

Decision removing Dragan Covic from his position as a Member of the Presidency of BiH

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 “[f]acilitate, 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 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”;

Recalling further that paragraph XI.2 of the Conclusions of

the above mentioned Peace Implementation Conference welcomed the intention of the High Representative to use his/her powers to make binding decisions to ensure, *inter alia*, the smooth running of the common institutions;

Noting that the Peace Implementation Council, meeting in London on 8-9 December 1995, decided that the peace in Bosnia and Herzegovina should result in “[...] the creation of a direct and dynamic contractual relationship between Bosnia and Herzegovina and the European Union”;

Further noting that the attainment of such a relationship will be decisive for a lasting peace;

Convinced that restoring Bosnia and Herzegovina to its rightful place within the community of nations will be impeded by diplomatic isolation and lack of confidence in the institutions of the State and, especially at the highest level of State government;

Acknowledging the issuance on 2 March 2005 of an indictment against one of the three members of the country’s Presidency, Dragan Covic, by the Prosecutor’s Office of Bosnia and Herzegovina for alleged abuse of office or official authority, lack of commitment in office, conspiracy to perpetrate a criminal offence, organized crime and other counts as set forth in the act of indictment (“Indictment”);

Noting that the Court of Bosnia and Herzegovina confirmed the Indictment on 10 March 2005 ;

Recognizing that Dragan Covic’s criminal responsibility in connection with the acts or omissions referenced in the Indictment, if any, must first be adjudicated by the competent courts in accordance with applicable law and with due deference to the protections afforded Dr. Covic under the Constitution and the law;

Gravely concerned that the existence of this Indictment will,

in a variety of ways, adversely affect Dr. Covic's ability to discharge his duties as a member of the Presidency, particularly in connection with the execution of the Presidency's foreign policy mandate to spearhead international integration;

Mindful that Dragan Covic becomes Chairman of the Presidency in June and that critical elements of the international community, including the whole Peace Implementation Council charged with overseeing the implementation of the Dayton Agreement, on whose support BiH depends for stability and reconstruction, have made it clear that they cannot deal with Mr. Covic while under indictment;

Bearing in mind that Bosnia and Herzegovina is entering a crucial phase in the development of its relationship with the European Union and NATO and is still striving to establish its status in the community of nations;

Reiterating that peace implementation in Bosnia and Herzegovina will be irreversibly achieved by further integrating the country into Euro-Atlantic structures;

Bearing in mind further that Bosnia and Herzegovina's international partners in this collaborative effort have expressed their view that Mr. Covic must step down while he defends himself against the charges outstanding in order to protect the integrity of the high office he holds;

Recalling, by way of illustration, the fact that the Steering Board of the Peace Implementation Council, at its meeting held at Ambassadorial level on 20 March 2005, noted that "Dr Covic, like any other citizen, is entitled to the presumption of innocence, [but] also has to consider his official position and the reputation of the country he represents". The Steering Board further "believes that Dr Covic should step down immediately in order to protect the good name and integrity of the office he holds, and to enable him to defend himself in

court free from his official obligations and that the smooth functioning of the Presidency must be preserved”;

Recalling similarly that, on 20 March 2005, the United States , the European Union and Canada all issued public statements calling on Mr. Covic to resign immediately in order to preserve the political integrity of the institution of the Presidency;

Emphasizing that, unlike many Western democracies which reached political maturity long ago and have well-founded stability and the established trust of their citizens, Bosnia and Herzegovina 's democracy is still very fragile, its peace not yet fully secured and its institutions in their infancy after a terrible war only decade ago.

Ever conscious of the need to balance in due proportion the public good with the rights of individuals.

For the reasons hereinafter set out the High Representative hereby issues the following

DECISION

To remove Dragan Covic from his position as a Member of the Presidency of Bosnia and Herzegovina

and to bar him from holding ministerial office and other office in an executive branch of government, at any level of government, until such time as the High Representative may expressly authorize him so to do or until such time as the judicial process terminates, whichever event occurs first. Any entitlement to receive remuneration or any privileges or status arising out of his post as a member of the Presidency ceases forthwith.

