Address by HR Valentin Inzko at the University of Pecs: “20 years of Dayton: Past and future aspects”

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Introduction

Ladies and Gentlemen,

I would like to start by saying that I am very happy to be in this lovely city. I had a quick tour of Pecs yesterday and was struck by the city’s beauty.

It is my great pleasure to be with you today to discuss “20 Years of Dayton: Past and Future Aspects”.

As we approach the twentieth anniversary of the Dayton Peace Agreement, there is much to reflect on and discuss.

The first thing to say about the Agreement is that as a peace treaty it has been enormously successful. Its greatest achievement has been that it ended three-and-a-half years of terrible conflict and brought twenty years of peace. This is an achievement which cannot be underestimated.

At the same time, Peace is the base, the starting point for a country and its people, to thrive and prosper.

Another essential element of the Dayton Peace Agreement is that it contains a blueprint for reintegrating the peoples and institutions of Bosnia and Herzegovina.

Annex 7 of the Agreement, for example, provides a guarantee

that refugees and displaced persons have a right to return to their prewar homes, while Annex 4 of the Agreement is the Constitution of Bosnia and Herzegovina, which describes the institutional and governance set-up of a reintegrated country.

Another important thing to mention here is that the agreement includes provisions for its own implementation. In other words, it lays out how to turn the promise of reintegration contained in the agreement into a reality.

An important aspect of this is covered in Annex 10, which creates the position of the international community's High Representative, which I currently hold.

Under the terms of the Peace Agreement, the High Representative is responsible for overseeing the implementation of civilian aspects of the agreement, for resolving disputes among the parties, and for interpreting the Agreement when questions arise. This has proven an important tool for the international community in ensuring that the Peace Agreement is respected and implemented.

The Past

This talk is entitled "20 Years of Dayton: Past and Future Aspects", so let's start with the past, specifically the first ten years after the Peace Agreement was signed. I would like to describe what trajectory the country was on in terms of reforms, and what the Bosnian authorities – with the assistance of the international community – achieved.

To put it succinctly: Huge progress was made during this time to implement the Peace Agreement and to build a platform for Bosnia and Herzegovina's accelerated membership into the Euro-Atlantic family.

For example, in the early days after Dayton, much effort was invested in ensuring freedom of movement within the country.

During this time, under the stewardship of a number of my predecessors, my Office assisted in creating new license plates, personal ID cards and travel documents for the citizens of Bosnia and Herzegovina.

Another important task was how to create the conditions for return of refugees and displaced persons. While the number of persons who ultimately returned for good to their prewar homes was not enough to undo the infamous wartime ethnic cleansing, the international community did have success in at least enabling the vast majority of citizens to repossess their prewar homes. Linked to this was Property Legislation, whose enactment and successful implementation began in the late 1990's.

Another area where the international community assisted in substantial reforms under the auspices of the Dayton Peace Agreement was the area of state-building and institution-building.

As I mentioned, Dayton creates a blueprint for the responsibilities and institutions of a reintegrated state, but of course when the war ended, much of this had yet to be implemented in practice.

Take the security sector for instance, where a number of institutions were created to enable the BiH state to carry out the responsibilities provided to it under the constitution. These included a State Border Police, a State Investigation and Protection Agency (the equivalent of the FBI in the US), a Service for Foreigners Affairs and a BiH Intelligence Office. Security reforms were followed by reforms of the judiciary, which led to a State Court and State Prosecutor Office as well as High Judicial and Prosecutorial Council (HJPC). The judicial reform also brought criminal and criminal procedure legislation.

Moving from three armies to one was another success story in

Bosnia and Herzegovina, which brought further stability to the country. The BiH Armed Forces have shown what the country's professional soldiers are capable of, be it abroad on peace missions or at home saving lives in the terrible floods of 2014.

As I said at the beginning of this talk, economics and politics are closely intertwined. In this area too, the reform momentum led to the formation of a state-level Indirect Tax Authority, which has played a vital role in ensuring the collection of taxes for services.

The total amount of indirect tax revenue that the Tax Authority has collected since it became operational in 2005 has reached some 56 billion Convertible Marks, or about 28 billion EUR. This is an impressive result, which shows to what extent the agency benefits all levels of government in the entire country and thus also works in the best interest of all of its citizens.

