

Supervisory Order amending the Statute 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;

Recalling that the Statute of Brcko District was enacted by Supervisory Order dated March 8, 2000, and reflected a plan for the organization of District institutions that has since then been developed by successive Supervisors and Mayors;

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

Noting that the Statute currently in force is now out of date in a number of ways, in that it does not reflect several recent changes to the District administration, including amongst others the following:

(a) Customs and border administration at the Brcko-Gunja frontier, previously a responsibility of the District, are now undertaken by other State bodies;

(b) certain functions relating to the District judiciary are no longer exercised by the Brcko District Judicial Commission, and are instead undertaken by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina;

(c) there has been significant restructuring and reform of public administration, to which all of the following have contributed:

(i) the District Government has recently adopted recommendations for public administration reform made by the consulting firm "Oskar Zagreb";

(ii) reforms were mandated by Supervisory Orders dated July 7, 2006 (restructuring the District Revenue Agency) and August 16, 2006 (restructuring the Department of Urbanism, Real Estate Affairs and Economic Development); and

(iii) three laws, on Civil Service in Administrative Bodies, the Public Attorney's Office, and Public Property, were enacted by Supervisory Orders dated September 15, 2006;

and as a result of these reforms a number of new District public institutions have been or are being created;

(d) the restriction on retroactive laws, contained in Article 40 of the Statute as it is currently formulated, is too broad, and is hindering some important legislative initiatives;

Further noting that it is important to make changes to the way the District Government functions, so that in future it will make its decisions collectively and with a broader consensus than has hitherto been the case;

Of the opinion that the Statute must therefore be updated, but noting that under Article 34(2) of the Statute, a three-fourths majority of Councilors must approve any change to it; and noting that, due to the complex and extensive nature of the changes necessary, it is unlikely that this majority can be achieved within the remaining time during which Brcko District will be subject to Supervision;

Further of the opinion that some of the changes necessary to the Statute of Brcko District cannot be made by the Assembly, and must be made by the Supervisor, because Article 1(5) of the Statute as it is currently formulated prohibits changes to Article 1 of the Statute;

Having offered to enact changes to the Statute by way of Supervisory Order, in a letter to the Mayor and the President of the Assembly dated December 11, 2006, and having received positive responses to that offer;

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

Having consulted with the Mayor and the Deputy Mayor, and Assembly members representing all three constituent peoples, and members of the Brcko District Judicial Commission, and having carefully considered all comments and proposals received as a result, and having received broad support for the making of this Order and

for the enactment of the changes to the Statute contained in the Annex to this Order;

Reserving the right to make further changes to the Statute should that prove necessary or conducive to the efficient functioning of District institutions;

I therefore order that:

1. The Statute of Brcko District is hereby amended, so that the Statute of Brcko District now reads as it appears in the Annex to this Supervisory Order. These amendments to the Statute take 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 Mayor shall, no later than February 9, 2007, appoint working groups to prepare laws amending (a) the Law on Executive Authority of Brcko District, (b) the Law on Members of Government of Brcko District, (c) the Law on Public Administration of Brcko District, (d) the Law on Public Property of Brcko District, and (e) other laws as I may in my discretion subsequently direct.
4. The District Judicial Commission shall immediately start preparing laws amending (a) the Law on Courts of Brcko District, (b) the Law on Prosecutor's Office of Brcko District, (c) the Law on Judicial Commission of Brcko District, and (d) other laws as I may in my discretion subsequently direct.
5. The Mayor shall, no later than February 9, 2007, appoint a working group to prepare a law regulating the operation of the District Finance Directorate.
6. The Mayor shall, no later than February 9, 2007, appoint working groups to prepare such amendments to by-laws as may be necessary to harmonize them with the amendments to laws set out in paragraph 3 above.
7. The aforementioned laws and amendments to laws and by-laws referred to in paragraphs 3, 4, 5 and 6 above shall be consistent with the revised Statute and shall also make further changes to the operation of the District Government as I may subsequently require. In particular, the laws regulating the operation of the District Government shall incorporate the following rules on the way the Mayor and the Government make decisions:
 - (a) The annual budget of Brcko District and any amendments thereto shall, before being forwarded by the Mayor to the Assembly, be voted on by the members of the District Government (as defined in Article 45 (1) of the District Statute as amended by this Order) at a scheduled session of the Government, and approved by not less than a simple majority of the members of the Government, including the affirmative votes of all of the following people: the Mayor, the Deputy Mayor, and the heads of the Administrative Support, Education, Health, and Public Works departments.
 - (b) Draft laws in the fields of education, religion, language and culture shall, before being forwarded by the Mayor to the Assembly, be voted on by the members of the District Government (as defined in Article 45 (1) of the District Statute as amended by this Order) at a scheduled session of the Government, and approved by not less than a simple majority of the members of the Government, including the affirmative votes of all of the following people: the Mayor, the Deputy Mayor, and the heads of the Administrative Support, Education, Economic Development, Spatial Planning and Property Affairs, and DEPRET departments.
 - (c) The Mayor shall be responsible, unless this responsibility is delegated by the Mayor to the Deputy Mayor, for issuing decisions to dispose of public property. Such decisions shall be issued only upon the recommendations of the Director of the Office for Public Property. Any such decision shall be signed within fifteen (15) days of it being presented to the Mayor. The Mayor may refuse to sign such a decision only if, within that time scale, he or she issues a written decision that the transaction ought not to be completed for one or more specified reasons

stated in legislation. If this has not happened by the expiry of the fifteen (15) day time limit, the decision in question shall thereafter be immediately signed by the Director of the Office for Public Property, and shall thereupon enter into force.

Pending adoption of the laws and amendments to laws and by-laws effecting these rules, the rules set out in sub-paragraphs (a), (b) and (c) of this paragraph 7 of this Supervisory Order shall take effect immediately and shall be observed by all relevant District institutions with effect from the date of this Supervisory Order. During this interim period, in the event of any ambiguity or uncertainty about how these rules are to be interpreted, any interpretation given by me in writing shall prevail.

8. The Government Legal Service, the working groups referred to in paragraphs 3, 5 and 6 above, the District Judicial Commission, and all other public officials whose assistance is sought, shall fully cooperate with all members of the Legal Section of the Brcko Final Award Office upon request in finalizing these laws. The Mayor and the District Judicial Commission shall provide my office with these laws, by-laws and amendments thereto, referred to in paragraphs 3, 4, 5, 6 and 7 above, for my approval no later than May 1, 2007, whereupon I shall enact those laws as laws of Brcko District by further Supervisory Order.
9. This Supervisory Order has immediate effect and 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.
10. 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.
11. The Statute hereby enacted and attached to this Supervisory Order as its Annex is published in English and the official languages of Bosnia and Herzegovina. In the event of 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.

Raffi Gregorian
Supervisor of Brcko
Deputy High Representative