

Supervisory Order Regulating the Status of Legal Acts issued by Brcko Supervisors

August 31, 2012

In accordance with the powers vested in me by Paragraphs 8, 10, 13, 37 and 43 of the Final Award, dated March 5, 1999, of the Arbitral Tribunal for Dispute over the Inter-Entity Boundary in Brcko Area (hereinafter: Arbitral Tribunal);

Recalling the Award of the Arbitral Tribunal of February 14, 1997, which in the course of establishing an international supervision of Dayton implementation in the Brcko area ordered establishment of “an office and staff in Brcko under the leadership of a Deputy High Representative and Supervisor for Brcko (...) with specific authority to promulgate binding regulations and orders (...) which shall prevail against any conflicting law. All relevant authorities including courts and police personnel shall obey and enforce all Supervisory regulations and orders”;

Noting that the implementation of the Awards has been facilitated through a total of 132 Supervisory Orders and various letters with the legal effect of Supervisory Orders (hereinafter “Supervisory Orders”) published in the Official Gazette of Brcko District of Bosnia and Herzegovina;

Recalling that the Peace Implementation Council, in its Communique of May 23, 2012, endorsed the High Representative’s decision to close the Brcko Final Award Office by August 31, 2012, supported my decision to suspend the exercise of my supervisory functions as of the same date, and recognised the intent of the Supervisor to exercise his/her functions under paragraphs 13 and 67 of the Final Award when the conditions set out in those provisions have been met;

Emphasizing that the Supervisor retains the authority to resume exercising his/her functions at any time after August 31, 2012, at his/her own discretion;

Having in mind that the Supervisor’s authority to issue legally binding orders stems from public international law and that District institutions must possess the authority only to alter legal acts enacted or amended by Supervisory Orders rather than the Orders themselves;

Determined to ensure legal certainty regarding further implementation of Supervisory Orders following the suspension of Supervisory functions and to enable authorities in the Brcko District to assume certain responsibilities;

I hereby order that, upon entry into force of this Order:

1. The Brcko District Assembly may, in accordance with the procedures prescribed in the District Statute, amend or repeal legal acts falling within the purview of the Assembly that were enacted by Supervisory Orders.
2. The Brcko District Assembly may, as provided for in the Assembly’s Rules of Procedure, provide an authentic interpretation of legal acts falling within the purview of the Assembly that were enacted by Supervisory Orders.
3. The Brcko District Government may, in accordance with the procedures prescribed in the District Statute and the Law on Government of Brcko District, regulate matters falling within the purview of the Government or other District executive authorities that are currently regulated by Supervisory Orders.
4. In the event of a dispute regarding competence over matters arising from paragraphs 1 through 3 of this Order, the District Government and/or Assembly may request that the District Appellate Court determine whether the Assembly or Government has jurisdiction.
5. Notwithstanding any other provision of this Order, the legal consequences of Supervisory Orders and of legal acts enacted by Supervisory Orders can not be retroactively changed, altered, or abolished, except in conformity with the provisions of the District Statute regulating retroactivity of laws.

6. Notwithstanding any other provision of this Order, the provisions of Supervisory Orders dismissing individuals and/or imposing bans or restrictions against natural and legal persons in the District shall remain in effect and cannot be amended or put out of force by any District institution. All such dismissals and/or bans or restrictions, including those decreed to be permanent, shall cease to be in effect when determined by the Supervisor or once Supervision is formally terminated in line with the Final Award.
7. Notwithstanding any other provision of this Order, matters regulated by Supervisory Orders having permanent effect cannot be regulated by any District institution. This includes Paragraphs 1 and 3 of the Supervisory Order Abolishing Entity Legislation within Brcko District and Declaring the Inter-Entity Boundary Line to be of no Further Legal Significance Within the District dated August 4, 2006.
8. For the purposes of this Order, the term 'Supervisory Order' encompasses both Supervisory Orders as well as letters of Supervisors with the legal effect of Supervisory Orders that have been published in the Official Gazette of Brcko District.
9. This Supervisory Order has immediate effect without further procedural steps. It shall be published without delay in the Official Gazette of the Brcko District of Bosnia and Herzegovina. All public officials in the Brcko District shall take all necessary measures to ensure that it is executed in full and on time.
10. This Supervisory Order is published in English and in the official languages of Bosnia and Herzegovina.
11. The provisions of this Order override all inconsistent legislation and legal acts of the Brcko District to the extent necessary to give this Order full effect.

Roderick W. Moore

Supervisor of Brcko District

Principal Deputy High Representative