This Decision has immediate effect and will not require any further procedural steps.

Dragan Covic must vacate his office immediately.

This Decision shall be published without delay in the Official Gazette of Bosnia and Herzegovina.

Reasons for Removal

Dragan Covic is a member of the Presidency of Bosnia and Herzegovina. He, along with the other two members of the Presidency, has, under Article V of the Constitution of Bosnia and Herzegovina, responsibility for, *inter alia*, conducting the foreign policy of Bosnia and Herzegovina, representing Bosnia and Herzegovina in international and European organizations and institutions and seeking membership in such organizations and institutions of which Bosnia and Herzegovina is not a member and coordinating as necessary with international and non-governmental institutions in Bosnia and Herzegovina.

The indictment against Dr. Covic fundamentally undermines his ability to carry out his political duties effectively and undermines the smooth running of the Office of the Presidency, for the following reasons:

1. International Isolation: Dr. Covic occupies the highest political office in the land. As outlined above, he serves as the public face of Bosnia and Herzegovina to the world. Upon his reputation, the reputation of the country he represents depends. Without prejudice to the outcome of judicial proceedings, a President with a criminal indictment pending undermines the reputation of the country and confidence in its institutions. Bosnia and Herzegovina is more dependent than most countries on international support and goodwill. The Steering Board of the Peace Implementation Council, responsible for overseeing the implementation of the Dayton Peace Agreement, has called on Dr. Covic repeatedly to step down. The European Union has done the same; so too have the United States and Canada. The countries of the Steering Board of the Peace Implementation Council have indicated that they will not deal with Dr. Covic while he is under indictment.

In addition to membership in a host of international organizations, BiH is seeking membership of the European Union and NATO. It is close to qualifying to begin negotiations with the European Union on a Stabilisation and Association Agreement, and is hoping to qualify for NATO's Partnership for Peace programme. As early as 1995, integration into the Euro Atlantic institutions was identified by the Peace Implementation Council as a benchmark for successful peace implementation. As Bosnia and Herzegovina engages in this crucial process, it cannot afford to be represented by officials with whom the international community has withdrawn contact because of criminal indictments against them.

Dr. Covic is due to become Chairman of the Presidency in June 2005. For the reasons set out above, he is no longer able effectively to carry out the constitutional duties assigned to him under the BiH Constitution. This poses a threat to BiH's prospects of continued progress in integrating with the Euro Atlantic institutions, upon which the peace of the country depends.

2. Confidence in the Office of the Presidency and BiH institutions: Public trust in BiH's institutions is fragile and this fragility greatly contributes to the weakness of the State. The people's perception of and confidence in the Presidency, of which Dr. Covic will himself be Chairman in June, cannot help but be further undermined by the fact that one member of the Presidency is subject to a criminal indictment. Dr. Covic's continuance in government while facing serious criminal charges will do grave damage to the credibility of and trust in BiH's institutions. The long-term sustainability of BiH's peace and security depends in large measure on the establishment of strong institutions which command public confidence and which discharge effectively and smoothly their domestic and international responsibilities.

3. Political Paralysis: A high official of state indicted for serious criminal offences will be dogged by controversy,

not in connection with his policies – as might be expected in any democracy – but in connection with his personal conduct. This will fundamentally undermine his ability to carry out his official duties properly, and the institution of the Presidency of BiH as a whole.

Dragan Covic is entitled to the presumption of innocence as any normal citizen. But he should defend himself as a normal citizen without placing in jeopardy the public and international respect for and trust in the high office that he holds.

Considering, therefore, that Dragan Covic is no longer in a position to perform effectively his constitutional duties as a member of the Presidency, and that he has declined the opportunity to step down voluntarily, I hereby require Dragan Covic to step down from public office.

The principles of proper governance and transparency, protection of the integrity and reputation and smooth functioning of the institutions of Bosnia and Herzegovina, and due deference for the international obligations of Bosnia and Herzegovina – so essential to the peace implementation process – mean that there is no alternative to this course of action.

Sarajevo, 29 March 2005

Paddy Ashdown

High Representative