

Speech by the High Representative for BiH Paddy Ashdown to Economic Administrators and International Investors at the Joint Institutions Building

Ladies and Gentlemen,

When I took up my mandate here on the 27th May, I gave a speech marking the way ahead for BiH and the International Community in the months leading up to the October 5th elections.

The purpose of this speech is to mark out the way ahead for our partnership in the next phase of our work.

As on the 27th May, I speak not just for myself, not just for the OHR, but for the whole international community, with whom, over the last weeks, I have discussed and agreed the contents of this speech.

I will begin with a word about Saturday's elections.

But before I comment on the results, let us acknowledge a very important fact. This country has just run a highly professional election, and it has done so itself.

The independent electoral authorities of BiH have done – and are doing – a very impressive job. These elections were efficiently organised and free of violence. For a democracy

that is only six years old; that was built on the uncertain foundations of sixty years of communism; that was founded amid the ruins of one of the worst wars in living memory, that is no mean feat.

Consider for a moment the Election Commission as a model for what Bosnia and Herzegovina could be. Foreigners taking a back seat, content to leave things to a highly talented body of Bosnian citizens, of all ethnicities, armed with commitment, professionalism and modern ideas, operating an organisation extending into every village and community, delivering a service to every citizen, doing one of the most difficult jobs any state has to do, doing it to international standards, and doing it superbly.

If you want to see what we could do if we reform, pull together and put the citizen first, you need look no further than what the Election Commission did do last Saturday.

Now let me comment on the results of these elections – provisional though they are.

Our newspaper headlines, especially abroad, have told us that these elections meant a swing back to nationalism and the past. I think they are wrong.

Of the so-called nationalist parties, the votes of two did not go up – they went down.

And the party that increased its vote the most – the SNSD – is a non-nationalist party.

I hope those who judge us from abroad will not misunderstand the message of this election. And neither should the parties here in Bosnia and Herzegovina. This was a protest vote – or perhaps, given the turn-out, a protest ‘non-vote’ – against what people felt was the lack of progress made under the last Government and against the failure of politics in this country.

If you don't believe me, ask yourself this simple question – was the last Government punished for doing too much, or for doing too little?

The answer is clear. This was not a vote to return to the past. It was a demand to stop messing about, to get on with it, to implement change and build a better future.

And if the winners of this election fail to recognise that, then they will suffer the same fate as the last Government, and this country will lose its last chance and be left behind, as the stagnant pool of the Balkans.

Our Historic Mission

So let's not allow the politics of the moment – or the newspaper headlines – to distract us from our long-term objectives – our mission – to put Bosnia and Herzegovina irreversibly onto the road to statehood as a member of the European Union.

The election altered much. But it didn't alter what we need to do next.

Bosnia and Herzegovina needs exactly the same reforms today as it did a week ago. And we face the same problems as we did a week ago.

We still face the challenge of creating jobs, raising incomes and improving living standards.

We still face the task of tackling corruption, fighting crime and establishing the rule of law.

We still need to deliver real, tangible improvements to the day-to-day lives of the ordinary people of this country.

Justice

I said when I arrived that the priorities were “First Justice. Then Jobs. Through Reform”. And we have approached

our task in that order.

We have made a start in establishing the rule of law.

For our part, we in the international community have put ourselves on a new footing – reflecting the focus on justice in the way we organise ourselves, and making us, I hope, better partners for our BiH colleagues.

We are setting up a new Unit to tackle crime and corruption, which, once fully operational, will work with local investigators to identify the lawbreakers and bring them to court.

We have established a new Legal Reform Unit, headed, and almost entirely staffed by, Bosnians, to work with the BiH authorities on new laws to bring criminals to justice.

We have begun, with the authorities of Bosnia and Herzegovina, the long-overdue process of restructuring our court system at all levels, and ensuring that only honest judges are allowed to administer justice in the future.

We undertook to have the High Judicial and Prosecutorial Council established by the autumn; and we have.

We promised to establish a special chamber in the State Court, and a Special Department in the BiH Prosecutor's Office. And we have kept that promise.

And we are making good progress on establishing the State Information Protection Agency, on certifying the police and on training special police units capable of taking on organised crime.

So quite a lot has been done.

But there is a lot more to do, before we will be able to say that Bosnia's lawless rule has been replaced by the rule of law.

We cannot rest until this country has a justice system that jails criminals, protects the innocent, and attracts foreign investment and stimulates local business.

