

The Constitutional Court of Bosnia and Herzegovina, President Seada Palavrić, in accordance with Article VI(3)a) of the Constitution of Bosnia and Herzegovina, Article 57(2)(e), and Article 64(1), (2) and (4) of the Rules of the Constitutional Court of Bosnia and Herzegovina – consolidated text (*Official Gazette of Bosnia and Herzegovina*, 94/14, 47/23 and 41/24), having deliberated on the request submitted by **Denis Bećirović**, Member of the Presidency of Bosnia and Herzegovina, in case no. **U-2/25**, on 12 February 2025 adopted the following

## **DECISION ON INTERIM MEASURE**

The request for an interim measure filed by **Denis Bećirović**, Member of the Presidency of Bosnia and Herzegovina, is hereby granted.

The Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem (*Official Gazette of the Republika Srpska*, 4/25) is suspended.

This decision shall come into force immediately and shall produce legal effects from the date of entering into force of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem (*Official Gazette of the Republika Srpska*, 4/25) pending adoption of a final decision of the Constitutional Court of Bosnia and Herzegovina on the submitted request.

This decision shall be published in the *Official Gazette of Bosnia and Herzegovina*, the *Official Gazette of the Federation Bosnia and Herzegovina*, the *Official Gazette of the Republika Srpska* and the *Official Gazette of the Brčko District of Bosnia and Herzegovina*.

## REASONS

### I. Introduction

1. On 3 February 2025, Denis Bećirović, Member of the Presidency of Bosnia and Herzegovina (“the applicant”), filed a request with the Constitutional Court of Bosnia and Herzegovina (“the Constitutional Court”) seeking a review of constitutionality of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem (*Official Gazette of the Republika Srpska*, 4/25) (“the disputed law”). The applicant claims that the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem is not in conformity with the Constitution of Bosnia and Herzegovina, namely Articles I(1), I(2), I(3), I(6), II(3), II(5), II(6), III(2)(a), III(3)(b), VI(5), and Article II(4) in conjunction with Articles 1.1 and 2.a) and c) of the International Convention on the Elimination of All Forms of Racial Discrimination (“the International Convention”) from Annex I to the Constitution of Bosnia and Herzegovina and Annex II to the Constitution of Bosnia and Herzegovina, paragraph 2. Continuation of laws. At the same time, the applicant seeks the adoption of an interim measure that would suspend the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem.

### II. Request

#### a) Complaints

2. The applicant states that on 4 July 2024, the National Assembly of the Republika Srpska (“the RS National Assembly”) adopted the Draft Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, with the conclusion that a public debate regarding the Draft Law should be held within 30 days. In this regard, it was stated that the public debate was held in five municipalities and cities in the Entity of the Republika Srpska (“the RS”) in the presence of the proponent of the disputed law, the President of the RS National Assembly, representatives of the authorities from the ruling coalition, individual members of local and city authorities, veterans' organizations in the RS, with the participation of a small number of citizens, mainly of Serb nationality. The President of the RS National Assembly, as the proponent of the Law, in the reasoning of the proposed Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, stated, among other things, the following: *The reasons for submitting this proposal are to enable the display of flags and coats of arms and the performance of anthems of foreign states with which the Republika Srpska has signed an Agreement on Special Parallel Relations, i.e. states with which some or all constituent peoples or other citizens in the Republika Srpska share a common historical, cultural and traditional heritage. In this way, the Republika Srpska contributes to the protection of the identity of its constituent peoples and other*

*citizens, their culture and tradition, affirms respect for human rights and promotes friendly relations and cooperation between states and peoples.*

3. On 5 November 2024, the RS National Assembly adopted the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem as proposed. However, this law did not receive the consent of the Bosniac Caucus in the Council of Peoples and the Bosniac Caucus filed a request for protection of the vital interest of the Bosniac people. The RS Constitutional Court determined that the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem did not violate the national interests of the Bosniac people. Finally, the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem was published in the *Official Gazette of the RS* on 24 January 2025 and it entered into force on 1 February 2025.

