

Decision removing Mr. Pero Markovic from his position of General Manager of the company “Šume Herceg Bosne”

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 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”;

Noting that the Peace Implementation Council at its meeting held in Brussels on 23 May 2000, expressed its deep concerns regarding “ingrained corruption in Bosnia and Herzegovina which undermines democratic governance, wastes public resources and hinders the development of the market economy”;

Emphasising the indisputable fact that the establishment of the rule of law is an essential part of the peacekeeping process;

Bearing in mind that the rule of law requires that justice must not only be done but be seen to be done, and that for justice to be seen to be done public confidence must exist in the fairness, impartiality, honesty, integrity and incorruptibility of public officials and those holding positions of authority in public companies;

Noting that “Šume Herceg Bosne” is a publicly owned company holding a major place in the economic life of Bosnia and Herzegovina;

Having considered, borne in mind and noted all the matters aforesaid the High Representative hereby issues the following:

DECISION

To remove Mr. Pero Markovic from his position of General Manager of the company “Šume Herceg Bosne”, and to bar him from any official, elective or appointive public office in Bosnia and Herzegovina and from running in elections and from office within political parties unless or until such time as the High Representative may expressly authorise him to hold the same. Any entitlement to receive remuneration or any privileges or status arising out of his post as General Manager of “Šume Herceg Bosne” will cease immediately.

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

Mr. Markovic must vacate his office immediately.

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

REASONS FOR REMOVAL

By reason of the totality of the matters hereinafter set out, Mr. Markovic must be removed from his position of General Manager of the company "Šume Herceg Bosne" in order to ensure that the peace implementation process is not undermined.

On 10 December 1996 Mr. Pero Markovic as President of the so-called Croat Republic of Herceg Bosna purported to transfer the business ownership shares in a company, "Monitor M" d.o.o., free of charge to the Municipality of Capljina. On 17 August 1997 Mr. Markovic as President of the Municipal Council of Capljina signed a Decision of the Council whereby the Council transferred its entire ownership share in "Monitor M" d.o.o., to an association known as the "Croat Community of Herceg Bosna" without any compensation whatsoever, to the detriment of the Municipality. "Monitor M" d.o.o. was a company established by the an association known as the Croat Community of Herceg Bosna. Subsequently Mr. Pero Markovic was appointed as a member of the Board of Directors of "Monitor M" d.o.o. on 5 November 1998.

On 30 June 1997 Pero Markovic as President of the Municipal Council for the Municipality of Capljina issued a decision to transfer free of charge the right to use three plots of land belonging to the Municipality of Capljina to the King Tomislav Foundation. Pero Markovic was a member of the King Tomislav Foundation at the time of the transfer of the land from the Municipality of Capljina.

Mr. Markovic is currently charged with numerous offences of gross mismanagement, amounting to criminal conduct, of the affairs of "Šume Herceg Bosne". The charges are brought at the behest of the relevant prosecuting authorities of the Federation of Bosnia and Herzegovina and allege violation of numerous Articles of the appropriate Criminal Code.

Without in any way anticipating the outcome of the criminal proceedings that have been commenced, and without commenting in any manner either expressly or by implication on their merits, and whilst taking into account the right of Mr. Markovic 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.

Even leaving out of account the fact that criminal proceedings have been commenced against Mr. Markovic he has failed actively to take effective action to ensure the proper guardianship of public funds and assets and to protect the reputation of the offices that he has held.

As a direct result of the actions of Mr. Markovic, public funds and assets have not been accounted for in an appropriate and transparent manner. The share and land plot transactions referred to above contradict the principle of democratic control over local government and the management of public companies. His actions amount to gross and exceptional mismanagement involving, among other things, a clear conflict of interest in the exercise of his duties. His past activities have effectively led to the subversion of democratic institutions as well as to the harming of the democratic process. Good governance and the rule of law have been damaged by reason of the totality of the matters aforesaid. It follows from the above that the regular democratic processes were circumvented, which processes are critical to the success of the Dayton Peace Process itself. To allow Mr. Markovic to remain at his post would undermine the need for there to be full transparency and demonstrable probity in public life. His removal must accordingly be effected as hereinbefore referred to in order to ensure that the peace implementation process does not itself become undermined.

The principles of proper governance and transparency, protection of the integrity and reputation of the institutions and public companies of the Federation of Bosnia and Herzegovina, and active support for the rule of law are essential to the peace implementation process and have been eroded by Mr. Pero Markovic's conduct in public office and can only be restored by his removal forthwith from his present position as General Manager as aforesaid.

Sarajevo, 14 November 2002

*Paddy Ashdown
High Representative*