We must not stop until this country is the most trusted legal space in the Balkans.

Nevertheless, the elections do mark a new point of departure .

The first phase is over.

In this next phase, we have to increase the pace of reform.

And we should begin by establishing in law the key, outstanding pieces of legislation central to the pursuit of justice in BiH.

That is why we will shortly be putting in place the amendments to the RS and Cantonal Laws on Courts, so that the High Judicial Council can start appointing judges in the next few weeks.

And why, by the end of the year, we will also be enacting the BiH Criminal Code, which the Parliament was trying to adopt when time ran out before the elections. We cannot wait to get this – and the Criminal Procedure Code – on to the statute book if we are serious about getting the State Court up, running and trying criminals.

Jobs

But now we open a new front of reform. Economic reform. And we must not allow the present political hiatus to delay our progress.

Aid is falling off, debts are mounting and foreign investment is not increasing to fill the gap. Time is not on our side.

So, we have no option but to steepen the gradient of reform in

Bosnia and Herzegovina.

This work has, of course, already begun.

Some very important laws have been passed in the last months: The State Law on Civil Aviation, the Entity Electricity Laws, the Federation Law on Concessions, the Entity Laws on Banks and the State Veterinary Law.

But there are several pieces of vital legislation still outstanding.

We will have to enact the Law on Communications to cut the cost of phone calls.

We must have the Law on Statistics, so that government can budget and plan.

We will need to introduce the Law on Land Registry Books to clear up and secure ownership rights.

Pressing ahead with this agenda, and with all the other economic and rule of law reforms contained in this agreement – the **Jobs and Justice** agreement between the BiH Government and the international community – should remain the focus of our efforts over the coming years.

The last governments began this process. The new governments must push it forward.

What is, on the face of it, encouraging, is that all the so-called 'nationalist' parties now say they are in favour of these reforms too. Good.

But I repeat what I said in my first speech. I judge people by their actions, not their words.

And I say to those parties who have recently adopted the language of reform – you have some convincing to do. There are a lot of sceptics out there.

Imagine you are an European businessman thinking of investing in Bosnia Herzegovina, reading a headline in the *Guardian*: "Nationalist revival in Bosnia threatens reform". Are you more or less likely to invest in this country?

Imagine you are one of those voices in Washington wondering whether it is worth continuing the US effort in the Balkans, reading in the *Washington Post* "\$5 billion down the drain as Bosnia returns to the past". What would your conclusion be?

My point is this. The only way to prove the doubters wrong, is by actions – early actions – not words. The elections mean that we must be quicker, not slower, to reform, if we are to convince the outside world that our course is still set for the future, and we are determined to stick to it.

So, the new Government has very little time. It needs to be formed quickly. It needs to be formed around a programme of reform. And it needs to get down to work without delay.

If those parties that aspire to government in this country mean what they say about joining the reform movement, if they are really prepared to back up their words with deeds, then let them begin by supporting, and then playing their part in implementing these reforms without delay.

It is on that basis that our partnership with the new governments will proceed.

Real reform. Real progress. Real results.

But lets be clear. That means more than just talking and legislating. Getting the legislative framework right is necessary, but not sufficient.

It will amount to nothing if we do not change our methods, our structures and our systems.

You see, all the legislation in the world will be worthless if we do not make government work, if we don't make the public

administration work and if we don't make our political system work.

**So this week marks the start of the second phase of reform.
Making Bosnia and Herzegovina work.**

Making BiH Work

On the night of the election, I took steps to ensure that the new Federation and the Cantonal governments work better. And next week, the RSNA will, I hope, pass similar laws to make the Republica Srpska Government work better.

But there is much more we need to do if we are to make Bosnia and Herzegovina work.

Before I outline some of the other tasks ahead, let me remind you of the promise I made when I arrived, and have repeated many times since.

I said that I would never allow *“any constitutional change that fundamentally threatens the security or identity of any of Bosnia and Herzegovina’s constituent peoples.”*

That commitment remains.

Dayton is our foundation. The constitution is our framework.

I am not proposing changes to either.

But as I said before, Dayton is the floor not the ceiling. It does not, and it should not, prevent us reforming the way we do the business of government in this country.

It does not, and must not, stop us making BiH work.

Making BiH’s Government Work

Take the Council of Ministers. Is it really sensible that the government of this country should be organised as at present, with the “Cabinet” described as a Council, and the “Prime

Minister” known as a Chairman?

Is it realistic to expect stable, effective government when we play political pass-the-parcel from one Minister to another every year or so?