4. The applicant argues that the actual reason for enacting the disputed law was contained in *repeated publicly stated intention of the authorities in the Entity of the Republika Srpska - separately and publicly presented by the President of the RS National Assembly as the proponent of the disputed law - that this law would allow that the coat of arms of the House of Nemanjić be in use in all the institutions and ministries in the RS Government, offices, municipalities and that the anthem Bože pravde be played at all events, by virtue of law [...]*. Regarding the entry into force of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, the applicant reminds of a triumphant statement by the President of the RS National Assembly: *From now on, we will be seeing these symbols much more often in use in public spaces and institutions of the Republika Srpska*. The applicant notes that such a statement from the holder of a public office in the RS indicates that the actual purpose of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem is of a political nature because such a legal solution enables the use of state symbols of the Republic of Serbia in the institutions of and at public events in the RS. According to the applicant, that essentially constitutes not only political pressure but any other pressure on the citizens of Bosnia and Herzegovina (“BiH”) of non-Serb ethnicity living in this area, in particular the returnees to the RS, as well as pressure on the institutions of BiH that undermines the constitutional-legal framework of BiH. The enactment of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem is in violation of the provisions of the Constitution of BiH, specifically Articles I(2) and I(6), as well as imperative norms on the use of symbols of the State of BiH governed by separate laws, stipulating that a disrespect for the anthem, coat of arms and flag of BiH is not only unconstitutional but also entails accountability.

5. The applicant argues that the authorities in the RS abuses the constitutional right of the Entities to establish special parallel relations with the neighbouring countries. Such actions by the authorities

in the RS are in contradiction to the Preamble of the Constitution of BiH, Article I(1), Article III(2)(a) on the responsibilities of the Entities, and the views of the Constitutional Court presented in the final and binding decisions (*U 5/98, U-10/04, U-9/05 and U-5/06*). In particular, the applicant commented on the decision of the Constitutional Court no. U-4/04 of 31 March 2006, in which the Constitutional Court declared as unconstitutional Articles 2 and 3 of the Law on the Use of the Flag, Coat of Arms and Anthem in the part stipulating that the flag, coat of arms and anthem “constitute statehood of the Republika Srpska” and in the part stipulating that the RS symbols are used “consistent with the moral norms of the Serb people“. The applicant states that a comparative analysis of the form and content of the disputed Law leads to a conclusion that it is in effect the same the Law on the Use of the Flag, Coat of Arms and Anthem from 1993; and the Constitutional Court examined that law and found that particular provisions thereof were incompatible with the Constitution of BiH. The Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem is therefore in clear contradiction to the decision of the Constitutional Court no. U-4/04, which constitutes a manifest violation of Article VI(5) of the Constitution of BiH.

6. According to the applicant, through the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, the authorities in the RS in the same way introduce and use the coat of arms of the House of Nemanjić (the double-headed eagle with a crown) and the anthem “Bože pravde”, despite the fact that the Constitutional Court repealed those symbols, having concluded that they discriminated against Bosniacs and Croats, as well as other citizens in BiH and the RS. The applicant argues that the authorities in the RS, by enacting the same unconstitutional law, attempted to restore to use the flag, coat-of-arms and the anthem of a “foreign” state (Republic of Serbia), referring to the Agreement on establishing special parallel relations between the RS and “foreign” states with which “some or all constituent peoples or other citizens in the Republika Srpska share common historical, cultural or traditional heritage...”. In the applicant’s view, such actions are *prima facie* contrary to Articles III(1), III(2)(a) and (d) and III(3)(b) of the Constitution of BiH. The applicant states that the authorities in the RS, through a seemingly general legal norm from the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, are actually trying to create the perception that in addition to the RS symbols a possibility of use of symbols of any other state is introduced, which is not true. On that note, the applicant claims that the challenged legal norm represents an obligation and rule of conduct for all the subjects in the RS.

7. The applicant submits that under the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, the coat of arms of the House of Nemanjić will be displayed and the anthem “Bože pravde” will be performed as the official symbols of the RS, as said by the President of the RS

