

Decision removing Mr. Mirko Mihaljevic from his position of Prime Minister of Canton 10

To: Mirko Mihaljevic, Prime Minister, Canton 10

Sarajevo, May 22, 2000

Dear Mr. Mihaljevic:

For reasons outlined in the attached Decision, we herewith notify you of the following: under the powers vested in the High Representative, you are removed from public office with immediate effect. In addition, in accordance with the Provisional Election Commission Rules and Regulations, this decision bars you from holding any public office and/or any position in public companies in the future.

It is with great regret that we are forced to acknowledge that during your term in office not only have you failed to show any commitment to the implementation of the General Framework Agreement for Peace, but you have also seriously and persistently obstructed its implementation.

Sincerely,

Wolfgang Petritsch
High Representative

Robert L. Barry
Chairman of the PEC
OSCE Head of Mission

Cc.:
Mr. Anto Omazic
President Canton 10 Assembly

Mr. Ejup Ganic
President Federation BiH

Mr. Ante Jelavic
Member of Presidency of BiH; President HDZ BiH

In the exercise of the powers vested in the High Representative by Article 5 of the Annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative *'is the final authority in the theater regarding interpretation of [the] Agreement on the civilian implementation of the peace agreement'*;

Endorsing the interpretation of these powers given in paragraph XI, 2 of the Conclusions of the Peace Implementation Conference held in Bonn on 10 December 1997, in particular, sub-paragraph c thereof, by means of which the High Representative is entitled to take actions against persons holding public office who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms of its implementation;

Noting the reiteration of the acknowledgement of such powers by the Peace Implementation Council in Chapter X of the Annex to the Madrid Declaration of 16 December 1998;

Considering the mandate entrusted with the Provisional Election Commission under Article III of the Annex 3 to the General Framework Agreement for Peace in Bosnia and Herzegovina and article 7.11 of the Rules and Regulations adopted thereafter which provides that *no person who has been removed by the High Representative shall be permitted to be a candidate in the elections.*

We hereby issue the following

Decision

To remove Mr. Mirko Mihaljevic from his position of Prime Minister of Canton 10 and to ban him from holding any public office at any level unless authorised to do so.

This Decision has immediate effect.

Reasons for removal

Mr. Mirko Mihaljevic has abused his power by persistently and seriously obstructing implementation of the General Framework Agreement for Peace. By pursuing an extra-legal agenda, he has consistently refused to take ownership of the laws of Bosnia and Herzegovina.

In particular, since his appointment in 1998, Mr. Mihaljevic has exercised direct control over Ministers and Ministries that have been characterized by under-performance and non-compliance. He bears ultimate responsibility for the Canton's dysfunctional judicial system and its blatant disregard for the Rule of Law, as well as for the Canton's abysmal record in implementing property laws, and for its substandard policing. Through his consistent obstructionism and refusal to take necessary actions, Mr. Mihaljevic has played a central role in creating a climate of hostility and intolerance toward returnees in Canton 10.

