Decision suspending Fatima DJUKIC-BAJRAMOVIC from her position as a judge of the Municipal Court Zenica

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";

Mindful of Annex 7 (Agreement on Refugees and Displaced Persons) to the General Framework Agreement for Peace in Bosnia and Herzegovina, wherein at Article I.1 it is stated "All refugees and displaced persons have the right freely to return to their homes of origin….";

Emphasizing the fact that the establishment of the rule of law is an essential part of the peace process;

Bearing in mind that the rule of law requires that justice must not only be done but be seen to be done, and that for justice to be seen to be done public confidence must exist in the fairness, impartiality, honesty, integrity and incorruptibility of the judiciary, and that like standards are maintained as to prosecutors;

Taking into account the current judicial reform programme in Bosnia and Herzegovina which involves the establishment of a High Judicial and Prosecutorial Council for Bosnia and Herzegovina as well as inter entity High Judicial and Prosecutorial Councils designed to ensure the institution and maintenance of the highest professional standards among judges and prosecutors by means of efficient and functioning processes, *inter alia*, as to discipline and dismissal;

Noting that the establishment and bringing into operation of such Councils will inevitably involve some period of delay but that the restoration of public confidence in the judiciary and in the prosecutorial service requires immediate action;

Considering that it is in the interest of those against whom substantial accusations have been made, as well as of those whose affairs and cases may be influenced or decided by such persons, that doubt should not be permitted to cloud the esteem and respect necessary for the confident conduct of legal proceedings;

Bearing in mind that public confidence in the current period before the setting up of such Councils requires that the

exercise of judicial and prosecutorial functions by those against whom accusations have been made should cease pending scrutiny of such accusations by such Councils;

Further bearing in mind the concern that any action which may be taken against persons holding public office or officials is proportionate and that the matters hereinafter set out contain allegations not as yet tested before the appropriate disciplinary or other body.

Having considered, borne in mind and noted all the matters aforesaid, I hereby issue the following:

DECISION

To suspend Fatima DJUKIC-BAJRAMOVIC from her position as a judge of the Municipal Court Zenica pending a further determination by the High Judicial and Prosecutorial Council of the Federation of Bosnia and Herzegovina.

The President of the Zenica Municipal Court will without delay make arrangements for the taking over of any cases which were the responsibility of Ms. Fatima DJUKIC-BAJRAMOVIC, and shall make arrangements for the administration of those cases.

This Decision has immediate effect, without the necessity for any further procedural steps to be taken.

The decision made herein is issued pursuant to the international mandate of the High Representative and shall not be justiciable before any court in Bosnia and Herzegovina.

Reasons for Suspension

It is alleged that in 1992 Fatima DJUKIC-BAJRAMOVIC, in clear violation of applicable laws and regulations, forcibly annexed one room of a neighbouring apartment to her own apartment. The occupancy right holder of the neighbouring apartment, a Bosnian Serb, had left Zenica. It is alleged that she subsequently, with the agreement of the owner of the

apartment, prepared back-dated documentation purporting to show that the above action was carried out in accordance with applicable laws and regulations.

It is further alleged that she has obstructed the lawful proceedings brought by the occupancy right holder of the apartment neighbouring hers to regain possession of that apartment.

In 1999, she, it is alleged, illegally purchased the apartment (including the space illegally annexed from the neighbouring apartment) from the owner of the apartment.

Sarajevo, May 2002

Wolfgang Petritsch

High Representative