National Assembly in his statement (see paragraph 2 above). The applicant further notes that all the institutions in the RS are obliged to act in accordance with the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem and that any conduct to the contrary shall constitute an offence and bring about legal consequences in the form of compulsive measures. In the applicant's opinion, in the multi-ethnic BiH and the multi-ethnic Entity of the RS as an integral part of BiH, this would cause additional inequality among the people and tensions and would be a continuation of the domination of the Serb people over the remaining non-Serb population. In the applicant's opinion, in this way the authorities in the RS *deliberately, by design and systematically continue with the policy of aggressive nationalism that they implemented during the war in an effort to achieve a great-state project, among other things, through the breakdown and division* of BiH. The applicant claims that the authorities of the RS find the basis for such actions in a distorted and wrong interpretation of the Dayton Peace Agreement and the Constitution of BiH, conducting an ethnic policy to achieve in peace the goals not achieved during the war. As claimed by the applicant, the obvious proof of that can be seen in the enactment of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem whereby the RS authorities are implementing the conclusions of the RS National Assembly of 2 July 2024 on mandatory implementation of the conclusions, views and goals from the Declaration on the Protection of National and Political Rights of the Serbian People adopted by the Pan-Serbian Assembly of the Serbian People of the Republic of Serbia and the RS in Belgrade in June 2024. Some of the 49 conclusions of the Declaration pertain to marking of the unconstitutional 9 January as the Date of Inception of the RS and saint patron's day, the decision that the anthem "Bože pravde" is a pan-Serbian anthem, that the double-headed eagle of the House of Nemanjić represents a pan-Serbian coat of arms.

8. The applicant alleges that the Republic of Serbia is the only "party" and a neighbouring country with which the RS concluded an Agreement on Special Parallel Relations (signed on 26 September 2006). Next, the applicant alleges that the RS, following the entry into force of the Constitution of Bosnia and Herzegovina and following the establishment of the Parliamentary Assembly of BiH in September 1996, concluded several agreement with the Federal Republic of Yugoslavia ("the FRY"), enacted several regulations governing particular issues, ordinances, protocols, as well as an agreement with the Government of the Republic of Montenegro, without the consent of the Parliamentary Assembly of BiH, which exceeded the scope of the constitutional framework. On that note, the applicant referred to an opinion of the European Commission for Democracy through Law that, upon a request of the Office of the High Representative for BiH, examined the constitutionality of a number of agreements that, among others, were concluded by the authorities in the RS with the FRY. The applicant considered that the conclusion of such agreements

undermined the sovereignty and territorial integrity of the State of BiH, and that it was a planned, systemic and deliberate implementation of a great-state policy of the neighbouring country of the Republic of Serbia towards BiH through the authorities in the RS as the “implementer” of that policy. All those activities are contrary not only to international law but also to the Dayton Peace Agreement and the obligations of the Republic of Serbia as a party to “a tragic conflict in Bosnia and Herzegovina 1992 to 1995”. The disputed Law Amending the Law on the Use of Flag, Coat of Arms and Anthem, alongside the use of symbols of the RS, introduces symbols (coat of arms, flag and anthem) of a foreign state (Republic of Serbia) in the territory of BiH as a sovereign and internationally recognised state, which is contrary to the Constitution of BiH and international law. The applicant considers that the Law on the Use of Flag, Coat of Arms and Anthem does not contribute to the protection of the identity of the constituent peoples, other citizens, their culture and tradition, nor does it assert respect for human rights in the RS. On the contrary, the will of the majority in the RS National Assembly gathered around the ruling party (SNSD) with Serbs having absolute majority membership unilaterally promotes inequality and discrimination of the constituent peoples and other citizens. The applicant alleges that the disputed Law on the Use of Flag, Coat of Arms and Anthem reintroduces symbols in the RS that were adopted during the war in BiH at the time when the RS, according to the then applicable Article 1 of the RS Constitution, was *a state of the Serb people and all of its citizens*, which is contrary to the decision of the Constitutional Court no. *U-5/98-III* of 1 July 2000 on the constituent status of the peoples and recognition of the rights of the constituent peoples throughout the territory of BiH. Based on the aforementioned, the applicant considers that the Law on the Use of Flag, Coat of Arms and Anthem is not compatible with Articles I(1) and I(2) of the Constitution of BiH, Article II(4) of the Constitution of BiH as read with Articles 1.1 and 2(a) and (c) of the International Convention under Annex I to the Constitution of BiH. While the commitments under the international agreements referred to in Annex I to the Constitution of BiH pertain to Member States, the applicant argues that those commitments, within the meaning of Articles II(1) and II(6) of the Constitution of BiH, pertain to the Entities as well. The applicant also points to case law of Entity constitutional courts that, in their decisions, found incompatibility with Entity constitutions in respect of appearance of symbols of particular cantons, municipalities, towns on account of a prevailing ethnic principle favouring only one constituent people. The applicant petitions, based on all the facts and grounds contained in the reasons for his request, that it be found that the Law on the Use of Flag, Coat of Arms and Anthem is not compatible with Articles I(1) and I(2) of the Constitution of BiH, Article II(4) of the Constitution of BiH as read with Articles 1.1. and 2(a) and (c) of the International Convention under Annex I to the Constitution of BiH. In the applicant's opinion, the request should be granted on the additional ground of non-enforcement of final decisions of the Constitutional Court,

repeated enactment of legislation contradictory to the Constitution of BiH and non-compliance with the responsibility of BiH under Article III(2)(a) of the Constitution of BiH.

