

# Spirit of Bosnia / Duh Bosne

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## MEMORANDUM OF UNDERSTANDING between THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA and THE CITY OF SARAJEVO

Sarajevo Information Centre

The Sarajevo Information Centre on the International Criminal Tribunal for the former Yugoslavia (ICTY) was recently opened at the City Hall by the Mayor of Sarajevo Abdulah Skaka and Gabrielle McIntyre and the former judge at the ICTY Fausto Pocar.

The establishment of the Information Centre on the International Criminal Tribunal and promotion of their legacy is a project of historic significance for the City of Sarajevo and the state of Bosnia and Herzegovina. The Centre is a one more step closer towards truth and justice; confronting the past; developing peace and reconciliation“, stressed Mayor Skaka.

The mandate of the Information Centre Sarajevo is to provide updated, direct and secure electronic access to the public documents of the International Criminal Tribunal and archive material contained in ICTY’s online databases. The Centre is located in the City Hall and it will operate as a separate organisational unit within the Sarajevo City Administration. The public, researchers, students, the academic community, media and all interested citizens will be able to search the entire ICTY’s electronic archive with the assistance of the Sarajevo City Administration’s expert personnel, using modern IT equipment.

What is more, from now on the visitors at the City Hall will be able to visit the permanent exhibition of the original courtroom of the ICTY. The courtroom which the Mechanism, as the legal successor of the ICTY, has donated to the City of Sarajevo, will also be used by law students during practical lessons.

The audience was addressed by Ivo Komši?, Chairman of the Mayor’s Council for the Information Centre, who said that the Centre should serve as a unique place in this part of Europe where academic research of war crimes will be done from the legal, historical, sociological, philosophical, and psychological aspects.

The ICTY was a pioneering institution and the first international criminal tribunal of the modern age, which showed that accountability for the tragic events and horrendous crimes committed in the territory of the former Yugoslavia in the nineties is possible” stressed Gabrielle McIntyre in her address.

On this occasion, Mayor Skaka presented the recognitions for special contribution to the

establishment of the Information Centre to the former mayors of Sarajevo Semiha Borovac and Ivo Komši?, former judge of the ICTY Fausto Pocar and the current President of the Mechanism for the International Criminal Tribunals judge Theodor Meron. The recognitions were also awarded to the Ambassador of the Republic of Indonesia to BiH H.E. Amelia Achmad Yani, heads of Sarajevo municipalities Centar and Novi Grad: Nedžad Ajnadžić and Semir Efendić and president of the Unicredit Bank Administration Dalibor Ćubela.

The Information Centre opening ceremony, which was held simultaneously with the exhibition “The Siege of Sarajevo as Seen through the Rulings of the ICTY”, was attended by a high delegation of the Mechanism for the International Criminal Tribunals, the legal successor of the International Criminal Tribunal for the former Yugoslavia (ICTY), as well as the representatives of the executive, legal and judicial government in BiH, the international community, and the association of war crimes victims.

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### **MEMORANDUM OF UNDERSTANDING**

This memorandum of understanding (hereinafter referred to as “MOU”) is entered into by and between the International Criminal Tribunal for the former Yugoslavia (“ICTY”), an international organisation established by the United Nations Security Council, and having its Headquarters located at Churchillplein 1, 2517JW The Hague, Netherlands, and the City of Sarajevo, Hamdije Kresevljakovica 3, 71 000 Sarajevo, BiH (“City of Sarajevo”). The ICTY and the City of Sarajevo are collectively referred to herein as the “Parties” and each individually as a “Party”.

WHEREAS, the ICTY’s judicial records and its evidence collection contain an enormous quantity of information about the violations of the international humanitarian law committed during the wars in the territories of the former Yugoslavia during the 1990s;

WHEREAS, these records are of tremendous value to victims and their families, as well as to legal professionals, academics, historians, journalists, and the national authorities in the former Yugoslavia and other civil society actors working in the field of transitional justice;

WHEREAS, as part of its legacy, the ICTY must ensure that its public judicial records can be effectively accessed and utilised by a wide range of parties in the former Yugoslavia;

WHEREAS, the United Nations Secretary-General stated in his report of 21 May 2009 that the creation of information centres in the former Yugoslavia would serve the purpose of ensuring access to ICTY’s public judicial records and would also contribute to informing and sensitising those living in the countries of the former Yugoslavia;

WHEREAS, the United Nations Security Council requested the ICTY to cooperate with the countries of the former Yugoslavia in order to facilitate the establishment of the information and records centres by enabling access to the copies of the judicial records from the archive of the ICTY.<sup>2</sup>

