

Remarks by Principal Deputy HR Donald Hays at a Roundtable on Corporate Governance

Ladies and Gentlemen,

As you know, the genesis of today's meeting lies in the findings of the Special Auditor's reports into the public utilities corporations. We and the BiH authorities reached a consensus that the Special Auditor be asked to look into these companies. These were not financial audits, nor is the Special Auditor's team particularly large. What the audits were able to do was provide a snapshot of the way these companies have been run. The process is about correcting problems.

There has been speculation that it is also partly about privatisation. The fact of the matter is that you can't privatise something that's in a mess. You have to clean it up first and then decide whether it can be privatised.

The audits showed that management structures are inadequate; accounting standards are low, and the idea of responsibility to shareholders, responsibility to workers, and responsibility to customers is practically alien to the prevailing management culture. This, by the way, is a state of affairs that has been found to exist in other transition countries.

Because these findings emerged from the Special Audits, the issue of corporate governance has been placed in a kind of *forensic* context – here is what was found at the public utilities, and here is what must be done to fix the problem.

In fact, the issue is broader than that. We are not just

discussing problems that have to be solved – we are discussing opportunities that are there to be exploited.

Better corporate governance is going to move BiH away from a situation where management incompetence and corruption are endemic in public companies – but that is only half the story. It is also going to move BiH *towards* a situation where well run public companies can act as engines of growth, where talented managers are put in senior positions, and where appointments are made on the basis of capability not party loyalty. The aim is to foster a corporate culture in which management is characterised by imagination, integrity and initiative – and not by a discreet ability to channel funds to family, friends and patrons.

The object is to move *towards* a bright future while moving away from a dark past.

Corporate culture is an extremely apt term – because culture grows; it is complex and it is pervasive. The quality of BiH's corporate culture has a direct impact on the fortunes of this country. Right now, the far from satisfactory corporate culture that exists is hindering efforts to reform the economy and is preventing corporations from delivering benefits to citizens in terms of boosting exports, attracting investment, creating new jobs and raising living standards.

The issue of corporate governance is central. It will make or break the reform effort in BiH as a whole. It is an issue that must be addressed and *can* be addressed effectively by the authorities.

We are here to take a professional and analytical look at legislation that will establish a regulatory system that can raise standards of corporate governance significantly.

The draft Entity laws on Public Enterprises, which is meant to replace the RS Law on State Enterprises and the Federation Decree Law on Public Enterprises, will provide for greater

internal controls at public companies in areas such as procurement, distribution of profits and accounting and auditing. Additionally, a range of specific prohibitions and limits on authority have been stipulated in the new laws.

We are talking about strict and clearly defined controls over how companies are managed; controls that will make it possible to bring proceedings against managers who abuse their position and which will make it crystal clear what the responsibilities and legal liabilities of specific management positions are.

In short, this legislation will render it impossible for executives at public companies to throw up their hands when confronted with wrongdoing and claim that they did not know they had been breaking the law.

Henceforth, everyone will be obliged to know what the law says and obliged to obey the law – no ifs, no buts.

But let me emphasise again – this is not exclusively preventive. We are not starting on the assumption that all managers are dishonest. We are working on the assumption that if the right legal framework is in place, honest managers will rise through the ranks. This is aimed at changing the management culture of corporations. Because in a culture where honesty is prized, where a premium is placed on competence, where those who are corrupt are punished, the results of good managerial practices will very quickly translate into dividends for shareholders, workers and customers. And that will reinforce the whole process of buttressing honesty and efficiency and tackling graft and underperformance.

It is true that honesty cannot be legislated. It is equally true that rising standards of conduct in public and corporate life must be buttressed by a continuously improving legal structure. In other words we are engaged in a twin-track process – the culture of corporate governance in BiH must be improved, and at the same time the legal framework within

which that culture develops must be modernised and made more effective. I believe this conference will go a long way towards bringing these twin objectives closer.

Thank you