

Decision removing Mr. Ivan Ivic from his position of Governor of Canton 10

To: Ivan Ivic, Governor, Canton 10

Sarajevo, May 22, 2000

Dear Mr. Ivic:

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. Ivan Ivic from his position of Governor 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. Ivan Ivic 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 assumption of the Governor's office in 1998, Mr. Ivic bears a large measure of responsibility for the Canton's dysfunctional judicial system and its blatant disregard for the Rule of Law.

- Mr. Ivic clearly demonstrated his disregard for the Rule of Law and proper functioning of the judiciary in Canton 10 through his unlawful appointment of the Drvar municipal prosecutor. Due to serious concerns regarding a breakdown in law and order in the Canton, both UNMIBH SRSG and JSAP wrote to Mr. Ivic on November 2 and December 10, 1999, respectively, requesting that he take action to fill the vacant Prosecutor's post. The Governor declined to respond to either letter, and on December 29, 1999, nominated Stanislav Komso for the job in defiance of both Cantonal law and the SRSG's recommendation. Mr. Ivic then lied before the Cantonal Assembly regarding his failure to follow the appointment procedure specified in the Cantonal Law on Prosecutors. While the OHR insisted on January 20 that the appointment process be suspended, Mr. Komso remains illegally holding the office of Drvar prosecutor.
- Furthermore, Mr. Ivic has failed to respond to the Cantonal Minister of Justice's March 2, 2000 request for clear instructions on this question, thus obstructing her attempts find a resolution.
- In addition, the Governor is responsible for the vacuum which persists in the Livno municipal prosecutor's office. On April 10, 2000, OHR wrote to the Cantonal Minister of Justice and Prosecutor insisting that Livno prosecutor, Mr. Duic, be suspended and dismissed in accordance with procedure because of gross negligence. Both the Minister and Prosecutor wrote to Mr. Ivic proposing Mr. Duic's dismissal and asking for authorization to initiate the necessary public competition for the vacant post. To date, The Governor has refused to do anything.
- Governor Ivic has played a further key role in deepening the judicial crisis in Canton 10. Following the High Representative's September 16 decision to dismiss then Cantonal Minister of Justice Stipo Babic, Mr. Ivic again failed to act (per his responsibility spelled out in article 38 of the Canton 10 Constitution) until December 29, 1999, when he finally proposed Mrs. Borjana Kristo for the position. This blatant disregard of his responsibility, despite the urgency of the situation, resulted in a three month vacuum in the leadership of the Canton 10 judiciary. This gap allowed Mr. Babic to remain as de facto Minister of Justice until at least February 2000.
- The Federation Criminal Procedure's Code requires that a five-judge panel hear appeals of serious criminal matters addressed to the Cantonal Court. The Canton 10 Court has had only four judges for several years, making it impossible for the Court to function properly. Despite efforts since her appointment by the Minister of Justice, Mr. Ivic has effectively stalled the process by refusing to propose a candidate for the post during Cantonal Assembly meetings.
- Canton 10 remains the only one in the Federation to have demonstrated no progress on the implementation of both the February 19, 1999 Federation Constitutional Court ruling and the High Representative's July 30, 1999 subsequent decision on insignia. Canton 10 has also ignored the UNMIBH SRSG's instructions to the police and judiciary pursuant to the High Representative's decision. During his tenure as Governor, Mr. Ivic has refused to initiate amendments to the Canton 10 Constitution (as per Article 75) to address this situation. More

importantly, along with the Prime Minister, he has failed to take the necessary leadership role to see that the OHR decision, which has the force of superseding law, was implemented, despite several requests to do so.

- By failing to propose to the International Community a successor to former Minister of Interior Barisic, who was removed by the High Representative on April 3, Mr. Ivic has frozen cooperation with the IC on a ministerial level.
- Regarding the recent inflammatory and threatening leaflets distributed against independent radio journalists in Livno, Mr. Ivic responded with a letter to the media attacking the International Community. The Governor's reaction was highly irresponsible, and unbefitting of a public official.

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. Ivan Ivic from the position of Governor of Canton 10. The Decision will be effective immediately and will not require any further procedural steps. Mr. Ivic must vacate his office immediately.

The position left vacant by Mr. Ivic'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