### **Request for an interim measure**

9. The applicant claims that the RS Government has adopted the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, which is not in conformity with the Constitution of BiH, nor with the final and binding decisions of the Constitutional Court. Furthermore, the applicant contends that the reasons stated in the request and the continuous violation of the Constitution of BiH, international conventions and final and binding decisions of the Constitutional Court, are sufficient reason for the Constitutional Court to adopt appropriate decisions in accordance with the Rules of the Constitutional Court. Due to the legal nature of the dispute on the constitutionality, namely the issue of compatibility of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem with the Constitution of BiH, and the irreparable damage to the protection of human rights and fundamental freedoms that could arise from the application of this Law, the applicant proposes that the Constitutional Court adopt an interim measure that would suspend the Law Amending the Law the Law on the Use of the Flag, Coat of Arms and Anthem until the Constitutional Court renders a final decision in this matter.

10. The **Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem** (*Official Gazette of the RS*, 4/25) reads as follows:

#### *Article 1*

*In the Law on the Use of the Flag, Coat of Arms and Anthem (Official Gazette of the Republika Srpska, 4/93), in Article 8, after paragraph 2, a new paragraph 3 is added, which reads:*

*“Along with the display of the flag and coat of arms/emblem of the Republika Srpska and the performance of the anthem of the Republika Srpska, flags and coats of arms of foreign states with which the Republika Srpska has signed an Agreement on Special Parallel Relations, or states with which some or all constituent peoples or Others or citizens in the Republika Srpska share a common historical, cultural and traditional heritage, may be displayed and the anthems may be performed.”*

#### *Article 2*

*This Law shall enter into force on the eighth day from the date of its publication in the Official Gazette of the Republika Srpska.*

11. The **Law on the Use of the Flag, Coat of Arms, and Anthem** (*Official Gazette of the RS*, 4/93), insofar as relevant reads:

*Article 1*

*This Law regulates the use of the flag, coat of arms and anthem of the Republika Srpska.*

*Article 2*

*The flag, coat of arms and anthem of the Republika Srpska express affiliation with the Republika Srpska.*

*Article 3*

*The flag, coat of arms and anthem of the Republika Srpska shall be used in accordance with the provisions of this Law, public order, as well as in a manner that does not violate the reputation and dignity of the Republika Srpska.*

*Article 9*

*The flag of the Republika Srpska shall be flown:*

- 1) at the residence of the President of the Republika Srpska;*
- 2) on certain facilities on the border of the Republika Srpska and on other facilities in the Republika Srpska near the border, in accordance with special regulations;*
- 3) in other cases, under the conditions and in the manner determined by law.*

*The flag of the Republika Srpska shall be used as a sign on an aircraft, ship or other vessel, as well as on other public means of transport, in order to indicate their affiliation with the Republika Srpska, under the conditions and in the manner determined by the relevant regulations.*

*Article 10*

*The flag of the Republika Srpska shall be displayed:*

- 1) on saint patron's days and holidays of the Republika Srpska - on the buildings housing the state bodies in the Republika Srpska during the saint patron's days and holidays;*
- 2) when sending off the President of the Republika Srpska from the Republika Srpska and welcoming him upon his return to the Republika Srpska from abroad;*
- 3) on means of transport used by the President of the Republika Srpska;*



*4) on days of mourning, determined by the Government of the Republika Srpska, and shall be at half-mast during the mourning period;*

*5) in other cases, under the conditions and in the manner determined by law.*

#### *Article 15*

*The coat of arms of the Republika Srpska shall be used:*

*1) as part of the seals of state bodies of the Republika Srpska, in accordance with the regulations on such seals;*

*2) as part of the stamps of state bodies in accordance with the regulations on such stamps;*

*3) in official inscriptions of state bodies displayed on buildings housing the state bodies in the Republika Srpska;*

