

# Speech by the High Representative for BiH Paddy Ashdown at the United Nations Security Council

I am pleased to be able, once again, to brief the Security Council on developments in Bosnia and Herzegovina. I am particularly pleased to be doing so alongside the Chairman of the Council of Ministers, Adnan Terzic. I think that innovation exemplifies the stage BiH has now reached, in which the International Community's presence there needs to work in increasingly close partnership with the elected BiH authorities.

It is almost six months since I last spoke to you. It has been a busy period.

We've notched up some real achievements, above all in the fields of defence, intelligence reform, customs and indirect tax – to which I shall return in a moment.

Crucially, BiH now has two clear goals to aim for, two clear goals that are within sight, if it keeps up and steps up the pace of reform. NATO has made clear that BiH will be eligible to join Partnership for Peace, if a number of clear conditions relating both to defence reform and co-operation with the ICTY are met. And the European Commission, in its Feasibility Study published last November, has set 16 clear and practical conditions on which progress needs to be made if BiH is to begin negotiations for a Stabilisation and Association Agreement.

Together, these twin objectives, PfP and the start of

negotiations on an SAA, provide a context in which reform can take place; and they provide an incentive for the authorities at every level to make progress.

The key point, of course, is that both the EU and NATO want to see evidence that BiH is making the necessary reforms to integrate with Euro Atlantic structures of its own accord.

They cannot simply be imposed from outside. BiH cannot join the EU or NATO by fiat of the High Representative – if it could, life would be much simpler.

Time is short for BiH to meet the conditions both for PfP and to qualify for the launch of an SAA.

NATO has made clear it hopes BiH could be ready for PfP membership in time for the NATO Summit in Istanbul in June this year. And the BiH authorities have set themselves the target of making sufficient progress on the European Commission's 16 key points by the end of June – indeed Prime Minister Terzic has said that he hopes to do so by the end of May.

These are extremely ambitious targets, frankly. I very much hope they can be met. But the current rate of reform is far too slow to achieve these targets. It will need to accelerate considerably if BiH is to clear these two hurdles.

In saying that, I do not doubt the commitment of Prime Minister Terzic and, at least most of his colleagues. I believe that they are committed to the prospect of PfP membership and the next stage of EU integration, this year. The new collegial attitude that exists in the CoM, a personal achievement of Prime Minister Terzic for which I pay him tribute, has helped enormously to get through difficult issues which have held up many of his predecessors.

Nevertheless the reform process remains hamstrung in part by an overburdened agenda, residual obstructionism or at best

lethargy on the part of the Entities and the dysfunctionalities of the Dayton structures.

These burdens can only be overcome by a ruthless focus on the reform agenda. But all too often recently this has been subject to the distractions of inter coalition or intra party tensions. BiH simply hasn't got the time to waste on that sort of activity.

This process is likely, however, to be exacerbated in the coming months as BiH slips into election mode prior to the October Municipal polls. There is already depressing evidence that this period will not be characterised by a renewed focus on reforms, but by a return to the old practices of competitive victimisation which offer, especially the nationalist parties, the best opportunity of filling their ballot boxes.

In short 2003 was a year of remarkable progress in the reforms BiH needs. It remains to be seen whether the same pace can be matched in the year ahead.

Let me now recap briefly some of the main developments in the period covered by my latest report to the Secretary General, that is from 1 September – 31 December 2003. This will be the basis for my introduction, before giving you my assessment of prospects for the months ahead.

## **Reform Agenda**

My over-arching objective, of course, remains exactly as it was when I took up my post 18 months ago: to ensure that BiH is a peaceful, viable state on course to European integration.

Since I was here last, in October, substantial progress has been made in several key areas based on the work of the four Reform Commissions launched last year.

As you may recall, the first commission I established focused

on indirect tax and customs reform. The process of getting the State-level Indirect Taxation Authority (ITA) up and running continues. It is far from fully operational at this point: but once it is, it will go a long way to providing BiH with a reliable revenue stream, and towards cracking down on fraud and corruption, to which the current arrangements were prone. Once fully established, Bosnia and Herzegovina will have for the first time in its post-war history a guaranteed source of income to the State Treasury.

