

Press Conference by the High Representative Announcing New Removal Repeal Measures

– Check against delivery –

Welcome and thank you all for coming.

I recently came back from meeting the PIC in Vienna . As many of you know, the PIC authorised my Office to prepare for the transition to the Office of the EUSR during the first half of next year, and to continue the process of transferring responsibilities to the BiH Authorities.

Clearly, in order for the transition to occur, both the BiH authorities and the international community must start to prepare now. Among the issues that must be resolved is the legal status of officials who have been removed from their positions by a High Representative's for obstructing peace implementation.

Now, let me say a word about removals. Removals have played an important role in helping Bosnia and Herzegovina emerge from the aftermath of war. It is widely accepted – by the Venice Commission among others – that the removal of officials from public life has played a significant role in helping Bosnia and Herzegovina.

However, as BiH meets its Dayton obligations and moves towards Euro-Atlantic integration, there are compelling reasons why these bans should be lifted.

The issue of removed officials must be addressed now and resolved before the OHR closes.

A number of steps have already been taken to address the long-

term legal implications of these removals.

Today I am announcing an approach that will enable us to complete this process.

I am announcing two new steps that will invigorate this process. They will run in parallel. The measures will apply to all those who were removed by previous High Representatives – with the exception of those removed for reasons relating to the ICTY.

Firstly, the individual approach. As of today removed officials will be able to apply to the OHR to have their removals reviewed on an individual basis. After investigating their post-removal behaviour I will decide whether to lift the sanctions that are in place against them. If the sanctions are lifted, these individuals would have the right to stand for and hold any public position, whether elected or appointed.

Secondly, the Horizontal Approach. This would gradually, and in a phased manner, lift all elements of the existing sanctions for the entire group of removed officials. This will be done in a series of Decisions.

I will on the 3rd of April, issue a Decision that will allow removed officials to apply for and hold positions in companies, or other public institutions such as hospitals.

Subsequent Decisions will depend on a variety of factors, including BiH's progress towards Euro-Atlantic integration.

I am treating ICTY-related removals as a distinct category. This is because ICTY cooperation is a basic Dayton obligation, which BiH has not yet met in full. ICTY cooperation is also a major factor for the ongoing process towards EU membership.

I have made clear that I will not hesitate to use my powers to support the ICTY or where there is a threat to peace and

stability.

Now some of you may criticize me and say that today's announcement means that I am letting individuals whose behaviour has threatened the stability of this country off the hook.

I am not.

I want to make it clear that there is a difference between the possibility to return to public life and actually doing so.

A removal of an OHR ban does not automatically mean that these individuals can participate in full in public life. But it means that it is no longer the OHR's responsibility to decide whether a person can participate or not. It is the BiH authorities' responsibility.

It is therefore up to political parties to decide whether to put these individuals forward for party office, elections and government positions. And it is up to institutions to decide whether to put these individuals in positions.

It is then up to the media to monitor the work of political parties and institutions.

And finally, it is up to the electorate to decide whether these are the best people to take BiH forward towards the European future that most of you desire.

Now I will take your questions.

RTQs

Sabina Nikšić, AFP:

Do you possibly have the exact number of persons removed? What percentage of the total number are persons removed for reasons relating to the ICTY, and what is the percentage of persons removed due to other reasons?

The High Representative, Christian Schwarz-Schilling:

Well, I think the total is several hundreds, but I have not an exact figure now what is the category of ICTY because, as you know, there is quite a lot of information and we are investigating this on a case by case basis. Therefore, I cannot give you a global figure now.

Sead Numanović, Dnevni Avaz:

Does that mean that a certain number of persons were removed unjustly? That is one question; the second is: Why did the OHR not play a more significant role in the negotiations on constitutional reform?

The High Representative, Christian Schwarz-Schilling:

Well, I think these are quite different questions. What I already stated was that these measures to remove persons were due to the extraordinary situation of this country. It was not only because it was the will of the OHR. You could see that that at all levels of administration. As a mediator at that time I have had the opportunity to meet with mayors. You could recognise after the first sentences that this mayor will never be in accordance with Dayton and the law and all the principles of Dayton. For instance, they did not care for application of property rights, they put them all in a box and the box in a room that nobody enters; despite it being the administration or the city duty to do so. And those people, of course, you can only remove; you cannot reason with those people.

And insofar as there is an extraordinary situation then extraordinary measures necessary. I personally was also a part of the discussions on the Bonn powers in Petersburg and in Bonn in 1997. It would have been better if it had been done in 1996, at the beginning of Dayton then so late, because we lost three years. But the normalization of this country has started and of course then we have not just to follow the same

procedures, we have to be clear now on what is right and what is not right.

