

Speech by the Senior Deputy High Representative Ambassador Dr. Martin Ney at the European Union Presidency Seminar On Security Sector Reform in the Western Balkans

13 February 2006

EU SSR Activities in the Western Balkans

Lessons Learned and Future Perspectives

Security Sector Reform in BiH

Last year, Bosnia and Herzegovina (BiH) passed a significant milestone. For several years, the overarching goal of the international community has been to assist the country in equipping itself to take part in Euro-Atlantic integration and, in particular, to establish contractual relationships with the European Union and NATO. BiH not only fulfilled the conditions for opening negotiations with the EU on a Stabilisation and Association agreement (SAA) in time for the tenth anniversary of the Dayton Accords in November 2005. BiH also adopted defence legislation that, when fully implemented, could eventually enable Bosnia to become a full member of NATO.

How did Bosnia get this far? Almost four years ago, the international community in Bosnia, then guided by Paddy Ashdown, made very clear that building the rule of law in BiH

would be the over-riding objective of our mandate. This meant addressing deficiencies in the full range of institutions dealing with the rule of law – from police to judiciary to the prison system. It also meant dealing with broader threats to the rule of law, by reforming BiH's defence and intelligence structures, and creating a reliable tax authority for the State and a single customs service. It also meant ensuring that law enforcement and justice were insulated from politics, so they could no longer be employed as political tools.

Let me just mention some of the most important reforms achieved during this period:

- Judicial reform: BiH's criminal codes and criminal procedure codes are now compatible with the European Convention for Human Rights.
- The BiH High Judicial and Prosecutorial Council has been established.
- The BiH State Court is up and running, already showing that it is capable of trying once high-ranking and still influential politicians.
- The State Investigation and Protection Agency (SIPA), a police force under the jurisdiction of the state court, is up and running.
- The State Border Service (SBS), established in 2000, is contributing to the rule of law through surveillance and control of the borders and the detection, prevention and investigation of cross-border crime.
- Intelligence reform has also seen remarkable progress over the last few years. Before 2003, there was no precedent for such a reform in a post conflict state. In BiH, the intelligence services were heavily politicized, making this reform all the more challenging, and necessary.
- By March 2004 the BiH parliament adopted the Law on the BiH Intelligence-Security Agency (OSA). FOSS and OBS, the Federation and RS entity intelligence services,

ceased to exist in June 2004 and OSA came into formal existence.

- OSA is responsible for both internal and external affairs. Its task is to gather and analyze intelligence in order to prevent threats to the constitutional order and economic stability of BiH.
- Defence reform proceeded to its deciding moment at the end of 2005. During the year, a general consensus emerged to eliminate the entity defence competencies, to transfer all defence responsibilities to the state, to abolish conscription, and create a restructured and downsized professional army.
- All this entered into force by the turn of the year. And as the new defence structure takes shape, BiH will enhance its capacity to maintain a safe and secure environment at home and in the region.
- And lastly police reform. In adopting a Political Agreement on police reform last October, the entities and state finally agreed on a way forward, unlocking the opening of negotiations with the EU on an SAA agreement.
- The need for police restructuring had been highlighted in an EC-funded Functional Review, which demonstrated that policing in BiH was, among other things overstuffed, not financially sustainable, and ill prepared to deal with certain forms of criminality - including organised crime.
- On the heels of this report, the High Representative formed the Police Restructuring Commission (PRC) in 2004, in order to propose a "single structure of policing" which would correct these deficiencies.
- As I mentioned before, with the Political Agreement of October 2005, the parliaments of the entities and the state finally reached consensus on how to proceed, explicitly accepting the three EC principles as the basis for reform.
- These principles were that the new system must ensure:

1. *No political interference with operational policing*
2. *All legislative and budgetary competencies for all police matters must be vested at the State level.*
3. *Functional local police areas must be determined by technical policing criteria, where operational command is exercised at the local level.*

- The Agreement mandated the creation of a Directorate for Police Restructuring Implementation (established by Bosnia 's Council of Ministers). This Directorate is a technical, professional body, charged with drafting a detailed implementation plan by September 2006. This plan will map the road to a more effective and efficient police structure, to be implemented over the next few years.

Deficiencies

Although BiH is increasingly capable of undertaking responsibility for the full spectrum of its security needs, we have not yet reached the point where Bosnian authorities can manage without substantial international and EU backing.

In particular, organized crime, corruption and porous borders remain major challenges (as they do in many countries, especially in the region), and the local authorities continue to be in need of our assistance in dealing with them.

The fundamental question, that remains to be answered, is whether BiH institutions will take the initiative to further develop these foundations. The carrots and sticks of conditionality, both by the EU and NATO, are important in providing the necessary incentives. But it is now a question of political will, not capacity.

Future EU Role

So, the IC needs to continue to support and invest in the strengthening of all Security Sector institutions.

As the country moves from post-conflict stabilisation toward European integration the role of the international community will also change.

Assuming the political developments continue as they have over last few years, it is likely that the Office of the High Representative will be closed down somewhere in 2007, leaving only an augmented EU Special Representative led-mission.

