

Transcript of the OHR-OSCE Press Conference on Colonel Palić Case

Sarajevo, 19 January 2006

Paddy Ashdown, The High Representative

Thank you for coming.

I guess this could be, if not the last, certainly one of the last times that I shall enjoy the pleasure of your company at an event such as this. No British sarcasm involved in that statement! The subject of our press conference today is Colonel Avdo Palić and I am sure you know who my two colleagues here are at the press conference, on my left, your right – Ambassador Martin Ney, who has been carrying the burden of much of the communication with the Human Rights Commission and with the Republica Srpska Government on the issue of the Decision in favour of Mrs. Palić, demanding that the full information about the disappearance of Avdo Palić is brought to light – and on my right Ambassador Doug Davidson, the Head of the OSCE mission, whose job it is to monitor courts. Both of my colleagues will have a few words to say after I've spoken and then we will take questions as usual.

Well, as I've said I've called this press conference on the case of Colonel Avdo Palić and the continued denial of the human rights of his wife Esma Palić, in that she has been consistently and over a period of ten years and despite Decisions made by the Human Rights Chamber denied knowledge about the fate of her husband. I regret – I deeply regret that I have once again to take action because the Government of Republica Srpska has once again failed to fully implement a Decision by the BiH Human Rights Commission.

On this occasion once again the Government of Republica Srpska is in the frame. But as I shall explain to you in a moment, it is not the only government of BiH that could be in the frame for failing to acknowledge and respond in full to a Decision of the Human Rights Chamber.

As I said a moment ago, I am joined by Douglas Davidson, the Head of the OSCE mission. In accordance with the provision of Dayton, the OSCE is of course charged with monitoring human rights and the activities of the courts in BiH.

Well on Monday, although I am not sure that the Decision has yet been published and may not be published – on Monday the Human Rights Commission nevertheless produced a Decision stating that the RS authorities have, despite many specific prompts from my colleague Martin Ney, failed to provide adequate details to establish the facts of the disappearance of Colonel Avdo Palić after the fall of Žepa.

The RS authorities have thus once again failed to fulfill earlier Decisions made by the Commission and the Human Rights Chamber which preceded it, requiring the RS authorities to supply all available information that would lead to a conclusive picture about the fate of Colonel Palić.

It will come as no surprise to you to learn that I share the Commission's conclusion having read the report produced by the Republica Srpska Government, although some progress has been made and noted, it manifestly fails to fulfill the human rights of Mrs. Palić and it manifestly has failed to follow through some of the leads which could reveal the fate of Colonel Palić.

I especially note, and support strongly, the Commission's ruling that the RS Government's failure to implement conclusions 7 and 8 of the Human Rights Chamber's Decision of December 2002 which is in the public domain, that that failure to comply with that Decision exposes members, individual members, of the RS Government to prosecution under the law of Bosnia and Herzegovina. It is now up to the Prosecutor to decide what course of action he wants to take in this regard.

But more importantly, the failure of the RS Government to fulfill the instructions of the Human Rights Commission means that Mrs. Esma Palić is once again denied the information and justice that she is owed and once again her basic human rights are abused by the actions – or should I say inactions – of the RS Government.

The case of Colonel Palić is one in which I have taken a keen interest since I first took up my position as High Representative. I have since the beginning of my mandate firmly maintained that the relatives of all those of whatever ethnicity who went missing during the war have a right to know the fate of their loved ones, and that those responsible for the disappearances should be brought to justice.

The culture of impunity for crimes committed during the war *must* end. The culture of cover-up of what happened *must* end.

So, all Human Rights Chamber or Human Rights Commission decisions related to missing persons must be fully complied with and implemented, irrespective of the ethnic or religious background of the victims or the families.

Frankly, in the case of the RS Government – but it is not the only one in the frame and I will return to that in a moment – I am just a little surprised that having been through the painful procedures to extract from them like a rotten tooth the information over Srebrenica through the Srebrenica Commission, I am surprised that yet again they have failed to take seriously a ruling of the Human Rights Chamber and that they now therefore make the same mistake twice.

The governing institutions of BiH must understand that they have to observe the rule of law, and the instruction of the courts is part of that rule of law – in this case, the highest authority in the land when it comes to human rights.

After the RS Government established at my demand the Srebrenica Commission, I had hoped that politicians and officials across all levels of all governments in BiH would take the judgments of the Human Rights Chamber seriously.

