

Supervisory Order on Temporarily Suspending Payments of Salaries and Remunerations to the Councilors of the Assembly of Brcko District

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, 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 24 of the Supplemental Award of the Brcko Tribunal dated March 15, 1998, that paragraph reading in relevant part that "The Supervisor ... shall enjoy in the Brcko area powers equivalent to those conferred upon the High Representative by the Bonn Conference of December 1997, including the power to remove from office any public official considered by the Supervisor to be inadequately cooperative with his efforts to achieve compliance with the Dayton Accords, to strengthen democratic institutions in the area, and to revitalize the local economy"; and noting Paragraph XI.2 of the Conclusions of the Bonn Peace Implementation Conference held on December 9 and 10, 1997, providing that the High Representative (and therefore, pursuant to paragraph 24 of the Supplemental Award, the Supervisor) may issue "binding decisions, as he judges necessary ... [which] may include actions against persons holding public office";

In further accordance with paragraphs 13 and 67 of the Final Award, which provide that the jurisdiction of the Arbitral Tribunal will remain in existence until such time as "the Supervisor, with the approval of the High Representative, has notified the Tribunal (...) that such (Brcko District) institutions are functioning effectively, and apparently permanently;"

Recalling that elections for the Brcko District Assembly were held on October 5, 2008 and that these elections gave the elected councilors a mandate to constitute the new Assembly within a reasonable period of time in order to elect the Speaker, the Deputy Speaker and the Mayor and thus create the conditions for forming a new Government that would serve the interests of the District and its residents;

Reminding that since elections were held, various political parties have requested assistance from my staff and I to facilitate discussions among political parties, so that a viable, legitimate governing coalition that supports the District could be formed in accordance with the Final Award and the Statute of Brcko District;

Reminding further that the lack of progress in forming the new governing coalition had already forced me to intervene through my Supervisory Orders of December 23, 2008 and December 31, 2008, providing for temporary financing of District institutions and emergency funding for social benefits and court decisions;

Disappointed that, despite assurances given in advance by political parties to form a "concentration government" with all political parties represented in the Assembly as the only practicable and sustainable solution, the constitutive session of the Assembly was twice convened but adjourned in violation of the Rules of Procedure of the Assembly without an agreement on the candidates for the positions of the Speaker, Deputy Speaker and Mayor;

Concerned that with every passing day without new authorities and a budget further damage accumulates to the District and to the public confidence of residents in their institutions, including by negatively affecting thousands of peoples' lives and livelihoods, while a care-taker Government continues to act without parliamentary control;

Aware that Mr. Mirsad Djapo, who accepted the mandate of a Councilor in the Assembly and performs the duty of Mayor in technical mandate, bears equal responsibility as other Councilors, but for the time being continues to receive a salary in his capacity as Mayor;

Determined not to accept that Councilors of the District Assembly are avoiding their responsibility, violating basic rules of procedures of the Brcko District Assembly and thus, undermining the District institutions, and in that way endangering the completion of the Final Award;

Having therefore decided that it is necessary to hold the Councilors of the Brcko District Assembly accountable for their lack of determined action:

I hereby order that:

1. Salaries and remunerations to the Councilors of Brcko District Assembly of Bosnia and Herzegovina, paid from the budget of Brcko District shall be suspended with immediate effect until the appointment of Speaker, Deputy Speaker and the Mayor in accordance with the Statute of the Brcko District and the Rules of Procedure of the Brcko District Assembly. This suspension does not apply to regular payment of pension and health insurance contributions, taxes and compensations of material costs incurred as the result of the exercise of their functions and paid from the fund for material costs of the Assembly.
2. Salaries to the Mayor of Brcko District of Bosnia and Herzegovina, paid from the budget of Brcko District shall be suspended with immediate effect until the appointment of Speaker, Deputy Speaker and the Mayor in accordance with the Statute of the Brcko District and the Rules of Procedure of the Brcko District Assembly. This suspension does not apply to regular payment of pension and health insurance contributions, taxes and compensations of material costs incurred as the result of the exercise of functions of the Mayor and paid from the fund for material costs.
3. The Brcko District Finance Directorate shall suspend, with immediate effect, all payments of salaries and remunerations pursuant to Paragraphs 1 and 2 of this Order including payments of salaries and remunerations for January 2009.
4. Notwithstanding the suspension of salaries and remunerations imposed by Paragraph 1 and 2 of this Order, Councilors shall continue to diligently fulfill the entirety of their duties as members of the Brcko District Assembly. Should any of the Brcko District Assembly Councilors, in any way, default on their continuing obligations under this paragraph, the Presiding Councilor of the Brcko District Assembly shall inform me in writing whereupon further action may be taken.
5. All public officials, civil servants and employees in the Brcko District shall take all necessary measures to ensure that this Order be executed in full.
6. This Order has immediate effect without further procedural steps.
7. 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.
8. This Supervisory Order shall be published without delay in the Official Gazette of the Brcko District of Bosnia and Herzegovina.
9. This Supervisory Order is published in both English and the official languages of Bosnia and Herzegovina. In the event of any inconsistency, the English language version is authoritative for all purposes.

Dr. Raffi Gregorian
Supervisor of Brcko District
Acting High Representative