

# Speech by High Representative and EU Special Representative Valentin Inzko at the United States Institute for Peace



*-- CHECK AGAINST DELIVERY --*

Ladies and Gentlemen,

Thank you for the opportunity to express my views on the current situation in Bosnia and Herzegovina.

Our discussion today is timely because Bosnia and Herzegovina currently faces one of the most serious crises since the end of the war in 1995, in which the fundamentals of the state and its constitutional order are at stake. Seven months after the general elections, a coalition of parties in the BiH Parliament has yet to emerge to form a state-level government. Progress towards Euro-Atlantic integration has come to a complete halt. And in the midst of this political stagnation, the authorities of the Republika Srpska entity have initiated a unilateral referendum against the state judicial institutions and the authorities and decisions of the High Representative, which poses perhaps the greatest challenge to the Dayton Peace Agreement since it was signed.

## What has worked and what has not worked

In this situation, it is also timely for the International Community to take stock of its peace implementation and state-building efforts in BiH. The dynamics of the country's fitful post-war rehabilitation – and the international community's evolving effort to facilitate and support that rehabilitation – are complex but comprehensible.

Bosnia and Herzegovina showed good progress when the Dayton Accords were **made to work**. The International Community, operating through a dynamic and decisive Office of the High Representative, prevented abuse of the peace settlement and enforced the implementation of its provisions. Where these provisions did not provide solutions for the task of sustaining a modern democracy, the international community sought to broker domestic agreements to amend or expand the post-war settlement.

Five years ago, after a sustained period of success, it seemed a logical step to hand over responsibility for completing post-war reconstruction and Euro-Atlantic integration to domestic elected politicians.

Indeed, the circumstances at the time were promising. Refugee return had achieved a momentum that appeared irreversible; several years of real economic growth had begun to lift living standards; and structural reforms – including defence reform, judicial reform and fiscal reform – had started to furnish Bosnia and Herzegovina with the institutions and the capacity to sustain a modern European democracy.

Contrast this with today when the fundamentals and the constitutional order of the state are repeatedly challenged, when the state institutions, no matter which they are, are constantly undermined, when parties are unable to reach agreement on key reforms, when seven months after the general election a BiH Council of Ministers has not been formed, and

popular outrage over rising crime, corruption, and poverty has brought the entire political leadership into dangerous disrepute.

These developments would be bad enough at a time when governments should be re-doubling their efforts to deliver the deep reform the country needs to tackle the serious economic and social challenges facing its citizens, as well, of course, as making progress towards EU and NATO membership. However, instead, authorities in Republika Srpska have taken concrete actions which represent the most serious violation of the Dayton Paris Peace Agreement that we have seen since the Agreement was signed more than 15 years ago.

On 13 April, the Republika Srpska National Assembly adopted conclusions and a decision to organize a referendum only within the Republika Srpska entity. This referendum, which is worded in an extremely leading manner, would reject the decisions and authorities of the High Representative, which are derived from Annex 10 of the Peace Agreement and numerous UN Security Council Resolutions. It would also deny the remit of the judicial institutions of Bosnia and Herzegovina within the Republika Srpska.

These conclusions and the decision on the referendum, if allowed to stand, would pave the way for the reversal of many of the achievements of the last 15 years in implementing the Peace Agreement and equipping the state with the basic institutions and trappings needed for functionality and sustainability. The High Representatives in the past have enacted a significant number of decisions and laws fundamental for Bosnia and Herzegovina, such as Bosnia and Herzegovina's passport, flag, national anthem, coat of arms, and state border police – to name just a few. This cannot be allowed to happen.

These discouraging developments do not mean that Bosnia and Herzegovina cannot under any circumstances function, and they

do not mean that the international community must re-engage in the same way as before, or that the country must remain as some sort of international ward.

What the situation *does* require is the political will of domestic party leaders to compromise and reach solutions which are truly in the interest of the people. The International Community can assist in this but the responsibility lies with domestic leaders.

Past successes in Bosnia and Herzegovina have had a common trait: when domestic political stakeholders have chosen to operate the post-war settlement in a constructive way they have achieved significant progress. This was seen for example recently with the visa liberalisation process. We have also been more successful when there has been full consensus within the international community on the way ahead. Conversely, today when there is no consensus (Russian Federation), progress has been hard to achieve.

