

Order Supporting the Functioning of the National and University Library of Bosnia and Herzegovina and Other Cultural Institutions of Significance for Bosnia and Herzegovina

n. 02/24

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";

Mindful that, under Article I/1 of the Constitution of Bosnia and Herzegovina, the Republic of Bosnia and Herzegovina continued its legal existence as Bosnia and Herzegovina and that Article 2 of Annex II of the Constitution stipulates that existing laws, regulations, and judicial rules of procedure within the territory of Bosnia and Herzegovina shall remain in effect to the extent not inconsistent with the Constitution, until otherwise determined by a competent governmental body of Bosnia and Herzegovina;

Recalling therefore that, pursuant to constitutional principle of continuation of laws determined by the Constitution of Bosnia and Herzegovina, following the entry into force of the Constitution of Bosnia and Herzegovina seven cultural institutions of significance for Bosnia and Herzegovina, namely the National Museum of Bosnia and Herzegovina, the Historical Museum of Bosnia and Herzegovina, the National and

University Library of Bosnia and Herzegovina, the Museum of Literature and Theatre Arts of Bosnia and Herzegovina, the Library for Blind and Visually Impaired Persons of Bosnia and Herzegovina, the Film Archives of Bosnia and Herzegovina and the Art Gallery of Bosnia and Herzegovina, continued to legally exist as state institutions and that the laws governing the foundation of the said institutions remained in force and remained applicable (until otherwise determined by competent authorities of Bosnia and Herzegovina) and that, consequently, Bosnia and Herzegovina continued to be the founder/owner of these institutions and is therefore obliged to exercise its competencies as the founder/owner, including regarding the necessary appointments and financing;

Noting that, under Article 30 of the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina, within sixty days after this Law came into effect, the Council of Ministers of Bosnia and Herzegovina was obliged to initiate the procedure before the Parliamentary Assembly of Bosnia and Herzegovina in order to regulate through law the issue of succession of operation of institutions, services, and bodies established by the regulations of Bosnia and Herzegovina and the Republic of Bosnia and Herzegovina, which performed or were performing the administrative, professional, or other activities falling within the competencies of Bosnia and Herzegovina or serving the needs of the authorities of Bosnia and Herzegovina;

Noting further that the National Museum of Bosnia and Herzegovina was established in 1888 and was later operating pursuant to the Law on the National Museum ("Official Gazette of the SR BiH", No. 20/77) and continues to function based on the Law on the Museum Activity ("Official Gazette of the RBiH", Nos. 13/93 and 13/94), **that** the Historical Museum of Bosnia and Herzegovina was established by the Law on the Establishment of the Museum of National Liberation ("Official Gazette of the FBiH" No. 26/45), renamed and registered as

the Public Institution Historical Museum of Bosnia and Herzegovina pursuant to the court decision of the Higher Court in Sarajevo, and continues to function based on the Law on the Museum Activity ("Official Gazette of the RBiH", Nos. 13/93 and 13/94); **that** the National and University Library of Bosnia and Herzegovina was established by the Decree on the National Library of the Federal BiH ("Official Gazette of the FBiH", No. 22/45) and continues its operations based on the Law on Library Activity ("Official Gazette of the RBiH", No. 27/95) as the National and University Library; **that** the Museum of Literature and Theatre Arts of Bosnia and Herzegovina was established pursuant to the Law on Museums ("Official Gazette of the SRBiH, No. 53/60) and later continued operating based on the Law on the Museum of Literature and subsequently the Law on the Museum of Literature and Performing Arts ("Official Gazette of the SRBiH", No. 20/77), and now operates under the Law on Museum Activity ("Official Gazette of the RBH", Nos.13/93 and 13/94); **that** the Library for Blind and Visually Impaired Persons of Bosnia and Herzegovina was established by the Decision of the SRBiH Association of the Blind, after the Library of the Association of the Blind of Yugoslavia, which was established in 1954, distributed the existing book fund to republican and provincial associations of the blind, and continues to function based on the Law on the Library for Blind and Visually Impaired Persons of the Republic of Bosnia and Herzegovina ("Official Gazette of the RBiH", No. 9/95); **that** the Film Archives of Bosnia and Herzegovina actually operates since the late 70s, when the Cinematique department was established within the Archives of Bosnia and Herzegovina and this department was separated from the BiH Archives as an independent institution pursuant to the Law on the Film Archive of Bosnia and Herzegovina ("Official Gazette of the RBiH'', No. 13/94); **and that** the Art Gallery of Bosnia and Herzegovina was established by the Decree of the Government of the People's Republic of Bosnia and Herzegovina in 1946, and continues to function pursuant to the Law on the Museum Activity ("Official Gazette of the RBiH", Nos. 13/93 and