On defence, as the Council will know, we achieved a major breakthrough last September. The Defence Reform Commission, chaired by former US Assistant Secretary of Defence Jim Locher, reached agreement on the establishment of State-level command and control over Bosnia's Armed Forces. This includes the creation of a single, State-level Defence Minister; a Joint Chief of Staff; collective – not individual – command authority vested in the BiH Presidency. These are huge steps forward – and, when implemented, will go a long way towards helping BiH qualify for PfP. Progress on this scale would have been almost inconceivable just a few years ago.

Likewise, on intelligence reform, BiH has made difficult yet decisive strides toward creating a unified Intelligence-Security Agency at the State level, after I had to submit a draft law developed by our Expert Commission directly to the BiH Parliament. I am pleased to announce that just last week the Lower House of the Parliament adopted a bill establishing this Agency. Tomorrow, we expect the Upper House to finish adoption of the bill.

Another key challenge for us has been the City of Mostar, and attempting to provide that city with a single Statute that will serve the interests of all its citizens. Divided cities breed resentment and tension. I was very clear – as were my colleagues on the PIC Steering Board – that we could not just ignore the issue of Mostar. Intractable though the problems of that city have proved, it was important for the sake of the

future stability and security of BiH that they should be tackled.

Last year, a Commission was formed by the local authorities to reform the city of Mostar. Unfortunately it failed to make significant progress. I therefore established a further Commission in the latter part of last year, chaired very skilfully by Norbert Winterstein, a former German mayor, and comprising representatives of the citizens of Mostar. The Winterstein Commission reached agreement on a wide range of issues – perhaps 90 percent of the key issues confronting Mostar. But agreement on a couple of important outstanding questions, like election system and the future of city-municipalities, proved elusive.

At the end of January, therefore, I decided to use my powers to impose the ‘key stone’, as it were, to the draft Statute. My Senior Deputy, Werner Wnendt, was appointed as my Special Envoy to Mostar, and we have established a small implementation team down in Mostar. Thus far, implementation of the new Statute is proceeding relatively well.

The work of the key reform commissions – on indirect tax, defence, intelligence and Mostar – has gone well. The commissions are a means to bring together the key players, under IC chairmanship, in a relatively non-political and low-key way. They have more than proved their worth as a way of finding middle ground between the key parties, and achieving agreements in areas many had thought impossible.

## **The Rule of Law**

In the meantime, of course, reform continues in other areas.

The rule of law remains right at the top of my list of priorities.

We are working hard to ensure that a single, State-level High Judicial and Prosecutorial Council is in place by the end of

this month, which will serve as the foundation for a new BiH judiciary capable of meeting the highest European and international standards.

The OHR has also continued to oversee the creation of a State Information and Protection Agency (SIPA) with enforcement powers and abilities to address money laundering and other organised crime. Five of the six main laws on SIPA have now been passed by the Council of Ministers and sent to Parliament – a welcome sign of local ownership.

And since I was last here we have seen real practical progress in tackling organised crime, with the main defendant in probably the biggest human trafficking case in BiH's history pleading guilty before the newly established State Court. More recently, one time Croat member of the Presidency of BiH, Ante Jelavic, who was removed by one of my predecessors, is now in a Sarajevo jail awaiting trial on serious corruption charges.

At the same time, we are continuing our efforts to crack down on the support networks of indicted war criminals. On 9 February, in liaison with SFOR and the US, I enacted the necessary legal orders to freeze the bank accounts of ten individuals supporting Mr. Karadzic and removed several of them from office, including the vice president of the ruling party in the RS – the SDS. This followed similar steps, which we took in March and July of last year. I am determined to make life as difficult as possible for indictees on the run, including by tackling those providing them with sustenance and support.

We are also paving the way toward establishing the domestic capacity to prosecute war criminals. As you will know, shortly after I last addressed the Security Council with Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia, we organised a donors' conference hosted with the ICTY in The Hague which resulted in pledges of nearly 16 million Euro. My Senior Deputy, Bernard Fassier, is

now working on the practical details of establishing the Chamber as rapidly as possible.