Other important economic reforms undertaken within the framework of Dayton in the first decade of its implementation included the introduction of a BiH Single Currency – Convertible Marks – and the creation of a Central Bank, which have provided crucial monetary stability.

What these and many other positive reforms undertaken in the decade after the Peace Agreement showed was that with sufficient domestic political progress is possible within the Dayton Agreement.

This is a point which is often forgotten in debates about the complex and often burdensome constitutional structure which Bosnia and Herzegovina inherited as part of the Peace Agreement and something worth recalling.

While much could be done to make the Constitutional set-up in Bosnia and Herzegovina more functional, it cannot be blamed for all of the country's problems.

Trends and today's situation

I hope I have so far managed in a few broad brush strokes to convey some of the landmark achievements of Bosnia and Herzegovina's leaders, supported by the international community, in the first decade after the war.

One other important point to make here is that despite these state-building achievements, it is important to note that Bosnia remained, and remains, a substantially decentralized country, where significant authority is retained by the entities and cantons. There is nothing wrong with this kind of set-up, which, as I have said does not prevent a country from becoming functional and successful.

Now I would like to highlight the unfortunate shift in Bosnia's reform trajectory, which began around 2005, when we started to see the country moving in the opposite direction, instead of building on early successes.

In Bosnia and Herzegovina today, the unemployment is incredibly high, corruption rampant and public services are stretched to the limit. The end result is that citizens are voting with their feet and we have a steady stream of citizens leaving the country.

What is the reason for this? The main reason we have reached this point is because to all intents and purposes the political establishment in Bosnia has wasted the last decade and failed to build on the platform that was put in place by the end of 2005.

There is an urgent need to get a grip on the situation and start delivering reform that will reverse the current trend.

For this to happen there will need to be a fundamental change in the way politics is conducted. The interests of ordinary citizens must finally be put first.

What do I mean by this? What is wrong with the way politics is currently be conducted in Bosnia and Herzegovina? For those of you who do not follow the day-to-day of Bosnian politics, the best way to describe it is that political parties and leaders most often seem more interested in maintaining the *status quo* and the political and financial benefits it offers to them and their patronage networks, than in reaching compromise and delivering the reform needed to make the lives of everyday people better.

Too often, elected leaders promote division, fear and intolerance as an excuse for their failures to deliver substantial change.

So while none of us would dispute that the BiH Constitution does not establish the most functional constitutional system in the world, the main reason the system is not delivering better results is that the politicians who work within it keep failing to deliver.

After ten years of stagnation there is huge pressure on the politicians to change their approach and to start to solve the challenges facing the country.

Recent months have seen a glimmer of hope, as BiH's governments have adopted a Reform Agenda with the EU, which sets out the main plans for socio-economic and related reforms of all levels of government during their mandates. The agenda is supported by the International Community.

Once again, we see how politics and economics are so intimately intertwined. The idea here is that substantial economic reform will ultimately inspire political progress.

The Reform Agenda must be the priority and this is where the International Community expects to see speedy, concrete results.

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Having said this, nothing prevents us in parallel from advancing the debate on how Bosnia and Herzegovina's constitution should evolve in the future with a view to building broad consensus on changes that will secure a stable and prosperous future for the citizens of this country within the Euro-Atlantic family.

To move the debate forward would be useful and I hope today's discussions can be useful in that respect.

In that light, I have not come here today with a blueprint for how the BiH Constitution should look in the future, but I do want to feed a number of points into the discussion.

The Constitution Must Be Respected

The first and most basic point I am duty bound to make, and it should not be necessary for it to be made twenty years after Dayton, is that the BiH Constitution must be fully and consistently respected.

This is clearly not the case now as we continue to see an *a la carte* approach to the BiH Constitution, where parties choose what they like and ignore the provisions they don't like when it suits them. This is a very real problem.

The most pressing case is the referendum being threatened by the ruling authorities in the Republika Srpska entity in Bosnia and Herzegovina. This referendum initiative directly challenges both State-level judicial authorities but also decisions taken by my predecessors to implement the Peace Agreement.

