

Remarks by the High Representative, Paddy Ashdown at a Roundtable on the 10th Anniversary of Dayton: “Small Steps or Giant Leaps”

A decade after the end of the war in Bosnia and Herzegovina it is time to ask whether the Dayton process has now served its purpose and can be upgraded to something better suited to the new challenges of European integration.

And the simple answer to that question is “Yes” it is time.

This isn't simply a matter of anniversaries, handy occasions on which to take stock. Stabilisation and Association negotiations with the European Union, scheduled to begin in the middle of next month, take us into fresh territory, opening up a range of new possibilities.

Bosnia and Herzegovina is now better positioned than it has ever been to chart a new strategic path.

But just because a new path is *possible*, is it *necessary*, or even *advisable*?

Before we address this question, let me briefly review the tortuous and often difficult road that BiH has taken in order to get where it is today. This road has brought us faster and further – I think we would all agree – than most people would have considered possible in 1995.

Immediately after Dayton – against a backdrop of social trauma, economic and physical devastation and political polarization – the clear imperatives were to separate the

forces, restore the physical infrastructure and hold democratic elections.

This was a huge task.

Remarkably, it was substantially accomplished within five years.

But even before the conclusion of this initial – essentially remedial – phase of postwar rehabilitation had been completed, it had become clear that deep and lasting foundations for sustained reform had to be laid.

Short- and medium-term remedial measures were working; they were cementing the peace.

But they were not *building* upon it.

Something more dynamically constructive would be needed in order to set in motion the complex process of organically developing a viable modern state.

The reason this issue wasn't addressed at Dayton isn't hard to understand.

The priority of the international mediators was to stop the fighting. The priority of the BiH signatories was to accept minimum compromises, while leaving as much scope as possible to circumvent those provisions of the agreement that they found intolerable. There was a clear determination on more than one side to build administrative and political structures that were not explicitly banned by the peace accords but were far removed from any kind of constructive co-existence.

But in 1995, minimum compromises, as long as they kept the peace, seemed sufficient.

By 2000, however, the prospects for securing something more ambitious had emerged.

Competing nationalist projects had been blocked – by lack of funds, by popular indifference or disillusion, by political incompetence and venality, and on rare but telling occasions by international resolve (the message from the Peace Implementation Council: BiH is here to stay – live with it).

But this straightforward adherence to Dayton on the part of the International Community did not represent an absolute veto on constitutional change.

Those opposed to the development of a sovereign multiethnic BiH became adept at using the provisions of Dayton to short-circuit exercises in political, social and economic reform.

It's always easier to knock things down than to build things up.

But the Agreement can also be used in the opposite way – to take BiH *forward*, beyond simple peace implementation.

Before taking up my mandate, I went to see Jim O'Brien, one of the authors of Dayton . He complained to me that the International Community had too often allowed the obstructionists to use Dayton as a vehicle for obstruction.

He pointed out the places where the authors of Dayton had deliberately put clauses intended to enable Dayton to permit change, rather than block it and recommended that I use these to push the reform process forward.

And I have – notably article III 5 a, which allows Entities to pass competencies to the state level.

By using this clause, change has been enabled.

Let me highlight just some of these changes that have been made within the Dayton construct since the start of my mandate in 2002:

- The BiH Council of Ministers has been expanded from six

ministries to nine

- The Chair of the CoM no longer rotates on an eight-month month basis, lending greater stability and stature to State structures.
- The High Judicial and Prosecutorial Council is now a fully domestic state-level institution, and the chambers to fight organized crime and war crimes recently established within the BiH State Court are now tackling the endemic lawlessness that has at times threatened to overwhelm the institutions of government.
- New BiH criminal and criminal procedure codes have been assembled; BiH law written by BiH lawyers, which conforms to European standards, enables us to catch and convict criminals more easily.
- A single customs service has been created and is already staunching the hemorrhaging of revenue that was a function of the old fractured customs system. In 2005, revenue has increased by at least 12 percent.
- A single state taxation system is in the process of being assembled and will become a reality on 1 January 2006.
- Successful fiscal reform are beginning to create a single economic space in BiH. This, together with banking reform, which got underway at the end of the '90s and is now delivering solid and sustained economic benefits, and along with efforts to improve corporate governance and make the BiH business environment more conducive to investment and job creation, has resulted in GDP growth this year of 5.6 percent – the fastest in the Balkans. Inflation stands at 0.5 percent, the lowest in the Balkans. Foreign direct investment was up 25 percent in 2004. Exports were up 25 percent, and industrial production is also up by around a quarter.
- A single state intelligence structure under democratic parliamentary oversight is now fully functioning and a single State Information and Protection Agency and State Border Service are now in place.

