

# Brčko Supervision

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The parties to the 1992-95 conflict could not agree at Dayton about the Inter-Entity Boundary Line in the Brčko area. However, rather than go back to war, they agreed in Annex 2 of the Dayton Peace Accords to an arbitration that would be final and binding on all parties. After a first and supplemental award, the Arbitral Tribunal issued the Final Award and Annex in 1999, establishing the Brčko District of Bosnia and Herzegovina.

Since its establishment, Brčko District has gone from being a symbol of social and physical devastation to one of progress and inter-ethnic cooperation, as well as an incubator for reforms in the transition from communist command economy to democratic market economy.

Today, Brčko is a prosperous, multiethnic community whose territory exists as a condominium of the two Entities, but with its own local institutions of self government to which the Entities are deemed to have permanently delegated their powers of governance.

Brčko District has become a post-conflict success story studied by many, envied by some, and copied by none. That could be because its success has depended first and foremost on the efforts and willingness of the people of Brčko, who decided to live together, and in peace. The courage of District leaders and officials of the interim government and Assembly, assisted by the International Community through the Supervisory regime established by the First Award of February 14, 1997, also contributed to the outcome.

The legal foundations for Brčko District are found in two annexes to the Dayton Peace Agreement: Annex 4, which is the Constitution of Bosnia and Herzegovina; and Annex 2, in which

the parties agreed to binding arbitration, as well as the Awards, Annexes, and addendum thereto issued by the Arbitral Tribunal in consistency with the Constitution. It was the Final Award that required development of the Statute, which has been updated several times to improve the structure, efficiency, and procedures of District governance in a way where no one group can dominate another.

In light of steady and substantial progress made in implementation of the Final Award of the Arbitral Tribunal for the Dispute Over the Inter-Entity Boundary in Brčko Area (Final Award) over a period of years, and following extensive consultation within the International Community and with the citizens of Brčko and their representatives, the High Representative closed the office in Brčko on 31 August 2012, and the Supervisor suspended his functions from the same date.

The decision to close the Office, and suspend the functions of the Supervisor, was a significant step in Bosnia and Herzegovina's long road to full post-war recovery. It reflected the international community's assessment that real progress had already been made in the District, and illustrates the International Community's resolve to support Bosnia and Herzegovina's recovery by helping it to develop the institutional capacity that will allow it to move forward under its own steam, and then step aside when that capacity has developed.

That said, safeguards remain. The Brčko Tribunal's jurisdiction will continue to exist until the Supervisor, with the approval of the High Representative, notifies the Tribunal that the conditions for its closure have been met. Bosnia and Herzegovina's highest judicial body – the Constitutional Court – is fully empowered under the country's constitution to rule on disputes relating to the status and powers of Brčko District. The High Representative's mandate under the Dayton Peace Agreement and relevant resolutions of the UN Security Council remains unchanged, and the Supervisor retains all the

authority prescribed under the Awards of the Tribunal and could decide to resume the exercise of his authorities in the District if conditions warrant. Moreover, the PIC Steering Board, the European Union Delegation and the OSCE all continue to work directly with the people of Brčko and their representatives.