

Supervisory Order Amending the Statute of Brcko District, Enacting the Election Law of Brcko District, Enacting the Rules of Procedure of the Assembly of Brcko District and Amendments to Respective Regulations of Brcko District

In accordance with the powers vested in me by paragraphs 8, 10, 11, 13, 36, and 37 of the Final Award of March 5, 1999 of the Arbitral Tribunal for the Dispute over the Inter-Entity Boundary in the Brcko Area;

In accordance also with Article 9 of the August 18, 1999 Annex of the Final Award of March 5, 1999, which states that "In establishing the District electoral system, the Supervisor may select any voting mechanism that, in his judgment, will promote full and fair representation of all elements of the District's multi-ethnic population";

Recalling that the Statute of Brcko District was enacted by Supervisory Order dated March 8, 2000, establishing the initial organization of District institutions;

Further recalling that since then, the Statute has been amended by Supervisory Orders dated August 23, 2000; March 26, 2004; July 15, 2005; September 12, 2005; and February 2, 2007; and by Brcko District Assembly decision dated July 7, 2005;

Mindful that despite the introduction of an elected Assembly in 2004, none of the amendments to the Statute since then have addressed necessary changes to the functioning and structure of the Brcko District Assembly, which has remained unchanged since the Interim Assembly was established;

Noting that when I enacted amendments to the Statute on February 2, 2007, which introduced measures to make more effective the functioning of the Brcko District Government, I reserved the right to make further changes to the Statute, should that prove necessary or conducive to the efficiency of District institutions;

Noting further that on April 16, 2008, the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Amendments to the Election Law of Bosnia and Herzegovina, which was subsequently published in the Official Gazette of Bosnia and Herzegovina, No 33/08, on April 22, 2008;

Also noting that the Central Election Commission is expected on May 8, 2008, to announce officially the holding of elections for the Brcko District Assembly in October, 2008, thus leaving insufficient time for the Brcko District Assembly, under its outdated Rules of Procedure, to consider and adopt amendments to the Brcko District Election Law made necessary by amendments to the Election Law of Bosnia and Herzegovina;

Having in mind that the requirements deriving from the Law on Protection of Rights of Representatives of Members of National Minorities, adopted by the Parliamentary Assembly of Bosnia and Herzegovina on April 1, 2003 and published in the Official Gazette of Bosnia and Herzegovina, No. 12/03, providing for the representation of the national minorities in electoral bodies and for the procedure of their nomination and election are not yet reflected in Brcko District legislation;

Having also in mind that the multi-ethnic structure of the Brcko District Assembly requires a balance among the interests of constituent peoples, so that no group may exercise an unfair advantage over another group, a protective mechanism should therefore be put in place that in appropriate circumstances shall prevent outvoting of any of the constituent peoples in the Brcko District Assembly, while nevertheless taking care that such a mechanism does not hinder the work of the Brcko District Assembly;

Of the opinion that such changes are necessary to be made without delay in order to harmonize Brcko District legislation with State legislation and to improve the effectiveness and functionality of the Brcko District Assembly, especially encouraging and promoting inter-ethnic cooperation and the maintenance of harmony after Supervision has ended;

Recalling that since October 2006, I have received assurances from heads of caucuses of the Brcko District Assembly that they would discuss and consider options to prevent potential cases of outvoting;

Satisfied that discussions were held that resulted in a consensus on the need for such a mechanism even though no agreement could be reached on the exact modality for implementing it;

Bearing in mind that issues of the structure and functioning of the Brcko District Assembly, the representation of national minorities therein, and the mechanisms to prevent outvoting are all interconnected and that a comprehensive solution to these issues must be in place by May 8, 2008, so that all necessary preparations for Assembly elections in October 2008 can be made with absolute certainty about the roles and responsibilities of Councilors to be elected thereto;

Having consulted over a period of many months with the Speaker and Deputy Speaker, the Heads of Caucuses and independent Councilors, as well as with the Mayor and Deputy Mayor, and having received broad understanding and acceptance of the need for making this Order;

Having therefore decided to make the necessary amendments to the Statute and related legislation by way of Supervisory Order, and believing this course to be the most appropriate and needed to create the conditions required for the orderly termination of Supervision and for the effective functioning of District institutions after Supervision has terminated;

Again reserving the right to make further changes to the Statute should that prove necessary or conducive to the effective functioning of District institutions;

I therefore order that:

1. The Statute of Brcko District is hereby amended, so that the Statute of Brcko District of Bosnia and Herzegovina now reads as it appears in Annex I to this Supervisory Order. This amended Statute takes effect on the date of this Supervisory Order.
2. Every institution and every public official of Brcko District shall observe the provisions of the amended Statute with effect from the date of this Supervisory Order.
3. The Election Law of the Brcko District of Bosnia and Herzegovina, hereinafter set out in Annex II to this Supervisory Order, is hereby enacted as a Law of Brcko District. This Law takes effect on the date of this Supervisory Order.
4. Rules of Procedure of the Assembly of Brcko District of Bosnia and Herzegovina, hereinafter set out in Annex III to this Supervisory Order, is hereby enacted as a legal act of Brcko District. These Rules of Procedure take effect on the date of this Supervisory Order.
5. The laws on amendments to laws, hereinafter set out in Annex IV to this Supervisory Order, are hereby enacted as laws of Brcko District.
6. The laws on amendments to laws enacted by virtue of paragraph 5 of this Supervisory Order shall be published without delay in the Official Gazette of the Brcko District of Bosnia and Herzegovina, and shall enter into force on the eighth (8th) day after their publication.
7. The Statute, Election Law, Rules of Procedure, and laws on amendments to laws enacted by virtue of paragraphs 1 to 5 of this Supervisory Order may subsequently be amended by the Brcko District Assembly in accordance with the Statute of the Brcko District of Bosnia and Herzegovina and the Rules of Procedure of the Assembly of Brcko District of Bosnia and Herzegovina.
8. 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 District shall take all necessary measures to ensure that it is executed in full and on time.
9. 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.

10. The Election Law, Rules of Procedure and laws on amendments to laws hereby enacted and attached to this Supervisory Order as its Annexes II, III and IV are published in the official languages of Bosnia and Herzegovina, which are authoritative for all purposes. The Statute hereby enacted and attached to this Supervisory Order as its Annex I is published in English and in the official languages of Bosnia and Herzegovina. In the event of any inconsistency:

- (a) the English language version is authoritative for all purposes while Supervision continues in the District;
- (b) the version in the official languages of Bosnia and Herzegovina is authoritative for all purposes after Supervision has terminated.

Dr. Raffi Gregorian

Supervisor of Brcko

Principal Deputy High Representative