- Acceptance by all parties of the European Commission's three principles on Police Restructuring means that BiH will establish within the next five years a state-level, European-standard police system that is democratically controlled and efficiently run.
- Following a sea change in official thinking in Banja Luka and Belgrade, eleven indictees have been transferred to The Hague this year, six of them charged with war crimes committed in BiH, compared to zero in the preceding nine years.
- After years of frustratingly slow progress, Mostar has been unified.
- The BiH armed forces are under the exclusive command and control of the state. By 1 January, the Entities will cease to play any role or have any military responsibilities and capabilities.

In short we have used the flexibilities within Dayton to create the broad superstructures of a light level state structure, governing a highly decentralized country.

And in so doing we have brought the country through the gates that lead to the long road to Europe and NATO.

As BiH progressively transitions further into the era of Brussels, the International Community must progressively transit *out of* using the instruments of Dayton.

We in the International Community must now begin to move from the heavyweight, intrusive interventions of the OHR, to a new role of adviser, persuader and partner under a European Union Special Representative.

But whatever the advantages of Dayton – and there have been many – there are two downsides which it is now necessary also to begin to recognize and correct.

The first is reliance on group, rather than individual rights.

And the second is the burden of a highly dysfunctional structure of governance.

I will deal with these in turn.

Perhaps the most difficult change that has to come in BiH before the country can join Europe is a change in people's heads; in the way the citizens of this country think.

Dayton encouraged, and has preserved what was, in wartime, a means of survival. But what is in danger of becoming, in peacetime a block to genuine progress on the European road – a reliance on group might, rather than individual rights.

The basic European principle lies in the fact that an individual's rights are protected individually. BiH's systems, government and even its citizens ways of thought are based on the idea that an individual's rights are best, perhaps even only, protected within the group; within the collective.

This is a legacy of Dayton , which, unless changed, could block progress on the European road.

And since it involves changing the way people think, it may be even more difficult than changing the way things function.

But the dysfunctional legacy of Dayton is something that needs to be changed, too.

Put simply, the state-building task now is to make the state institutions we have recently created function effectively and make the Dayton state as a whole function more effectively.

So, *functionality* is the key word for the next phase.

Functionality of the state institutions and of the state itself.

And here, I fear we may be reaching the end of the utility of the Dayton construct; the end of the phase where the in-built

flexibilities of Dayton are sufficient to cope with what will have to be a less ad hoc, more functional programme of institutional change – which will be necessary if BiH is to complete the journey to full statehood and membership of the EU.

I have already suggested publicly that the time may now have come to consider, for example, beginning the process of improving functional efficiency by creating a single rather than a tripartite Presidency.

The existing Presidency has, let's be honest, failed to maintain popular esteem or respect inside BiH or to represent the country effectively in the international arena. There have been, in the last ten years and remain today, individual Presidency members who have worked hard to fulfill the duties of head of state. But, we long ago lost sight of the Presidency as a corporate institution jointly representing all the people, which was the original vision, and have instead got ourselves a Presidency which seems to operate along lines more characterized by ethnic advocacy, even division, than cross ethnic unity.

In this matter, however the International Community can propose, but it cannot dispose.

We all know that BiH must be made more functional.

No state can work which spends so much on its politicians and bureaucrats, and so little on its people.

The cost of Government in BiH impoverishes its people and stagnates its economy. It has to be reduced.

So, constitutional change must come in the next phase of BiH's journey to full democratic sovereignty and full membership of the European family of nations. But how it comes and when and where it starts is not a matter for the International Community.

We can advise, facilitate, help. But only the representatives of the people of BiH can do the job, by agreement, through discussion and through compromise.

In my view the reform of the Presidency is the right place to start – and now is be the right *time* to start. If we start now it might – just – be possible to get this done by the elections in October next year.

But whether we do this and how, is not up to me.

It's up to the people of BiH.