At the same time, we continue to press the RS authorities to do their part in establishing exactly what happened at Srebrenica.

The Srebrenica Commission created by the RS Government in December upon my urging is in the process of gathering information on the massacres committed there in 1995 and is committed to provide a final report. The RS recently paid the first half of its 4 million KM commitment to the Srebrenica-Potocari Foundation to compensate the families of missing persons there.

In December, I wrote to the RS President and Prime Minister stating that any attempt to obstruct the work of the Commission would be regarded as a clear effort to obstruct the rule of law in BiH. The RS authorities owe it to the families of those who died at Srebrenica to do all in their power to ensure that the facts are brought to light, and the guilty brought to justice and the RS authorities must be held to that.

## **Economy**

The economy remains a major worry in BiH.

I have little fear of a return to ethnic conflict. But I do worry that if BiH, a country where in the region of 50 percent of citizens live close to or below the official threshold of poverty, continues in a parlous economic state, or deteriorates further, then that could have implications for the social stability of the country. The bottom line is that BiH continues to wrestle not just with its bitter wartime inheritance, but also with its communist past and its cumbersome Dayton structures as well. It is a heavy burden to carry.

All of this said, some significant successes have been achieved over the last six months, which provide optimism that a brighter future stands within Bosnia's grasp.

We are concentrating, as I described, on getting the Indirect Tax Authority up and running, and on the introduction of VAT – though here again things are not progressing as fast as I would wish.

A key objective in stimulating much needed job creation is to improve the business environment by introducing a legal and administrative framework that encourages foreign and domestic entrepreneurs to invest in BiH. Closely aligned to a number of the EC Feasibility Study requirements, this process involves the close co-operation of the Government, the legislative bodies and the IC in such areas as business registration, accounting and auditing standards and uniform contract laws to name a few.

Phase 2 of the so-called Bulldozer Initiative has been launched. This innovative program is designed to help BiH's business community tear down roadblocks and cut through as much red tape as possible to free up the economy for growth and job creation. It also represents the first real example of the civic society (in this case the business community) finding their voice in a dialogue with Government.

In the second stage of Bulldozer, 50 more reforms have been proposed, with local entrepreneurs doing the lion's share of work lobbying for the government for their acceptance. OHR hopes to help launch a third and final stage next month, under full local ownership.

We are also launching a major drive to co-ordinate efforts to resolve the problem of internal debt, which represents a serious threat to the economy. Taken together, these debts – including frozen hard-currency deposits, budgetary arrears, and legitimate claims for war damages – amount to



approximately 4 billion Euro. We are preparing, together with the IMF and local government agencies, a strategy to reduce obligations to sustainable levels, while, at the same time, respecting the basic rights of war restitution claimants. This process, however, is likely to prove very painful, difficult and politically contentious in the months ahead.

Other necessary actions include identifying and removing obstacles to the privatisation process – which came to a virtual standstill earlier this year – as well as stimulating inward investment and further job creation.

## **Refugees**

The lack of jobs, of course, is regularly cited as a reason why many refugees still have not returned to BiH. But on the whole, the story of refugee return in BiH has been a remarkably positive one.

According to UNHCR, the total number of registered returns rose to nearly 1 million people by the end of last year, including some 430,000 so-called minority returns. Meanwhile, the countrywide property repossession rate rose to more than 90 percent.

While a few municipalities fell short, these failures were due to bureaucratic difficulties rather than political obstruction – another promising sign. Finalisation of the Property Laws Implementation Process (PLIP) in all BiH municipalities is expected in the next few months.

These are clearly encouraging developments, beyond what many would have thought possible only a few years ago.

The main benchmarks for the transfer of all Annex VII responsibilities to domestic authorities have now been met. At the end of last year, I was able to close down the Refugee and Return Task Force (RRTF) as a major OHR department on schedule, with a complete hand over of duties to the BiH

Ministry of Human Rights and Refugees (MHRR).

