

Supervisory Order appointing members of the Audit Office 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 ("the Final Award");

Recalling the Law on Audit of Financial Operation of the Institutions of Brcko District of Bosnia and Herzegovina, No. 0-02-022-144/05, enacted by the District Assembly on July 7, 2005 and published in the Official Gazette of Brcko District No. 21/05 dated July 26, 2005 ("the Audit Law"), which provides for the establishment of an office for audit of the financial operations of Brcko District institutions ("the Audit Office");

Further recalling that Articles 6 and 7 of the Audit Law provide that there shall be one Auditor General, in charge of the Audit Office, and two Deputy Auditors General, and that the District Assembly shall appoint individuals to these three positions;

Further recalling that Article 42(1) of the Audit Law provides that the Auditor General and the Deputy Auditors General shall be appointed by the Assembly within three months from the date the law enters into force, and Article 42(2) of the Audit Law provides that the Assembly shall enact a decision establishing the procedure for appointment of these persons within thirty days of the law entering into force;

Noting that pursuant to Article 42(2) of the Audit law, the District Assembly, on November 30, 2005, adopted the Decision on the Procedure for Selection and Appointment of the Auditor General and two Deputy Auditors General ("the Decision"),

albeit disappointed that the Decision was adopted over three months after the thirty-day deadline in Article 42(2) of the Audit Law had expired;

Further noting that under the terms of the Decision, the Committee for Appointments, Mandates and Immunity of the District Assembly (“the Committee”) would advertise a vacancy notice for the three positions, and rank applicants in a shortlist; the Committee would then forward the shortlist to the President of the Assembly within ten days after the vacancy notice closed; on the basis of these rankings, the President of the Assembly would then make a proposal to the Assembly for appointment of three candidates, and the Assembly would vote to adopt or reject that proposal; if the Assembly rejected the proposal, the Committee would then open a new vacancy notice;

Further noting that pursuant to the Decision, a vacancy notice was initially opened by the Committee on December 5, 2005 but was subsequently cancelled by the Committee on January 25, 2006, because the applicants displayed insufficient ethnic diversity;

Further noting that a second vacancy notice was opened by the Committee on March 20, 2006; the Committee interviewed the candidates on June 30, 2006, and forwarded to the President of the Assembly a shortlist on July 4, 2006; the shortlist was included on the agenda for the 35th Assembly session, but the Assembly voted to reject the proposal on July 20, 2006;

Further noting that subsequently the Committee opened a third vacancy notice on September 8, 2006, as a result of which applications were made, and the Committee interviewed qualifying candidates on October 27, 2006; but the Committee was subsequently unable to make any progress in selecting the best candidates, and therefore it was not able to compile a shortlist to forward to the President of the Assembly;

Disappointed by the long delays and politicization exhibited in the process of appointing the Auditor General and the two deputies, and the disregard of the time limits stated in Article 42 of the Audit Law; and skeptical of the prospect of the Assembly executing its legal duties under the Audit Law within a reasonable time, or at all, I wrote to the Chairman of the Committee, on December 11, 2006, instructing him to “immediately suspend any further activities in the selection process” of the Auditor General and the two deputies, and requiring him “to deliver the auditors’ vacancy notices, all applications with supporting documents, minutes of the interviews, and any other documents generated in the course of the process, to my Office”;

Grateful to the Chairman for his prompt and comprehensive response to my letter of December 11, 2006, in which he enclosed all relevant documents;

Having carefully reviewed the papers the Chairman submitted to this office, and concluding, after that review, that the most qualified candidate for the position of Auditor General is Ms. Dzevida Hodzic, and the most qualified candidates for the positions of Deputy Auditors General are Mr. Tomo Vozetic and Mr. Bozo Zimonjic;

Regretting the need to intervene to make these appointments, but seeing no reasonable alternative in light of the long delays so far and the manifest risk that the process of selection by the Assembly could otherwise extend far into the future;

Noting that there has never been an internal audit of the District’s institutions since the District was established; this is an anomaly within Bosnia and Herzegovina which it is imperative to correct immediately, so the Supervisor can be confident that District institutions are functioning effectively within the meaning of paragraphs 13 and 67 of the Final Award;

Emphasizing the importance of the Audit Office as an institution of Brcko District, in holding public institutions in the District to the highest financial and accounting standards in expenditure of public funds, and believing the effective operation of the Audit Office to be a prerequisite to the financial health of the District;

I hereby order that:

1. Ms. Dzevida Hodzic is appointed to the position of Auditor General of the Audit Office.

2. Mr. Tomo Vozetic and Mr. Bozo Zimonjic are appointed to the positions of Deputy Auditors General of the Audit Office.

3. The aforementioned three individuals shall take up their appointments with effect from March 1, 2007.

4. Subject to paragraph 5 below, these appointments shall take effect as if they had been made pursuant to Articles 6(2), 7(2) and 42 of the Audit Law. The appointees shall be subject to all prevailing laws and regulations applicable in the District governing the terms of their appointment and the conduct of their duties, including the provisions of the Audit Law.

5. The three individuals appointed by this Supervisory Order shall be subject to a ninety-day probation period. After that ninety-day period, having considered their performance, and in each case I shall decide either to:

(a) make the appointment unconditional (in which case it shall become a full five-year appointment pursuant to Articles 6(3) or 7(3) of the Audit Law as the case may be, the five year period in each case running from March 1, 2007);

(b) terminate the appointment and replace them with another appointee; or

(c) subject the individual to a further probationary period.

6. The District Mayor shall ensure that suitable premises, appropriately equipped, are available for use by the Audit Office by March 1, 2007 at the latest.

7. This Supervisory Order has immediate effect and shall be published without delay in the Official Gazette of the Brcko District. The Mayor, the Government and Assembly of the Brcko District shall undertake all necessary measures to ensure its implementation.

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

Dr. Raffi Gregorian
Supervisor of Brcko
Principal Deputy High Representative