I am not judging whether a particular removal was justified at the time or not. I will only see if there is any danger from this person in the time between the removal and today. And this is my judgement. That was the first question.

The second question. That was the situation – I came here in February and till this time there was already a history of the negotiations on constitutional reform. The history was that a very capable man, the former Principal Deputy High Representative Donald Hayes in the capacity and duty of an NGO, started as a mediator on these important questions of constitutional reform. Then it seems that every side had the feeling that this is really important and then the Americans started to take this on officially because he was an American and he was very closely linked to the State Department and the Institute of Peace and so on. So then they officially took this on.. I had a talk with the ambassador, the American ambassador, and I decided that as they initiated the whole process and are in the details now, he should finalise that under the same authority that it was started. And I promised him all the support we can give by our legal department, by our experts, if they are then to formulate laws or issues, administrative things, or whatever to the Parliament, to the Bosnians, and to the ambassadors and to the party leaders.

So, we had a very good cooperation, but we were not initiating any change in the negotiations. Someone had to lead in the negotiations and that was the Americans, and I think that they have done this in a very good way and so far I am very happy that it came to this end. Everybody knows that possibly after the elections there will be further discussions in accordance with the situation – the development of the country – whether new constitutional reforms are necessary. And I think everybody knows that some are necessary. But, then of course the OHR will have a role to coordinate that and to be a part

of the negotiations. But, I think it was a very good thing that this part the Americans had taken over in the last year and that they have finalised in a way that which could be done at this time.

Aida Čerkez-Robinson, Associated Press:

The OHR has been so far a mechanism that was removing obstructive persons from the process and from the political life in Bosnia . Obviously the country has advanced to a point where you think that there are other mechanisms that can take care of those who obstruct. Do you really think that the society is ripe enough here and that the public opinion is ripe enough here to start taking care of what the OHR used to take care of? You are referring to the media; you are referring to the judicial system, which should actually play a role, like in any other country, that the OHR plays. Are you suggesting that we have come to the point where the society can deal with such obstructionists in a normal way?

The High Representative, Christian Schwarz-Schilling:

Yes. I can also explain a little bit more. It would be wrong if the PIC and the International Community were thinking of making the transition from the OHR to the European Union Special Representative during the next year, the first or second quarter of next year, if the situation did not allow. It would be irresponsible, just like the European Commission starting negotiations like the SAA with BiH if you thought that Bosnian politics are not able to take ownership of those negotiations. They must start to take that ownership; they must be responsible enough, because the Europeans are not sitting on both sides of the table – the Commission is on one side and the other side is the BiH politicians, not the OHR. So we have to act in that way even if it is a difficult job at the moment.

Some politicians from the Bosnian side are not feeling very

good because it was an easy game to sit and see difficult problems being solved for you. They would sit and solve nothing and then the OHR would have to start to solve the problems and then they are sitting again and saying "No, we did not do that. That was the OHR and they are responsible for all the consequences." No, that is not the game anymore. The game is that they are responsible for their own doings and sayings and messaging. And this is the start of a real democracy. If this is not the situation today we should stop the SAA negotiations immediately. We should stop the transition to the European Union immediately.

I believe that this is the right time to do this process – it is a process – and we now have one year's time to do it. And if that would not be the right process then we have to make up our mind. But then there would be very bad consequences for this country because the International Community would be disappointed more and more, and the question would be how to do it now after ten years – it must come to some solution.

So, I think that we also have to admit that some learning process could be necessary. Even mistakes could be done and we have to admit there are mistakes. But everybody must make a little bit also in his own experience before we get mature enough. We must be brave enough to start that phase, even if mistakes are made. We will try to argue and advocate in a positive way if they are doing, in my eyes, the wrong thing. If they persist, they take the consequences. But that is the way a democracy works. We are also making mistakes in our countries and that will be the same here. We will try to ensure that the mistakes are not the majority of the decisions and just only a minority, perhaps even less than that.

Journalist #4:

I would like to go back to the subject of today's press conference. A large number of these officials were removed due to financial malversation, obstructing return, and various

other things that constitute criminal offences. Following the removals a large number of those persons removed were never prosecuted, that is, never had a court trial. Just now you yourself commended the Bosnian judicial system, so will you now forward the files you possess to the Prosecutor's Office of BiH or to someone else?

