

[BA] Controversies around the Kinoteka BiH

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The *Kinoteka Bosne i Hercegovine* (National Film Archive of Bosnia Herzegovina - Kinoteka BiH), could be seriously endangered due to legal controversies stemming from the complicated structure of governance of the post-Dayton BiH. On 28 September 2010 the Constitutional Court of the Federation of BiH confirmed an appeal lodged by the President of the Federation of BiH, about returning authorities originally vested in the cantons according to the Constitution of the Federation of BiH. Unlike the Republika Srpska, which is a highly centralised entity within BiH, the Federation of BiH is highly decentralised, composed of ten cantons having their own constitutions, including legislative, judicial and executive powers. However, over the time, two Ministries - the Ministry of Culture and Sport and the Ministry of Education and Science have been created on the entity level, which was not prescribed by the Federal Constitution.

In its ruling (No. U-29/09) the Constitutional Court of the Federation of BiH ordered a six-month deadline to harmonise competencies between the Federation of BiH and the cantons or otherwise the two federal Ministries will be abolished. If so, it could be detrimental for science, education, culture and arts, and in particular for the film industry, including the preserving of the cinematographic heritage, largely financed via the *Fondacija za kinematografiju* (Cinematography Fund), established by the Ministry of Culture and Sport.

The rather small institution, Kinoteka BiH, possesses and stores film material and databases of historical, artistic, cultural, educational and scientific significance. A digitisation process is under way supported by foreign aids. Before the 1992-1995 war, this institution was part of Jugoslovenska kinoteka. In 1994, the then Parliament of the Republic of BiH issued the law that established Kinoteka BiH. But the Dayton Peace Agreement created a highly decentralised power-sharing arrangement comprised of the Federation of BiH (FBiH) and the Republika Srpska (RS), which changed fundamentally the decision-making processes. In brief, all laws issued by the then Parliament of BiH were proclaimed void. Despite this legal vacuum Kinoteka BiH preserved its name and continued to exist. The legal controversies led to some paradoxes, e.g., concerning overlapping legislative competencies. All staff, including the executives, are in an acting capacity until reaching a final legal setting for the Kinoteka BiH.

Presudu U-29/09, 28.10.2010

http://www.ustavnisudfbih.ba/bos/odluke/odluke/u29_09.htm

Ruling of the Constitutional Court of the Federation of BiH No. U-29/09 of 28 September 2010

