

# Remarks of Brcko Supervisor Dr Raffi Gregorian



## **Supervisory Order Protecting Freedom of Religion with Respect to the Conduct of Religious Education and the Employment Status of Teachers of Religion in Brcko District Public Schools**

Good afternoon. I have a rather lengthy statement that I will make now, but there is also a press statement and that will be issued as well as the text of the new Supervisory Order. I called this press conference today for two reasons. The first is to announce the issuance today of a Supervisory Order by which I align voluntary religious instruction in Brcko District Public Schools with Freedom of Religion and other State obligations. The second reason is to make clear the requirements for Brcko to be added to the BiH constitution in order to end Supervision.

As I mentioned, today I signed an SO which I have been considering since I first visited a Brcko District public school last year. I was struck by the fact that this school had 100% attendance in the voluntary religious instruction class. And, intrigued by this, I began to make inquiries about religious classes throughout Brcko. The first thing I discovered was that almost every school in the District has 100% attendance in what are supposedly voluntary classes, which does not seem possible even if one considers children of mixed marriages and what must be at least some percentage of non-believers.

The second thing I discovered was that the voluntary classes are offered in the middle of the school day without any alternative.

As I have come to learn, this situation is not unique to Brcko. In fact, a tendency has emerged in Bosnia and Herzegovina generally, and in Brcko District specifically, whereby the offering of religious instruction classes as a voluntary subject in public schools has, as evidenced by the near one hundred percent attendance rate in such voluntary classes, increasingly taken on the character of an obligatory subject.

Moreover, by providing taxpayer funds and making available free-of-charge District public school premises for the purposes of religious instruction for only three main faith groups, the current arrangements for voluntary religious instruction risks imparting to those faith groups the characteristic of being official religions, which by default is to the exclusion and detriment of other faith groups and non-believers. Because this could lead to discrimination, it may subject the District to legal and constitutional challenges regarding freedom of religion and conscience, which are universal and constitutional rights.

The existing arrangements for voluntary religious instruction also have the potential to create a financial and political dependency relationship between government and certain faith groups that could then lead to eventual subjugation of one to the other, to the ultimate detriment of both.

There is another concern as well: credible reports from other school systems in Bosnia and Herzegovina that pupils' choices as to participation in voluntary religious instruction classes have, in terms of enrolment in secondary schools and inclusion of marks in grade point averages of students, become an actual basis for discrimination against those who do not participate in such classes.

There is therefore a clear need to prevent such discriminatory practices from being established in Brcko District.

To address these concerns, I have reviewed the existing international, constitutional, and local legal obligations with regards to this matter, and consulted with international organizations and District leaders.

The leaders of the three major faith groups in Brcko have also helped, bringing to my attention their personal efforts to make voluntary religious instruction in public schools as consistent as possible with the multiethnic ethos of the District. I am grateful to them for the exchanges of views we have had on the subject, both in writing and in person, and these have helped shape the Order I have signed today.

In particular they noted that one of the most serious shortcomings has been that the status of religious teacher has not been regulated in accordance with recent undertakings by the State of BiH with regards to agreements with the Vatican and the Serb Orthodox Church. These agreements oblige public schools in BiH to make available religious instruction classes on a voluntary basis, and for teachers of these classes to be made members of the teaching staff with essentially the same rights and privileges as other teachers.

And, the absence of arrangements for these teachers has created greater inefficiency with regard to religious classes. Up to now, religious teachers have been hired only for each academic year, which has meant the scheduling for such classes and the accountability of teachers' performance has been awkward and difficult to achieve. The unpredictability of the system of employment has, in fact, created the situation which may account for why classes are held during the middle of the day without a suitable secular alternative being offered.

Having considered all these issues, I have ordered several steps to align the system in Brcko with both state obligations

but also acted to ensure that these voluntary classes are, in fact, voluntary. The details are in the Supervisory Order, but I will now list for you the main features:

First, teachers of religion will be able to be hired as both full-time and part-time teachers with indefinite term contracts with the same status, rights, and obligations as any other teacher under Brcko District law.

Second, such teachers must be approved in the final instance by their respective religious organisation, as has been the case to date, and that for all these purposes the Islamic Community is treated the same as Catholic and Serb Orthodox churches.

Third, until a suitable secular subject can be introduced as an elective alternative to the religious classes, voluntary religious classes will have to be held in either the first or last period of the academic day.

Fourth, each June, school directors must inform parents and guardians in writing that religious classes are offered for the coming school term, and note that enrolment in them is voluntary and there are no penalties for non-attendance. Parents must then respond in writing by the end of June as to their choice for the coming school term.

Now, all of this flows from the fact that there are now new obligations for BiH as adopted through state-level agreements approved by the Parliamentary Assembly with the Vatican and the Serb Orthodox Church. Without commenting as to the relative merits of the agreements, I note that they were made without any consultation with officials of Brcko District, despite the fact that they oblige District taxpayers to pay for almost all aspects of the religious instruction program. Perhaps a majority of District residents would support that, but one can't avoid the fact they were never asked in the first place.

This is because District residents are only represented in the BiH Parliamentary Assembly indirectly by entity parliamentarians, who do not bother to consider District residents' concerns on any matter.

Just as the separation of Church and State is a central feature of the United States Constitution, I would also say one of the other reasons for that document was the dispute over taxation without representation, which is what we have here.

### **Requirements for Brcko to be added to the BiH constitution in order to end Supervision**

I mention all this because President Radmanovic was quoted at a recent press conference as saying that additions to the BiH constitution with regard to Brcko are "unacceptable".

This represents a recent and unwelcome change in the SNSD position. I hope the party will reconsider, because I will not confirm completion of the Final Award to the Tribunal until Brcko District as defined by the Final Award is included in the constitution of BiH.

And if we need any reminders as to why this is necessary, I'll give two examples, although another one you've already heard.

The first has to do with the decisions by the Constitutional Court with respect to Pavlovic Bank and Privredna Banka. The decisions related to that case, by the Constitutional Court, manifestly did not take into consideration the Awards of the Tribunal.

Secondly, the official position of Republika Srpska towards the District of Brcko is rejection of the Final Award, as noted in a resolution by the RS National Assembly in 1999 when Mr. Milorad Dodik was prime minister in his first mandate.

The attitude may have eased over time, but that is still the official position.

Dayton, Annex II, says that this Arbitration is final and binding on all parties. There is no room for interpretation, or rejection of this agreement, only acceptance.

And as Supervisor, I'm uniquely entrusted with protecting and making sure the Final Award is implemented.

So, I will repeat: I WILL NOT CERTIFY THE END OF SUPERVISION TO THE TRIBUNAL UNTIL CONSTITUTIONAL ADDITIONS RELATED TO BRCKO HAVE BEEN ADOPTED.

And, yes, that means that I'm prepared to stay the Supervisor as long as necessary.