How can the International Community find genuine, long-term, effective partners in such a muddle? How does BiH look to the outside world when it is represented by this merry-go-round of Ministers?

And it affects us internally too. Is it really practical to expect the Chair not only to run the Council, but also to run a Ministry?

Is it really sustainable to have no permanent secretariat or civil service support given to the Council of Ministers?

The system’s shortcomings are so obvious – its consequences so damaging – that these questions barely need answering.

If we want good government, capable of serving the people and delivering reforms – then the status quo is not an option.

For, as the saying goes, **“If you keep doing what you are doing, you’ll keep getting what you’ve got”**.

And what we’ve got at the moment is a recipe for instability, inefficiency and muddle.

We cannot go on like this. So let me propose several improvements we could make.

We could give this country greater continuity in government, and enable it to speak with greater authority and consistency with its international friends, by setting up a triumvirate – let’s call it a “Cabinet” – of three at the heart of government, consisting of the Chair of the Council of Ministers, the Foreign Minister and the Treasury Minister, each from a different ethnicity, but forming together the

powerful engine room of an effective government. And give them a proper civil service – a “Cabinet Office” – to provide advice, expertise and support.

Then we could enable the Chair of the Council – let’s call him the “Prime Minister” for the moment – to concentrate on his job by relieving him of responsibility for running a ministry as well. Goodness knows it’s difficult enough to run a government without also trying to run a ministry.

Then we might open the way for lifting the cap of six on the number of Ministries, to allow a more sensible re-ordering of government priorities, and to provide opportunities for more people to have a stake in the running of this country’s affairs.

If we did these things, then Bosnia’s friends would see that this country was really determined to make things work. And they would then be willing, enthusiastic even, to help – perhaps by providing the funds and the expertise to train a core of professional, politically impartial policy makers to support the Cabinet Office and the Prime Minister in carrying out their jobs effectively.

These are our ideas, the international community’s ideas. They have been worked out, discussed and agreed.

But we are not imposing them, we are proposing them.

We only say this: Making the heart of Government more effective in BiH is a challenge you cannot duck.

So I say to the incoming government, these are our proposals for making the heart of government work – what are yours?

Making BiH’s Revenue System Work

We also need to look at the way in which government is funded in this country.

60% of the money that the government raises – at the entity level as well as the state – comes from customs. All our benefits and services, from pensions to schools, from roads to healthcare, depend on this revenue.

So does it really make sense to collect customs as we do at present when, according to official estimates, somewhere between 300 and 600 million KM in revenues is currently going missing through fraud and mismanagement. Between 300 and 600 million! That means that each year the customs system is putting more money into criminal hands than into the state budget!

But in some ways, these total figures – these headline amounts – are too big to mean anything to most people. What, after all, is 600 million KM to a man earning 200 KM a month? The fraud is so large, the scale of these crimes so enormous, that they can sometimes seem detached, somehow separated from the conditions and concerns of the citizens of this country.

But they are not.

Every scam in the customs and sales tax system, represents a direct theft from you the citizen.

Take the 30 million KM lost by the Republica Srpska customs administration, in the first half of this year, on the import of textiles alone. That amount of money is enough to pay an additional 30KM every month to over 50,000 of the poorest pensioners in the Republic Srpska .

And in the Federation in recent months, 50 million KM that should have been collected in revenues went missing in sales to 'phantom' companies. 50 million KM! That's enough to pay for over 20,000 treatments in hospital.

And remember the 3 million KM that went missing during the so-called 'AM-Sped' affair? Well, that 3 million KM could have been used to double the amount spent on education in the

Posavina canton, where the crimes were committed. That's 3 million KM that could have been spent on children – on books, computers and other essential equipment they need to learn, develop new skills and succeed.

So I ask you again. When our children's education is a stake, when our pensions, salaries, services and benefits are at stake, can the status quo really be defended?

Is there anyone who would argue that BiH should continue with a customs system that robs our people and would not be tolerated for a nano-second in any other modern European country?

There is only one possible answer to these questions. If we are serious about making Bosnia and Herzegovina work, we have no option but to change the way we manage our customs.

So I have asked the European Commission to conduct a study into the way we operate our Customs in Bosnia and Herzegovina. And to make proposals about how we can improve our systems and reform our structures, in a way that draws on the EU's immense experience in this field. We will have their recommendations in a few months.

But there are some things we know already: No change is not an option.

