

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

Mr President,

As you know, I come here today with Judge Theodor Meron, the President of the International Criminal Tribunal for the Former Yugoslavia to speak about our joint plans to create a domestic capacity for prosecuting war crimes in Bosnia and Herzegovina.

But first, with your permission Mr President, I would like to give you a more general overview of the situation in BiH. My report to the UN SG that has been distributed to you and that covers the period 12 October 2002 – 31 August 2003 will be the basis of my introduction.

When I was here last, I had been in office for just over four months. I spoke then about my priorities, my intentions and my plans for the future.

Today, I would like to update you on what we have actually done – on the concrete achievements of the past year – before turning to the challenges that still lie ahead.

I am conscious, Mr President, of the fact that the time and attention of the Council have, for obvious reasons, been taken up by events elsewhere in the world since I last reported to you – the Balkans are, thankfully, no longer at the centre of the international political agenda.

But out of the glare of the media spotlight, the slow, unglamorous, but vital work of entrenching BiH's peace has continued.

And, although I remain impatient with the speed of that work, I can report that real progress is being made.

Under the enduring slogan *Justice and Jobs*, we have maintained our primary focus on the two key priorities of establishing the rule of law and reforming BiH's weak, aid-dependent economy.

The Rule of Law

The process of bringing BiH's police forces up to European standards goes on. The European Union Police Mission has taken up where the UN left off – monitoring and mentoring the police officers that the IPTF trained and certified.

The Herculean task of reforming the entire judiciary and court system continues apace, and is on track for completion in the next five to six months. Bosnia and Herzegovina is the first country in the Balkans to completely separate the judicial branch from the executive, and the independent High Judicial and Prosecutorial Council has been established to ensure that separation remains.

The new State Court, with its special panels for organised crime, has been created. Staffed with international as well as Bosnian prosecutors and judges, and armed with the new Criminal Codes and Criminal Procedure Codes that we introduced last January, the Court is now trying and convicting criminals. It will shortly hear the biggest human trafficking case in BiH's history.

And it's not just organised criminal networks we are after.

In the last year we have begun systematically to attack the networks that provide sustenance and support to war criminals. By blocking their bank accounts, investigating their businesses and restricting their freedom to travel, we are slowly tightening the noose around the likes of Radovan Karadzic, and those who help them evade justice.

There's a long way to go, but bit-by-bit, BiH's lawless rule is being replaced by the rule of law.

The Economy

On the economic front we have started to drive a bulldozer through the mass of red tape and regulations that entangles businesses and deters investment.

BiH's business community has come together on what has become known locally as the "bulldozer committee" – a panel of business representatives that prepares concrete practical reforms and puts them to the governments and parliaments for adoption.

And the authorities have risen to the task. 50 reforms have been passed in 180 days, and another 50 are already in the pipeline.

There surely can't be many countries represented in this building that have reformed their economies at such a speed.

There is still a long way to go – a very long way. But as the recent country report on Bosnia and Herzegovina from the IMF – no giver of easy praise – commented, the macro-economic framework of BiH is, at commendable speed, being strengthened.

We have, for some time now, enjoyed low inflation and a stable currency – thanks, in no small measure, to the excellent work of the Central Bank and its Governor, Peter Nicholl.

Now we are tackling the other great structural reforms – starting with the public finances.

BiH's elaborate, excessively decentralised governmental structure was designed to protect group political interests, not to meet citizens practical needs.

We have 13 Prime Ministers, 10 Cantonal Assemblies, 5 Presidents, 4 levels of government, 3 Parliaments, 2 armies and one vast public administration that can no longer be afforded.

Which is why the BiH authorities have, this summer, begun to reform the revenue system, creating a single, State-level Indirect Tax Authority to replace the two rotten, corruption-prone Entity customs and tax administrations we have at the moment. This reform will also lead to the introduction of a modern, European standard VAT system for the whole of Bosnia and Herzegovina.

But securing the revenue base is only a part of the picture of course. Which is why the authorities have agreed to further bear down on public expenditure, reform the public administration, and reduce the size of the public sector. This is a major, central and urgent task for the year ahead.

And, as the IMF have recently stated, the benefits of these changes are already beginning to make themselves felt – with savings equivalent to 1% of GDP expected in next year's budgets.

So the agenda I outlined to you last year has begun to take shape and the reforms have begun to bite.

A New Politics?

But perhaps more encouraging even than this, is a less measurable, but more important shift that I have started to detect. It is relatively easy, relatively quickly, to change the hardware of the state – its institutions. It is much more difficult to change the software – peoples' attitudes. But here, slowly, changes appear to be occurring too. A shift in the political culture – in the political mindset.

It would be easy to overstate the case, but there are now the first signs that the BiH authorities are beginning to move beyond the sterile, confrontational politics of the immediate post-conflict period, and towards a more rational, more pragmatic politics focused on the 'bread and butter' issues of everyday concern to their constituents.

That's not to say that the old enmities have died away, or that deep-rooted suspicions don't remain. Of course they do.

But the events of the past year should give us cause for guarded optimism.

Since the turn of the year, I have established four Commissions – each composed entirely of BiH representatives

under international chairmanship – to tackle four of the most intractable issues facing the country – issues that, until very recently, were considered too neuralgic to touch.

