

Speech by High Representative and EU Special Representative Valentin Inzko At a Conference on The Constitutional Order of Bosnia and Herzegovina: Its Functionality and European Perspectives Organized by the Konrad Adenauer Stiftung



Normal Honest Government

Ladies and Gentlemen, Your Excellencies,

I am particularly pleased to be able to take part in this conference because the topic – constitutional reform – is clearly of paramount importance to the citizens of Bosnia and Herzegovina.

One major challenge is that the process of negotiating constitutional reform – and the fundamental issues at stake – are not widely understood, and for this reason they can easily be turned into a political football. This is a dangerous

possibility in an election year, which is why today's conference is timely and why it can make a very useful contribution.

The Dayton Agreement equipped Bosnia and Herzegovina with a two-Entity structure that simultaneously ensured peace and limited the capacity of governance.

Ensuring peace: is good.

Limiting the capacity of governance: is obviously bad.

The Dayton Agreement instituted safeguards for Constituent Peoples and the Entities, but many of these safeguards have been exercised in practice at the expense of good governance.

Even though constitutional reform is not formally linked to the continuation of the presence of the international community, there are of course practical implications – because constitutional reform could resolve the problems that were the reason the OHR was given its executive mandate in the first place.

Constitutional reform must eliminate the tools of obstruction which is the source of instability.

This is the minimum requirement, but it is not the *only* requirement, because to move forward with EU integration – and indeed to move forward towards efficient governance and prosperity – Bosnia and Herzegovina needs a constitutional reform that delivers functional government. This includes efficient institutions with appropriate executive authority, organized in a rational and cost-effective way. In parallel, Bosnia and Herzegovina needs a constitutional reform that ensures better respect for human rights and fundamental freedoms.

Logically, this reform should aim to fulfill the Madrid and Copenhagen criteria for EU accession, by *inter alia* delivering

stable institutions that can guarantee democracy, the rule of law and human rights.

But equally important is the fact that this kind of reform will meet the criteria of most BiH citizens – it will create conditions for normal honest government.

And normal honest government will ensure that the laws that Bosnia and Herzegovina needs to enact in order to become an EU member will be passed and implemented.

Clearly, we have to ensure that the constitutional structure retains effective safeguards that protect the interests of Bosnia and Herzegovina's various communities which should at the same time establish appropriate balance with the guarantee of individual rights of citizens

This can be done.

But the basic thrust of constitutional reform must be to make the government more efficient so that we can get back on the road to Euro-Atlantic integration and end the economic meltdown that has caused such widespread misery.

A recent study carried out by the Konrad Adenauer Stiftung reveals that between 1997 and 2007, out of 260 proposed laws, roughly 60 per cent were rejected as a result of Entity voting.

This does not protect citizens' rights.

This prevents citizens from receiving the benefits of functioning government.

These blockades have affected important laws, some of them required for EU accession. Over the same period, the High Representative had to enact legislation at the state-level on 92 occasions.

The European Commission, in its 2009 Progress Report on Bosnia

and Herzegovina, noted that the current constitutional structure, with provisions such as Entity voting and complex rules on quorums “offers too many possibilities for political obstructionism”. The Commission made it clear that “the problem of blockages due to the Entity voting rules needs to be addressed, and a stricter definition of the vital national clause in the Constitution is necessary”.

And the issue of dysfunctional government is not exclusively a matter of Entity vetoes – the Federation government’s finances are in disarray because it is organized in such way as to make it almost impossible for the executive to resist the demands of well-organized interest groups.

The OHR is not going to fix this fundamental problem, at any level of government. The International Community is not going to fix this problem.

This problem can only be fixed by the political leaders of Bosnia and Herzegovina.

So far, they have manifestly failed to come up with solutions.

This ought not to be a surprise. We have a chicken and egg situation – because the present constellation of parties is a direct result of a political system designed to sustain the present constellation of parties.

In this respect it is positive that the Council of Ministers and the Parliamentary Assembly have taken some initial actions, particularly in addressing the recent ruling by the European Convention on Human Rights in the Sejdic-Finci case. This is a small step, but it may indicate that the political establishment understands that the status quo is simply no longer tenable.

The political leaders and authorities in Bosnia and Herzegovina now need to address in a serious manner the functionality of the country and guarantee full respect for

human rights.

The International Community will not fix the problem, but it is absolutely committed to facilitating a solution. We will work wholeheartedly with every party that sets out to resolve this fundamental challenge facing Bosnia and Herzegovina in a constructive, inclusive, creative and resolute way.

The EU is committed to providing technical support and political advice and – I should make this clear – while the International Community will not fix the problem the International Community will not allow any roll-back of reforms achieved over the last 15 years, nor will it allow the sovereignty and territorial integrity of Bosnia and Herzegovina to be challenged.

So the parameters in which the exercise is taking place are clear. Constitutional reform must focus on delivering government that has the capacity to govern fairly, honestly and efficiently.

Speculation about creating new and deeper divisions in this society is simply a time-wasting distraction from the desperately urgent task of turning the economy around and getting Bosnia and Herzegovina back on the road to Euro-Atlantic integration.

Thank you