*4) on objects marking the border of the Republika Srpska and other objects in the Republika Srpska near the border, in accordance with special regulations;*

*5) in other cases, under the conditions and in the manner determined by law.*

#### *Article 16*

*The coat of arms of the Republika Srpska may be used:*

*1) on buildings housing state bodies in the Republika Srpska, as well as in ceremonial premises of such bodies;*

*2) on buildings where the premises of a diplomatic or consular mission of the Republika Srpska abroad are located, on the postcard of the head of that mission and on means of transport that he personally uses in the performance of official duties, in accordance with the relevant international treaties, regulations and customs of the country in which the mission is located, or the rules and practices of the international organization to which the mission is attached;*

*3) during international meetings, competitions and other gatherings (political, scientific, cultural and artistic, sports gatherings, etc.) in which the Republika Srpska participates or is represented, in accordance with the rules and practices relating to the holding of such gatherings;*

*4) on military and naval flags of the Republika Srpska and command flags, in accordance with the regulations on such flags;*

5) on aircraft, ships or other vessels, as well as on other public means of transport under the conditions and in the manner determined by the relevant regulations;

6) on official invitations, greeting cards and similar documents used by: **(missing word)** Republic, Vice-Presidents of the Republika Srpska, the President of the National Assembly of the Republika Srpska, the Prime Minister of the Republika Srpska, under the conditions and in the manner regulated by their **(missing word)**, as well as by the heads of diplomatic and consular missions of the Republika Srpska abroad;

7) in other cases, provided that its use is not in contradiction with the provisions of this Law.

#### Article 19

*The anthem of the Republika Srpska shall be performed:*

1) during the laying of wreaths at military cemeteries, graves of fallen soldiers and other similar places by official representatives of the Republika Srpska;

2) during the sending off of the President of the Republika Srpska from the Republika Srpska on an official visit to a foreign state and upon his return to the Republika Srpska;

3) upon the official arrival in the Republika Srpska or upon the sending off from the Republika Srpska of a head of a foreign state or an authorized representative of an international organization;

4) in other cases provided for by law.

#### Article 20

*The anthem of the Republika Srpska may be performed:*

1) at celebrations, political gatherings, parades and other ceremonies officially marking events of importance for units of the armed forces of the Republika Srpska, citizens of the Republika Srpska;

2) during international meetings, competitions and other gatherings (political, scientific, cultural-artistic, sports gatherings, etc.), in which the Republika Srpska officially participates or is represented, in accordance with the rules and practice of holding such gatherings;

3) at the funeral of deserving individuals that are citizens of the Republika Srpska when they are given special honours by the Republika Srpska;

4) in other cases, provided that its use is not in contradiction with the provisions of this Law.

12. The **Law on the Flag of Bosnia and Herzegovina** (*Official Gazette of Bosnia and Herzegovina*, 1/98, 19/01, 23/04 and 11/23 - Decision of CC BiH) insofar as relevant reads:

*Article 2*

*The flag of Bosnia and Herzegovina represents Bosnia and Herzegovina and is displayed as a symbol of Bosnia and Herzegovina.*

*Article 5*

*The flag of Bosnia and Herzegovina shall be officially displayed at the state level of Bosnia and Herzegovina in the following manner:*

*[...]*

*Official display of the flag in the Entities and unofficial use of the flag will be regulated by a separate law.*

13. The **Law on the Coat of Arms of Bosnia and Herzegovina** (*Official Gazette of BiH*, 8/98, 19/01 and 23/04)

*Article 2*

*The coat of arms of Bosnia and Herzegovina represents Bosnia and Herzegovina and shall be displayed as a symbol of Bosnia and Herzegovina.*

*Article 9*

*1. The coat of arms of Bosnia and Herzegovina shall be officially displayed in the following way:*

*[...]*

*2. In all cases referred to in the previous paragraph, no other coat of arms from Bosnia and Herzegovina shall be displayed together with the coat of arms of Bosnia and Herzegovina.*

14. The **Law on the National Anthem of Bosnia and Herzegovina** (*Official Gazette of the Federation of BiH*, 19/01 and 17/04), insofar as relevant reads:

*Article 1*

*This law establishes the National Anthem of Bosnia and Herzegovina (hereinafter: the anthem) and regulates its use as a symbol of the State.*

*Article 5*

*The national anthem shall be performed:*

*[...]*

*4. On other occasions in accordance with the Constitution and laws of Bosnia and Herzegovina.*

15. In examining the grounds of the request for an interim measure, the Constitutional Court invoked the provisions of Article VI(3)(a) of the Constitution of Bosnia and Herzegovina and Article 64(1) and (4) of the Rules of the Constitutional Court.