Regrettably, this has not proved to be the case – and it is not just the RS Government that has failed – the Federation Government is vulnerable too. The Human Rights Chamber may not yet have pronounced on the Federation Government's failure to provide the information, for instance on the missing Serbs of Sarajevo. But they are nevertheless vulnerable to the same judgment – as I shall explain in a moment.

So let me return to this case, the case now before us. It is now open to Mrs. Palić and the Chief Prosecutor to pursue civil, in the case of Mrs. Palić, and criminal cases against the RS Government. The Prosecutor under the provisions of the BiH law can now pursue a criminal case against members of the RS Government for failure to comply with the Human Rights Decisions and Mrs. Palić is also free to pursue a civil case against the RS Government. But as we all know this will take time. And I do not believe that Mrs. Palić's human rights, having been infringed now for ten years, should be infringed for a further period of time. So I intend to act myself in this matter. The Human Rights Chamber Decision asks that the appropriate authorities should now act and I consider that to include me.

So I am today requiring the RS Government by letter, which has just been sent to Prime Minister Bukejlović, requiring the RS Government to establish a commission that will both implement the outstanding conclusion of the Decision, and where appropriate assemble the information necessary to prosecute those persons who may be found to have been responsible for Colonel Palić's disappearance.

The fact that the Human Rights Chamber was able to welcome the progress made in discovering some of the facts of Colonel Avdo Palić's disappearance during the last quarter of 2005, leads me to believe and it leads my colleague Ambassador Ney – who may have a few comments to make in a moment as he has been closest to this – to believe that a last effort, we are quite close to the truth (or we *may* be quite close to the truth), a last effort by a small and dedicated team of experts could quickly yield results. But I want the political leaders of the Republica Srpska to be absolutely in the crosswire of responsibility on this matter.

So this morning I sent a letter to Prime Minister Bukejlović requiring Minister Matijašević and the RS Chief Prosecutor and Prime Minister Bukejlović each to nominate a personal representative. They hold responsibility for this. They can nominate a personal representative to that commission. Minister Radovanović will also nominate a representative now, of course in the State Ministry of Defense but who was up until the end of last year serving in a senior and relevant position in the RS Ministry of Defense. Mrs. Palić or her representative will be allowed the opportunity to appoint an observer with free access to the work of the Commission and everything it produces.

Now based on the progress that was made, thanks to Martin Ney's prompting, between October and December last year, I think it is reasonable to expect the commission to be able to complete its work within three months at the

very latest. I am therefore setting Friday 21st April as the deadline for the completion of this work and a report on the outcome to my successor with whom I have already discussed this action.

Now, let me move to the broader case. As I said earlier although the RS Government is the only one so far identified by the Human Rights Chamber as having failed to fulfill its instructions, it is not the only one that has so far ignored the Human Rights Chamber's Decisions. Indeed, I understand that there are some 16 Human Rights Chamber decisions of a similar nature outstanding relating to missing persons, which have been ignored by Governments across BiH, including the Federation Government in the case for instance, of the disappeared Serbs from Sarajevo. This is completely unacceptable. BiH's institutions must start showing a greater seriousness about observing the Decisions of the courts and especially the Human Rights Chamber. And Ambassador Doug Davidson has agreed with me that the OSCE, responsible for monitoring human rights and court activities, will now keep an especially close eye on those 16 remaining Decisions, which are so far to be fulfilled. I hope by taking this Decision other bodies who are required to act in accordance with those Decisions will get the message that these cases must be taken seriously – not dealt with in a half hearted and casual manner.

Now that is quite complex. So let me see if I can explain in case there is a misunderstanding, which prompts questions. In the case of the Srebrenica Mothers and the Srebrenica Commission and in the case of Avdo Palić and Mrs. Palić two steps were taken. The first was that the case was put before the Human Rights Chamber. The governments involved in that case did not adequately respond and in each case the complainant – that is the Mothers of Srebrenica in the case of Srebrenica and Esma Palić in the case of the disappearance of Palić – went back to the Human Rights Chamber, told them that their Decisions had not been agreed and asked the Human Rights Chamber what to do about it.

