

Decision Enacting the Law on Amendments to the Law on the Center for the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide

n. 08/23

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on the Civilian Implementation of the Peace Settlement; and considering in particular Article II.1. (d) of the last said Agreement, according to the terms of which the High Representative shall “[F]acilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including, under sub-paragraph (c) thereof, “measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

Recalling further Paragraph 4 of Resolution 1174 (1998) of the United Nations Security Council of 15 June 1998, by which the Security Council, under Chapter VII of the United Nations Charter “... reaffirms that the High Representative is the final authority in theatre regarding the interpretation of Annex 10 on civilian implementation of the Peace Agreement and that in case of dispute he may give his interpretation and make recommendations, and make binding decisions as he judges necessary on issues as elaborated by the Peace Implementation Council in Bonn on 9 and 10 December 1997”;

Noting that both the international and domestic courts have adjudicated that genocide was committed in Srebrenica;

Recalling the High Representative’s Decision of 25 October 2000 designating in perpetuity the piece of land situated at Potočari in the municipality of Srebrenica as a cemetery and as a solemn place for the erection of a memorial to those who met their deaths in July 1995 at Potočari / Srebrenica;

Noting that, under the said Decision of 25 October 2000, the High Representative was to establish under the applicable law such foundation or association as might be appropriate in order to administer and provide initial funding for the cemetery and memorial;

Bearing in mind that the Foundation “Srebrenica-Potočari”, Memorial and Cemetery was established by the Decision of the High Representative, No. 102/01 of 10 May 2001 and registered in the Register of Foundations of Public Interests by the decision of the Ministry of Civil Affairs and Communications of Bosnia and Herzegovina No. 01/6 -166-1-MP/02 of 11 December 2002;

Further considering the High Representative Decision of June 25, 2007, enacting the Law on the Center for the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide which established the Center for the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide as the legal successor of the Foundation “Srebrenica-Potočari”, Memorial and Cemetery and building on the process initiated by my predecessors

Conscious of the importance of the establishment of the cemetery and memorial to give closure to the victims and bring reconciliation in Bosnia and Herzegovina and in the region, which reconciliation will in turn promote permanent peace;

Acknowledging with deep regret that a large number of victims killed at Srebrenica/Potočari remains to be recovered and exhumed from places still unknown;

Acknowledging further that it belongs to Bosnia and Herzegovina to ensure that a final resting place and a site for a memorial for those who perished in the aforesaid genocide is found and properly managed;

Conscious further of the necessity of a constant reminder that any genocide anywhere must never be committed against any people;

Respecting the tireless work towards reconciliation and commemoration of those who lost their beloved ones in the genocide, mothers, fathers and children;

Considering that the Memorial Center is also financed through donations and contributions by donors, and that these funds deposited on accounts held with commercial banks are, under Article 26 of the High Representative Decision Enacting the Law on the Center for the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide of 25 June 2007, intended to be used exclusively for the purpose of burials and headstones;

Considering further that the Srebrenica-Potočari Memorial Center Governing Board, after careful judgement and taking into account the large number of victims still not respectfully buried, estimates that less than half of available funds from donations has to be reserved for the purpose of burials and headstones, the Srebrenica-Potočari Memorial Center is in urgent need of more funds for other purposes to carry out its mandate and objectives, which include but are not limited to the center's construction and maintenance, cooperation activities with similar centers, foundations, associations worldwide as well as its role in promoting the truth about the genocide;

Bearing in mind that, insofar as it belongs to donors to agree to and change the purpose of their donations, any intervention in the High Representative Decision would have to reflect the donors' consent to change the purpose of their donations and subsequent reallocation of such funds, thus requiring the Srebrenica-Potočari Memorial Center Governing Board to seek such consent;

Ever conscious of the Center for the Srebrenica-Potočari Memorial and Cemetery's crucial role with regards to reconciliation in Bosnia and Herzegovina and the region and to educate the young generations on the paramount need to follow the common promise of "never again"

Convinced that further action is required to continue developing and expanding the activities of the Center for the Srebrenica-Potočari Memorial and Cemetery, in particular those pertaining to remembrance of the genocide and the victims in order to prevent denial and revisionism, to ensure the prevention of human rights violations from recurring and contribute to reconciliation;

Thanking the Srebrenica-Potočari Memorial and Cemetery's staff and volunteers and the victims' organizations for their important work in contributing to reconciliation;

Ready to assist and support the Srebrenica-Potočari Memorial and Cemetery to further develop itself;

Calling on all in Bosnia and Herzegovina to work together on building a better future for all;

Having considered, noted and borne in mind all the matters aforesaid,

I hereby issue the following:

**DECISION ENACTING THE LAW ON AMENDMENTS TO THE
LAW ON THE CENTER FOR THE SREBRENICA-POTOČARI MEMORIAL AND
CEMETERY FOR THE VICTIMS OF THE 1995 GENOCIDE**

1. The Law which follows and which forms an integral part of this Decision shall enter into force as provided for in Article 2 thereof on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions attached.
2. This Decision shall come into effect immediately and shall be published on the official website of the Office of the High Representative, and in the "Official Gazette of Bosnia and Herzegovina" without delay.

Sarajevo, 20 February 2023

Christian Schmidt

High Representative

**Law on Amendments to the Law on the Center for
the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide**

Article 1

In the Law on the Center for the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide (Official Gazette of Bosnia and Herzegovina, No. 49/07), Article 26 shall be amended to read:

“Article 26

(Bank Accounts Ownership Transfer)

(1) Notwithstanding Article 22 of this Law, funds of the Foundation, which are assigned to burials and headstone and are deposited on accounts held with commercial banks shall, after their transfer to the Center and subject to Paragraph (2) of this Article, remain in said accounts until such projects are completed.

(2) Those funds can nevertheless, with prior written consent of the relevant donor(s) on the purpose and amount of funds, be used for other purposes than burials and headstones insofar as funds for all future burials and headstones are secured. Other purposes within the meaning of this provision should cover in particular activities activities to promote the truth about the genocide, .”

Article 2

(Entry into force)

This Law shall enter into force on the eighth day after its publication on the official website of the Office of the High Representative or the day following its publication in the “Official Gazette of Bosnia and Herzegovina”, whichever comes first.