And the common theme running through past failures is that when domestic political stakeholders have chosen to use the post-war political settlement as an instrument of obstruction they have brought progress to a standstill. This is what we are seeing today.

What we must *not* do is try to wash our hands of the problem – because that would be to throw away a valuable investment and replace it with dangerous uncertainty.

Nor should we try to pretend that the problem does not exist.

It does exist and the International Community is currently adapting its configuration to enhance its effectiveness and to contribute to solving the problem.

## **An effective EU engagement**

This is why I am encouraged by the preparations that are now well advanced to establish a reinforced European Union presence in Bosnia and Herzegovina. This makes political sense, and a delineation of tasks between the EU and Office of the High Representative is something positive. However, as in the past, the key issue will be to ensure that the EU, the OHR and the wider international community can work effectively together to achieve their shared goals.

I am also encouraged by the focus on assembling an appropriate toolbox from which the future EU representative in the country can draw in order to stop a small minority of politicians in Bosnia and Herzegovina from holding up progress for the overwhelming majority of citizens.

However, while it is good to have agreed on a customized toolbox, there must also be readiness to use the tools available if there are clear challenges against the Dayton Agreement and the fundamentals of the state. I believe that for instance now when the state institutions, the rule of law and much of the achievements of 15 years of peace implementation are under attack, restrictive measures should be used. A weak or no response from the European Union at this stage is not to the benefit of anybody – especially not to the EU itself. There is now consideration in Brussels about whether to use such measures in the current situation in Bosnia – something which is a positive sign.

I also believe that the continued presence of the EU-led international force, the so-called EUFOR, with an executive mandate is crucial. Here we will have some convincing to do with the EU member states, some of whom do not see much of a military role for EUFOR in Bosnia. However, EUFOR's presence is also politically important and should continue.

## *The limits of double-hatting*

The size of the Office of the High Representative – and its budget – has been drastically reduced since 2004. At the same time the profile of the EUSR has risen, as the basic template of institutional reform has become the Stabilisation and Association Process with the EU, rather than Dayton implementation.

For a number of years now, the positions of High Representative and EU Special Representative in Bosnia have been filled by a single international official, with two closely related mandates. However, it has now become clear that the relative change in emphasis within the so-called double-hatted arrangement has gone as far as it can and that a fundamental reconfiguration is necessary.

In the ideal scenario – one that five years ago appeared to be within reach – separation would have been accomplished through the closure of the OHR when its function was seen to be no longer necessary.

Unfortunately, years of obstruction, nationalist rhetoric, and serious administrative, social and economic crises (all of which have intensified in the last seven months) have meant that progress on the measures set for OHR closure has been arrested and, moreover, demonstrated that the OHR remains a necessary buttress to the political stability and institutional functionality of Bosnia and Herzegovina. In this regard, I believe that there is consensus within the international community, including the EU that the OHR must stay for the time being.

Establishing a reinforced EU presence and maintaining the OHR separately means that two distinct but complementary operations can now be carried out. I believe that this combination – distinct but complementary and mutually supportive – can deliver optimal effectiveness. The OHR and

the reinforced EU office can operate in tandem to reverse the downward trend of the last five years, and I look forward to working closely with the new head of delegation when this appointment is made.

### **OHR focus**

Once the EU has reinforced its presence, the OHR will be able to focus on implementing its Dayton-related tasks mandated by the Peace Implementation Council – facilitating an acceptable and sustainable resolution of the issues of state and defence property, completing the Brcko Final Award, ensuring the country's fiscal sustainability and supervising the entrenchment of the Rule of Law.

Unfortunately another crucial role for the OHR will remain in preventing threats to the Dayton Peace Accords, to the sovereignty and territorial integrity of the state, and to the functionality of the institutions established as part of the implementation of the post-war settlement. The continuing need for this OHR role has been demonstrated several times just in the last six months.

In March, when the appointment of a government in the Federation was disputed I was forced to intervene and establish a minimum level of legal clarity. If the OHR had not been present and functioning, we might have had two governments in the Federation, each claiming to be legitimate.

In January, I suspended the application of a law by which the RS authorities had tried to **unilaterally** declare that the state could own no property located on the territory of the entity – a move that would have rendered consensus agreement on the issue of state property impossible.

