DANI: Interview with HR Christian Schmidt

By Saša Rukavina

DANI: Since we are running out of time, we have to get to the core of the issues right away: there are two pressing problems in Bosnia and Herzegovina these days. The first is the issue of State property. We have the decision of the OHR banning the disposal of State property until such time as a State law is adopted. For more than a decade, there had been no indications that this law could be adopted. The RS has now enacted its own law for the third time and is already starting its enforcement. When will your Office intervene again, and can we expect to see, this time, some request, pressure or something similar on the State institutions to finally resolve this issue?

Christian Schmidt: Let’s be precise: 18 is the number of years that this issue awaits to be resolved. It is 18 years of lost opportunities to use the state property for the benefit of the BiH people.

The legal situation is clear: decisions of the BiH Constitutional Court, the highest judicial institution in the country, clearly say that State as the owner of State Property has exclusive jurisdiction to regulate it on state level through appropriate legislation adopted by the Parliamentary Assembly of BiH. That is the address to resolve this issue. I do intend to dedicate more effort and attention to assisting

domestic political forces to reach an agreement on this matter.

DANI: In addition, during the last debate in the RSNA, SNSD deputies presented the information that more than 90 percent of the property in question has already been registered as the Entity property. If true, that is an open violation of OHR decisions. Is your Office planning to check these claims and react?

Christian Schmidt: No matter what percentage they mentioned, all registrations of State Property contrary to the disposal ban law are legally null and void and they know it. Investors should know it, responsible public officials in RS, including employees of the RS Geodetic Administration tasked to carry out such registrations and sign the papers, know it. Prosecutors should know it. But above all, citizens of RS, private entrepreneurs and all those directly affected by such transactions should know it.

The BiH Constitutional Court has repeatedly confirmed that the issue of State Property cannot be resolved through unilateral measures. Persistent actions against the clear decisions of the Constitutional Court have to be seen as a clear violation of the Constitution and a violation of Dayton.

So, instead of playing games and wasting precious time they need to sit together and reach a balanced and sustainable solution to this issue on the State level. BiH now awaits serious work after getting the candidate status last December. Persistently disregarding decisions of the highest Court in the country is certainly not in line with EU priorities, which revolve around respect for the Rule of Law.

DANI: I quote: "An acceptable and sustainable solution to the issue of distribution of property between the State and other levels of government" is the first on the list of five goals and two conditions of the PIC that must be fulfilled for the

OHR closure. Upon your arrival in BiH, you said that you are the last High Representative in BiH. Do you still believe that?

Christian Schmidt: What is often omitted, intentionally or not, when 5 + 2 agenda is mentioned is that these are goals and conditions that need to be fulfilled by BiH authorities. So, the equation is a very simple one: the sooner these objectives are met, the sooner the OHR will close. I do believe that this is achievable and that I will be in a position to say I was right at the beginning of my mandate that I was the last High Representative.

DANI: In general, to which extent can the OHR carry out it work, which is the reason for its existence, in a smaller BiH's Entity at present? To which extent are your decisions generally enforceable in a situation where the RS authorities openly violate, with their decisions, the legal order of BiH of which the OHR is a constituting part under the Dayton Agreement?

Christian Schmidt: My mandate and my authority are the same as of my predecessors and do not derive from or depend on one or the other entity. The HR has a legal mandate in Bosnia and Herzegovina. No matter how loud or great the amount of noise some are trying to create, that is the fact. And I can count on the support of the International Community.

DANI: To which extent do the discussions about you make the situation more difficult for you personally? On the one hand, you mandate is being challenged from the RS and Russia, and even China, while on the other hand, we hear accusations that you are a *Croatian player*, which have escalated to such a degree that the Bundestag Foreign Affairs Committee received a request for your removal from a group of German diplomats and politicians.

Christian Schmidt: There will always be different views on

legal questions. But, it is not my style to insult somebody or deliberately spread fake news. I would like to call on everybody to follow that example and stick to the basic rules of civilized behavior. One RS NA delegate even keeps saying I was paid by Dodik himself. So that makes me a Serb player too? All this is simply nonsense, and it is hard to believe the media and politics are really dealing with these fairy tales instead of discussing the really important issues in BiH – and there are quite some of them. Starting with the concrete problems such as the fight against corruption, rule of law, the economy, education. The list is long and there is plenty of work to be done.