Beyond this we have an entrenched pattern of non-implementation of rulings of the BiH Constitutional Court, which are "final and binding" under the Constitution. The Mostar Ruling or the 2012 ruling on State Property are stand out in terms of their significance but there are many, many

more.

Simply put, the Constitution needs to be fully respected and this cannot be open to discussion.

A Fresh Commitment to Make the System Work

As I have said, underlying all of this is a desperate need to challenge the approach to politics. What we need is a completely new approach that is founded on a commitment to serve citizens and not just the chosen few. This must be matched by a renewed commitment to make the constitutional system work rather than abusing institutional and constitutional mechanisms to block decisions.

The last ten years have proved that the latter approach will achieve only one thing: to drive the people of this country into ever deeper poverty.

So a renewed commitment to make the system work is not a detail, it is fundamental.

I very much hope to see delegates delivering more legislative reform in this mandate than was the case during the last two mandates. This will be a clear pointer that a renewed commitment to make the system work is developing.

Delivering substantial results after such a long period of stagnation will bring some much needed confidence back into the political process and will in turn open up new opportunities. What seems impossible today may be a viable if we build confidence and changes perspectives.

The Constitution of Bosnia and Herzegovina Has Been Amended & Will Be Amended Again

After ten years of stagnation a view has slowly developed where many people now conclude that the Constitution is

untouchable and can never be changed.

Not only do I think this is overly pessimistic, but it is plain wrong!

It is easily forgotten, but the Constitution of Bosnia and Herzegovina is not untouchable, it has been amended already.

The amendment concerning the Brcko District was facilitated by my Office and it secured a high level of support without any major disputes. Did the world come to a standstill because the Constitution was amended? Of course not! Quite the opposite, we took another step forward in making the relationship between the Brcko District and the State Institutions more functional.

Look at the Constitution Differently – Refocus on Values

The example of the Brcko amendment brings me to another point I would like to raise – the necessity to look at the constitution and constitutional change in a different way which refocuses on rights and values.

In Bosnia and Herzegovina, the tendency in the past has been for the constitutional debate to be dominated by conflicting views on the distribution of competencies, which end up being bogged down in the politics of the past.

This clearly isn’t working, so why not take a different approach? Why not start looking at the core values and principles in the BiH Constitution and ask ourselves what needs to change for these to be the realities for all the citizens of this country regardless of where they live and which ethnic group they belong to.

Look for example at the long list of Human Rights and Fundamental Freedoms articulated under Article II of the BiH Constitution.

Why don’t we discuss whether these basic rights and values are being respected or whether changes need to be made? Maybe it is time for this to be the focus of the constitutional debate. Maybe this is how the constitutional debate can be more directly related to the shortcomings we see on the ground in terms of upholding basic human rights and fundamental freedoms.

Such an approach would also offer new opportunities to directly engage citizens in a targeted and depoliticized way about the changes they want to see in their country on core values such as the Rule of Law, Democracy or the basic human rights and fundamental freedoms outlined in Article II.

Maybe this is the change in paradigm that we are looking for. I am sure others will have alternative proposals.

No Citizen or Constituent People Is Endangered By Constitutional Change

Another negative tendency we see is the misuse of constitutional change by some parties to instill fear into the population. Over the years a perception has been created that changes to the BiH Constitution will somehow threaten the existence of entire peoples.

This simply isn’t true. The only threat to the existence of the people who live here is a continuation of the politics we have seen over the last ten years, for the very simple reason that citizens – be they Serb, Bosniak, Croat or Others –are voting with their feet and leaving.

The constitution provides crystal clear procedures for its own amendment, which clearly requires the support from representatives from all three constituent peoples.

The only people who have anything to fear from reform are those who have an interest in maintaining the status quo and

their interests cannot be allowed to take precedence over those of the citizens of this country indefinitely.

Ladies and Gentlemen, let me say again: the greatest achievement of the Peace Agreement and the Constitution is twenty years of peace.

Peace is a priceless commodity.

But it is the base, not the end state.

Twenty years on, it is abundantly clear that we have not reached the end state. Our job in Bosnia and Herzegovina is not yet completed.

Let me thank you for your time and I look forward discussing any related topics which may interest you.