Today we are faced with a significant challenge to the Dayton-Paris agreement itself through the Republika Srpska's decision

to hold a referendum aimed at undoing the results of 15 years of peace implementation and state-building efforts and limiting the State's ability to act against organised crime and war criminals. In this regard, I am consulting with the Peace Implementation Council regularly and am ready to take decisions at the appropriate moment.

These are just three cases where the domestic political system – either because of procedural dysfunction (which must in due course be addressed through constitutional change), or through political malfeasance – produced a negative outcome that can, for the time being, only be corrected through external authority, in this case the authority of the High Representative. The EU, or BiH for that matter, do not have the appropriate tools to deal with these kind of difficulties.

By implementing its core tasks vigorously the OHR can ensure that the new EU Office can carry out its work in an environment that is institutionally and constitutionally secure, and that this environment – through the successful implementation of reforms that will complete the Dayton settlement – is increasingly receptive to the enormous body of legislation that EU integration entails.

### **A massive pro-Europe constituency**

I mentioned earlier that when domestic political stakeholders have chosen to operate the post-war settlement in a constructive way they have been able to achieve significant progress.

There is a huge constituency in the country that is fully committed to Euro-Atlantic integration, a constituency that is more than willing to embrace the inclusive and consensual politics of the EU and which is utterly exasperated with the obstruction that has brought progress to a standstill.

It is important to keep this in mind – because in Bosnia and Herzegovina we are not seeking to impose alien values on an



unwilling people.

We are working with four million citizens who understand European values, who want to be part of the European and Euro-Atlantic family, and who are willing and able to make a positive and unique contribution when they achieve membership.

For unique historical reasons, these four million people find themselves with a political system that is anomalous and which will have to be changed before the country's Euro-Atlantic trajectory can be completed.

To achieve this, the international community must work constructively and creatively with BiH *citizens*. There is a disconnect between ethnicity-based and civic-oriented politics; there is really no reason why the European Union or the United States should favour the former when their own successes have been built explicitly on the latter.

### **Helping *all* domestic stakeholders**

Having in mind the current difficulties in Bosnia, it is also clear that we will need constitutional change to remedy political obstruction and other shortcomings. In recent years we have seen glaring evidence of systematic shortcomings in the constitutional order that go beyond the human-rights issues raised in cases before the European Court of Human Rights, to basic questions of functionality.

The system is open to exploitation by its opponents. For example, in the period after the election we saw how a single canton could block the implementation of election results at the Entity level simply by refusing to send delegates to the Federation Parliament, and this automatically prevented the formation of authorities at the Federation and State level

In order to function – and in order to enter the European

Union – Bosnia and Herzegovina needs to improve its Dayton constitution. The experience of the last two decades shows that positive change is more likely if the international community facilitates and supports this process, and ensures that it is not hijacked by a professional minority. This means helping all domestic stakeholders, not just the political elite, to bring it about.

### **An opportunity for the international community**

In this regard, allow me to say a few words on how I think the International Community should approach Bosnia and Herzegovina in the future. We all agree that the future of Bosnia and Herzegovina is within the European and Euro-Atlantic structures. The EU and NATO, therefore, have an important role to play in Bosnia and Herzegovina in assisting the country to fulfill the requirements for its aspirations to membership in both organizations.

It is important that Bosnia and Herzegovina remains on the International Community's agenda until the job is completed. There are some who believe that it is long past time to leave Bosnia and Herzegovina on its own, some talk about international fatigue in Bosnia and Herzegovina. I do not share this view, as it will open the door to those who would attempt to divide this country, with all the political and security consequences this might entail. The international community has achieved tremendous results in Bosnia and Herzegovina, however, it is clear from the current political situation that we have not yet achieved a lasting and durable political settlement that would ensure a clear prospect of peace.

Our continued attention on Bosnia and Herzegovina is the way to get to the objective that we all want to reach – where the country can move towards full Euro-Atlantic integration under

its own steam.

The onus clearly lies on domestic politicians to start truly acting in the interest of citizens, forming state-level authorities quickly now and beginning to make the long-awaited reforms needed to get the Euro-Atlantic integration agenda back on track. The international community stands ready to assist in this. The current re-configuration of the OHR and the EU Office – with each of them having clear areas of activity and the resources it needs to do its job – will provide for effective international support for Bosnia and Herzegovina. This will open up opportunities for success – for the European Union, the United States and the wider international community, as well as for the citizens of Bosnia and Herzegovina.

Thank you