Arbitration Award for Dobrinja I and IV, Executive Summary

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17 April, 2001

EXECUTIVE SUMMARY

I set out here a summary of the Award in relation to Dobrinj'a I and IV. I must emphasise that this is a summary only and this cannot be taken to be in substitution of the full Award. I therefore recommend that the Award be read in full to appreciate the reasons for the findings therein.

I was appointed by Wolfgang Petritsch the High Representative by Decision dated the 5th February 2001 to decide on the final position of the Inter Entity Boundary Line between the Federation of Bosnia and Herzegovina and Republica Srpska (RS) at Dobrinja I and IV. I came with an open mind and nobody has attempted to interfere with my independence in this matter.

The Dayton Agreement allowed for disputes on the final boundary between the two Entities to be referred to arbitration and the High Representative's Decision requires me to take into account a number of matters including the existing lines and also the views of the residents of the area.

The hearing was conducted in the most civilised manner by the legal representatives of both Entities and they cannot be faulted in the manner or content of their presentation. Much of the hearing was taken up with considerable argument about the origin or the maps and the circumstances of their production. The main problem arose probably because of the difficulty of interpreting the exact location of the IEBL on maps of a particular scale.

I am satisfied that a collective mistake was made at some stage. The Award sets out my views on the doctrine of mistake that I feel apply to this case. I do not criticise the parties for failing to agree the position in relation to Dobrinja I and IV but I have to decide where the final line has to be.

I listened carefully to the evidence of the residents, to the Prime Minister of the RS, to a representative of the Club of Mayors and to all the arguments put forward by both sides and I considered the representations made by letter which I received. I emphasise in the award that I am more concerned with people than with institutions and I also emphasise that no person in legitimate possession of an apartment is to be disturbed as a result of my Award. Following from all of this I have declared that the blocks of flats and the school be contained in the IEBL line on the map prepared giving effect to the view that I have formed.

Finally, I state that this decision has been as hard as any I have had to make in my long period dealing with cases. My conscience has been my guide in coming to the decision that I have made and if my conscience had dictated another course then I would have taken that course.

Sarajevo, 17 April 2001

Diarmuid P. Sheridan
Arbitrator for Dobrinja IEBL

Statement, 17 April, 2001