

Decision removing Ivan Mandic from his position as Head of Mostar Municipality South-West

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 to 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";

Bearing in mind the importance attributed to the return of refugees and displaced persons to their pre-war homes by the General Framework Agreement for Peace in Bosnia and Herzegovina and its Annexes;

Further bearing in mind that the return process is a vital and necessary factor in the establishment of a lasting peace in Bosnia and Herzegovina;

For the reasons hereinafter set out I hereby issue the following

DECISION

To remove Mr. Ivan Mandic from his position of Head of the City-Municipality Mostar Southwest 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 authorize him to do so.

This Decision has immediate effect and will not require any further procedural steps. Mr. Ivan Mandic must vacate his office forthwith. Any entitlement to receive remuneration or any privileges or status arising out of his post as Head of the City-Municipality Mostar Southwest will likewise cease immediately.

This Decision shall be published without delay in the Official Gazettes of the Federation of BiH and of the Herzegovina-Neretva Canton.

REASONS FOR REMOVAL

Mr. Ivan Mandic has been Head of City-Municipality Mostar Southwest since 15th June 2000. While he was performing his duties as Head of the City-Municipality, he was proposed as Minister of Interior for the Herzegovina-

Neretva Canton. On 27th August 2001, he submitted his resignation as Minister of Interior.

When acting as Minister of Interior, he issued prime facie illegal instructions to the police in Stolac Municipality clearly aiming at preventing the reconstruction of the Emperor's Mosque. Despite repeated appeals from Ambassador Colin Munro, former Deputy High Representative and Head of OHR South, he acted in a way calculated to put the police in a difficult position, and to exacerbate tension generally.

As Head of the City-Municipality Mostar Southwest, responsible inter alia for the functioning of the Municipal Housing Office (MHO) in charge of processing claims for repossession of properties, he failed to ensure the proper functioning of this office, in spite of being warned on various occasions. He did not provide the MHO with qualified staff members nor was proper support given to the existing staff. He was sent a letter from OSCE on 8 August 2001 to remind him of requests made previously on 7 June 2001. The absence of sufficient enforcement officers and the inappropriate distribution of workload between lawyers were particularly pointed out.

Sensitive property cases were put on hold. For instance, Mr. Mandic has failed to ensure that properties illegally occupied by both the HDZ and UDVDR are returned to their rightful owners. Moreover, during the month of November 2001, 43 evictions were postponed in the City-Municipality Mostar Southwest. On 3rd December 2001, Ambassador Colin Munro instructed Mr. Mandic in writing that the postponed evictions must be rescheduled and completed by 31 December 2001. Fewer than one third of those evictions were indeed completed by the given date.

Furthermore, Mr. Mandic has publicly defended double occupancy cases of newly formed families. He has stated that refugees from third countries should be the last to repossess their properties and has denied the chronological processing of claims.

Mr. Mandic has thus effectively obstructed the implementation of the property laws with the consequence that the rate of property implementation in the City-Municipality Mostar Southwest falls well below the general BiH Federation implementation rate.

Acting against the High Representative's Decisions on the Allocation of Socially Owned Land of 27 April 2000 and 30 March 2001, Mr. Mandic failed to ensure that applications for waivers for allocation of State owned land, including socially owned property, were submitted to my Office. The cases where waivers were never requested included in particular the illegal addition of extra rooftop floors to existing apartment blocks in the City-Municipality Mostar Southwest. This behavior is evidence of his disregard for the rule of law.

By reason of the matters aforesaid, Mr. Mandic has clearly acted in such a way as to obstruct the return of refugees and displaced persons. His conduct not only contravenes the constitution of Bosnia and Herzegovina, and in particular its Articles II.4, II.5 and III.2(c) thereof, but is also in violation of the Agreement on Refugees and Displaced Persons, namely Annex 7 of the General Framework Agreement for Peace.

By his conduct as aforesaid, Mr. Mandic has obstructed the implementation of the General Framework Agreement for Peace.

Sarajevo, 15 January 2002

Wolfgang Petritsch

High Representative

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