

Decision to remove Mr. Zoran Djerić from his position of Minister of Interior of Republika Srpska

n.222 /04

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on the Civilian Implementation of the Peace Settlement; and considering in particular Article II.1.(d) of the last said Agreement, according to the terms of which the High Representative shall “Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including (under sub-paragraph (c) thereof) measures to ensure the Peace Agreement throughout Bosnia and Herzegovina and its Entities which “may include actions against persons holding public office”;

Noting that in paragraph X. 4 of the Annex to the Declaration of the Peace Implementation Council made at Madrid on 16 December 1998 it was stated that the Council acknowledged that leaders whom the High Representative bars from official office “may also be barred from running in elections and from any other elective or appointive public office and from office within political parties until further notice”;

Mindful of the fact that the peace implementation process, which continues to be pursued under the aegis of the General Framework Agreement for Peace in Bosnia and Herzegovina, is not yet complete;

Further mindful of the fact that the peace implementation process requires to be completed in order that a stable political and security environment in Bosnia and Herzegovina is established which is conducive, *inter alia*, to fundamental economic reform and to the return of refugees and displaced persons;

Recalling that under Article II, Paragraph 8 of the Constitution of Bosnia and Herzegovina, all competent authorities in Bosnia and Herzegovina shall cooperate with and provide unrestricted access to the International Tribunal for the Former Yugoslavia and shall in particular comply with orders issued pursuant to Article 29 of the Statute of the Tribunal;

Recalling further all relevant resolutions of the Security Council of the United Nations and in particular Resolution 1503 of 28 August 2003 and Resolution 1534 of 26 March 2004 by which the Security Council called upon all States, especially Serbia and Montenegro, Croatia and Bosnia and Herzegovina, and on the Republika Srpska within Bosnia and Herzegovina, to intensify cooperation with and render all necessary assistance to the ICTY, particularly to bring Radovan Karadžić and Ratko Mladić, [...] and all other indictees to the ICTY;

Noting that Bosnia and Herzegovina’s failure to meet its international obligations towards the International Criminal Tribunal for Former Yugoslavia increasingly constitutes an obstacle to Bosnia and Herzegovina’s integration into Europe;

Further noting, by way of illustration, the Istanbul Summit Communiqué issued on 28 June 2004 by which the Heads of State and Government participating in the meeting of the North Atlantic Council expressed their concerns that Bosnia and Herzegovina, particularly obstructionist elements in the Republika Srpska entity, has failed to live up to its obligation to cooperate fully with ICTY, including the arrest and transfer to the jurisdiction of the Tribunal of war crimes indictees, a fundamental requirement for the country to join Partnership for Peace.

Recalling that the Steering Board of the Peace Implementation Council, at its meeting held in Sarajevo on 25 June 2004, noted that Republika Srpska has failed to locate or apprehend even one war-crimes indictee in the nine

years since the Dayton Accord and reminded that Republika Srpska, an Entity of Bosnia and Herzegovina guaranteed under Dayton, is failing to carry out a key obligation under Dayton and international law, for which the relevant individuals and institutions must be held accountable.

Ever conscious of the need to balance in due proportion the public interest with the rights of individuals.

For the reasons hereinafter set out the High Representative hereby issues the following:

DECISION

To remove Mr. Zoran Djeric from his position of Minister of Interior of Republika Srpska and to bar him from:

1. Holding any law enforcement, or executive public office;
2. Holding any position within a Ministry of Interior or equivalent; and

unless or until such time as the High Representative may, expressly authorise him so to do or to hold the same.

Furthermore, Zoran Djeric's additional exclusion under Article 20.9A of the Election Law of Bosnia and Herzegovina (Official Gazette BiH 23/01, 7/02, 9/02, 20/02, 25/02, 4/04 and 20/04) shall cease to have effect as of 31 December 2004.

Any entitlement henceforth to receive non-vested remuneration or any privileges or status arising out of his post as Minister of Interior ceases forthwith.

This Decision has immediate effect and will not require any further procedural steps.

Mr. Djeric must vacate his office immediately.

This Decision shall be published without delay in the Official Gazette of Republika Srpska.

Reasons for Removal

Bosnia and Herzegovina has singularly failed to discharge its international obligation to bring closure to arguably the most lamentable chapter of its history. It has failed especially and egregiously in the territory of the Republika Srpska to apprehend and deliver to just prosecution a number of persons indicted under Article 19 of the Statute of the ICTY.

Said failure could not have occurred without the active assistance of individuals and entities, or indeed without the general culture of both overt and secret complicity and of silence prevalent in the one Entity of Bosnia and Herzegovina where such individuals are believed to have found sanctuary, *i.e.*, Republika Srpska.

Despite its constitutionally mandated duty to fully co-operate with ICTY — which duty was impressed upon Republika Srpska further by the Resolutions of the United Nations Security Council referenced above — indicted individuals remain at large within Republika Srpska and have been and are presently assisted in evading justice by individuals in positions of authority and by institutions of a state and political character. That this state of affairs has continued for nine years following the end of the war without a single war criminal being arrested in the territory of the Republika Srpska by the authorities of the Republika Srpska, is a source of deep and abiding concern not only for the people of Bosnia and Herzegovina but for the international community as a whole.

Mr. Djeric holds the position of Minister of Interior of Republika Srpska.

Under Article 6 of the *Law on Internal Affairs of Republika Srpska* (RS. OG. 48/03), the responsibilities and activities of the police in the territory of Republika Srpska shall be carried out directly by the Ministry of Interior of Republika Srpska. Under Article 9 of said Law, the Ministry of Interior shall be managed by the Minister of Interior.

Since his appointment as Minister of Interior, the competent law enforcement agencies of Republika Srpska have failed to arrest a single person indicted under Article 19 of the Statute of the International Criminal Tribunal for the Former Yugoslavia and persons indicted by said Tribunal have consequently been able to elude just prosecution.

Mr. Djerić, who holds clear functional responsibilities for this failure, has thus failed to supervise and manage his Ministry and perform his functions as Minister of Interior in the manner expected of the holder of such an office and has failed to ensure that the Ministry of Interior of Republika Srpska fulfilled its obligations under the Constitution of Bosnia and Herzegovina. His failure has further prevented Bosnia and Herzegovina from complying fully with its international obligations to cooperate with the International Criminal Tribunal for the Former Yugoslavia.

As Minister of Interior, Mr. Djerić has a duty to be held to account for the policies, decisions, actions or omissions of law enforcement agencies under the Ministry of Interior of Republika Srpska.

Mr. Djerić, has to that extent, obstructed the process of peace implementation and has to be removed from public office.

Sarajevo, 30 June 2004

Paddy Ashdown

High Representative