

Supervisory Order Enacting as Laws of Brcko District the Law on Public Property of Brcko District of BiH and the Law on the Public Attorney's Office of Brcko District of BiH

In accordance with the powers vested in me by paragraphs 8, 10, 13 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;

Pursuant to paragraph 12 of the Annex to the Final Award of August 18, 1999, vesting responsibility in the Supervisor to ensure efficient and transparent administration of public property in the District;

Recalling paragraph 4 of the Annex to the Final Award of August 18, 1999, stipulating that the Public Attorney will represent the District's legal interests;

Aware that the current legal regime of public property administration in the District does not promote effective and transparent disposal and management of public property, as the District lacks an appropriate institutional framework, adequate procedures, or an effective system for recording public property transactions;

Further aware of the clear need to establish independent institutions that will safeguard public property and public assets within the District;

Concerned that so far, the District Government and Assembly have not demonstrated willingness or capacity to establish an effective, efficient, transparent, and citizen-friendly legal framework to protect public property and public assets, and that clear, pronounced and prolonged patterns of irregularities and unfairness in public property disposals by the District Government have become the norm;

Further concerned that the Government of Brcko District has not demonstrated the ability to successfully draft and promote laws improving the regime of administering public property in the District, and has thereby not implemented key provisions of the Final Award;

Regretting that when two proposed draft laws dealing with public property and public assets, namely a draft law on public property and a draft law on a public attorney's office were, after considerable lapse of time, finally presented to the District Assembly in July 2006 by the Government upon the request of my office, the Assembly did not discuss them in a serious or responsible manner, thereby jeopardizing the reform process and damaging the best interests of the citizens of Brcko District;

Further regretting that since I wrote to all political parties in the District Assembly, on July 18, 2006, inviting their comments on these draft laws (and setting a time scale of July 31, 2006 for their reply), I have received only one substantive comment which, regrettably, if accepted would compromise the independence of the institutions in question;

Having subsequently consulted with Assembly members from political parties representing all three national groups, and having received broad support for the making of this Order;

Believing that a strong institutional framework and transparent administrative procedures are essential for the future of the District, and for its economic development, prosperity and

quality of life;

Determined to advance a legal and institutional framework that will protect public property and assets and uphold the rule of law upon which Brcko District is based;

I therefore hereby order that:

1. The Law on Public Property of Brcko District of Bosnia and Herzegovina, and the Law on the Public Attorney's Office of Brcko District of Bosnia and Herzegovina, which are hereinafter set out as Annexes 1 and 2 to this Supervisory Order, are hereby enacted as laws of Brcko District, as of the date of this Order. They may subsequently be amended by the Assembly of Brcko District in accordance with the procedure provided in the Statute of Brcko District and the Rules of Procedure of the District Assembly.

2. The Mayor of Brcko District shall immediately prepare drafts of the regulations required by Article 11 Paragraph 4 of the Law on Public Property of Brcko District of Bosnia and Herzegovina. The Mayor shall enact those regulations no later than October 15, 2006, their having been previously approved by the Supervisor.

3. Until those regulations are enacted, the procedure of regular disposal, under Article 11 of the Law on Public Property of Brcko District, will be conducted in accordance with the provisions of the current Book of Rules Regulating the Procedure of Public Sale of Real Property, Construction Rights and Movables, and the Procedure for Leasing Real Property Owned by Brcko District of Bosnia and Herzegovina, subject to the proviso that the competency of the First Instance Commission (as described in that Book of Rules) shall instead be conducted by the Office for Public Property Administration (established under Article 17 of the Law on Public Property of Brcko District of Bosnia and Herzegovina),

and the competency of the Second Instance Commission (as described in the same Book of Rules) shall be conducted by the Appellate Commission of Brcko District.

4. The District Government and, where the Assembly's approval is required, the District Assembly, shall ensure that all regulations of Brcko District are and remain fully harmonized with the Law on Public Property of Brcko District of Bosnia and Herzegovina and the Law on Public Attorney's Office of Brcko District of Bosnia and Herzegovina.

5. This Supervisory Order shall be published without delay in the Official Gazette of the Brcko District of Bosnia and Herzegovina. The Mayor, Government, Assembly, Judiciary and Judicial Commission of Brcko District shall take all necessary measures to ensure complete and satisfactory implementation of this Supervisory Order and of the two laws enacted by it. Every public official of Brcko District shall be personally responsible for any act or failure to act by him or her that prevents or hinders complete implementation of this Supervisory Order or of the two laws enacted by it. The Supervisor may temporarily or permanently bar from public office any public official so responsible, and/or may impose such other penalties as the Supervisor considers appropriate.

Susan R. Johnson
Supervisor of Brcko
Deputy High Representative