

Opening Speech of Commissioner Stefan Füle
1st meeting of the EU/BaH Structured Dialogue on Justice
6 June 2011
Banja Luka (Bosnia and Herzegovina)

Mr President, Ministers, Excellencies, Ladies and Gentlemen,

As always, it is a great pleasure for me to be back in Bosnia and Herzegovina. This is actually my second visit to your country this year. Only a few weeks ago, I had the opportunity to accompany the President of the European Commission, Mr. Barroso, who reiterated once again, in unequivocal terms, the EU commitment to support the European integration of Bosnia and Herzegovina.

As part of such resolute commitment, I have returned to Bosnia and Herzegovina today to launch a very important process, which was announced by High Representative and Vice President of the Commission Baroness Ashton in her last visit to Sarajevo and Banja Luka in mid May.

Building on her straightforward remarks, I equally have no hesitation to stress that the Structured Dialogue on justice-related issues inaugurated today, possibly covers some of the most challenging areas that Bosnia and Herzegovina has to address in view of its steps towards a European future.

Let me start with a general picture:

- Justice-related issues were key for many current Member States before their accession, and are a cornerstone for countries more advanced in their path towards Brussels.
- The consolidation of the rule of law and the establishment of an independent, effective, and professional judicial system belong to most demanding endeavours. This is due to the complex nature of such challenge, and to the quantity of structural developments necessary, both legislative and institutional.
- This challenge is sensitive and complex. However, there are good news as well. And the very good news is that the main principles and basic requirements are unambiguous and they do not leave ground for conflicting interpretations or opting out.
- These principles are necessary and fundamental; they encompass non-derogable rights and therefore cannot be questioned by the members of the Union. They are at the heart of our system of freedoms. Instability or uncertainty in their application is not accepted.

Let me now concentrate at least on first two of them:

- First, **every citizen is equal before the law**. This means that relevant authorities apply the law without discrimination and guarantee equal protection to all citizens.
- Second is - **right for a fair trial**, and also other relevant articles of the European Convention on Human Rights and its protocols, which was already transposed into the BiH system through its Constitution.
- To reinforce this system, the EU is undergoing accession to the European Convention on Human Rights. Once accomplished, the continental system of fundamental rights protection will benefit greatly from full coherence between the approaches of the Council of Europe and the EU.
- Without going further in the list of principles, let me focus on one more point: Charter of Fundamental Rights of the European Union states that everyone whose rights and freedoms are guaranteed under the law, has the right to an effective remedy before a tribunal once his or her prerogatives are violated.
- Remedies are effective when the system that provides them is truly functional, impartial, independent and also accountable.

- These features represent, so to speak, the primary points of reference that must be respected, when competent authorities debate and engage in judiciary reform.

Let me now turn to the rule of law and judicial reforms in Enlargement countries:

- In the justice sector, the form is essential. We need effective institutions with all means necessary to be functional in an optimal way. Their professionalism and technical capacities deserve the utmost attention. Continuous training is a must.
- I mentioned form. But substance is equally important. In the 2010 Enlargement Strategy, we said clearly: "strengthening the rule of law, in particular the judiciary and the fight against organised crime and corruption, is a crucial challenge for most of the countries in the enlargement process".
- We expect tangible and sustainable results. These will be then assessed in a fair and objective manner, as demonstrated for example by the visa liberalisation process.
- Another straightforward example is fight against corruption. Performances of judicial institutions and law enforcement agencies will be assessed against a solid track record of proactive investigations, prosecutions and convictions at all

levels. These are the explicit terms of reference that were included for example in the last opinions on the membership applications of Albania and Montenegro.

Now, let me turn to your accession process:

- By launching today a dialogue on justice related reforms, the EU is offering to the authorities of Bosnia and Herzegovina an important platform.
- This provides an opportunity that cannot be missed.
- This requires the right approach of all involved stakeholders.
- The structured dialogue will be carried out in the framework of the Stabilisation and Association Process. It will be a mechanism that can facilitate the revision of legislation and functioning of institutions against the backdrop of the relevant European standards and acquis.
- These are key components of the Copenhagen Political Criteria, the milestone for opening of accession negotiations.
- But allow me here to make even more forward looking note: Progress in the consolidation of the judicial system will

guarantee progress in one of the most challenging fields of the future negotiations for EU membership.

- All these issues are covered in negotiation process by Chapter 23. This chapter includes reform of the judiciary, fight against corruption, investigation and prosecution of war crimes, as well as issues related to the protection of refugees and minorities. We call her sometimes the Chapter of all Chapters, as it is probably the most challenging one of all accession negotiations.

