A Major Step Forward for Bosnia and Herzegovina

By Roderick Moore

Although deep political divisions persist in Bosnia and Herzegovina, the people of this country can rightfully be proud of what they have accomplished since the Dayton Peace Agreement was signed in November 1995.

Brcko District, on the Sava River in northern Bosnia, is one example where significant progress has been made. When the war ended, Brcko was a shattered community – riven by divisions and displacements, devastated physically, and haunted by the memory of horrific war crimes and atrocities. Because of its strategic position at a confluence of routes connecting different parts of Bosnia with one another and with Croatia and Serbia, the issue of Brcko was so sensitive, and so deeply disputed, that the parties could not resolve what to do about it at Dayton. In the end, they agreed to establish an international arbitration tribunal, comprising international and domestic legal experts, to decide Brcko's fate.

In 1999, this Tribunal issued a "Final Award" that granted to the former municipality of Brcko a special status. Territorially, Brcko would still belong jointly to the Federation and the Republika Srpska, the two Entities that make up Bosnia and Herzegovina. However, the Tribunal mandated that the entities delegate all the authorities they had previously exercised over Brcko to a new self-governing, multi-ethnic "District." For over twelve years, the city and the surrounding district have been administered by local elected officials supported by an international Supervisor.

The Supervisor is vested with sweeping powers, including the authority to promulgate binding decisions. He/she was also charged with facilitating refugee return, promoting democratic and multiethnic government, and reviving the area's economy.

I became the sixth Brcko Supervisor in September 2010, and, like my immediate predecessor, I have held the post concurrently with the position of Principal Deputy High Representative for Bosnia and Herzegovina.

Over the last decade and a half, Brcko has developed multi-ethnic institutions, and the District has been the scene of significant refugee return. An integrated education system is in place and in many aspects of social, political, and economic affairs, Brcko has emerged as a model for the rest of Bosnia and Herzegovina.

It is because of this remarkable catalogue of achievement – which has been possible because of the resilience and hard work of the people of Brcko and the help they have received from the dedicated staff of the Supervisor's office in the District – that the international community believes that District leaders should assume full responsibility for managing their own affairs.

The international community reached this conclusion after exhaustive consultation with Brcko residents and their representatives and with the authorities at the Entity and state level.

With this in mind, on 23 May I decided – with the almost unanimous support of the PIC Steering Board — that day-to-day supervision should be suspended by the end of August this year. The High Representative also decided that the Brcko Final Award Office in the District should be closed by that same date.

Suspending supervision in Brcko is a big step in Bosnia and Herzegovina's long road to full post-war recovery. It reflects the real progress that has already been made in the District and in the country, and at the same time it creates conditions in which further progress can be made. I would not have taken this decision were it not the view of the international community that the Brcko authorities now have the institutional capacity and the political will toassume full accountability for serving the people of the District.

The decision to suspend supervision is good news for the people of Brcko and good news for the people of Bosnia and Herzegovina. It is a measured and practical response to progress that has been made, and it makes further progress possible.

This move reflects the resolve of the International Community to support Bosnia and Herzegovina's recovery by

helping it to develop the institutional capacity that allows it to move forward under its own steam – and then stepping aside when that capacity has been developed.

The move brings Bosnia and Herzegovina's constitutional order closer to that of a normal European democracy, and in this way it hopefully offers an important boost to the country's Euro-Atlantic integration effort.

Of course, the people of Brcko can count on the continued support and engagement of the International Community. The PIC Steering Board and the OHR will monitor and facilitate, if necessary, developments in the District. The OSCE and EUFOR will maintain their presence on the ground, and the European Union Delegation will establish an office in Brcko in the coming months.

Problems remain, and they should not be minimised. In Brcko, as in the rest of Bosnia and Herzegovina, political divisions have made it harder to tackle the scourge of crime, corruption, nepotism, administrative inefficiency, poverty and unemployment. Tens of millions in funds that could be used to stimulate the District's economy and create jobs lie idle due to disagreements over how to spend them. Employment in public institutions is subject to nepotism, cronyism, and bribes. The District administration is bloated, and citizens frequently tell me that they feel powerless to influence decision-making. Citizens feel that powerful officials operate above the law.

Nevertheless, the international community has given its confidence to Brcko's leaders to overcome these and other challenges. And it has left in place numerous safeguards in the event that things in Brcko unexpectedly take a turn in the wrong direction.

Supervision is *suspended*, not ended, and could be reactivated, if necessary – although I certainly hope, and do not anticipate, that this will be necessary. Moreover, the High Representative still retains all his authorities, with the full backing of the UN Security Council, over the entire territory of BiH, including Brcko.

In addition, the powerful Tribunal itself – the same institution whose decisions created Supervision and Brcko District – continues to exist. In line with the Final Award, it will continue to exist until the conditions are fulfilled for it to close. And this Tribunal wields great power. In the event of serious non-compliance with the terms of the peace settlement by one or other Entity, the Tribunal has the legal authority to modify the Final Award as necessary – including the authority to place part or all of the District within the exclusive control of the other entity, if necessary.

Perhaps most importantly, BiH's highest judicial body – the Constitutional Court – is also fully empowered under the country's constitution to decide in disputes relating to the status and powers of Brcko District.

However, the international community is hopeful that these safeguards will not be necessary. Brcko has led the way in the past and it can lead the way in the future. The people of this District have shown that – whatever the obstacles – they are determined to move forward into a future that is prosperous and secure. With the rest of the International Community, I stand ready to provide whatever assistance the people of Brcko may still need to realize this future.