Article VI(3)(a) of the Constitution of BiH:

*The Constitutional Court shall uphold this Constitution.*

*a) The Constitutional Court shall have exclusive jurisdiction to decide any dispute that arises under this Constitution between the Entities or between Bosnia and Herzegovina and an Entity or Entities, or between institutions of Bosnia and Herzegovina, including but not limited to:*

*- Whether an Entity's decision to establish a special parallel relationship with a neighbouring state is consistent with this Constitution, including provisions concerning the sovereignty and territorial integrity of Bosnia and Herzegovina.*

*- Whether any provision of an Entity's constitution or law is consistent with this Constitution.*

*Disputes may be referred only by a member of the Presidency, by the Chair of the Council of Ministers, by the Chair or a Deputy Chair of either chamber of the Parliamentary Assembly, by one-fourth of the members of either chamber of the Parliamentary Assembly, or by one-fourth of either chamber of a legislature of an Entity.*

Article 64(1), (2) and (4) of the Rules of the Constitutional Court reads:

- (1) *The Constitutional Court may, of its own motion or at the request of an applicant or appellant, adopt any interim measure it deems necessary in the interest of the parties or the proper conduct of the proceedings.*
- (2) *Exceptionally, the President of the Constitutional Court may, if it is not possible to convene a session, adopt an interim measure such as is referred to in paragraph 1 of this Article.*
- (4) *The proceedings concerning the adoption of an interim measure shall be expedited and a decision granting a request for the adoption of an interim measure shall be binding until the Constitutional Court takes a final decision.*

16. The Constitutional Court recalls that Article 64 of the Rules of the Constitutional Court is applicable in cases in which the Constitutional Court finds, based on the reasons and evidence on justification submitted with the request for an interim measure, that it is in the interest of the parties or the proper conduct of the proceedings, or that otherwise irreparable damage could occur.

17. In the present case, the Constitutional Court notes that the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem provides that in addition to displaying the coat of arms and flag of the RS, as Entity, and performing the anthem of the RS, the coats of arms and flags of other foreign states may be displayed and the anthems of other foreign states may be performed. The application of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem implies that, in addition to the symbols of the RS, symbols of foreign states may also be displayed in all public institutions of the RS. The above implies the conclusion that the public authorities in the RS may, in accordance with the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, take concrete steps to place and display symbols of foreign states in all public institutions alongside the existing symbols of the RS. Moreover, according to this law, symbols of foreign states, in addition to the coat of arms of the RS, may also be used on seals and stamps used by public authorities in the RS, etc.

18. The Constitutional Court stresses that it is obvious that the circumstances surrounding this case raise very serious and complex issues pertaining to the constitutionality of the contested Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem in relation to provisions of the Constitution of Bosnia and Herzegovina. Primarily, the Constitutional Court notes that having an insight into the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem and the amendments to the Law it follows that the Law *governs the use of the flag, coat of arms and anthem of the Republika Srpska*. It ensues therefrom that an issue arises as to the authority of the RS National

Assembly to regulate the possibility of use of symbols of other states by adopting the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem.

19. The Constitutional Court further notes that it has the authority to adopt an interim measure only in the event of urgency, in the sense that irreparable damage can be caused to the interests that are subject matter of this proceeding. The Constitutional Court observes that the legislation pertaining to the use of symbols represents one of the most important areas of regulation in any country, as symbols are an expression of sovereignty, identity and constitutional order of a state or part thereof, and they are also used in international relations. Therefore, regulating the use of symbols is key as symbols reflect the constitutional order and legal structure, and they must be harmonised with the constitutional principles and organization of the state, which is why a vague and broad regulation may disrupt the constitutional hierarchy between the state and its administrative territorial units. Consequently, the Constitutional Court, without prejudice to the decision on the merits of the request for review of constitutionality, notes that allowing display of symbols of foreign countries can be interpreted as creation of a legal framework that undermines the sovereignty and territorial integrity of Bosnia and Herzegovina in one part of its territory, which may have long-term consequences on the constitutional order. In such a situation, display of symbols of foreign states next to symbols of an Entity, with or without displaying symbols of the State of Bosnia and Herzegovina, may create an appearance of non-existence of sovereignty, territorial integrity and political independence of Bosnia and Herzegovina. In that regard, the Constitutional Court emphasises that paragraph 6 of the Preamble of the Constitution of Bosnia and Herzegovina expresses commitment to “[..] sovereignty, territorial integrity and political independence of Bosnia and Herzegovina in accordance with international law [...]”. The Constitutional Court therefore considers that there are justified reasons to doubt that the disputed law may undermine the constitutional order and political stability of Bosnia and Herzegovina, which at this stage is sufficient to find existence of an “arguable claim” for the possibility of occurrence of irremediable detrimental consequences as a precondition for the Constitutional Court to grant the request for an interim measure.