Now, allow me to make some remarks on the dialogue methodology and expected outcomes:

- As last reiterated by president Barroso only a few weeks ago in Sarajevo, the EU strongly supports the work of the State Court of Bosnia and Herzegovina, the State level Prosecutor s Office, and the High Judicial and Prosecutorial Council.
- All these bodies provide an important contribution to ensuring the rule of law in the country in line with European standards. It is therefore crucial that their existence is no longer questioned and any debate on their functioning is mindful of their role in the national judicial system.
- The work of the High Judicial and Prosecutorial Council is of particular relevance to foster the consolidation of independence,

accountability, impartiality, professionalism and efficiency in the judiciary.

- The EU remains committed to guarantee that its expertise constantly assists all involved domestic actors in their technical consultations.
- At the same time, all national political authorities shall deal with the outcomes of the dialogue as a matter of priority.
- At the end of each meeting, the European Commission will issue recommendations. These will constitute a roadmap for domestic authorities. They are somehow expected to "accompany" and, when relevant, orient the technical analysis developed by BiH legislative and judicial authorities.
- In other words, the EU stands ready to support the identification of necessary institutional and legislative reforms.
- However, in all its action, the EU will always respect a very basic principle, which is fundamental to our modus operandi and shall be preserved as such: ownership over domestic reforms.
- This principle is most relevant in the justice sector as well. I have mentioned some principles and requirements that cannot be

questioned. However, there is no single EU model. Therefore, the optimal arrangement is the responsibility of competent authorities in Bosnia and Herzegovina.

- We stand by your side, because we do believe that your future lies within the European Union. Since first mentioned in 2003, this message has been reiterated in every possible forum, on every occasion and with constantly renewed commitment.
- The reason of such persistence is extremely simple: we truly believe in our promise and in the prospect of membership that was offered to the countries of the Western Balkans region.
- The historical, cultural and political ties between the EU, and the Western Balkans are widely recognised.
- But this commitment, and our consistent efforts supported by concrete financial means, shall be matched with increased performances on your part. This should be the result of your strong political will to join the EU and to endorse EU values, principles and legislation fully.
- All relevant actors in Bosnia and Herzegovina should engage. When shortcomings are recognised, feasible and realistic

solutions need to be identified and agreed. Negotiated, where necessary.

- These solutions shall be promptly translated into reforms. For that, political will is needed.
- Again, I want to reiterate the aim: citizens deserve systems where the certainty of the law is guaranteed.
- The Structured Dialogue that we are starting today, will allow a thorough review of the overall judicial system.
- While representatives from the judiciary identify possible options to ameliorate the national judicial system, political leaders should debate constructively, cooperate in transparent ways and finalise systematically their consensus.
- The ultimate responsibility to guarantee that all necessary reforms are taking place in a timely manner and fully in line with European and international standards, lies in the hands of those who have been democratically elected.
- A structured and technical dialogue has no alternatives and represents the best possible option to address all outstanding

issues in the justice sector and to pave the way to achieve long term objectives.

- I would like to stress here this specific concept. Long term and therefore sustainable achievements are the core target of this exercise. Please, help to achieve it.

At this point, I would like to conclude:

- It would be foolish to believe in overnight changes.
- They are not possible or even desirable.
- If changes in the justice sector will be deemed necessary, they should be attentively calibrated to the broad strategic ambition that I have mentioned earlier: to establish irreversibly a system that is effective, independent, impartial, and accountable.
- This is not a chimera. This is what shall inspire your work and efforts throughout this exercise.
- At the same time, this should also be our joint commitment, the main rule of the game in our gentlemen's agreement, which cannot be sacrificed for partial goals, incomplete achievements or short-sighted objectives that will not bring long term benefits to all citizens of Bosnia and Herzegovina.

- Dialogue is a method and a powerful tool. It requires genuine and consistent dedication. It has to take place in the right format. Its practical modalities can change, but there is one feature that shall always remain the same: to gather around the same table in a spirit of cooperation and mutual understanding.
- We are expecting that all technical representatives involved will do their work; but at the same time, we are confident that all leaders can guarantee concrete results and thus demonstrate the maturity of the country's political system.
- The final beneficiaries will be the citizens of Bosnia and Herzegovina. They shall be guaranteed a system free from any discrimination, where justice can be obtained through efficient means and transparent procedures, and where their fundamental rights are constantly guaranteed and protected.

Thank you for your attention.

Mr Minister, let me pass you the floor.