

# Speech by High Representative, Paddy Ashdown at the Press Conference on Judicial Reform

## *Judicial Reform in Bosnia and Herzegovina*

### *– Current Status, Future Challenges*

I would like to begin by thanking Judge Surlien for the IJC Final Report and for her remarkable diligence and dedication during her time as Director of the IJC.

It is clear that without her vision, foresight and dedication the mandate of the IJC would not have been completed so successfully.

I would also like to thank all of you gathered here today.

Representatives of the Ministries of Justice, former and current members of the HJPC, members of the judiciary at all levels, members of the Bar and Judges Associations, staff of the Secretariat of the HJPC and many others.

You have all been invited because you have contributed to the massive task on which we have been embarked.

Without you, the achievements in the area of judicial reform would not have been possible.

Judge Surlien highlighted some of the achievements of the IJC in the area of judicial reform over the past three years. I would like to add to that list some **additional accomplishments** – related to, but not strictly a part of, the mandate of the IJC. In particular

- The establishment of the State Court and its Special Panel for Organized Crime and Corruption
- The upcoming establishment of the War Crimes Chamber in the State Court
- And the restructuring of the Prosecutors' Offices.

The State Court of Bosnia and Herzegovina has, since it opened in January 2003, been dealing with cases of inter-Entity, international and organized crime. In the 23 months since, the special panels of the State Court and Prosecutor's Office have earned themselves a reputation for the dogged, unwavering pursuit of the truth, regardless of where that pursuit leads them. They have demonstrated that in the new Bosnia and Herzegovina, no one can rest any longer on the complacent assumption that they are too powerful, too rich, or too well connected to face justice for their crimes.

I said when I arrived in BiH that the rule of law would be my first priority and that it would apply equally to everyone, no matter who they were or who their friends were. The BiH Prosecutors Office and the Special Panels of the State Court are delivering on that promise. And they will continue to do so in the weeks and months ahead, you can be sure of that.

Nothing, in my view, is as important as breaking the culture of criminal impunity that had established itself, even at the highest levels, in BiH. We have brought in international prosecutors and judges to help break the back of this. They will not be here forever. But they will be here until their job has been done. I hope and trust that they can count on your continued support.

And what has become a new, uncomfortable reality for those who have thrived off organized crime and corruption in recent years will soon become just as real for those who have, for the best part of the last decade, lived with the secrets of their crimes during the war.

Prosecuting war crimes in Bosnia and Herzegovina is essential if justice is not only to be done, but be seen to be done – the essential prerequisite for the long, difficult process of reconciliation that still lies ahead.

I have no doubt that future generations of Bosnian citizens will recognize the role that the Court of BiH will play in drawing a line under the war, and building a better, European future for this country.

Again, I applaud all those whose hard work is making this vision a reality.

As I do all those who worked on the Herculean task of **harmonizing and restructuring** the prosecutorial systems in the Federation and the RS – a process that addressed some of the most systemic problems facing prosecutors across the country.

By abolishing all municipal and basic prosecutors offices, we raised the effectiveness of the prosecutorial system by putting some distance between accuser and accused, and cut the cost of the system at the same time.

And the result? We now have a foundation for the development of a strong and professional prosecution service capable of tackling serious crime.

These accomplishments – the reform of the prosecutorial system and the creation of the State Court with its special chamber for organized crime and its special chamber for war crimes – combined with the achievements of the IJC, have given us a far more effective and efficient justice system in BiH. Of that there can be no doubt.

We are not there yet, but we are approaching the point at which Bosnia and Herzegovina will have the most politically independent and effective judicial system in the region.

But, as ever, there remains much still to do, although,

increasingly, the burden of the reform process will be for the domestic authorities, and in particular for the High Judicial and Prosecutorial Council, to carry.

### **Challenges for the Future**

There are two challenges in particular that will need to be addressed.

The first is the restructuring of the **Minor Offence Courts**.

The current system, with two different court structures – one for regular courts and one for minor offence courts – is clearly not financially sustainable. We should now seriously consider merging the minor offence courts with the regular courts – as they have already done in Brcko.

This reform should also lead to the introduction of a speedy and efficient procedure to deal with minor offences. A draft law has been prepared and is currently being finalized to bring minor offence procedure in line with current European best practice and in conformity with the ECHR. Very soon you will all be given the opportunity to participate in the public debate on the new legislation.

But the biggest challenge still ahead of us, is to reform the system of financing the courts and prosecutors offices.

The total accumulated debts of the Entity Courts and Prosecutors' Offices are staggering. At the end of December 2003 it had reached over 16.5 million KM in the Federation and over 6 million KM in the RS.

And what funding is available is not evenly allocated between courts. For example, in Sarajevo Canton the accumulated debt per judge is approximately 500 KM. In Herzegovina Neretva canton the figure is a staggering 77,000 KM.

This data – as well as numerous letters my office has received like the one from the Municipal Court in Tesanj which had its

telephone lines disconnected recently because it couldn't pay the bills – clearly shows both that the judiciary is not being adequately financed and that funds are not allocated in an optimum manner.

A system in which 13 ministries of justice and 13 parliaments allocate funds to the judiciary cannot guarantee the citizens of BiH equal access to justice. What they do guarantee is a justice lottery.

So the system of financing the courts in BiH must be reformed – it cannot be avoided.

And there is no point looking at financing issues, and not grasping the nettle of judicial salaries.

Currently costs for personnel (salaries and benefits) represent 85% of the total judicial budget in BiH and only 15% is available for all other expenses.

Without a significant yearly increase of the global budgets – which in the current economic climate is not likely – if we do not tackle the salaries issue, all the savings from restructuring will be lost in paying even higher salaries for judges and prosecutors in the future.

Tackling this issue will not be easy. And of course it won't be popular. But it must be done.

I have already discussed and agreed the options with the HJPC and I am confident we will come up with a strategy for how to proceed.

I would like publicly to express my appreciation for the tough and brave stance taken by the HJPC on this difficult matter.

And I would like to urge everyone in this room to engage positively and realistically in this process when it begins. The future of the judiciary in this country depends on getting this right.

Thank you very much.