

Decision to remove Nikola Lovrinovic from his position as Minister of Education of the Central Bosnia Canton

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”;

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”;

Recalling that, at its 12 June 2003 meeting, the Peace Implementation Council (“PIC”) Steering Board endorsed pledges made by Bosnia and Herzegovina authorities in moves towards the administrative unification of the schools (“Unification”) and stated its unanimous decision that the very existence of two schools under one roof (“2/1 Practice”) is antithetical to the principles set forth in the Education Reform Strategy;

Noting that 2/1 Practice is also clearly contrary to the Council of Europe post-accession requirements for Bosnia and Herzegovina “to maintain and continue reform in the field of education and to eliminate all aspects of segregation and discrimination based upon ethnic origin”;

Applauding the overriding objective of the Education Reform Strategy to depoliticise education, while creating conditions conducive to ensuring equal access to a high-quality, modern education throughout the country;

Fully Cognizant of the fact that, in order to achieve this objective, all children must have access to quality education in integrated, multi-cultural schools which are free from political, religious, cultural and other bias and discrimination and which respect the rights of all children;

Recalling further that, at the PIC Steering Board’s 12 June 2003 meeting referenced above, the Steering Board called on the Federation Minister of Education to ensure that all schools were unified before the next school year;

Convinced that, since that time, governmental authorities in Bosnia and Herzegovina should have recognized the importance of Unification and undertaken to proactively engage in

implementing measures to make Unification a reality;

Encouraged that in this connection, the Central Bosnia Canton, on 10 December 2004, enacted the Law on Amendments to the Law on Primary Education (Official Gazette of the Central Bosnia Canton No. 17/04, 30 December 2004) and the Law on Amendments to the Law on Secondary Education (Official Gazette of Central Bosnia Canton No. 17/04, 30 December 2004), each of which unified the legal and administrative aspects of “two schools under one roof” (“Applicable Laws”);

Noting that, as Minister of Education of the Central Bosnia Canton, Mr. Lovrinovic is strictly charged with and exclusively responsible for the implementation of the Applicable Laws;

Further noting that, in this connection, Minister Lovrinovic’s task is purely a mechanical and executive one, not requiring extensive interpretation or exercise of discretion;

Disappointed that Minister Lovrinovic has singularly failed in discharging this simple yet critical aspect of his mandate, despite having on several occasions committed to formulating a plan to implement the Applicable Laws;

Recalling that when the Applicable Laws were examined by the Assembly of the Central Bosnia Canton, the Croat delegates invoked their constitutional right to refer the proposed law to the Vital National Interest Panel of the Constitutional Court of the Federation of Bosnia and Herzegovina (“Federation Constitutional Court”) which decided on 3 November 2004 that the “contested provisions [of the Applicable Laws] do not bring any of the Constituent Peoples in an unequal position or lead to assimilation and outvoting of certain peoples.” (“Decision”) (Official Gazette of the Federation of Bosnia and Herzegovina , No. 70/04);

Further recalling that Mr. Lovrinovic issued a “Standpoint on the authentic interpretation” of certain provisions of the

Applicable Laws (No: 01-02-387/05-1 from 16 May 2005) (“Standpoint”) which blatantly ignores the express language of the text of the referenced provisions, as well as the interpretation of the same by the Federation Constitutional Court as contained in the Decision;

Concluding that the Minister’s distortion of the Applicable Laws’ legal dimensions constitutes nothing more than a thinly veiled exercise in willful obstruction;

Convinced that this conduct on the part of Minister Lovrinovic is intended to halt the progress on Unification;

Convinced further that Minister Lovrinovic’s attempt at obfuscation and obstruction is but the latest episode in a sustained and orchestrated campaign within the Central Bosnia Canton against Unification which has in the past two years necessitated repeated interventions by the High Representative;

Noting that Nikola Lovrinovic has been Minister of Education of the Central Bosnia Canton since March 2003;

Concluding that his resistance since that time to the policy of Unification – a policy which has been in force in all other cantons, enshrined in law by the Cantonal Assembly, confirmed in scope by the Federation Constitutional Court and endorsed by the international community – exposes the Minister as an active and recidivist threat not only to a fundamental pillar of peace implementation but also to the future of Bosnia and Herzegovina vis-à-vis integration within the European framework;

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 Nikola Lovrinovic from his position as Minister of Education of the Central Bosnia Canton

and to bar him from holding any official, elective or appointive public office and from running in elections unless or until such time as the High Representative may expressly authorize him so to do or to hold the same. Any entitlement to receive remuneration or any form of post-removal compensation (excepting vested pension) or to any privileges or status arising out of his post as a minister ceases forthwith.

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

Nikola Lovrinovic must vacate his office immediately and is barred from the date hereof from further entering the same.

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

Reasons for Removal

Mr. Lovrinovic holds the position of Minister of Education of the Central Bosnia Canton. This office is one in which the holder assumes ministerial responsibility for the implementation of laws enacted by the Cantonal Assembly and subsequently interpreted by the Federation Constitutional Court.

By repeatedly failing to implement the Applicable Laws, Mr. Lovrinovic has failed to execute his office. His failure is all the more salient in that it arises in the context of a

particularly sensitive policy – education – reform of which is among the essential pre-conditions for ensuring sustainable peace within Bosnia and Herzegovina and for realizing the country's aspirations for integration within the European structure.

In a recent communication, Mr. Lovrinovic has made plain that, contrary to his sworn duty to execute the law and to carry out government policy, he insists, despite repeated warnings, on failing to carry out the law and has made it clear that he regards the instructions of his party as superior to the legal requirements of his office. In adopting this stance publicly, Mr. Lovrinovic has demonstrated his disregard for the law and has acted in a way which is inconsistent with his duties as a Minister.

Even if his actions were not guided by party considerations, an executive officer who accords precedence to his own interpretation of laws over that rendered by courts threatens to undermine the crucial balance between the executive and judicial branches of government so essential to the principle of rule of law which constitutes a fundamental pillar of peace implementation in Bosnia and Herzegovina.

Based on the foregoing, Mr. Lovrinovic has failed conspicuously to discharge his ministry and to perform his executive functions in the legal manner required of the holder of such an office, particularly in an area of such importance as Unification. By openly subordinating the interests of the cantonal government to his own political objectives, Mr. Lovrinovic has inflicted considerable damage upon the dignity and independence of his office.

The principles of proper governance and ministerial responsibility, particularly in this case, are essential to the peace implementation process and to ensuring that Bosnia and Herzegovina's international commitments are faithfully observed. Regrettably, these principles have been undermined

by Mr. Lovrinovic's conduct. They can only be rehabilitated by his removal forthwith from office.

Sarajevo , 08 July 2005

*Paddy Ashdown
High Representative*