WHEREAS, the ICTY has facilitated regional consultation on the establishment of Information Centres in the former Yugoslavia and the Presidency of Bosnia and Herzegovina agreed to the establishment of an information centre in Sarajevo (“Sarajevo Information Centre” or the

“Project”);

WHEREAS, the development and establishment of the Sarajevo Information Centre depends on the availability of external funding;

NOW, THEREFORE, and in consideration of the mutual covenants and agreements contained herein it is agreed by the Parties as follows:

## **1 THE SARAJEVO INFORMATION CENTRE**

1.1. The purpose of this MOU is to regulate the establishment of the Sarajevo Information Centre and the cooperation of the Parties in providing assistance to the Centre.

### *Location and mandate*

1.2. The Headquarters of the Sarajevo Information Centre shall be allocated space at the Sarajevo City Hall, Obala Kulina bana 1.

1.3. The main mandate of the Sarajevo Information Centre shall be to provide the public with up-to-date direct and secure electronic access to all publicly available ICTY’s records and archival material contained in ICTY’s online databases;

1.4. Depending on the availability of financial funds and resources, the Sarajevo Information Centre may invest efforts with the aim to inform the public on the war crimes issues, contributing to the process of transitional justice and strengthening the rule of law in Bosnia and Herzegovina and the region by establishing a strong *outreach* components, including:

1.4.1. the component of transitional justice – contribution to the processes of transitional justice and dealing with the past by organizing various informative and educational public events;

1.4.2. the component of support to legal professionals and civil society – capacity building activities targeting legal professionals and civil societies groups handling war crimes cases before domestic courts in Bosnia and Herzegovina; and

1.4.3. the exhibition component – showcasing the work of the ICTY and courts in Bosnia and Herzegovina in adjudicating war crimes cases.

### *Administration*

1.5. The Sarajevo Information Centre will be administered by the Mayor.

1.6. The Mayor’s Council for Sarajevo Information Centre (hereinafter referred to as “Council”) shall be set up in accordance with the City of Sarajevo’s procedures and shall be responsible for:

1.6.1. Preparing documents, annual plan of activities and budget of the Sarajevo Information Centre

1.6.2. Development of activities of Sarajevo Information Centre

1.6.3. Development and implementation of the plan for fundraising; and

1.6.4. Cooperation with representatives of ICTY in order to ensure constant access to the ICTY's public archives.

1.7. The Advisory Committee shall be established by the ICTY and shall be made up of representatives selected by the ICTY, and may include Judges and staff members of the ICTY and representatives of institutions in Bosnia and Herzegovina selected by the ICTY.

1.8. The Advisory Committee shall assist the Council in performing its duties, particularly with respect to public activities of the Sarajevo Information Centre and fundraising – related activities.

1.9. There shall not be overlap in membership between the Mayor's Council and Advisory Committee.

1.10. The Council shall consult with the Advisory Committee about the following issues related to the work of the Sarajevo Information centre:

1.10.1. Changes to the mandate of the Sarajevo Information Centre

1.10.2. Relocation of headquarters of the Sarajevo Information Centre

1.10.3. External action of the Sarajevo Information Centre, including, but not limited to, the activities stated under Article 1.4 above; and

1.10.4. Preparation and submission of proposals for collecting funds to potential donors.

1.11. The Council can, if deemed appropriate, consult the Advisory Committee on any other issues.

### *Financing*

1.12. All administrative costs of the Sarajevo Information Centre, including the costs of equipment and personnel, shall be covered by voluntary contributions from donors in the initial period of five (5) years (hereinafter referred to as "Initial Period"). Upon expiry of the Initial Period, the City of Sarajevo shall take over the responsibility for financing the Sarajevo Information Centre and all of its activities. The Initial Period can be extended by written agreement of the Parties.

## **2 OBLIGATIONS OF THE CITY OF SARAJEVO**

2.1. Within six (6) months from the effective date of this MOU, as defined in Article 9.1 below, the following requirements shall be completed:

2.1.1. Prior to commencement of operation of the Sarajevo Information Centre, the City of Sarajevo shall implement all the changes to the general acts and be granted all necessary permits from the Sarajevo City Council;

2.1.2. The City of Sarajevo shall allocate necessary space to the Sarajevo Information Centre in the Sarajevo City Hall;

2.1.3. A bank account number in Bosnia and Herzegovina in the name of the City of Sarajevo

shall be set up by the City of Sarajevo with the aim to collect funds for the establishment of the Sarajevo Information Centre.

