

Supervisory Order granting certain real estate to the Medzlis Islamic Community of Brcko

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 passed by the Arbitral Tribunal for the Dispute over the Inter-Entity Boundary in the Brcko Area ("the Final Award") and paragraph 12 of the August 18, 1999 Annex thereto;

Noting that during the course of communist rule after 1945 in what was then the Socialist Federal Republic of Yugoslavia, much property within the territory of the now independent state of Bosnia and Herzegovina was nationalized involuntarily and without compensation;

Further noting that nationalizations of this kind occurred throughout the formerly communist Eastern Europe, and that since the communist governments of Eastern Europe collapsed in the early 1990s, there have been movements throughout the affected countries to restitute property so nationalized, that is to say to return title to such property to its pre-nationalization owners, or to their heirs;

Further noting that restitution has not yet occurred in Bosnia and Herzegovina to any systematic degree, but that a draft State law on restitution has been prepared by a State-level working group, and that draft is currently under consideration by the competent State authorities, and may be enacted as a law of Bosnia and Herzegovina in due course, whereupon a systematic program of restitution of previously nationalized properties will be established throughout the country;

Recalling that notwithstanding the absence at the time of a law on restitution, during the post-war period prior to the issuance of the Final Award, the then Republika Srpska municipality of Brcko restituted to the Serb Orthodox Church ("the Church") most of the property in Brcko Grad that belonged to the Church prior to 1945 but that had been subsequently nationalized during communist rule, thereby granting to the Church legal title to the estates of which it had previously been deprived;

Further recalling that since the Final Award, the Brcko District Government, endeavoring to treat the three principal religious communities in the District equally, gave to the local Islamic and Catholic religious communities in the District the use of certain nationalized real properties that had previously belonged to those same communities before nationalization had occurred;

Having reviewed the land books and cadaster in the District, and having concluded that certain real property located in Brcko Grad, known as the "Islahijet building", belonged to the Islamic Community of Brcko before it was nationalized in 1954, and is therefore a clear candidate for restitution;

Bearing in mind that the draft State law on restitution may not be adopted for some time, and in the mean time the Islahijet building, being centrally located within Brcko Grad, but currently empty and heavily war-damaged, is degrading the ambience of the town and is not being put to any economic or cultural use; and the Islamic Community cannot be expected to renovate the building to invest it with economic or cultural value until full legal title to the building has been restituted to it;

Having therefore decided to restitute part of the Islahijet building to the Medzlis Islamic Community of Brcko;

Believing that this restitution will build confidence amongst religious communities in Brcko, and will lead to the betterment of Brcko District as a whole;

Having consulted members of the Brcko Islamic Community and property law experts in the District Government, and having carefully considered all the facts related to the real estate in question, and the beneficiary of this Supervisory Order having agreed to the terms of it;

Acknowledging the expressed desire by the Brcko Islamic Community for this restitution, and also acknowledging that other religious communities are supportive of this restitution occurring;

Emphasizing that, save for certain very limited exceptions for which I am already in consultations with the relevant interested parties, I will not consider any further requests for restitution by Supervisory Order;

I therefore hereby order that:

1. Legal title and ownership over the part of the real estate marked as cadastral unit no. 49, cadastral borough Brcko 1 (according to the new land survey), that is the real estate marked as cadastral unit no. 7/160, cadastral borough Brcko (according to the old land survey) ("the Property"), in essence representing the part of the so-called "Islahijet" building previously used by the "Sreski odbor narodne tehnike" Brcko, is hereby conveyed to the Islamic Community in Bosnia and Herzegovina – Medzlis Islamic Community of Brcko.
2. All Brcko District institutions responsible for cadastral and land registry affairs are required by this Order to make all necessary changes in public registers to register the transfer of ownership made by paragraph 1 of this Order *ex officio* within thirty (30) days of the date of this Order, using this Order as the legal basis for doing so.
3. Medzlis Islamic Community of Brcko shall adopt all the legal rights and duties associated with ownership of the Property at the date of this Order.
4. The restitution of the Property mandated by paragraph 1 of this Order is final and may not be subsequently revisited. In particular, no third party shall obtain any ancillary rights over the Property in consequence of the enactment, subsequent to this Order, of any State or District law on restitution.
5. However, to the extent that this Order deprives any third party of any rights over the Property that they have at the date of this Order or would (but for paragraph 4 of this Order) have acquired in consequence of any law on restitution being enacted subsequent to this Order, Medzlis Islamic Community of Brcko shall be liable to pay financial compensation to any such third party. The amount of the financial compensation so payable shall be the market value of the right(s) so deprived, either at the date of this Order or the date on which the right(s) would (but for paragraph 4 of this Order) have been acquired, whichever is later. The courts of Brcko District shall have jurisdiction to hear any claim under this paragraph 5 of this Order that such a liability exists, and if so the quantum of that liability, subject to the usual Statute of Limitation provisions in District legislation.
6. The restitution mandated by this Supervisory Order extinguishes all claims that may exist or subsequently (in consequence of changes in the law) come to exist against Brcko District as a result of the nationalization of the Property by the communist authorities.
7. This Supervisory Order 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.
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