

Supervisory Order Enacting the Law on Procedure of Assessment of Compatibility of Legal Acts of Brcko District of BiH

Supervisory Order Enacting the Law on Procedure of Assessment of Compatibility of Legal Acts of Brcko District of BiH and the Law on Amendments and Addenda to the Law on Public Attorney's Office of Brcko District of BiH as Prepared by the Brcko District Judicial Commission And Enacting the Addenda to the Rules of Procedure of the Assembly of Brcko District of Bosnia and Herzegovina as Prepared by the Expert Service of Brcko District Assembly

In accordance with the powers vested in me by Paragraphs 8, 10, 11, 13, 36 and 37 of the Final Award, dated March 5, 1999, of the Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area ("the Brcko Tribunal");

In accordance also with Paragraph 67 of the Final Award of March 5, 1999 providing in relevant parts that the Brcko Tribunal "will retain jurisdiction over (...) dispute until such time as the Supervisor, with the approval of the High Representative, has notified the Tribunal (...) that such institutions are functioning effectively and apparently permanently";

In furtherance of the adoption of Amendment I to the Constitution of Bosnia and Herzegovina ("Amendment I") published in the Official Gazette of Bosnia and Herzegovina, No. 25/09 on March 31, 2009, aiming at providing a constitutional solution for the status of Brcko District and its access to the Constitutional Court of Bosnia and Herzegovina;

Having consequently decided by way of my Supervisory Order On Amending the Statute of Brcko District and Enacting the Law on Amendments to the Law on Courts of Brcko District (hereinafter: Supervisory Order of December 21, 2009), published in the Official Gazette of Brcko District of Bosnia and Herzegovina, No. 39/09, to enact the necessary amendments to the Brcko District legislation, in particular relevant provisions of the Statute and of the Law on Courts of Brcko District of Bosnia and Herzegovina published in the Official Gazette of Brcko District of Bosnia and Herzegovina, Nos. 19/07 and 20/07, in order to regulate and expedite access of Brcko District institutions to the Constitutional Court of Bosnia and Herzegovina;

Recalling my above mentioned Supervisory Order of December 21, 2009, providing in its Paragraph 6 that: "The Brcko District Judicial Commission shall immediately start preparing a draft law regulating the procedure of assessment of compatibility of legal acts in the District, as well as amendments to the Law on Public Attorney Office reflecting the amendment to the Statute, and shall provide my Office with this law for my approval no later than February 15, 2010, whereupon I may consider enacting this law as a law of Brcko District by further Supervisory Order";

Recalling also the provision of its Paragraph 7 stating that "the Expert Service of the Brcko District Assembly shall immediately start preparing draft amendments to the Rules of Procedure of the Brcko District Assembly reflecting the amendments to the Statute and shall provide my Office with the draft amendments for my approval no later than February 15, 2010, whereupon I may consider enacting these amendments by further Supervisory Order".

Acknowledging the need to clearly define the procedure of assessment of compatibility of all legal acts within the Brcko District legal system and therefore to have a Brcko District law regulating this matter as soon as possible;

Mindful of the need that such changes are necessary in order to improve the effectiveness and functionality of the Brcko District Courts and other institutions as well as to ensure the protection of the interest, status and powers of Brcko District through effective procedure and the maintenance of harmony after Supervision has ended;

Having therefore requested that the Expert Service of the Brcko District Assembly and the Brcko District

Judicial Commission prepare the necessary drafts within the timeline set forth in my Supervisory Order of December 21, 2009;

Commending the efforts and work of the members of the working group set up by the Brcko District Judicial Commission, for providing a high quality draft law within the timeline set for it in the Supervisory Order in cooperation with my Office, and satisfied that the amendments to the Rules of Procedure of the Assembly of Brcko District reflecting the changes of the Statute will complete the process of harmonization of District legislation with the Amendment I to the Constitution of Bosnia and Herzegovina;

Having consulted with the Public Attorney Office, the President of the Appellate Court and other members of the Brcko District Judicial Commission, on the various options to enact those legal changes in the most effective manner, and having received broad support thereto;

Having therefore decided to regulate these issues by way of a Supervisory Order as the most expeditious way and thus avoiding any legal uncertainty;

I therefore hereby order that:

1. The Law on the Procedure of Assessment of Compatibility of Legal Acts of Brcko District, hereinafter set out in Annex I to this Supervisory Order, is hereby enacted as a Law of Brcko District.
2. The Law on Amendments and Addenda to the Law on Public Attorney's Office of Brcko District, hereinafter set out in Annex II to this Supervisory Order, is hereby enacted as a Law of Brcko District.
3. Addenda to the Rules of Procedure of the Assembly of Brcko District of Bosnia and Herzegovina set out in Annex III to this Supervisory Order are hereby enacted.
4. The Laws, enacted by virtue of Paragraphs 1 and 2 of this Supervisory Order, and Addenda to the Rules of Procedure enacted by virtue of Paragraph 3 of this Supervisory Order shall be published without delay in the Official Gazette of the Brcko District of Bosnia and Herzegovina and shall enter into force on the eighth (8th) day after its publication.
5. The Laws enacted by virtue of Paragraphs 1 and 2 of this Supervisory Order and Addenda to the Rules of Procedure enacted by virtue of Paragraph 3 of this Supervisory Order may subsequently be amended by the Brcko District Assembly in accordance with the Statute of Brcko District of Bosnia and Herzegovina and the Rules of Procedure of the Assembly of Brcko District of Bosnia and Herzegovina.
6. This Supervisory Order has immediate effect without further procedural steps. All public officials, civil servants and employees in the Brcko District shall take all necessary measures to ensure that this Order be executed in full.
7. This Supervisory Order is published in English and in the official languages of Bosnia and Herzegovina. In the event of any inconsistency, the English language version is authoritative for all purposes.
8. The Law on the Procedure of Assessment of Compatibility of Legal Acts of Brcko District, the Law on Amendments and Addenda to the Law on Public Attorney's Office of Brcko District and Addenda to the Rules of Procedure of the Assembly of Brcko District of Bosnia and Herzegovina hereby enacted and attached to this Supervisory Order as its Annexes I, II and III are published in the official languages of Bosnia and Herzegovina, which are authoritative for all purposes.

Dr. Raffi Gregorian

Supervisor of Brcko District

Principal Deputy High Representative