I am acting on the Human Rights Chamber's second judgment. In the case for instance, of the missing Serbs in Sarajevo only the first of those steps has been taken. The complainants have not been back to the Human Rights Chamber about in this case the Federation Government's apparent failure to fulfill the Decisions of the Human Rights Chamber. So it is open to those to go back to the Human Rights Chamber and then the Human Rights Chamber will say what should be done about it, and on that occasion a similar action to the one I've taken in the case of Republica Srpska would be open. So I am sending a copy of the letter today that I am sending to Prime Minister Bukejlović also to Prime Minister Ahmed Hadžipašić to remind him that the Federation Government in failing to produce the information required by the Human Rights Chamber is putting itself in jeopardy for the same kind of action to be taken. And I expect them to get that message.

I'm sorry that is such a long statement. Quite a complex one, but I hope it helps you to understand the situation.

Douglas Davidson, Head of the OSCE mission

As the High Representative's statement was very clear and definitive I wanted to say that I am simply here to support what he has done in this particular case. This is a case that in our view needs to be resolved urgently as a matter of simple justice. Or as he has pointed out for more than 10 years now, Colonel Palić's family has been waiting for information about what happened to him. And it is time for them to know what did happen to their father and husband.

But at the same time I wanted to say we also support the High Representative's call for compliance with *all* the Decisions of the Human Rights Chamber and Human Rights Commission. The implementation of these Decisions is crucially important to this country for they can become a catalyst for resolving the issue of the missing persons in BiH. No wide-scale reconciliation processes can be sustained in the country if it does not first resolve the issue of these missing persons.

It is important to recall that the right to know the fate and whereabouts of loved ones is part of the European Convention on Human Rights and as the High Representative has just pointed out, it applies to every individual irrespective of his or her ethnic group or religious faith. So therefore all parties should assume their share of responsibility and address this problem. Both the Republica Srpska and the Federation of Bosnia and Herzegovina need to respect the rule of law and to comply fully with the Decisions of the Human Rights Chamber and the Human Rights Commission.

Now, I think it is also important to note that the primary responsibility for the implementation of these Decisions rests with Bosnia and Herzegovina and Entity authorities. It will certainly also require however, the close co-operation among all those international agencies with an interest in this issue. Since, under the Dayton Agreement,

the OSCE Mission to Bosnia and Herzegovina has responsibility, as the High Representative several times pointed out, for monitoring the human rights situation in Bosnia and Herzegovina, I am here to do just as the High Representative said, to extend our support to the process and our commitment to follow up on compliance with the 16 Decisions and the one or two others that may also follow.

Thanks very much.

Martin Ney, Senior Deputy High Representative

Let me add just three very brief points. My first one, the Commission that the High Representative has asked to establish follows very much the model of the Srebrenica Commission and the Srebrenica Working Group. I worked personally very hard with Prime Minister Bukejlović, Defense Minister Stanković and Interior Minister Matijašević in September to accomplish the task of the Srebrenica Working Group. There were very emotional meetings. It was a painful process, but we succeeded at the time. And this is my point, the lesson learned for the Republica Srpska must be that there is no way around uncovering the truth.

My second point, uncovering the truth in this particular case of Colonel Palić should not be difficult. By the last report of the Republica Srpska Government to the Human Rights Commission on the 30th December last year we now have statements covering everything until the 5th December 1995 when Colonel Palić was led away from the military prison in Bjeljina. We have statements covering everything up until this particular moment in time. It cannot be difficult for a dedicated expert commission to investigate fully the remaining facts in the given time frame.

My third point – obviously it is a matter for the Republica Srpska to come to terms with the rule of law. But there is also a chance for the Government of the Republica Srpska, because the efforts of that government in this case should set a very good precedent for the implementation of the other outstanding Human Rights Commission cases that the High Representative has mentioned.

Thank you very much.

Paddy Ashdown, The High Representative

Thank you Doug and thank you Martin very much. And coming to your questions, if I may confine questions to the Palić case first and if there are any other questions that you have for the three of us then, obviously, we are happy to take those. On the Palić case first. Any questions?

RTQs

Mirza Cubro, Nezavisne Novine:

What specific action will you take if the Republica Srpska Government fails to meet this three-month deadline and does not submit the information about the fate of Avdo Palić? Sorry, I mean your successor, not you.

Paddy Ashdown, The High Representative:

You've made the point. That's up to my successor to decide. You know I don't speculate about what I do in hypothetical situations and I don't intend to speculate on behalf of my successor either. He will have to decide that at the time and I'm sure he will make the right decision.

