

# Supervisory Order regulating the status of all electric power transmission lines and facilities situated in the Brcko District of Bosnia and Herzegovina

***In accordance with*** the powers vested in me by Paragraphs 8, 10, 13, 34, 37, and 43 of the Final Award dated March 5, 1999, of the Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brcko Area (“the Brcko Tribunal”);

***Noting in particular*** the powers of the Supervisor provided for in Paragraph 12 of the Annex to the Final Award of the Brcko Tribunal dated August 18, 1999, reading that “All public property within the District shall be administered by the District Government which shall have the authority, with the approval of the Supervisor, to privatize public property in accordance with applicable BiH law. No public property in the District may be disposed of except in accordance with BiH law and with the approval of the Supervisor”;

***Reiterating*** that the principle envisaged in the Final Award and its Annex, by which all the public property in the Brcko District of Bosnia and Herzegovina (hereinafter: Brcko District BiH) belongs to the Brcko District BiH and shall be administered by the Brcko District BiH Government, is emphasized once again when it comes to the power lines and facilities located in the Brcko District BiH in the Agreement on the Implementation of the Entity Obligation from the Final Arbitration Award for Brcko on Providing Electricity, dated September 25, 2001, stipulating in the relevant part that “the

facilities for distribution of electric power... that were under the jurisdiction of "Elektro distribucija" Tuzla and "Elektro distribucija" Bijeljina, independent companies existing within the territory of the Brcko District, and that were in possession of JP "Elektroprivreda BiH"/Elektro distribucija Tuzla and JMDP "Elektroprivreda RS"/ZDP Elektro distribucija Bijeljina, became the property of the Brcko District Government/Division, as of January 1<sup>st</sup>, 2001";

**Referring** to the Law on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No. 7/02 and 13/03), Law Establishing an Independent System Operator for the Transmission System of Bosnia and Herzegovina (Official Gazette of BiH, No. 35/04) and Law Establishing the Company for the Transmission of Electric Power in Bosnia and Herzegovina (Official Gazette of BiH, No. 35/04);

**Reminding** that, at the time of the transfer of property from Elektroprivreda RS and Elektroprivreda BiH to Elektroprenos – Elektroprijenos BiH, a.d. Banja Luka (hereinafter: Elektroprenos BiH), as a state level company in charge of transmission of electric power throughout Bosnia and Herzegovina, the transmission facilities situated in the Brcko District BiH were considered to be a property of Elektroprivreda RS based on being administered by this company, while a minor part of them was considered to be a property of Elektroprivreda BiH;

**Accepting** fully that Elektroprenos BiH is the owner and operator of the electricity transmission system of BiH, which includes Brcko District BiH, which in accordance with Paragraph 9 *et seq.* of the Final Award, is under the exclusive sovereignty of the state of Bosnia and Herzegovina and where the legal authority of both entities is permanently suspended;

**Having** no intention to interfere in any way with the lawful

operations and structure of Elektroprenos BiH, but being seriously concerned about the status of this property in case of either *de facto* or *de jure* dissolution or liquidation of Elektroprenos BiH, especially considering such a situation potentially happening after the end of the international supervisory regime in the Brcko District BiH;

**Concluding** that this issue may potentially endanger the transmission, distribution and supply of electricity to and through the Brcko District BiH as well as the regulation of the whole system;

**Determined** to protect the letter of the Final Award when it comes to the public property situated in the Brcko District BiH;

**Recalling** the provisions of my Supervisory Order of April 30, 2009 "Delegating Authority for Disposal of Public Property to the Institutions of Brcko District of Bosnia and Herzegovina" and the Paragraph 2 of the Operative Part which provides that "The Supervisor retains the right to intervene in disposals of public property when he deems that a disposal of public property may threaten the multi-ethnic character, democratic governance, public order, or stability of the District";

**Having, therefore, decided** that the interest, status and powers of the Brcko District BiH can best be protected by way of a Supervisory Order;

I hereby order that:

1. In case of the lawful dissolution or liquidation of Elektroprenos BiH as a legal entity, the property of that company situated in the Brcko District BiH shall, in the procedure of division of assets between the shareholders, be automatically considered as a property of the Brcko District BiH as per the Final Award and the Annex thereto.

2. In the case described in Paragraph 1 of this Order, the responsible public authorities of the Brcko District BiH, as well as the Brcko District BiH company engaged in electricity related activities shall take all necessary measures within their competences to ensure that the above mentioned property be given an appropriate status in line with this Supervisory Order.

3. At no time and under no conditions may the authorities, officials, institutions, agencies, or public companies of either entity exercise any authority over the property and systems of Elektroprenos BiH located in the Brcko District BiH, or, in the event of the case described in Paragraph 1 of this Order, the related property of Brcko District BiH;

4. All public officials of the Brcko District BiH shall undertake all necessary measures to ensure implementation of this Supervisory Order.

5. This Supervisory Order has immediate effect and shall be published without delay in the Official Gazette of the Brcko District BiH.

6. This Supervisory Order is published in both English and the official languages of Bosnia and Herzegovina. In the event of any inconsistency, the English version is authoritative for all purposes.

Dr. Raffi Gregorian

Supervisor of Brcko District

Principal Deputy High Representative