

## **The Brčko Sustainability Project Outline for a program of institution-building**

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November 2007**

Creation of Brčko District, a modern-day free city in the heart of a contested territory in northern Bosnia, is the most successful example of post-war state building ever conceived. A critical conflict point during the 1992-1995 Bosnian war, its intensive reconstruction to pre-empt recommencement of hostilities was initially pushed by the State Department from 1997. But the U.S. Government subsequently lost interest, and the project now threatens to collapse amidst a wave of international indifference. This would be a tragedy, both for the people who live there, for the country of Bosnia and Herzegovina that would be destabilized as a result, and for the broader international community that could learn many lessons from the project's success.

### **Background**

Brčko was of vital strategic significance during the war, because it was the only land bridge between the two separate regions of Bosnia's "Republika Srpska" – the Bosnian Serb statelet which the Serb armed forces were fighting to create. The area was completely devastated by the fighting, and the two warring "Entities" could not agree into whose territory it would fall upon *de facto* partition of the country by the Dayton Peace Accords in December 1999. In a last-minute deal, an arbitration tribunal was established to determine its fate. The only politically realistic course was for the tribunal to physically and legally separate the area from the Entities, so that neither party would gain control over it. Instead it would be administered locally, on a multi-ethnic basis, with the participation of local people from all three of Bosnia's ethnic groups. The entire country had been divided into a series of mono-ethnic bantustans by the war, and this would become the only area in which ethnic reintegration would be seriously attempted. The result was Brčko District, a multi-ethnic unit of local self-government with a high degree of autonomy from the political infighting that paralysed the rest of the country.

But this approach required significant international resources. An arbitration tribunal could not recreate an ethnically integrated society simply by issuing a legal ruling. It also had to appoint an international civil servant, the Brčko Supervisor, to oversee and implement the tribunal's rulings. The Supervisor had to have a contingent of highly skilled staff to completely recraft the District's institutions along new lines. The Supervisor had broad legal authorities and initially enjoyed the backing of U.S. military peacekeepers stationed in the area. Experts were hired to promote rule of law, economic development, removal of tax and regulatory barriers to investment, multiethnic education, and western standards of democratic government and administration. All this required the long-term support of the U.S. Government. The hurdles were colossal, and it took seven years of long work to pursue the goals the Tribunal had mandated.

But along the way, the U.S. Government lost interest in the project. They had begun a commitment to transform the political and legal institutions prevailing in the region

immediately after the war. This required the transplant of a great many hitherto unfamiliar legal and political ideas from outside. The risk of backsliding was ever present once the U.S. interest in the region began to fade. And so it came to pass. After the new District's first elections in October 2004, ever fewer resources became available to monitor the new public institutions the Supervisor had created. The District regressed into a well of incompetence and corruption similar to the levels prevailing elsewhere in Bosnia and Herzegovina.

### **The future – preserving and promoting institutional quality**

Yet the quality of institutional transformation achieved before then had been remarkable. The District had the best courts, the best legislation, the best education system, the best healthcare, the highest average wage, the lowest average tax base and the highest average revenue of anywhere in the country. All this had been built up from the very worst depths of wartime destruction and cessation of economic activity. The area had been reconstructed from scratch in only a few years. Nowhere else in the world has post-war state building ever been such an unbridled success. There are clearly lessons to be learned from the Brcko experience. And Brcko now has unusual and successful institutions that, now they have been created by the international community, should be supported and nurtured.

These are the goals of the Brcko Sustainability Project: to learn lessons from a tremendously successful and unusual program, and to support District institutions. Formal support of the U.S. Government may have faded. But that does not mean that the District must necessarily collapse. There are many ways in which nongovernmental organisations can support the continuance of this highly successful experiment, and can encourage continued engagement to learn how to replicate the successes of Brcko elsewhere in the world. Areas of focus will include:

- Supporting the rule of law, including the multi-ethnic police, the multi-ethnic judiciary, independence and efficiency of the courts. All these institutions tower over the standards prevailing elsewhere in Bosnia and, in many cases, elsewhere in the region. They should be given maximum support to maintain these high standards.
- Promoting high standards of legislative drafting. Brcko District has some of the most innovative and high quality legislation in the region. Much of its primary legislation has been prepared in consultation with international experts and reflects best practices in law and development. Some of this legislation is out of kilter with domestic prior practices. International experts must remain available to engage with domestic legal experts and the legislature, to ensure this consistency is preserved in future domestic initiatives.
- Promotion of a free press and civil society. Brcko is one of the few places in Bosnia with a genuine multi-ethnic civil society sector. Multi-ethnic NGOs exist, and there is a radio and TV media that is not just in the clutches of a single political party and nationalist political voices. These NGOs are under constant pressure to come under the influence of one or the other political

interest, and thus be hijacked in the broader country-wide political struggles. External interest and funding can help them preserve their independence.

- Accountability in public administration. Corruption and nepotism are endemic in Bosnian political society. Some limited progress has been made in reforming the political culture that enables this to occur. Public and independent discipline, appointment and tender procedures have made public administration more accountable. But the system remains extremely fragile, and private business is not yet sufficiently powerful politically to demand higher levels of transparency. Such business interests as there are tend to be closely linked into political parties and use their influence to ensure government institutions restrict competition. Public accountability must continue, therefore, to be pushed, and great effort must be made to ensure that regressive legislative reforms do not undermine advances achieved so far.
- Promotion of foreign investment. One of the reasons for the District's economic success has been the relatively hospitable business climate prevailing. Initially this was achieved by close international scrutiny of investment deals; subsequently, District politicians seem to have come to realise the advantages to economic growth and political stability of the presence of foreign corporations. But they need constant assistance and guidance in facilitating such investments, as they remain relatively inexperienced in the standards by which international business is conducted.