving the very practical issue of police restructuring by the middle of September.

But in the run up to the tenth anniversary of Dayton , I believe that it is a worthy objective to aim for. It is an objective which I believe is firmly within our reach. And it is one to which I intend to devote all my efforts in the latter part of this year: I appeal to you, as members of parliament, to do so too.