Speaking in general terms, as once active politician myself, I understand that people, from all sides of the social and political spectrum, are in pursuit of or support various political agendas and ideas. Having a political agenda or idea with an accompanying narrative is perfectly fine but it never ceases to amaze me how grown-up people sometimes allow themselves to be carried away and loose the sense of good taste and real priorities.

DANI: How do you comment on their letter at all? Are you really working against Bosnia and Herzegovina?

Christian Schmidt: What is there to comment on? Of course, I am not working against Bosnia and Herzegovina, but I am working against every one of those who want this country to remain in limbo while its best and brightest are leaving and building their lives somewhere else. Pushing BiH out of limbo inevitably means pushing political structures out of the status quo. Understandably it is uncomfortable for many on the political scene. What they often fail to understand is to never ever equate themselves and their political agendas with Bosnia and Herzegovina and its people. I notice that some of the local players are turning to dirty tricks. This is not good for a democratic society. I always accept discussions, but never insults.

DANI: Your Decisions of October 2, which relate to the formation of the government in the Federation, are partly to blame for the second pressing issue. Do you still stick to the position that local politicians must reach agreement on the formation of a new FBiH Government?

Christian Schmidt: Yes, they do. If there is a will, there is a way. Respecting the essence of democracy is to respect the results of elections and to ensure that governments are in place after each elections. Blockage of the institutions is not an option. Keeping what's left of a government elected 8 years ago and not having the support of parliament is not an option either. We have seen how quickly the Council of Ministers was formed. There is no reason why an agreement cannot be reached for the new FBiH Government. The Parliament plays a crucial role, and the President and Vice Presidents have the task to make constructive proposals. They owe this to BiH citizens.

DANI: Very specifically: It is perhaps self-understood in normal democracies that whoever has the parliamentary majority gets the mandate to form the executive authority, but this is Bosnia and Herzegovina. The principle of political defiance is being enforced here, i.e. it is quite normal that a SDA's candidate for the position of (Vice) President of the Federation, Refik Lendo, states that blocking anything would be the last thing on his mind, but that his party, that nobody wants to join in a coalition, must be in power. Will you react immediately to these blockades, or will you wait for the *domestic actors* to agree, even if it is clear that they will not come to an agreement?

Christian Schmidt: Is it not time to think more about the duty of parties to negotiate and agree for the common benefits rather than narrow party interests? My message to political parties is to think about the interest of the general population, not exclusively their own. If something does not change quickly, it will not matter who forms the Government –

people who are already leaving in alarming numbers will keep doing so. That is the trend that has to be reversed and should be the guiding principle for all. Let me say it again: it is the responsibility and duty of elected officials and their political parties to come to an agreement on Government formation. What politicians in BiH need to change is the political culture of negotiation and the sense of duty to negotiate in good faith, not a culture of zero-sum politics and unilateral ultimatums. And they above all need to accept that some parties will ultimately need to be in the opposition rather than seeking to undermine the work of the parliamentary majority from the inside.

DANI: I know you will not answer this question, but it is our duty to ask: which realistic steps can the OHR take to resolve the situation in the Federation of BiH now? Do you plan, after that, to gather local politicians together with your experts so they can identify permanent solutions that will not be changed from one election to the other and be dependent on election results achieved by a political party?

Christian Schmidt: The international community is willing to assist, that is certain, but we do not want to see endless rounds of futile bickering. We want solutions. We want BiH inside the EU. The rest is up to domestic stakeholders. They should do their job, that is what they are elected for. As simple as that.

DANI: Will the OHR get itself involved in the discussions on the Election Law that a part of the new coalition is currently announcing for the first six months of this term of office? You were not actively present during the previous cycles of negotiations, but then you made quick solutions in the election night?

Christian Schmidt: BiH lost a lot of time during negotiations on a broader electoral reform. I wanted to restore the functionality of the Federation because it had the four-year

caretaker Government and the Constitutional Court was blocked. I could not implement all electoral reforms needed on my own, and I was not going to. I was right for doing that immediately after the elections and before the election results, but such measures must remain extraordinary. The ball is in the domestic court now. Let us see what they will do with it, they made a commitment to the EU to find a solution. The discrimination in this country has to end. We are prepared to facilitate this process. There is no more time for political charades that block this country's way forward. This might be the last opportunity to solve issues. Every local player should be aware of that. If necessary, I will remind them of that fact.