2.2. The City of Sarajevo shall, with Advisory Committee's assistance, actively seek external funding for the Information Centre, identifying and approaching potential donors.

2.3. The City of Sarajevo shall enter into contribution agreements with selected donors, to secure the necessary funds for the establishment and operation of the Sarajevo Information Centre. ICTY shall not be a party to these agreements.

### **3 OBLIGATIONS OF THE ICTY**

3.1. The ICTY shall establish the Advisory Committee and appoint its representatives.

3.2. ICTY will, through the Advisory Committee, and to the extent possible, provide support to the City of Sarajevo in approaching potential donors for purposes of securing funds for the establishment of the Sarajevo Information Centre. The ICTY shall not be responsible for providing funds or administering funds for the Sarajevo Information Centre.

3.3. Through the Advisory Committee, the ICTY shall provide support to the City of Sarajevo in planning and implementing external action of the Sarajevo Information Centre, including, but not limited to, the activities stated under article 1.4 above.

3.4. The ICTY shall provide the City of Sarajevo with a direct and secure access to publicly available records and archival material contained in its databases upon the establishment of the Information Centre Sarajevo and as soon as there are sufficient funds for procuring the necessary equipment . . . .

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**Amendment 1**  
to  
**MEMORANDUM OF UNDERSTANDING**  
between  
**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA**  
and  
**THE CITY OF SARAJEVO**

**for the development of the Sarajevo Information Centre**

This Amendment ("Amendment 1") effective as of the date of the last signature, is entered into by and between the International Residual Mechanism for Criminal Tribunals, an international intergovernmental organisation and a legal successor to the International Criminal Tribunal for the former Yugoslavia ("ICTY"), having its Headquarters located at Churchillplein 1, 2517JW The Hague, Netherlands ("Mechanism"), and the City of Sarajevo, Hamdije Kregevljakovica 3, 71 000 Sarajevo, Bosnia and Herzegovina ("City of Sarajevo"), and modifies and amends the existing Memorandum of Understanding by and between the ICTY and the City of Sarajevo. The Mechanism and the City of Sarajevo are collectively referred to herein as the "Parties" and each individually as a "Party".

WHEREAS, the ICTY and the City of Sarajevo entered into a Memorandum of Understanding for the development of the Sarajevo Information Centre dated 29 November 2016 (“MOU”);

WHEREAS, pursuant to Resolution 1966 (2010), the United Nations Security Council established the Mechanism, a legal successor to the ICTY and the International Criminal Tribunal for Rwanda, with branches located in The Hague (The Netherlands) and in Arusha (United Republic of Tanzania);

WHEREAS, the ICTY’ s mandate came to its end on 31 December 2017; WHEREAS, the Mechanism and the City of Sarajevo now wish to amend the MOU,

NOW, THEREFORE, in consideration of the mutual covenants and agreement provided for, the Parties hereto agree as follows:

1. The following shall be added to Article 6.2 of the MOU:

“As of 1 January 2018:

To the United Nations International Residual Mechanism for Criminal Tribunals Attention:

Nenad Gol6evski, External Relations Officer

Churchillplein 1

2517 JW, The Hague

The Netherlands

With a copy to:

Kevin Prendergast, Personal Assistant to the Registrar Churchillplein 1

2517 JW, The Hague

The Netherlands

To the City of Sarajevo:

Attention: Mayor Abdulah Skaka Hamdije Kregevljakoviea 3,

71 000 Sarajevo,

Bosnia and Herzegovina”

1. A new Article 9.1.1 shall be added to Section 9 of the MOU and shall read as follows:

“9.1.1 Subsequent to the closure of the ICTY on 31 December 2017, all of the ICTY’ s rights and obligations under this MOU shall be assumed by the United Nations International Residual

Mechanism for Criminal Tribunals (“Mechanism”), as of 1 January 2018. Following the succession, the MOU shall remain in force for the duration of the Mechanism’s mandate, unless earlier terminated in accordance with the terms of this MOU.”

1. This Amendment No. 1 represents the entire understanding of the Parties concerning the subject matter hereof and supersedes all prior representations, contracts and proposals, whether written or oral, by and between the Parties with regard to same.

IN WITNESS WHEREOF, the Mechanism and the City of Sarajevo have, through their authorized representatives, subscribed to this Amendment No. 1 on the date herein below written.

Done at the City of Sarajevo and at The Hague in two originals in the English language.

For and on behalf of the City of Sarajevo,

Abdulah Skaka, Mayor of Sarajevo

For and on behalf of the United Nations International Residual Mechanism for Criminal Tribunals,

Olufemi Elias, Registrar

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