

Supervisory Order on Monuments

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 ("the Final Award"), of the Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area ("the Brcko Tribunal");

Emphasizing that peace, tolerance, justice, and equality of all peoples are recognized in the Bosnia and Herzegovina Constitution and the Statute of the Brcko District of Bosnia and Herzegovina;

With reference to the Law on Monuments and Symbols of October 15, 2003, published in the "Official Gazette of the Brcko District of BiH", No. 22/03 (hereinafter "the Law on Monuments") which regulates "the procedure of erection of monuments and symbols on the public areas of the Brcko District of Bosnia and Herzegovina, their maintenance and their preservation";

Recalling that relevant parts of the above-mentioned Law stipulates that "Aiming to provide equality of all constituent peoples in the District, Bosniac and Croat monuments will be placed in the central part of the Brcko town, between the Sava Mosque and the Catholic Church" and that "Location and size of these monuments shall correspond to the location and size of the Monument to 'Serb Defenders of Brcko'";

Regretting that this Law has not yet been fully implemented in this regard mainly due to political disagreement over the location of such monuments, thereby maintaining the unequal arrangement that is inconsistent with the spirit and provisions of the Statute of Brcko District of Bosnia and Herzegovina and of the Final Award;

Having previously felt compelled to intervene by way of my Supervisory Order of March 23, 2007 reiterated in my letter of April 18, 2008, suspending any construction of monuments in the Brcko District until more suitable conditions for agreement were obtained;

Having consulted since then with relevant associations and political parties over many months with the aim to find an amicable solution;

Encouraged by the political agreement amongst all political parties in the Post-Election Political Agreement for a Better Brcko District which includes "to have monuments built in 2009 for the fallen members of military components of the AR BiH and HVO";

Mindful that all District taxpayers have already contributed to the "Serb Defenders of Brcko" monument since the District Government, based on decisions by District Courts, has had to pay BAM 800,000 as compensation for the illegal expropriation of part of the landplot on which the monument is located;

Further encouraged by the respective agreements reached on November 5, 2009, between all political parties and on November 10, 2009, between the Veterans Association of Republika Srpska, the Association for Construction of Monument to HVO and the Association "Not to be Forgotten", respecting the right of each association to determine the location for its respective monument in the central part of Brcko town, not objecting to the existing erected monument for the "Serb Defenders of Brcko", and supporting the other associations' choice of location for the monuments to be constructed;

Recognizing a broad desire within the Brcko community and amongst political parties to also remember the many civilian victims of war in Brcko from 1992 to 1995 and from 1939 to 1945;

Calling upon the authorities to find a way to commemorate the civilian victims of war in a dignified manner;

Having therefore concluded, with the unanimous consent of political parties and associations that a Supervisory Order would be the most effective and acceptable way to assist and ensure smooth implementation of the agreements reached;

Commending the associations and the political parties for their mature efforts to resolve the issue in an atmosphere of tolerance, dignity and respect;

Aiming to foster reconciliation amongst all peoples in the District and to contribute to the multi-ethnic character of the District;

I therefore hereby order that:

Monuments to fallen soldiers

1. The monument to fallen members of the Army of the Republic of Bosnia and Herzegovina (ARBiH) shall be located in the park in front of the Grand Hotel Posavina within, and not exceeding, the micro-location marked 'A' in the Annex to this Supervisory Order.
2. The monument to fallen members of the Croat Defense Council (HVO) shall be located in the park in front of the Old City Hall ("Vijecnica") within, and not exceeding, the micro-location marked 'B' in the Annex to this Supervisory Order.

Memorial for the civilian victims of war

3. There shall be a memorial for all civilian victims of war behind the Old City Hall ("Vjecnica") on the micro-location marked 'C' in the Annex to this Supervisory Order.
4. The memorial from Paragraph (3) shall be politically, nationally, ethnically and religiously neutral and be based on the principle of equality of all constituent peoples and others.
5. The Brcko District Government shall, without delay, conduct a design contest in accordance with Article 43 (2) b) of the Law on Public Procurement of Bosnia and Herzegovina inviting proposals for the design of the memorial, to be followed by a tender procedure for a public works contract for the construction of the memorial selected in the design contest.
6. The Mayor shall appoint the members of a Jury that shall be formed in accordance with Article 44 of the Law on Public Procurement of Bosnia and Herzegovina in order to assess the proposals submitted for the design of the memorial and to select the winner or winners.

Procedure

7. The procedure of issuance of all necessary permits for the construction of Monuments from Paragraphs (1), (2) and (3) shall be conducted in line with the Law on Monuments, Law on Urban Planning and other respective rules and regulations of Brcko District.
8. This Supervisory Order serves as a legal basis for the free of charge acquisition of construction right on the land parcels to be created for the purpose of construction of Monuments from Paragraphs (1) and (2) to the benefit of the Association for Construction of Monument to HVO and the Association "Not to be Forgotten".
9. For the avoidance of legal ambiguity, this Supervisory Order prevails over any inconsistent urban planning documents. All holders of activity of development of planning documents as well as the District Assembly shall adjust any future relevant urban planning documents to this Supervisory Order.

Funding

10. Funds needed for the construction of monuments are to be secured in the District Budget for the Fiscal Year 2010 in the amount of BAM 110,000 each for the construction of the monuments to the AR BiH and HVO, and in the amount of BAM 250,000 for the construction of the memorial for civilian victims of war. The relevant associations shall be responsible for securing from their own sources any funding for the costs of the memorials in Paragraphs 1 and 2 over and above that provided in this Paragraph.
11. Funds needed for landscaping and associated costs of the memorials in Paragraphs 1, 2, and 3 are to be secured in the District Budget for Fiscal Year 2010 in the amount of BAM 25,000 for

each memorial.

12. Funds needed for landscaping and associated costs for the “Serb Defenders of Brcko” monument are to be secured in the District Budget for Fiscal Year 2010 in the amount of BAM 100,000.
13. BAM 20,000 are to be secured in the District Budget for Fiscal Year 2010 for providing prizes to the winner or winners of the design contest for the memorial for civilian victims of war.
14. The District shall allocate the funds mentioned in Paragraphs (10), (11), (12) and (13) above from unspent capital funds from Fiscal Year 2006, citing this Order as the authority for so doing on an exceptional basis.
15. In the event the amounts provided for in Paragraphs (10), (11) and (12) are in excess of the actual requirements, such surpluses will be made available in the form of grant(s) to the respective association(s) for the benefit of social cases amongst the members of the respective associations.

Final provisions

16. This Supervisory Order is to be legally considered as a “written dispensation” in terms of Paragraph 8 of the Supervisory Order on Urban Planning dated March 23, 2007.
17. With regard to Paragraph 6 of this Supervisory Order, the Supervisor retains the right, in the absence of a majority within the Jury to select a design proposal, to either direct a new contest, or to select the best design proposals.
18. 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.
19. 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.
20. For the avoidance of doubt, the provisions of this Order override all inconsistent legislation and legal acts to the extent necessary to give this Order full effect.

Dr. Raffi Gregorian

Supervisor of Brcko District

Principal Deputy High Representative

Annex to the Supervisory Order on Monuments,

dated December 21, 2009