13/94);

Emphasizing that the laws that define the status and scope of activities of these institutions established that the then Assembly of the Republic of Bosnia and Herzegovina is the sole authority to exercise the rights of the founder i.e., the Republic of Bosnia and Herzegovina is designated as the sole founder and owner of these institutions, and that under the Law on Institutes (Official Gazette of the RBiH, Nos. 6/92, 8/93 and 13/94) it is established that the RBiH Government is responsible for appointing the managerial bodies in the said cultural institutions;

Considering that all the above-mentioned cultural institutions work on the preservation and promotion of the cultural heritage of Bosnia and Herzegovina, a crucial aspect of the country's national cultural identity and heritage and as such a constituent part of the Statehood of Bosnia and Herzegovina with a crucial role of maintaining cultural diversity, fostering a sense of belonging and preserving the heritage for future generations;

Conscious that these institutions, although established by the regulations of Bosnia and Herzegovina based on which they should exist and function, suffer from the consequences of political obstructions that question both the validity of the aforementioned regulations and the capacity of the competent governmental bodies to resolve the issue by adopting new regulations that would ensure their continuous functioning;

Mindful that the current situation concerning the management of these institutions is alarming and poses an immediate threat to their functioning; that all seven institutions currently have neither supervisory nor management boards and that six of them have directors appointed by non-State bodies to overcome the obstacles to which they are continuously exposed and that the National and University Library of Bosnia and Herzegovina, after its Director resigned from his

position, is unable to operate;

Regretting that fundamental rights of the employees are being violated, that the functioning of COBISS.BH—the digital system for searching and reserving materials in the joint catalogue of libraries in Bosnia and Herzegovina and in the catalogues of individual libraries—is at risk, and that the National and University Library of Bosnia and Herzegovina, as the national center, has stopped issuing ISSN codes for the identification of each serial publication, ISBN identifiers for books, as well as ISMN numbers for music releases;

Aware that the current situation could hinder the work of publishers, threaten the academic community, and disrupt the functioning of other 78 libraries across Bosnia and Herzegovina, as well as halt the creation of national bibliographies, which are key indicators of the spiritual, cultural, scientific, and educational development of a country, reflecting the level of scientific advancement and representing a fundamental means of preserving cultural heritage and knowledge of the overall national cultural treasure;

Noting that the National and University Library holds the Special Collections designated as a National Monument of Bosnia and Herzegovina by the Commission for Preservation of National Monuments;

Convinced therefore of the urgent need to authorize a high-ranking employee of the said institution to temporarily perform duties of the director until the institutions of Bosnia and Herzegovina carry out their duties vis-à-vis this and other cultural institutions of significance for Bosnia and Herzegovina;

Having considered and borne in mind all the matters aforesaid, the High Representative hereby issues the following

ORDER

Supporting the Functioning of the National and University Library of Bosnia and Herzegovina and Other Cultural Institutions of Significance for Bosnia and Herzegovina

Article 1

Notwithstanding the provisions of relevant laws, the Council of Ministers of Bosnia and Herzegovina shall authorize an employee of the National and University Library of Bosnia and Herzegovina to perform the duties of the director of this institution on a temporary basis, until the appointment of governing bodies and the final appointment of a director in accordance with the laws of Bosnia and Herzegovina.