The High Representative, Christian Schwarz-Schilling:

There will be some cases in which I am sure that prosecutors will have to act because it is the normal legal way those things have to be settled. I cannot make the decision that he is not guilty. So that is all clear. If there is enough proof that there should be a court trial the prosecution then has to decide it should be done. But then it has to be a court in this country and they have to exercise the law and the person must have all the rights a normal citizen has to defend his position. At the moment he has no possibility to defend his position because there is no court trial, there is no prosecution. It is impossible. In a legal state there must be a prosecution at the court or the prosecutor says "No I do not make a prosecution to the court. Things are not proved. We can not do it." Then this person has the same rights as anybody else.

Željko Tica, FTV:

What will happen to those who were removed from office for reasons relating to the ICTY in light of the fact that you have excluded, that is denied them the possibility of having the bans imposed on them, that is sanctions restricting them from being politically active and holding office in public institutions, lifted?

The High Representative, Christian Schwarz-Schilling:

I told you that there are some exceptions of using the Bonn powers. I restricted the use of Bonn powers to the question of stability, peace and the Dayton Agreement.

The second category is ICTY. And I think that in the ICTY question we have to consult all the responsible institutions – primarily the ICTY, but also some other sources so we clarify if there is proof or no proof. So we have to make a very careful study about each individual case because we know that there are some networks still financing and protecting war criminals. And if there is some hint about those persons that are the object of the ban, that they are in those networks, we will not make from our side any move to remove the sanction. If those persons are making an individual move to apply for their eliminating the ban, then we have to take this case and consult with the ICTY and with other information we have and then we have to take a decision.

Nezavisne Novine:

I would like to know what would happen if the sanctions in place against a person removed for reasons relating to the ICTY, that is for not cooperating with the ICTY, are lifted by the second set of measures you announced today – the Horizontal Approach, as you called it? That is one question; the second is what is your position that is, what do you think about the possibility that the constitutional changes agreed on by the party leaders will not be passed by the Parliament?

The High Representative, Christian Schwarz-Schilling:

Well, first point – I said already that on the question of ICTY there is a need of the most careful investigation. So the Horizontal Approach to those categories will be the last step in this one-year time I have told you. Do you understand my answer? Okay.

To the second point – you know I am an optimist and I am not now making up my mind about those questions – what happens if they all made an agreement and then do not implement it in the Parliament. I think we have to do the utmost to help them, to give them legal advice, to give them advice also in

argumentation and to explain why it is necessary and why there is now in a very, very narrow timeframe, because otherwise it would be just a postponement till 2010 and that would be a very big setback to the country. So I think it is better now that we are preparing all our constructive proposals for how to achieve that goal then to make up our minds on what to do if we do not get it. I think this is not our way to think now. We are thinking in a constructive way. We are ready and at the disposal of the Bosnian politicians to help them to formulate legal questions, amendments, changes – to get it in a parliamentary framework right way, in the necessary timeframe.

I know this is quite, I would say, a high effort because normally parliaments need a little bit more time to do that. But that is the exclusive situation in the election year, and so I hope everybody is seeing that he has to do now the utmost. Perhaps the Parliament is meeting one day, one night, one night, one night, one day to complete a situation, because that is what is necessary for solving the problem. But, it must be in a democratic way and so far it is not so easy. We are not in a dictatorship, pushing a button and things happen. We are in a democracy and everyone has their own opinion. A chairman can say; «now I need here some consultatio» or «I need a hearing here» then we must see how to put it into a timeframe so we come to a solution. But it is necessary. Parliamentarians who are asking those questions are not obstructive people. We must also admit that they have the right to do that. That is a democracy.

But, they should also do that what is necessary in this year so as not to block the whole situation. Between this whole thing we have to try to push the way forward to a good result.

Journalist #7:

Can you please briefly summarize what are the two sets of measures? You said two sets of measures. Can you just briefly summarize what are two sets of measures? I understand that you

would allow officials to apply to the OHR for review and everything, but what are the others?

The High Representative, Christian Schwarz-Schilling:

Two sets of measures. One is the individual, he can apply to the OHR – “Please take my case. I will not be eliminated by this ban from OHR that I can never take on ...or never apply to any position in one of the public institutions.” This is one thing.

The second thing is the collective change – that collectively in this or that area in public institutions bans are eliminated for all categories and not individually, because the individual thing is in a certain number a very difficult thing. But we will do it because some individuals have perhaps a very difficult situation and we want to help them also to get rid of that in an earlier time than the category would be done, because that has to be done step by step.

The first step in the categories we are doing now is public enterprises, public hospitals, public institutions, not the category of politicians or category of ICTY. So, I think these are the categories, individually centred and group centred in this sphere of public life.

Do you understand? Perhaps I did not express my words in a very good way? No more questions? Thank you very much, till the next time.