We have retained a small Annex VII Verification Unit (AVU) to monitor and assist the transfer process, as necessary.

The story, however, is far from finished. An estimated 350,000 refugees and displaced persons have not returned to their pre-war homes, although many among them still express the desire to do so. So while the OHR's role in this process has altered from one of driving forward refugee return, to monitoring the local authorities' efforts, I must make clear that this is not an area which the International Community can afford to ignore. We need to keep a close eye on it, and be ready to intervene as necessary – particularly since there are some early and worrying signs that some of the things that should have been done since the handover, remain, as yet, uncompleted.

### **IC Co-operation**

Within BiH, co-operation within the International Community remains close and effective. We are operating together well as a team. However, the pace of reform needs to be accelerated.

It was therefore a particular shock to us all to when our colleague and my close friend, Sven Frederiksen, the first EUPM Police Commissioner, died suddenly in Sarajevo earlier this year.

Sven was a dedicated policeman, and a fine public servant. He was well known, of course, to the United Nations, which he served so effectively in a number of capacities. Sven will be sorely missed, and I know the Council will join with me in paying tribute to him today.

The work of EUPM, however, goes on, just as I know Sven would have wanted it to. Kevin Carty will take up his post as the new Commissioner in the next few weeks, and we look forward to welcoming him, and he and his mission will continue to have my

total support.

## **Police certification**

One of the policing issues that will command the new Commissioner's attention, as it is commanding mine, is the growing number of challenges to the UN-led police certification process.

There are currently more than 150 non-certified police officers who have asked the courts to assess the legality of their employer's decisions to dismiss them on the grounds that they had not been certified by the UN/IPTF.

Even though most of these proceedings are currently pending, in January, the first non-certified police officer was reinstated following an order from a domestic court. The Human Rights Chamber of BiH has also now decided that it is competent to examine whether such dismissals were carried out in accordance with the provisions of the *European Convention on Human Rights*.

Needless to say, the United Nations will want to protect the valuable legacy of the United Nations in BiH. The UN's decertification process weeded out police officers whose past, particularly during the war, disqualified them from remaining in the police. If we are to ensure the past is never able to return to this tragic country, this process must not be allowed to unravel.

This is a complex legal issue. The main source of the problem stems from a failure to transpose into local law the Security Council Resolutions, particularly regarding the dismissal of police officers.

We will need the assistance of the Members of the Security Council to make this happen, and ensure that the legacy of the United Nations in BiH is preserved. I am happy to report to the Council that at my meeting with them yesterday, DPKO

recognised the seriousness of this matter and made proposals for resolving it. They believe these will help clarify this complex, but potentially highly damaging matter, and ensure that domestic courts as well as other authorities involved are left in no doubt as to the scope and the nature of BiH's international obligations to implement UN/IPTF decisions.

### **Closing Remarks – The months ahead**

I hope it is clear from what I have said that Bosnia and Herzegovina continues, steadily but surely, to make progress – towards a return to normality, towards becoming a modern European country.

It is now over eight years since the war ended. Bosnia and Herzegovina has long since slipped from the headlines.

But in its own small way, Bosnia and Herzegovina is a success story – an example of how it is possible to pick up the pieces after the most devastating of wars, and to work together towards a brighter future.

BiH is on its way to becoming one of the modern world's more successful exercises in peace stabilisation, thanks to the steady, generous commitment of the international community and, above all to the ordinary people of BiH, who just want to return to peaceful lives and a decent future for their children – they are the real heroes of this.

The biggest danger now to that future, it seems to me, is a lack of confidence: a lack of confidence on the part of some of the BiH authorities that they really can make their country, one day, a member of NATO and the EU; and a lack of confidence on the part of some in the International Community that that sort of lasting success can be achieved in a country with such a history.

My appeal to you today is to stick with it and finish the job; to maintain that support, to maintain your commitment to

Bosnia and Herzegovina, even in the face of competing issues elsewhere in the world. If you do so, then I have every confidence that a much brighter future awaits this small European country than its tragic recent past.