Article 2

1. In case an employee of the National and University Library of Bosnia and Herzegovina is not authorised to perform the duties of the director of this institution pursuant to Article 1 of this Order within 7 days after this Order enters into force, the Head of the Sector of Procurement, Processing, Periodicals and Official Publication shall be considered authorized to perform specific tasks for the institution that are otherwise the prerogative of the director.
2. Specific tasks as provided for in Paragraph (1) of this Article shall include those tasks that are necessary for the daily management of the institution or are necessary to avoid damage to the institution. This includes but is not limited to the approval of payment of the institution's expenses, the approval of payment of salaries and contributions, as well as the submission of project proposals in order to obtain financial resources for improving the work of the institution, and do not represent the full powers that otherwise belong to the position of the director of the institution.

Article 3

1. The authorization procedure, as outlined in Article 1 of this Order, shall apply to any case of vacant position of director of a cultural institution of significance for Bosnia and Herzegovina, and the authorization shall remain in effect until the appointment of governing bodies of respective institutions, including the final appointment of a director in accordance with the relevant laws.
2. In case of failure of the Council of Ministers of Bosnia and Herzegovina to comply with the provisions of Paragraph (1) of this Article within 7 days following the occurrence of a vacancy in the position of director of the respective institution referred to in Paragraph (1) of this Article, the deputy/assistant director shall be considered authorized to perform the specific tasks specified in Article 2, Paragraph (2) of this Order. If there is no deputy/assistant director or the deputy/assistant director is unable or unwilling to carry out such tasks, the highest-ranking employee of the respective institution responsible for finances or, if no such person is available or is unwilling or unable to perform such tasks, the employee responsible for legal, administrative or related affairs shall be considered authorized to perform the said specific tasks.
3. A cultural institution of significance for Bosnia and Herzegovina referred to in Paragraph (1) of this Article is the National Museum of Bosnia and Herzegovina, the Historical Museum of Bosnia and Herzegovina, the National and University Library of Bosnia and Herzegovina, the Museum of Literature and Theatre Arts of Bosnia and Herzegovina, the Library for Blind and Visually Impaired Persons of Bosnia and Herzegovina, the Film Archives of Bosnia and Herzegovina and the Art Gallery of Bosnia and Herzegovina.

Article 4

The authorization referred to in Article 1, 2 and 3 of this Order shall remain in force until the adoption of a different decision of the Council of Ministers of Bosnia and Herzegovina authorizing another person and specifying his/her authorizations or until the final appointment of the governing bodies of the institution, including the final appointment of the director.

Article 5

All acts and steps necessary for the employee designated pursuant to Article 1, 2 and 3 to carry out the tasks in accordance with Article 2, Paragraph (2), of this Order are hereby considered to have been taken, and the ability of the designated employee to fulfil his or her mandate shall be recognised by all institutions including commercial legal entities based on the identification document of respective employee and the decision on the assignment to the specified position within the cultural institution of significance for Bosnia and Herzegovina.

Article 6

This Order does not prejudice legislation that is urgently needed to update the regulations pertaining to the status of cultural institutions of significance for Bosnia and Herzegovina. Therefore, within sixty days after this Order enters into force, the relevant authorities of Bosnia and Herzegovina, in particular the Council of Ministers of Bosnia and Herzegovina, shall submit proposal(s) of law(s) to the Parliamentary Assembly of Bosnia and Herzegovina, which shall regulate, among others, the management and the

financing of institutions of culture of significance for Bosnia and Herzegovina.

Article 7

This Order is issued pursuant to the international mandate of the High Representative and is not issued by way of substitution for any domestic authority. It shall have precedence over any inconsistent provisions of any law, regulation or act, existing or future. This Order shall be directly applicable and no further act is required to ensure its legal effect.

Article 8

1. This Order shall enter into force forthwith and shall be published on the official website of the Office of the High Representative.
2. This Order shall be published without delay in the "Official Gazette of Bosnia and Herzegovina".

Sarajevo, 21 November 2024

Christian Schmidt
High Representative