

Decision removing Ante Jelavic from his position as the Croat member of the BiH Presidency

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 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."

For the reasons hereinafter set out I hereby issue the following:

DECISION

To remove Mr. Ante Jelavic from his position of member of the Presidency of Bosnia and Herzegovina 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 I may, by further Decision, expressly authorise him to hold or seek the same.

This Decision has immediate effect and will not require any further procedural steps. Mr. Jelavic must vacate his office as a member of the Presidency of Bosnia and Herzegovina immediately and also ceases forthwith to be President of the HDZ BiH.

REASONS FOR BAR

As a member of the Presidency of Bosnia and Herzegovina and as party president of a prominent political party in Bosnia and Herzegovina, the HDZ BiH, Mr. Jelavic is and was subject to the fundamental duty to actively uphold the Constitutional order of the country. Furthermore, Mr. Jelavic had an explicit duty to serve the citizens and constituent peoples, in particular the Croat people, of Bosnia and Herzegovina through the legal institutions of the country at all levels.

Instead Mr. Jelavic has directly violated the constitutional order of the Federation of Bosnia and Herzegovina and of Bosnia and Herzegovina. This culminated on Saturday 3 March 2001 in Mostar with the unconstitutional initiative led by Mr. Ante Jelavic to undermine the constitutional order of the Federation of Bosnia and Herzegovina and Bosnia and Herzegovina and establish an illegal parallel structure.

Overall Mr. Ante Jelavic has displayed a pattern of behaviour that seeks to cripple the institutions set up under the General Framework Agreement for Peace in Bosnia and Herzegovina and has thereby seriously obstructed the implementation of the said Agreement by the following actions:

In order to register for the November 2000 general elections, the HDZ BiH, formally undertook to abide by the

Peace Agreement and implement the election results. Mr. Jelavic has failed to respect this undertaking.

On 11 November 2000, despite very clear warnings delivered both in public and in private that such action would be a violation of the Provisional Election Commission Rules and Regulations, Mr. Jelavic organised and promoted the holding on Election Day itself of a political demonstration designed to interfere with the normal democratic process. This demonstration, falsely referred to as a "referendum", amounted to a flagrant violation of the basic democratic principle that there should be no political activity on Election Day. The Election Appeals Sub-Commission was forced to take appropriate measures thereby already confirming the violation of this basic democratic principle.

On 2/3 February 2001, the Constitutional Court of Bosnia and Herzegovina ruled, following proceedings initiated by the HDZ BiH, that the Provisional Election Commission Rules and Regulations on the procedures for the election of the Federation House of Peoples, since they were laid down pursuant to the international mandate granted to the OSCE to this end, were not subject to review by the Court. The effect of this Decision was that the said rules had validly governed the said procedures for the elections. Notwithstanding the fact that Mr. Jelavic had previously pledged to respect the decision of the Constitutional Court, he decided to ignore his party's obligations to implement the election results and instead attempted in effect to hold the citizens of this country, including those citizens who had voted for the HDZ BiH, hostage. This behaviour amounted to a deliberate attempt by Mr. Jelavic to disrupt the regular constitutional life of this country, to flout the constitutional order set up pursuant to the said General Framework Agreement, and thereby to breach the rule of law.

Mr. Jelavic continued to ignore his constitutional obligations and has clearly determined that he will ignore the door left open to him to resume conducting political activity within and not outside the established constitutional framework of this country. He has clearly demonstrated that he does not intend to avail himself of the normal democratic mechanisms for effecting change which exist within Bosnia and Herzegovina. Mr. Jelavic's unconstitutional behaviour culminated in his participation at what amounted to a party rally held at Mostar on 3 March 2001 when those who participated were encouraged to make what was referred to as a "decision", on the establishment of an unconstitutional and illegal parallel structure. Mr. Jelavic must have been fully aware that this "gathering", under the name of a "Croat National Assembly" was incapable of making legal decisions.

On Friday 2 March 2001, the day before the party rally in the form of the "gathering" at Mostar, the High Representative issued a public appeal in which he clearly stated that "any individual found to be engaged in illegal or anti-Dayton activities, including the establishment and maintenance of parallel structures, will be liable to sanction in accordance with my mandate [Š] Activities aimed at undermining the legal institutions of the Federation and State will not be tolerated."

In leading this "gathering", Mr Jelavic has gone out of his way to disregard the honour and standing of the highest office of State to which he was elected in September 1998. Instead Mr. Jelavic has demonstrated beyond any shadow of doubt that he had lost his ability to respect the constitutional order of this country and simultaneously confirmed his readiness to violate the Dayton Peace Agreement, the Constitutions of the Federation of Bosnia and Herzegovina and Bosnia and Herzegovina, and to disregard the Rule of Law.

Mr. Jelavic's speeches, in particular in the last few months and culminating in the speech given in Busovaca on 28 February 2001, have brought dishonour to the Presidency of Bosnia and Herzegovina as a whole, and to the position of the Croat Member of the Presidency in particular. As a member of the Presidency of Bosnia and Herzegovina Mr. Jelavic had a legal and moral obligation to promote stability and reconciliation. Mr. Jelavic has instead chosen to undermine the progress of peace implementation that has been achieved thus far, by sowing hate and fear. Mr. Jelavic's irresponsible rhetoric has no place in a decent society and betrays the best interests of those who have sadly been misled into putting their trust in him.

CONCLUSION

In view of the pattern of behaviour as outlined above, it is not necessary in this document to catalogue the totality of the activities and behaviour which have lead inexorably to the removal from office of Mr Jelavic who has by his actions tarnished and undermined the high office he has held. Such behaviour culminated in the "gathering" at Mostar, and the illegal initiative which formed a key part of it to seek to establish unconstitutional parallel institutions which fundamentally and directly seek to violate the constitutional order in the Federation and in Bosnia and Herzegovina.

The matter of peculiar regret with which one must view the irresponsible course of conduct deliberately pursued by Mr. Ante Jelavic is that he must have known perfectly well that all matters of concern to him are matters which may be redressed by normal constitutional means. Mr. Ante Jelavic has clearly failed to realise that in public life it is an inevitable part of the democratic process that the demands of any one party, person or group of persons have to be weighed against the entitlement of others.

There can be little doubt that the Croat people of Bosnia and Herzegovina should be better served by Mr. Jelavic's successor in the Presidency of Bosnia and Herzegovina. Provided that such a successor is prepared to work within the legal institutions of the State, Federation and Cantons there is every hope that there may be built a prosperous and peaceful future for the Croat people, the other constituent peoples and all other citizens of Bosnia and Herzegovina.

Sarajevo, 7 March 2001

Wolfgang Petritsch
High Representative

Office of the High Representative