

History and Mandate of the OHR North/Brcko

The parties to the Dayton Peace negotiations established the Inter Entity Boundary Line (IEBL) between the Federation of Bosnia and Herzegovina and the Republika Srpska throughout Bosnia and Herzegovina but failed to agree on the allocation of Entity control in the Brcko area.

However, the parties agreed to binding arbitration of the disputed portion of the IEBL in the Brcko area (Article V of Annex 2, of the Dayton Peace Agreement) under UNCITRAL rules.

The Federation of Bosnia and Herzegovina appointed Cazim Sadikovic, the Republika Srpska Professor Vitomir Popovic as arbitrators and the International Court of Justice, on July 15, 1996, appointed Roberts B. Owen as the third arbitrator and presiding officer of the "Arbitral Tribunal for Dispute over Inter-Entity-Boundary in Brcko Area"

The Tribunal was expected to issue its decision by December 14, 1996, one year after the Dayton Peace Accords (DPA) had come into force. This proved to be impossible under the political climate and circumstances at the time.

The Tribunal delivered its first Award, in Rome, on February 14, 1997. Pending a final decision, the IEBL was to remain where it had been at the end of the war, and Brcko was placed under international supervision. The Supervisor, who would also serve as Deputy High Representative, would oversee the implementation of Dayton in the Brcko area and would have "the authority to promulgate binding regulations and orders" which would "prevail against any conflicting law". The Supervisor was given a specific mandate, the main objectives of which were:

- to facilitate the phased and orderly return of refugees and displaced persons to their original homes and assist in the provision of housing to accommodate old and new residents;
- to enhance democratic government and a multiethnic administration in the town of Brcko;
- to ensure freedom of movement and the establishment of normal democratic policing functions;
- to work with international customs monitors towards the establishment of efficient customs procedures and controls; and
- to promote economic revitalization.

This mandate was reaffirmed and strengthened one year later, when the Tribunal issued the Supplemental Award on March, 15, 1998. The Tribunal put the Republika Srpska on notice that it would need to show "significant new achievements in terms of returns of former Brcko residents".

Acknowledging that the Federation had a lesser responsibility in the Brcko area in view of the position of the IEBL, the Tribunal nevertheless also warned the Federation authorities that they would need to comply with their obligation "to allow former Federation residents to return to their homes, particularly in Sarajevo".

Ambassador Robert W. Farrand (US) was appointed the first Deputy High Representative and Supervisor of Brcko at the Brcko Implementation Conference in Vienna on March 7, 1997 and arrived in Brcko on April, 11, 1997. He was succeeded by Ambassador Gary L. Matthews (June 2, 2000), Ambassador Henry L. Clarke (19 April 2001), and Susan R. Johnson (January 2004). Dr Raffi Gregorian assumed the position of Principal Deputy High Representative and Brcko Supervisor in September 2006 and was succeeded by Ambassador Roderick W. Moore on 20 September 2010. The Supervisor's office was established, beginning in December 1996, as the Regional Office North of the Office of the High Representative, OHR (N), and was, in 2002, renamed as the Brcko Final Award Office (BFAO).

On March, 5, 1999, the Tribunal issued the Final Award, complemented with an Annex issued on August 18, 1999.

The Final Award established the former Brcko municipality as the Brko District under the exclusive sovereignty of Bosnia and Herzegovina and as multi-ethnic, democratic unit of local self-governance. A single, unitary, multiethnic, democratic Government, Assembly, Judiciary and police force exercises, throughout the pre-war Brcko Opstina, those powers previously exercised by the two Entities and the former three municipal governments. The Brcko District was formally inaugurated on March 8, 2000.

On June 25, 2007, the Tribunal issued an Addendum to the Final Award warning the Entities to abide by the

provision of the Final Award that they have no powers over the District and that they cannot transfer to the State powers exercised by the District.

The Tribunal retains jurisdiction until such time as the Supervisor, with the approval of the High Representative, notifies the Tribunal that the Entities have fully complied with their obligations to facilitate the establishment of the District institutions as described in the Final Award and that such institutions function effectively and apparently permanently.

The completion of implementing the Brcko Final Award requirements is one of the five objectives and two conditions set by the Peace Implementation Council in February 2008 as precondition for ending the mandate of the OHR in Bosnia and Herzegovina.