Brcko Final Award: Annex

Brcko Arbitration

Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area

Final Award: ANNEX

The Tribunal's District plan contemplates that, on a schedule to be devised by the Supervisor, the new Brcko District of Bosnia and Herzegovina will be established with the following features and characteristics (although the following proposals are subject to modification in light of any written comments received from interested parties within 60 days of the date of the Final Award of which this Annex a part). All implementation issues not addressed in this Annex shall be resolved by the Supervisor in consultation with the parties.

1. **Status of District Residents**

   All residents of the District who are citizens of BiH shall have the right to elect to be also a citizen of one or the other entity (but not both), regardless of where they live in the District. No resident of the District shall be treated by either entity as being subject to entity taxes or compulsory military service. Any persons who return from the District to either entity shall be subject to entity taxes and military service only as provided by the High Representative. Bosniacs. Croats, Serbs, and Others shall be constituent peoples of the District.

2. **The District Assembly**

   All legislative responsibilities within the District shall he vested in the District Assembly. The total membership, composition, and modality of selection or the Assembly shall be as specified by the Supervisor in the. Statute for District Government. This initial election of members of the Assembly shall take place when and as directed by the Supervisor, and subsequent elections shall take place as provided by enactment of the Assembly with approval of the Supervisor. If he deems it necessary, the Supervisor may devise and incorporate into the Statute (1) an "ethnic formula" designed to minimize the incentive for any ethnic group to seek to increase its population in the District in order to achieve exclusive political control, and/or (2) a provision for "vital interests" protection.

3. **The Executive Board**

   The Supervisor may include in the Statute such provisions as may be necessary (a) to permit the day-to-day management of the Brcko District to be placed in the hands of a professional city manager (hereinafter "the District Manager"), and (b) to change the responsibilities of the Brcko Executive Board in such a way that it will serve as a body giving general policy guidance to the District Manager in accordance with enactments by the Assembly and the orders of the Supervisor. The Statute may incorporate an "ethnic formula" relating to Executive Board membership.

4. **District Manager**

   If the Supervisor's Statute provides for a District Manager, the latter's essential function shall be to provide municipal services as efficiently as possible to all citizens of the District without any ethnic discrimination whatever. In the Statute the Supervisor may incorporate an appropriate "ethnic formula" to ensure an appropriate distribution of jobs in the public sector among the various ethnic groups, It shall be the responsibility of the District Manager, once appointed, to ensure that all municipal employees are compensated (in terms of their total remuneration from all governmental and political sources) on an equitable basis and without favoritism based on membership in any particular ethnic group or political party.

5. **Judicial and Penal System**

The Statute shall specify the number of judicial posts at the trial and appellate levels, and the Supervisor shall make the initial appointments of (a) the members of the District Judiciary, and (b) the Prosecutor. Subsequent appointments shall be made by the Brcko Executive Board subject to the approval of the Assembly and the Supervisor. All such appointments shall be made in accordance with any "ethnic formula" specified in the Statute. All persons appointed to such positions must be professionally qualified.

Since the Tribunal considers that as a general rule persons sentenced to imprisonment should not be confined in prisons administered by the entities. the Supervisor and later the Executive Board will be responsible for procuring (e.g., by purchase or lease) prison premises to be administered by the Municipal Manager (if appointed). Persons sentenced to imprisonment shall be sent to entity prison facilities only with the Supervisor's approval.

6. **Law Revision Commission**

The Supervisor shall appoint a three-member commission with responsibility for proposing n modifications of existing laws to produce a uniform system of laws throughout the District. The commission shall be chaired by an international jurist and include a representative of the Federation and a representative of the RS, all of whom will be selected by the Supervisor. The commission's recommendations will be submitted to the Assembly for approval and thereafter be subject to the approval of the Supervisor. If the Assembly fails to act after a reasonable time, the Supervisor may himself render a decision on the commission's recommendations.

7. **Law Enforcement**

The Statute shall specify the structure of the District Police Department and shall provide for continuing IPTF guidance. The Chief of Police shall be appointed by the Brcko Executive Board with the approval of the Assembly and the Supervisor. The Statute may also provide for an appropriate "ethnic formula" covering the entire police force and staff. The Statute shall emphasize that the principal responsibilities of the District Police Force shall be, not only to provide normal law-enforcement functions throughout the District. but also to ensure complete freedom of movement within the District with particular emphasis on freedom of movement both between the eastern arid western portions of Republika Srpska and between the Federation and Croatia.

8. **Customs Service**

The Statute shall provide for the establishment of a District Customs Service which shall, in accordance with current practice, collect duties at the border. The Supervisor is encouraged to ensure that the District Customs Service aggressively and effectively enforces BiH customs law throughout the District and in the "Arizona market". If appropriate. an "ethnic formula" may be employed in staffing the Customs Service.

9. **Taxation and Financial Matters**

After consultations with representatives of OHR, BiH, and the two entities, the Supervisor shall make provision in the Statute for an appropriate system of taxation within the District. Responsibility for the preparation of an annual District budget shall be that of the Brcko Executive Board (acting in consultation with the District Manager, if appointed), and the budget shall than be submitted to the Brcko Assembly and the Supervisor for approval. The budget should include an estimate as to how much revenue will be raised within the District. Any "short-fall" will be financed by the entities, two-thirds from the Federation and one-third from the RS, except as otherwise agreed or as directed by the Supervisor or his designee. Any necessary coordination of the financial affairs of the District with those of the entities shall be provided by the Supervisor or his designee for such purposes. See 43 of Final Award.

10. **Voting**

Every otherwise eligible resident of the District who is a citizen of BiH shall be entitled to vote (a) for the District Assembly; (b) for the BiH Presidency and the BiH House of Representatives by casting a ballot in the entity (if any) of which the voter has elected to be a citizen; and (c) in the elections of the entity of his or her

choice. All such voting shall be in accordance with regulations to be promulgated by the Supervisor, and the conduct of the elections shall be supervised by OSCE.

11. **Symbols**

    The District Assembly shall determine all symbols for the District, provided that all such symbols shall be politically and ethnically neutral and subject to final approval by the Supervisor. There shall be no specific flag for the District other than the flag of Bosnia and Herzegovina. The flags of both entities may be flown within the District, but the flag of one entity will not be flown without the other being flown on essentially equal terms. Both the Latinic and Cyrillic alphabets will be used on essentially' equal terms for all official purposes. Any citizen of the District shall have the right to request the issuance of official documents in any of the three officially-recognized languages and shall have the right to use any such language in official and all other correspondence, The District government and the Supervisor shall be responsible for issuance of a District identification card.

12. **Educational Curriculum**

    Each school within the District will continue to use its existing curriculum for the remainder of the 1999 academic year. As to subsequent years, the Supervisor will establish an Educational Committee with representation from all ethnic groups and appropriate BiH agencies and international community officials. The Supervisor will have final decision-making authority in such matters throughout the period of supervision, after which that authority will be in the hands of the Executive Board.

13. **Public Properties**

    The Supervisor shall have authority (a) to transfer, as necessary, the ownership of public assets within the District from the entities to the District government, and (b) to establish a system of regulation for the operation of public utilities and. enterprises.

Office of the High Representative