Can I underline what Martin has said because I don't think it is necessary or I have to say likely that we will get to the position you described. I think we are actually quite close to the truth now on this. I think we may even be hours away from the completion of the story. There may be only hours left to discover. I do not know, but having spoken to Esmā Palić at some length and having discussed this with Martin Ney I think we are actually quite close to the truth. First point.

Second point. The Human Rights Commission actually congratulated the Republica Srpska on having made so much progress. Considerable progress was made over this period. Unhappily they did not follow it through, it was not completed. Individuals have been identified, but no attempt so far has been made to interrogate or question

them as to what might potentially be the final hours of Colonel Avdo Palić.

So I deliberately give them three months because my successor is coming in and he is going to have other matters to deal with, and I want to give him enough time to address these issues. So I deliberately give them three months. This should be more than enough time to carry out the relatively limited number of steps, which seems to us reading this report likely to have to be taken in order to uncover the full truth.

Danka Polovina-Mandić, Dnevni List:

As there are no more questions concerning Mr. Palić can we move on to other issues? I have two questions. The first is how do you comment the fact that after you yesterday required that the issue of the SIPA headquarters be resolved today Prime Minister Terzić called in sick and the Council of Ministers session has been postponed? That is one thing. The second is, can you tell us, in short, in what condition are you handing BiH over to your successor?

Paddy Ashdown, The High Representative:

A small question, and a very big one. Look, I will tell you what my policy is. My policy is to hand over to my successor, as far as possible, a clean in-tray. The SIPA issue is in my in tray, I intend that it shouldn't be by the time I hand over to my successor. Full stop.

I very much hope that the Council of Ministers – unable to meet today but this was an emergency meeting called at short notice and there is no reason why they should not call another – I very much hope the Council of Ministers will take this decision. Political elements dealing with issues like this are perfectly common in any democracy, but to submit the major next step forward for SIPA, the establishment of SIPA headquarters to a game of unending political gamesmanship is completely unacceptable. And it would be a devastatingly bad comment, a devastatingly bad comment on the efficiency of the Council of Ministers and on Bosnia and Herzegovina's credibility, the governing institutions of BiH's credibility to achieve the European agenda that is now set for us, if the Council of Ministers cannot even decide the headquarters of SIPA. And that would be a devastatingly damaging comment about the Council of Ministers, about the politicians who are on it and about the Government's ability to fulfill the European Agenda.

If they can't do this, that really is a very bad black mark against them and against BiH. So I hope they will do it. But, let me repeat to you – this is one of the very few items in my in-tray and I don't intend it will be there, one way or the other, I don't intend it will be there when I hand over to my successor. So I hope the Council of Ministers will do this, and if they won't then we will have to find some other way of resolving the issue. But if I have to find another way of resolving this issue, the comment that that makes about the Government and about BiH's credibility for the next phase of the journey to Europe is I think a very grave one.

What kind of steps? Well I think it is up to others to decide that, not me. As I said to you in the past – I don't believe, I'm not a very good person at looking backwards. I keep my mind on what's coming next. I set out my task when I came here nearly four years ago; it was to put BiH onto the road to statehood and onto the road to Europe. I'm content that we have now built the broad outline structures of a modern, decentralised state – single taxation system; single judiciary; single army; the foundations for a single police force; a united Mostar; a single customs service; a single intelligence service; a Council of Ministers that operates without rotation, the most powerful in the land capable of being brought to justice by the courts that are strong enough to do so.

So we have created the broad outline structures of a modern, decentralised European state. There is more work to be done, but the outline structures are in place and the country is on its way to Europe. The next phase is the phase of Brussels. And I think that that is the right phase for this country now to be in. I leave it to others to judge what that means for my successor. And I leave it to him to judge what his priorities will be.

Mirza Cubro, Nezavisne Novine:

Can you comment on yesterday's spectacle created by the Chief of Police of Republika Srpska looking for Ratko Mladić in an area where, according to all intelligence and the Hague Tribunal, he cannot possibly be?

Paddy Ashdown, The High Representative:

It's not my job to judge that. It is the job of those who look after security matters in BiH. I think you better ask the question to the Commander of EUFOR and the NATO headquarters here, this is all part of the military

implementation of the Dayton Peace Agreement. As you know I look after the civil aspects of this. So, whether that was an efficient operation or whether it wasn't, whether it was serious or whether it wasn't - I've seen the speculations in the press - is a matter for the professionals whose job it is to comment on that: Commander of EUFOR, Commander of EUPM and the NATO headquarters here, General Webber.

Okay. Thank you very much.