- Mr. Mihaljevic's blatant disregard for his responsibilities as Prime Minister and for the Rule of Law in his Canton was vividly demonstrated by his reaction to a inflammatory and threatening leaflet distributed against independent journalists from Livno's Radio N. On April 21, 2000, the Prime Minister sent a letter to the media stating that "the author of the leaflet could have been anybody: frustrated failures from the recent elections, some representatives of the International Community who see no good here, sick individuals, envious colleagues, and even the journalists named in the leaflet." Such a response is not befitting of a public official.
- According to Article 41 of the Canton 10 Constitution, as Prime Minister Mr. Mihaljevic bears ultimate responsibility for the abysmal state of Canton 10's judiciary, which has been extensively criticized in two separate decision by the Human Rights Chamber.
- Prime Minister Mihaljevic is ultimately responsible for the refusal to take action with regard to the judiciary's consistent failure to apply fundamental judicial principles in minority related and other cases led to the September 16, 1999 removal by the High Representative of Mr. Stipo Babic, then the Canton's Minister of Justice. However, Mr. Mihaljevic blatantly disregarded the OHR's authority and allowed Mr. Babic to continue to perform Ministerial duties and attend Government sessions until February 2000. In November, 1999, he even appointed Mr. Babic to the Cantonal Agency for Health Insurance. In addition, Mr. Mihaljevic has also refused to take action with regard to an April 10, 2000 OHR letter requesting the suspension of the Livno Prosecutor.
- Canton 10 remains the only one in the Federation to have demonstrated no progress on the implementation of both the High Representative's July 30, 1999 decision on insignia and the UN SRSG's instructions to the police and judiciary pursuant to this decision. Despite repeated instructions from both OHR and UNMIBH concerning neutral and non-offensive insignia, the Canton 10 ministries, which are under Mr. Mihaljevic's authority, continue to refuse compliance.
- The Government of Canton 10, under Mr. Mihaljevic's control, has demonstrated that it is not prepared to encourage returns in line with Annex 7 of the DPA. To give just one example, despite repeated efforts by the OHR since September 1999 to open the Prekaja school in Drvar Municipality, it remains shut. Mr. Mihaljevic has been personally involved in negotiations regarding the school, and has demonstratively failed to resolve this issue in spite of his obvious power to do so.
- As Prime Minister, Mr. Mihaljevic is ultimately the responsible authority for the distribution of revenues to Cantonal municipalities. While it has proven almost impossible to gain any insight into the public finances of Mihaljevic's government, it is clear that those municipalities not

controlled by Mr. Mihaljevic's party receive almost nothing, despite significant revenues generated locally from the forestry industry. This has forced the International Community to provide basic services for returnee children in Drvar, for example. To give another poignant example, Mr. Mihaljevic stated that he had stopped payments into the official account of Bosansko Grahovo Municipality on the grounds that he did not trust the elected Serb officials.

- Mr. Mihaljevic has demonstrated a clear lack of willingness to implement the Property Laws. Despite three meetings (held on November 5 and 29, 1999, and January 21, 2000) and two letters (dated November 8 and December 9, 1999) urging the Prime Minister and Governor to send written instructions to all Heads of Municipalities to fully and unconditionally comply with Property Laws, Mr. Mihaljevic has only just sent out a copy of those Laws, and without any written instructions.
- The unreformed nature of the Canton 10 MUP was graphically revealed on 9 February 2000, when a routine IPTF weapons inspection found caches of illegal weapons, as well as a recently utilized intelligence gathering complex in the same corridor as the Minister of Interior's office. Under Article 41 (d) of the Canton 10 Constitution, the Prime Minister bears ultimate responsibility for this outrage, as he is charged with supervision of the Canton's police force. In addition, under Mr. Mihaljevic's watch, the Cantonal police have applied totally different and separate standards of justice and law enforcement for citizens on Canton 10 depending on their ethnic origin, which was part of a clear program obstructing returns. Given his oversight role in law enforcement matters, Mr. Mihaljevic is also culpable in Canton 10's lack of progress in the Minority Police Recruitment Plan.
- Recent investigations have raised serious questions regarding the fairness and transparency of the privatization process in Canton 10. The Canton 10 Privatization Agency is part of the Government, and is under Mr. Mihaljevic's supervision.
- Mr. Mihaljevic has refused to appoint Deputy Ministers and assistants, apparently in order to prevent minority representatives from receiving these posts.

All of the above establishes a disturbing and unacceptable pattern of deliberate attempts to obstruct the implementation of the General Framework Agreement for Peace. For these reasons, we hereby remove Mr. Mirko Mihaljevic from the position of Prime Minister of Canton 10. The Decision will be effective immediately and will not require any further procedural steps. Mr. Mihaljevic must vacate his office immediately.

The position left vacant by Mr. Mihaljevic's removal will be filled in accordance with the legal regulations governing its appointment. In order to protect the institution to which a replacement is to be selected, no further actions are to be taken by relevant authorities until OHR and OSCE communicate that there are no objections and that the proposed name can proceed further through the legal process.

Sarajevo, 22 May 2000

Wolfgang Petritsch
High Representative

Robert L. Barry
Chairman of the PEC
OSCE Head of Mission

Office of the High Representative