Decision removing Mr. Svetozar Acimovic from his position of General Manager of the company “Elektroprivreda Republika Srpska”

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”;

Recallingparagraph 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 issued at Madrid on 16 December 1998 it was stated that the Council acknowledged that those whom the High Representative barred 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";

Noting that the Peace Implementation Council at its meetings held in Bonn on 10 September 1997, in Madrid on 16 December 1998 and in Brussels on 23/24 May 2000, expressed its deep concerns regarding ingrained corruption in BiH which can lead to the undermining of democratic governance and the wasting of public resources and can hinder the development of the market economy;

Bearing in mind that at Madrid on 16 December 1998 the Peace Implementation Council set out its concerns as follows: "The Council expresses deep concern about continuing corruption and evasion of public funds. It welcomes the High Representative's development of a comprehensive anti-corruption strategy … The High Representative will take the lead in co-ordinating International Community efforts aimed at eliminating opportunities for corruption, tax evasion and diversion of public revenue, ensuring transparency in all phases of governmental operations…..";

Noting that at Brussels on 23/24 May 2000 the Peace Implementation Council issued a Declaration in which it urged, "the High Representative to use his authority to ensure full and accelerated reform in all sectors of civilian implementation, including removing obstacles that stand in the way of economic reform". Further noting that in referring to critical reforms, the Council expressly mentioned its strong support for "immediate reform in the area of public utilities, with an emphasis on telecommunications and energy.";

Considering in addition that in the last said Declaration of 23/24 May 2000 the Peace Implementation Council stated that: "The Council remains deeply concerned over ingrained corruption in BiH which undermines democratic governance, wastes public resources and hinders the development of the market economy. The OHR comprehensive Anti-corruption Strategy is the solid basis for the fight against corruption. All public officials are expected to give their active and unreserved support to this Strategy and to the institutions which are implementing it.";

Further taking into account the provisions of the Decision of the High Representative of 1 August 2002 on the Special Auditor for the Republika Srpska (Official Gazette of the Republika Srpska 50/02) and the report of the said Special Auditor on Elektroprivreda Republika Srpska released on February 25, 2003 (hereinafter referred to as the "Report").

Bearing in mind the totality of the matters hereinbefore and hereinafter set out, the High Representative hereby issues the following:

DECISION

To remove Mr. Svetozar Acimovic from his position of General Manager of the company "Elektroprivreda Republika Srpska", and to bar him from holding any official, elective or appointive public office and from running in elections and from office within political parties unless or until such time as the High Representative may expressly authorise him so to do or to hold the same. Any entitlement to receive remuneration or any privileges or status arising out of his said position ceases forthwith..

This Decision has immediate effect and does not require any further procedural steps to be taken. Mr. Acimovic must vacate his office immediately.

This Decision shall be published without delay in the Official

Gazette of Republika Srpska.

REASONS FOR REMOVAL

Mr. Acimovic holds the position of General Manager of the said Elektroprivreda, which is a public company.

Persons holding such positions must clearly to perform their duties with due care and skill and in the interests of the company. They are also placed in a position of trust and confidence vis-à-vis the company and are to be treated as public trustees by virtue of the fact that the said company is publicly owned or controlled.

The Report shows that during the period of the audit (19 September 2002 through 31 January 2003), the control and management of the Elektroprivreda has been so conducted that a significant financial loss of public funds in the said Elektroprivreda has been incurred, whether through misappropriation, wilful neglect and/or mismanagement.

The Report shows that individuals, who were placed in a position of trust and confidence vis-à-vis the Elektroprivreda, flagrantly breached that position and personally made financial gains from the misuse of their office. The particulars of breach include, inter alia, (i) wilful or negligent failure to introduce or maintain the minimum measures necessary for ensuring the effective and proper management and control of the said Elektroprivreda and its property; (ii) wilful or negligent failure to introduce minimum financial controls and record keeping resulting in millions of Konvertible Marks which should have been held to the credit of the said Elektroprivreda being unaccounted for; (iii) the wilful or negligent and consistent failure to act in the interests of the said Elektroprivreda either by awarding contracts significantly below the market value or contrary to the rules and procedures regarding award of tenders or by giving such contracts to favoured vendors .

The Report compels the conclusion being drawn that Mr. Acimovic, in his capacity of General Manager of the said Elektroprivreda, grossly failed to discharge or perform his functions with the minimum level of skill and care that is required of a person holding such an office. Mr. Acimovic, in his capacity of General Manager of the said company, cealrly knew or ought to have known of the gross neglect, misappropriation of property and funds and mismangement that has prevailed in the said Elektroprivreda.

As General Manager, Mr. Acimovic could not have been other than grossly or wilfully negligent in discharge of the duties that lay upon him, and is clearly unfit to hold such an office. His failures have in the premises caused or contributed to the said company suffering inter alia substantial financial losses involving millions of KM.

In the premises, the peace implementation process is undermined as long as Mr. Acimovic remains in office.

Sarajevo, 26 February 2003

Paddy Ashdown
High Representative