How can the EU ensure that the achievements and reforms that were set in motion by the OHR are sustained and how can we assist in completing Security Sector Reform? In order to be able to look ahead it is necessary to make some observations about our ESDP role so far.

EUPM

At the end of 2002, the EU took over the UN's International Police Task Force (IPTF) and set up the European Union Police Mission. The EUPM was tasked to mentor, monitor and inspect BiH's fragmented and inefficient police forces.

We all know that the first EUPM mission has been criticized – most notably by the International Crisis Group, which labelled it a failed mission. Some of their criticism was justified – some was not well-founded and unfair.

We must not forget that the Mission had to operate in a political environment that was not conducive to comprehensive police reform, and where the RS and Federation police forces were still worlds apart.

Despite these criticisms, given the environment in which it operated and the tools it had to its disposal, the EUPM has made a major contribution to strengthening BiH policing institutions and introducing European policing norms,

standards and practices.

EUPM II is now up and running as of 1 January. The size of this mission has been reduced significantly, whilst at the same time its mandate has been strengthened and more concrete results are expected by all, including, most importantly, the Bosnian public.

EUFOR

At the end of 2004, the EU also assumed responsibility in the military peace keeping field by taking over from SFOR. High Representative Javier Solana tasked EUFOR to be a new and distinct force.

EUFOR's executive military mandate was interpreted as working to:

- (i) Apply pressure to criminal networks;
- (ii) Direct assistance to and capacity building of BiH law enforcement and;
- (iii) Help to change attitudes by demonstrating that organised crime networks are not invincible.

As result of this focus EUFOR became highly visible around the country with large-scale operations aimed at physically disrupting the networks and breathing down the necks of organised crime networks.

EUFOR's active and visible role was appreciated by the population. But EUFOR's role in fighting organized crime also led to debate. Should major and sophisticated organized crime really be fought with military means? Were soldiers capable of contributing to capacity building of civilian law enforcement agencies? For many, it was a question to be examined.

After one year of operation it would seem that EUFOR's capabilities had indeed reached its limits in the fight

against organized crime. As a consequence of a successful public awareness campaign and the support given in a number of high profile operations conducted by Bosnian authorities, EUFOR drew much needed attention to the problem of organized crime and helped dispel the notion that Bosnians faced a battle that could not be won. This was essential for injecting the prospect of ownership into the campaign against organized crime.

However, in the final analysis, it was concluded that fighting organized crime would require more capabilities than militaries possess.

EUSR

It was this improved insight and common realization that EUPM and EUFOR needed to really complement each other that led to a document with “7 Principles” that were agreed upon between EUFOR, EUPM and EUSR. The document was an attempt by the EUSR to address the tensions that had arisen between the military and the police and to delineate respective ESDP-tasks and set up tighter trilateral coordination structures. Prior to the 7 Principles, perhaps we all assumed too easily that ESDP coordination in the field would be automatic and a given. But it had become clear that the EUSR also needed to become more pro-active in coordinating and ensuring ESDP coherence. In order to achieve this, we set up a Crime Strategy Group – chaired by the EUSR – and two sub-committees (the CSG Taskforce and the CSG Targeting and Intelligence Board).

This is perhaps one of the most important lessons that have come out of the ESDP operations in Bosnia . Military and Civilian Crises Management operations will always have overlapping mandates and interests – but the institutional cultures are inherently different. In my view, therefore, active day-to-day coordination led by the office of the EUSR is imperative.

Way Ahead

The EU has become an important player in security sector reform in BiH. Over the last few years, lessons have been learned on how best to set up, mandate and organize ESDP missions.

The challenge for the EU is how to conduct itself, as BiH moves toward European integration. For sure, we are in the last stage of crisis management where the environment is relatively stable and where a return to significant conflict is not in sight.

The need for intrusive international action via OHR and its Bonn Powers is decreasing and there is consensus that the time is approaching for the Bosnians to increasingly assume full ownership and responsibility.

However, if we agree that security sector reform is not yet completed, we must ask ourselves how the EU can help complete the job over the next few years. Of course, the European Community and other donor assistance will continue in this field. Implementing police reform remains a central part of the Commission's assistance program. The wider security and Rule of Law reforms will also figure high on the SAA agenda and possible future accession negotiations. Reforms in this field will be one of the important benchmarks determining the speed in which BiH moves toward Europe .

But can we assist further?

Yes, but what appears to be missing is a comprehensive policy strategy – based on a thorough assessment of the state of the security sector, identifying the needs and gaps and setting out targets, goals and timelines for completing the entire reform of the security sector.

Such a comprehensive security sector reform assessment should be carried out by the local authorities themselves – arguably

with technical assistance provided through the EUSR and the Commission.

Based on such an assessment, the EU would also be in a better position to allocate resources, and to provide coherent assistance.

This exercise should also allow us to identify which tasks, that OHR is currently carrying out in security sector reform, should be taken over by an EUSR led mission, or whether engagement through other channels such as the Commission, EUPM and EUFOR is sufficient.

Thank you.