20. Furthermore, the Constitutional Court observes that the use of symbols of foreign states by the RS Entity may have elements of diplomatic relations, which raises the issues of authority of the RS Entity in this area considering that Article III(1)(a) of the Constitution of BiH provides that foreign policy is the sole responsibility of the institutions of Bosnia and Herzegovina. In that regard, the Constitutional Court considers that taking any action on the basis of the disputed law prior to taking a decision on the merits of this case may be perceived as an act of parallel foreign policy. As a result,

detrimental consequences in international relations are also possible if symbols of foreign states would be displayed or used in the RS in public and on official documents, exceeding the official foreign policy of Bosnia and Herzegovina. In addition, in view of the past in Bosnia and Herzegovina, it is beyond dispute that the issue of use of symbols of foreign states by the RS Entity is a sensitive issue, that being the reason why the application of the law in question could potentially cause political tension within BiH and additionally exacerbate the relations between the Entities and State institutions. Under these circumstances, the Constitutional Court concludes that there is urgency justifying the adoption of the interim measure.

21. Finally, in the event that the Constitutional Court finds that the disputed Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem is inconsistent with the Constitution of BiH, the consequences of the application of such a Law would require the removal of symbols of foreign states from public institutions in the RS, or the removal of seals and stamps with symbols of foreign states on documents certified by the public authorities of the RS, which would call into question the principle of legal certainty and validity of such documents. In the opinion of the Constitutional Court, this would certainly have consequences in international relations that could be effectively avoided by suspending the newly adopted Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem. Namely, the disputed Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem entered into force recently, i.e. on 1 February 2025. Therefore, suspending its application would certainly cause less damage than eliminating the consequences of the application of such a law in the event that the Constitutional Court grants the request for a review of constitutionality.

22. Finally, in order to avoid harmful consequences that could arise from the application of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem, before the final decision on the request is made, the Constitutional Court considers that it is in the interest of all parties to the proceedings to suspend the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem pending a final decision of the Constitutional Court on the submitted request. In this connection, the Constitutional Court is convinced that, within the meaning of Article 64(1) of the Rules of the Constitutional Court, the protection of the sovereignty and stability of BiH, including its Entities, is in the interest of all parties to the proceedings. Therefore, the Constitutional Court considers that the suspension of the application of the Law on Amending the Law on the Use of the Flag, Coat of Arms and Anthem until the final decision on the submitted request is made is not contrary to the aforementioned interests, but directly contributes to protection of those interests.

23. Taking into account all of the above, the Constitutional Court considers that, in terms of Article 64(1) of the Rules of the Constitutional Court, it is necessary to adopt an interim measure by which the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem (*Official Gazette of the Republika Srpska*, 4/25) would be suspended *ab initio* pending a final decision of the Constitutional Court of BiH on the submitted request.

24. In terms of Article 64(4) of the Rules of the Constitutional Court, a decision on interim measure shall produce a legal effect from the date of entering into force of the Law Amending the Law on the Use of the Flag, Coat of Arms and Anthem (*Official Gazette of the Republika Srpska*, 4/25) pending a final decision of the Constitutional Court.

25. In view of the aforesaid, it was decided as set out in the enacting clause of this decision.

26. The Constitutional Court recalls that the decision on interim measure shall be without prejudice to the decision on admissibility and/or decision on merits to be adopted on the submitted requests.

27. Pursuant to Article VI(5) of the Constitution of BiH, decisions of the Constitutional Court shall be final and binding.