

Decision removing Mr. Davor Silic from his position of Deputy Minister of Justice and Administration in the Herzegovina-Neretva Canton

In the exercise of the powers vested in me 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 implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities which "may include actions against persons holding public office or officials...who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation";

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";

Bearing in mind the importance attributed to the establishment of the Rule of Law and a sound judicial system by the General Framework Agreement for Peace in Bosnia and Herzegovina and by the Peace Implementation Council;

Further bearing in mind the importance attributed to the return of refugees and displaced persons to their pre-war homes by the General Framework Agreement for Peace in Bosnia and Herzegovina and its Annexes;

For the reasons hereinafter set out I hereby issue the following

DECISION

To remove Mr. Davor Silic from his position of Deputy Minister of Justice and Administration in the Herzegovina-Neretva Canton and to bar him from holding any official or elective office and from running in elections unless or until such time as I may, by further Decision, expressly authorize him to do so.

To suspend him from his position of Judge on leave of absence from the Cantonal Court of the Hercegovina-Neretva Canton and from any future judicial or prosecutorial office pending a further determination by the High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina.

This Decision has immediate effect and will not require any further procedural steps. Mr. Davor Silic must vacate his office forthwith. Any entitlement to receive remuneration, expenses or any privileges or status arising out of his post as Deputy Minister of Justice and Administration in the Herzegovina-Neretva Canton will likewise cease immediately.

This Decision shall be published without delay in the Official Gazettes of the Federation of Bosnia and Herzegovina and of the Herzegovina-Neretva Canton.

REASONS FOR REMOVAL

Mr. Silic has been Deputy Minister of Justice and Administration in the Herzegovina-Neretva Canton since 1st January 2000. While he was performing his duties as Deputy Minister of Justice and Administration in the

Herzegovina-Neretva Canton, Mr. Silic has demonstrated a consistent pattern of obstruction and interference with the Judiciary

In the course of the years 2000 and 2001, Mr. Silic has on several occasions interfered with the work of the Commissions responsible for appointment to the Judiciary by providing instructions on individual cases.

In the case of a former municipal prosecutor in the Canton, Mr. Silic interfered with the re-appointment process by means of a letter dated 16 November 2000 addressed to the Federal Commission for Appointment of Prosecutors. In that letter Mr. Silic requested inappropriate information so as to obstruct the re-appointment of the prosecutor.

Mr. Silic was confronted with this behavior during a hearing of the Federal Commission for the Appointment of Judges. Within a week of this hearing Mr. Silic sought to undermine the former prosecutor's reputation. Mr. Silic further misused his position as Deputy-Minister of Justice on 26 February 2002 by ordering the Cantonal Prosecutor to revoke the former prosecutor's new appointment as a municipal expert-associate. This was done on unfounded grounds. Mr. Silic was confronted on 1 March 2002 with this attempt to misuse his official position. He eventually repealed his revocation order on 4 March 2002. It is noteworthy to add that none of Mr. Silic's interventions was co-signed by the Minister of Justice despite their significant importance.

In addition, Mr. Silic was a double occupant whilst holding his position as Judge and later while holding his position as Deputy Minister. He was served with an eviction order from Mostar City-Municipality West dated 16 August 2000, giving him a 15-day deadline within which to vacate the apartment which he occupied illegally. He failed to vacate the property or act in accordance with the order issued and the occupancy right holder was forced to seek a forcible eviction. The claim for forcible eviction was submitted on 5 September 2000. Mr. Silic vacated the premises completely in November 2000, and then only after several interventions and representations made by the OHR. In this context, it is highly inappropriate for a Deputy Minister of Justice and Administration and Cantonal Court Judge on leave of absence not to comply promptly with the property laws and to implicitly challenge their implementation. It constitutes a clear violation of his ministerial responsibilities. Such conduct furthermore jeopardizes the overall establishment of the Rule of Law in the Herzegovina-Neretva Canton and the implementation of the Agreement on Refugees and Displaced Persons, Annex 7 of the General Framework Agreement for Peace.

Furthermore, Mr. Silic has constantly sought to prevent the on-going process of merging the Herzegovina-Neretva Canton Ministry of Justice and also failed to provide suitable joint premises. This is further evidence of his unwillingness to actively promote the Rule of Law in this Canton.

Finally, Mr. Silic's disregard for the establishment of an impartial and independent Judiciary was evidenced by his dealings with the Commission for Election of Judges to the Court of Bosnia and Herzegovina and the Federal Commission for Appointment of Judges to the Supreme Court. He applied to be a Judge of the Court of Bosnia and Herzegovina and of the Supreme Court of the Federation of Bosnia and Herzegovina. Under the IJC Disclosure form completed by Mr. Silic, to the question as to whether he had been a member of or an advisor to a political party from the period January 1991 to date, his response was "No". The form was signed by Mr. Silic and dated 17 January 2002. It is significant and noteworthy that a Deputy Minister of Justice and Administration can claim not to be a political advisor. This clearly contradicts his previous declarations in the Financial Disclosure form that he submitted to OSCE and to the Provisional Election Commission, prior to his second appointment as Deputy Minister. This form was signed by Mr. Silic and dated 10 July 2001. Next to the item "Political Party/Coalition", Mr. Silic wrote "HDZ". It is clear therefore that Mr. Silic has claimed on the one hand to be neither a member of nor an advisor to any political party while he claimed on the other hand that his candidature as Deputy-Minister was put forward by a political party. Confronted with the inconsistency of these declarations, Mr. Silic has consistently repeated that he was not a member of any political party, clearly overlooking the fact that the IJC disclosure form extended beyond party membership. More importantly, an impartial Judiciary requires a clear separation between politically based offices and judicial offices.

Mr. Silic clearly submitted false information while seeking appointment to high office in the Judiciary. The IJC Disclosure form stipulates clearly that if it is discovered that any of the information provided is not true, insufficient or misleading, the incumbent may be subject to sanctions.

By reason of the matters aforesaid, Mr. Silic, as Deputy-Minister of Justice and Cantonal Judge on leave of absence, has consistently shown over the years that he holds the establishment of the Rule of Law and of a sound, impartial and independent judicial system in total disregard. His past and recent behavior disqualifies him from further

holding any of the aforementioned offices.

By his conduct as aforesaid, Mr.Silic has obstructed the implementation of the General Framework Agreement for Peace.

Sarajevo, 23 May 2002

Wolfgang Petritsch

High Representative