

Supervisory Order Abolishing Entity Legislation Within Brcko District And Declaring the Inter-Entity Boundary Line To Be of No Further Legal Significance within the District

In accordance with paragraphs 8, 11, 13 and 37 of the Brcko Final Award of March 5, 1999 of the Arbitral Tribunal for Dispute over Inter-Entity Boundary in the Brcko area, that vest within the Brcko Supervisor powers to pursue the mandate prescribed by the Final Award;

Having in mind that paragraphs 11 and 39 of the Final Award (a) anticipate the abolition of the legal significance of the Inter-Entity Boundary Line ("IEBL") within Brcko District; (b) charge the District and the Supervisor to take steps to abolish the legal significance of the IEBL, in effect requiring replacement of Entity legislation applicable in the District with District legislation that applies on both sides of the IEBL; and (c) mandate the Supervisor with the obligation to make a declaration once this exercise is complete and the IEBL ceases to be of legal significance;

Noting that pursuant to these paragraphs, the Brcko Law Revision Commission, the Brcko District Government, and the Brcko District Assembly have made concerted efforts to prepare and adopt legislation to replace those Entity laws that still have legal effect in the District;

Further noting that this exercise has been largely but not entirely completed, and some seven years after the Final Award was issued, the IEBL continues to be of legal significance within Brcko District, in that certain laws of the Republika Srpska and of the Federation of Bosnia and Herzegovina are still being applied by District institutions differently on either side of the former IEBL;

Further noting that for many fields in which Entity legislation remains in effect in the District, there is no need, or no pressing need, for legislation, and that, at least for now, Entity legislation can be safely repealed without being replaced with corresponding District legislation;

Of the opinion that until such time as new District legislation is enacted to replace repealed Entity legislation, existing District, State and Socialist Republic of Bosnia and Herzegovina laws applicable in the District are sufficient to adequately regulate the spheres of activity covered by Entity legislation that this Order will repeal;

I therefore hereby order that:

1. Subject to what follows in the other paragraphs of this Order, all laws of the Federation of Bosnia and Herzegovina and of the Republika Srpska ("the Entities"), and of any constituent institution of either of the Entities, shall immediately cease to have legal effect in any part of the Brcko District of Bosnia and Herzegovina. To the extent that they are in force in Brcko District, all such laws are repealed with effect from the date of this Supervisory Order.

2. Those Entity laws listed in the Annex to this Supervisory Order shall immediately be taken over as laws of Brcko District, with identical text save that:

- i. they shall apply throughout Brcko District, on both sides of the former IEBL; and
- ii. the District institutions listed in the Annex to this Supervisory Order shall be responsible for executing the powers and responsibilities previously inhering in Entity institutions under the terms of those laws.

These new laws shall be laws of Brcko District, not laws of either Entity. They shall remain in force until amended or repealed by the Brcko District Assembly.

3. Pursuant to paragraph 39 of the Final Award, the Inter-Entity Boundary Line shall have no further legal significance within Brcko District of Bosnia and Herzegovina.

- i. Subject to paragraphs 6 and 7 below, and save as provided for in a valid and constitutional law of the Brcko District of Bosnia and Herzegovina, no act of either Entity or any constituent institution thereof, undertaken on or after the date of this Order, shall have any legal effect in the District or any part thereof.
- ii. Any act of any institution of the District or of the State after the date of this order, that has the intention or effect of:

- a. making the former IEBL of legal significance within the District, or creating any other geographical line within the District of similar significance;
- b. subdividing the District on any ethnic basis; or
- c. making the District or any part thereof a part of either Entity; shall be null and void.

4. Paragraphs 1 and 3 of this Supervisory Order shall have permanent effect. Save by order of the Arbitral Tribunal for the Dispute over Inter-Entity Boundary in the Brcko District or further order of the Supervisor, these paragraphs may not be amended, repealed or otherwise modified, even after supervision has ceased or after the jurisdiction of the Tribunal has ended.

5. Nothing in this Supervisory Order shall affect any question of the status or validity within the District of:

- (a) any law of the Socialist Republic of Bosnia and Herzegovina or of the Socialist Federal Republic of Yugoslavia in force within the District as of the date of this Order (whether such laws are applicable in the District by virtue of Entity legislation adopting them, or on any other legal basis), provided that any such law may be repealed in whole or in part by a decision or legislative enactment of Brcko District Assembly; or
- (b) any law enacted by the Assembly of Brcko District, or any law enacted by the Parliament of Bosnia and Herzegovina, provided in either case that such law does not infringe the provisions of paragraph 3(b) above.

6. Nothing in this Supervisory Order shall affect the legal obligations created by or in consequence of any of the legal agreement preceding the date of this Supervisory Order between the District and the Entities.

7. Nothing in this Supervisory Order shall affect the laws and regulations in force in Brcko District at the date of this Supervisory Order relating to:

- (a) the way in which railway services, rolling stock and associated infrastructure are operated and maintained in the District;
- (b) the operation of the Brcko Faculty of Economics in the District, as long as it remains part of the University of East Sarajevo;
- (c) obligations to make contributions to, and rights to receive payments out of, Entity pension funds;
- (d) the provision of postal and telecommunications services within the District;
- (e) the status and benefits exercised by the war invalids and families of fallen soldiers in the District; or
- (f) pre-school education and upbringing.

However, any such law or regulation may be repealed by a decision or legislative enactment of Brcko District Assembly. No such law or regulation may be applied or enforced to the extent that it discriminates, or is used to discriminate, against any citizen of Brcko District on the basis of ethnicity, Entity citizenship or the fact of residence in the District or any part thereof. No successor Entity law or regulation relating to the aforementioned six areas shall have any legal effect in the District.

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

Susan R. Johnson
Supervisor of Brcko
Deputy High Representative

Annex to the Supervisory Order dated August 4, 2006

being a list of Entity laws that will be taken over as laws of Brcko District

and will be implemented by District institutions with effect from the date of this Supervisory Order

1. Law on Production and Sale of Medicines (RS Official Gazette, 19/01): Chapters VIII and IX – Department for Public Safety; all other chapters – Department for Healthcare and Other Services
2. Law on Power Inspection (RS Official Gazette, 12/93) – Department for Public Safety
3. Law on Labor Inspection (RS Official Gazette, 8/97) – Department for Public Safety
4. Law on Market Inspection (FBIH Official Gazette, 2/95) – Department for Public Safety
5. Law on Sanitary Inspection (RS Official Gazette, 14/94) – Department for Public Safety
6. Law on Measures for Improving Cattle Breeding (RS Official Gazette, 10/98) – Department of Agriculture
7. Law on Protection of Population Against Contagious Diseases (RS Official Gazette, 10/95) – Department of Health
8. Law on Waters (RS Official Gazette, 10/98) – Department of Agriculture
9. Law on Forests (Tuzla Canton Official Gazette, 10/99) – Department of Agriculture
10. Law on Hunting (RS Official Gazette, 13/94) – Department of Agriculture
11. Law on Foreign Currency Transactions (FBIH Official Gazette 36/98) – All relevant government departments
12. Law on Trade of Explosive Materials and Liquids (RS Official Gazette, 16/96) – Department of Public Safety
13. Law on Property Tax (RS Official Gazette, 38/03) – District Revenue Agency and Tax Administration

Extra items may be added to this Annex by subsequent ancillary order of the Supervisor while Supervision remains in force, but no extra items may be added by any means after Supervision has terminated in Brcko District.