The creation of a State-level tax administration, that I referred to a few moments ago; the introduction of a unified, State-level command and control structure for the armed forces; the creation of a modern, democratically accountable, State-level intelligence service; and the political and administrative unification of the divided city of Mostar.

It is too early to say with absolute certainty whether these will all meet with success, but the early signs are encouraging:

The Mostar Commission has just been established, and is expected to report around the end of the year. But the other three Commissions have all operated in an atmosphere of genuine constructive debate, produced high quality, European-standard legislative reforms, and forwarded them to the Governments and Parliaments for adoption in the next couple of months.

These reforms are, in many ways, the most significant reforms since the end of the war, almost eight years ago. Significant because, for the first time, they use a previously neglected clause in the Dayton Peace Agreement that allows Entity competencies, such as tax, defence and intelligence, to be passed to the State of Bosnia and Herzegovina.

In this way, the foundations of Dayton are finally being built on, through consensus, by the BiH authorities and through the BiH institutions, to build a more rational, more affordable and more sustainable State.

Dayton is being used not to block reform, but to enable it; we have started to amend Dayton, within Dayton, by agreement between the peoples.

And this has happened, not because of the coercive power of the High Representative – the threat of imposition or of removal. It has happened because the magnetic pull of the Euro Atlantic structures – NATO and the European Union – has started, genuinely, to take hold.

The significance of this fact is already becoming apparent. Not only are we able steadily to tick the boxes in the OHR's Mission Implementation Plan, but we are able to do so without resorting so often to the use of the extraordinary, and let's face it, draconian powers invested in my Office.

Indeed, I have only had to impose half as many laws and amendments this year as I did last year.

A trend that I very much hope will continue into 2004.

That, Mr President, is the good news.

Here's the bad:

The pace of reform remains too slow.

The green shoots of a new type of politics may have started to appear. But they remain fragile, and could still be easily killed off.

The new institutions are weak and under-funded.

And the forces of criminality, obstruction and disintegration in BiH politics remain powerful.

Which brings me to the substantive topic for discussion today: The unfinished business of bringing BiH's war criminals to justice, and the need to develop a local capacity capable of taking over from the International Criminal Tribunal for the former Yugoslavia.

The Domestic Prosecution of War Crimes

In UN Security Council Resolution 1503, adopted on August 28th, you noted that the establishment of a War Crimes Chamber within the Court of Bosnia and Herzegovina is an essential prerequisite to achieving the objectives of the

ICTY completion strategy.

I will shortly hand over to Judge Meron, the Tribunal's President, who will speak on this subject from the perspective of the ICTY.

But first let me say just a few words.

First of all, let me underline the commitment of my Office, and of all the other international agencies in BiH, to ensuring the success of this project. We are only too aware of the pernicious influence that indicted war criminals, like Mr Karadzic, are still able to exert over BiH's political environment. We know that peace cannot be described as fully entrenched until the perpetrators of these unspeakable crimes are finally brought to justice.

But there is little point, Mr President, in willing the ends, unless we are also prepared to will the means.

We have, collectively, made a good start.

At the behest of the Security Council, and of the Peace Implementation Council (PIC), the OHR and the ICTY have, together with the OSCE, the Council of Europe and the BiH authorities, produced detailed recommendations for the creation of a War Crimes Chamber within the Court of BiH. Within the OHR, that effort has been led with great skill and dedication by my friend and colleague, Ambassador Bernard Fassier.

I was tasked by the PIC Steering Board to establish an Implementation Task Force, co-chaired by my Office and the BiH Minister of Justice. That Task Force has, in turn, established a number of working groups to deal with specific issues relevant to the project, such as the renovation of the building where the trials will take place, the preparation of the legal framework, the review and transfer of ICTY cases, and other related issues.

My Office is also in the process of establishing a functioning State-level police force (SIPA) with investigative and law-enforcement powers. A Witness Protection Department is also envisaged, and should become operational early next year. This Department will need to be expanded over the course of the year if it is to provide protection for witnesses in war-crimes cases.

Another issue that will need to be dealt with is the current lack of a State-level detention facility. The Implementation Task Force will need to address this, as well as the myriad of other problems facing the project.

But, as you know, all of this is dependent on sufficient funding being found. Let me remind you that the project has been costed at 28 million Euros for the first five years, plus an additional 11 million Euros for the construction and operation of a State-level prison. For those who find that expensive, I invite you to compare it to the costs of running the Tribunal at The Hague.

Some of this extra money will, of course, be met from the BiH budget. But it will, inevitably, require substantial international funding too.

I have already received several pledges for funding from several governments such as Germany, the United Kingdom, the United States and Italy.

But we are nowhere near ready yet.

Which is why I would appeal to all of you to attend the donor conference in The Hague at the end of this month.

We are close to finishing the job in BiH. We are close to our first, historic success in this relatively new business of peace implementation.

But we cannot bring closure to Bosnia's terrible war – we cannot bring peace to the relatives and loved ones of that war's 250,000 victims – until those who bear the guilt for that suffering are brought to justice.

We owe it to them to make this project succeed.

Thank you.