We cannot expect the International Community to subsidise this country, when this country's customs is, in effect, subsidising criminals.

If we want their help, we must put our house in order.

We have to give this country a reliable means of raising revenue for its governments – not for the sake of the governments, but for the sake of the people they serve, or fail to serve, under the present arrangements.

This will also mean replacing the corruption prone, business

burdening, sales taxes with a state system of VAT of the kind that every modern European country has. This can't be introduced overnight – it will take two years or so to come into effect. But we have to make these changes, without increasing the overall level of tax, to give investors a sensible structure in which to do business.

And we have to start now.

Making BiH's Political System Work

But fighting corruption, safeguarding the public's money and driving up standards in public life are not issues just for the tax and customs administrations, or even the public administration more generally.

It is, first and foremost, a task for the political community – those with power and influence and privilege. Those who, above all others, should be setting the standard for the people they seek to represent.

After all, politics should be, and still can be, about great causes, high ideals and inspirational visions. About personal integrity, individual sacrifice and public service.

It should NOT be about the trappings of power, financial inducements and criminal immunity.

It should NOT be about the accusations and insinuations that characterised so much of the pre-election period.

It should NOT continue in the future, the way it has in the past.

If we do not act, the reputation of the entire political community, across ethnic and party lines, will be damaged irreparably.

If we keep on doing what we are doing, we will keep on getting what we've got.

And what we have got at the moment is a political system that is in real danger of ending up in the gutter – distrusted by the young, rejected by the talented, abandoned by the voters – just look at turn out last Saturday.

That is why I changed the laws on immunity from criminal prosecution for politicians.

Politics needs to be a criminal free zone, not a criminal protection zone.

But ensuring that politicians are not above the law will not, in itself, introduce the standards of probity voters have a right to expect of their political leaders. We must go further.

That is why we should also develop the institutional capacity to police the political space – to uphold and enforce the code of ethics that sets out what is, and what is not, expected from people in public life. Parliamentary Commissions should be established in BiH, as in almost all European nations, to act as watchdogs over the politicians.

And we must bolster the capacity of the Election Commission of BiH so that it can implement the conflict of interest law that came into force on the Election Day. Under this law, the Election Commission has the power to fine, remove or refer for criminal prosecution, public officials who act to further their personal financial interests, rather than the public good. We must ensure the Commission has the teeth to do that job.

One more point on standards in public life.

Patronage and politics are too close in this country.

In modern democratic states there are strict limits to patronage.

The independence of public servants must be protected.

We do not yet have a fully functioning Civil Service Agency, or adequate arrangements for protecting the independence of public servants. Until we do, someone will have to protect the independence of the civil service and of public jobs in the army, the police, publicly owned companies and the wider public sector.

And that someone will have to be me.

So let me re-assure those in the public service, and warn those who will now take up the reins of office: The public service is not a playground for patronage and I am not prepared to allow it to become one.

Six Tests for the Next Six Months

So this country's new governments, and we in the international community, will have a huge amount of work to do.

In the recent election campaign, all the parties promised reform. Now those that are about to govern must honour the promises they have made, if Bosnia's friends, and its people, are to be convinced those promises of reform were for real.

Here are six specific reforms – six tests of seriousness – for the next governments of this country.

Within the next six months, we call on you to:

- Reform the Council of Ministers to give us stable, effective government
- Reform the revenue system by beginning the process of establishing VAT at the State level and reforming customs
- Reform the political system by establishing Parliamentary Commissions to act as 'ethics watchdogs'
- Reform the business environment by rationalising taxation within BiH borders

- Reform the criminal justice system by making the State Court operational by 31 December and by supporting newly appointed judges and prosecutors

- Reform the public service by adopting and implementing civil service laws and ensuring that civil service appointments are merit based.

Peroration

This is the agenda, the next phase of our partnership to put this country onto the road to statehood as a member of Europe.

It is an ambitious programme of reform that demands serious discussion and debate.

And we in the international community are ready for that debate – ready to listen and ready to talk – provided that talk ends in action to improve the lives of the people of this country.

Action to create more jobs.

Action to deliver real justice.

Action to make Bosnia and Herzegovina work.

During the Second World War, Winston Churchill had a special stamp made up, in bright red, which he used to apply personally to the orders and instructions that he despatched from No 10 Downing Street.

That stamp carried three simple words:

It said: ACTION THIS DAY!

Let “action this day!” be our motto in the months ahead.

Because the message from the people this weekend was loud and clear: they have waited long enough.