

Speech by High Representative and EU Special Representative Valentin Inzko "Bosnia and Herzegovina between Dayton & Europe: Current & Future Challenges" French Institute for International Relations



Ladies and Gentlemen,

Let me begin by thanking the French Institute for International Affairs for providing a forum for today's dialogue.

This discussion is timely because Bosnia and Herzegovina is currently facing one of the most serious crises since the end of the war, with the fundamentals and the constitutional order of the state at stake. Seven months after the general elections there is no state-level government yet and progress towards full Euro-Atlantic integration has come to a complete halt. Much will depend on developments over the coming months.

What has worked and what has not worked

In this situation, it is also very timely for the International Community to take stock of its peace implementation and statebuilding 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 Paris-Dayton Accords were **made to work**. The International Community, operating through a dynamic and decisive OHR, prevented abuse of the peace settlement and enforced 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 was a logical step to hand over responsibility for completing post-war reconstruction and Euro-Atlantic integration to domestic elected politicians.

The circumstances at the time were promising. Refugee return had achieved a momentum that appeared to be unstoppable, 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.

Today, however, we are in a situation where the fundamentals and the constitutional order of the state are repeatedly challenged, where parties are unable to reach agreement on key reforms that will help to arrest a dramatic decline and restart Euro-Atlantic integration, where 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. Simply speaking, today we are possibly in the deepest political crisis in Bosnia and Herzegovina since the signing of the Dayton Agreement.

This disappointing outcome does not mean that Bosnia and Herzegovina cannot under any circumstances function, and it does 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 it *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 BiH 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. We have also been more successful when there has been full consensus within the international community on the way ahead.

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.

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 – notably the European Union – 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.

I believe we are on the right track to giving the EU maximum effectiveness in a changed and still changing situation. I am particularly encouraged by the focus on assembling an appropriate toolbox from which the new EU representative can draw in order to stop a small minority of politicians in Bosnia and Herzegovina holding up progress for the overwhelming majority of citizens. This, of course, would not change the overall EU policy of working with and providing positive incentives for BiH to accelerate its way to EU accession.

However, while it is good to have agreed on a customised 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 and with the impending threat of a unilateral referendum by part of the country against the state, restrictive measures should be used. A weak or no response from the European Union is not to the benefit of anybody – at least not to the EU itself.

I also believe that the continued presence of EUFOR with an executive mandate is crucial. Operationally, this means that the EU will ensure a safe and secure environment. It also means that BiH citizens will see clearly that the European Union lives up to its promises and supports its declarations with deeds.

The European Union has been at the heart of Bosnia and

Herzegovina's recovery ever since Dayton, as the largest investor, the biggest trading partner, and a major source of technical expertise. And since the European Partnership and the Stabilisation and Association Agreement have provided the country with an overarching social, political, legal and economic trajectory, the EU's successful engagement is not only desirable: it is essential.

Limits of "double-hatting"

The so-called "Double-hatting" of one official with the two functions of EU Special Representative and High Representative has had a number of positive outcomes since the arrangement was introduced in 2002. Among other things it has ensured a high degree of cohesiveness between the positions of the EU and the positions of the International Community as a whole – except, of course, on those rare occasions where the High Representative and EU Special Representative has disagreed with himself (laughter).

But there have been limits to double-hatting – particularly where incompatibilities have arisen between the role of High Representative (with executive authority focused on implementing Dayton) and the role of EU Special Representative (with a mandate premised on a fully functional domestic BiH authority).

The historical response has been to view the arrangement as fluid – not fixed. The size of the OHR – 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 domestic political activity has increasingly been that of the Stabilisation and Association Process rather than Dayton implementation.

However, it has now become clear that the relative change in emphasis within the double-hatted arrangement has gone as far

as it can go 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, reckless nationalist rhetoric, and serious administrative, social and economic crises (all of which have intensified in the last six 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.

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

The OHR will now be able to focus on implementing its Dayton-related tasks mandated by the Peace Implementation Council – facilitating an acceptable and sustainable resolution of the issue 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.

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 decide the issue of State property **unilaterally** – a move that would have rendered consensus agreement on this issue 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 statebuilding efforts and limiting the State's ability to act against organised crime and war criminals.

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.

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 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 should favour the former when its own success has been built explicitly on the latter.

One of the most stimulating projects I've been involved in as EU Special Representative has been an Outreach Programme which seeks to develop a public forum for discussion of EU issues and by doing this to promote EU advocacy among diverse civil society actors. Through media activities (including an interactive website), and public meetings that bring together civic groups and policymakers we have been able to engage a

broad cross-section of stakeholders in the EU-integration process.

The common theme of Outreach events has been the articulation of a popular and consistent demand for faster Euro-Atlantic integration.

It is an article of faith in the international community that Bosnia and Herzegovina will only make progress if its domestic political stakeholders summon the will to reach compromise agreements and forge a common view of the country's future.

Helping *all* domestic stakeholders

Part of this will involve constitutional change. 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 overhaul 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 EU

There is now a widespread understanding within the European Union that Bosnia and Herzegovina **cannot be treated as a standard enlargement country**. It presents very specific challenges – and today, with the steps I have just mentioned, we are meeting those challenges.

What I think is sometimes less well understood is the fact that this country also represents an enormous opportunity for the European Union. We have before us the prospect of a major EU foreign policy success that will deliver benefits to EU citizens as well as BiH citizens.

If there are valid arguments for proactive EU engagement in various parts of the Mediterranean and Africa then there are equally compelling reasons to bring our longstanding investment in Southeast Europe to successful fruition.

As I have said, the reinforced EU presence working in tandem with a continuing and robust commitment from the international community through the OHR can deliver success in Bosnia and Herzegovina – and that success will transform a challenge into a significant asset.

This can be an early feather in the External Action Service's cap.

It is not my intention to minimise the difficulties. Clearly, in its present condition Bosnia and Herzegovina is far from where we – or the citizens of that country – want it to be. Not only does it have no government almost seven months after the general election, it hasn't appointed a new delegation to the Council of Europe's Parliamentary Assembly, and this means it cannot participate in the work of the Assembly.

A country that cannot contribute to Council of Europe deliberations is clearly not yet ready to participate in EU deliberations.

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. This will open up opportunities for success – for the European Union and the international community, and for the citizens of Bosnia and Herzegovina and the citizens of Europe.

Thank you