

Decision removing Mr. Nikola Grabovac from his position of Minister of Finance of the Federation of Bosnia and Herzegovina

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 "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 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";

Noting that the Peace Implementation Council at its meetings held in Bonn on 10 September 1997, in Madrid on 16 December 1998 and in Brussels on 23/24 May 2000, has expressed its deep concerns regarding ingrained corruption in BiH which can lead to the undermining of democratic governance and the wasting of public resources and can hinder the development of the market economy;

Bearing in mind that at Madrid on 16 December 1998 the Peace Implementation Council set out its concerns as follows: "The Council expresses deep concern about continuing corruption and evasion of public funds. It welcomes the High Representative's development of a comprehensive anti-corruption strategy ... The High Representative will take the lead in co-ordinating International Community efforts aimed at eliminating opportunities for corruption, tax evasion and diversion of public revenue, ensuring transparency in all phases of governmental operations.....";

Considering that at Brussels the Peace Implementation Council stated in its Declaration of 23/24 May 2000 that: "The Council remains deeply concerned over ingrained corruption in BiH which undermines democratic governance, wastes public resources and hinders the development of the market economy. The OHR comprehensive Anti-corruption Strategy is the solid basis for the fight against corruption. All public officials are expected to give their active and unreserved support to this Strategy and to the institutions which are implementing it.";

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

Decision

To remove Mr. Nikola Grabovac from his position of Minister of Finance of the Federation of Bosnia and Herzegovina, 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 the High Representative may, expressly authorise him so to do or to hold the same. Any entitlement to receive remuneration or any privileges or status arising out of his post as Minister for Finance ceases forthwith.

This Decision has immediate effect and will not require any further procedural steps. Mr. Grabovac must vacate his office immediately.

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

Reasons for Removal

Mr. Grabovac holds the position of Minister for Finance of the Federation of Bosnia and Herzegovina. This office is one in which the holder is subject to the highest fiduciary duties in relation to the public finances of the Federation. As such he holds a position at the head of a Ministry which has special duties and responsibilities over and above those of other Ministries. The holder of such an office must be active in exercising the highest probity in relation to his dealings with public funds. The confidence of the citizens of the country, business enterprises, and the banking institutions of the Federation must always be maintained to ensure proper governance and transparency.

Mr. Grabovac as the holder of such high office has failed in his duty to maintain the confidence of the public, and the commercial and banking worlds, in the probity of the running of the financial affairs of the Federation.

Over the course of an affair which has led to the investigation hereinafter referred to (and to related investigations against others), Mr. Grabovac has failed to take actively effective action to ensure the proper guardianship of the public funds and to protect the reputation of his office and the government. He has thereby, in the premises, failed to demonstrate active and unreserved support for the strategy, set out by the Peace Implementation Council, to oppose ingrained corruption in Bosnia and Herzegovina.

Mr. Grabovac is, as hereinbefore referred to, currently under investigation. This investigation is at the behest of the Sarajevo Cantonal Prosecutor's Office in alleged violation of Article 366 of the Criminal Code of the Federation of Bosnia and Herzegovina.

Without in any way anticipating the outcome of such proceedings as may follow, and without commenting in any manner either expressly or by implication on their merits, and whilst taking into account the right of Mr. Grabovac to due process before the courts and to present a full and complete defence to any charges that may be filed against him, the fact remains that public confidence in his tenure of office has been undermined by his failure to take active steps to combat corruption and will be further undermined by the circumstances related to such investigation.

In the premises Mr. Grabovac has failed actively to supervise his Ministry and perform his functions as Minister for Finance in the manner expected of the holder of such an office. Mr. Grabovac has failed to act in the public interest in the only manner appropriate to the position that he is now in by resigning from such office.

The principles of proper governance and transparency and active support for the rule of law are essential to the peace implementation process and have been eroded by Mr. Grabovac's conduct and can only be restored by his removal forthwith from office.

Sarajevo, 14 June 2002

Paddy Ashdown

High Representative