

High Representative's Address to the United Nations Security Council



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***Mr. President, Distinguished Members of the Security Council,
Esteemed Chairwoman of the Presidency of Bosnia and Herzegovina,***

In two days' time, on May 8th, we will commemorate 80 years since the end of World War Two in Europe. This is the day when Hitler's aggression was finally brought to an end, albeit after sustaining incredible losses of life and unbearable scars to humanity. Eighty years on, we still mourn the victims of Hitler's aggression. At the same time, these events lead to the conclusion that preventing war and reaching peaceful settlements of conflicts is possible within a rules-based order: this very body, the Security Council of the United Nations by adopting its Resolution 1031 (on 15 December 1995), is the answer given by those who believed and continue to believe that living in peace and freedom is the first and foremost fundamental right of every human being.

Soon after, at the end of May, the representatives of NATO countries and the wider international community, as well as the representatives of Bosnia and Herzegovina, Croatia and

Serbia will get together in Dayton, Ohio, to commemorate the 30th anniversary of the Dayton Peace Agreement, which ended the bloodshed and the genocide of 1992-1995. The war in Bosnia and Herzegovina brought back old horrors, atrocities, and human agony not seen in Europe since the end of Second World War. The 1995 Dayton Accords, as a successful reaction to this war, could only be possible on the basis of rules, the Charter of the United Nations including Chapter VII, and a negotiated settlement paving the way in the region for a common future after the dissolution of Yugoslavia. This peace agreement of Dayton included ad-hoc mechanisms and instruments of international control to safeguard a sustainable peace, including human rights and a functioning democracy.

Looking onto these two monumental dates here today, before I start my address to the UN Security Council as High Representative for Bosnia and Herzegovina, I would like to take a moment to reflect on the value of life over death, the cause of peace over hostility, and the preference of humanity over savagery.

In this context, there is a personal impression which I feel obliged to share with you today: These days, I am increasingly approached by citizens of all ethnic backgrounds asking me: "Mr Schmidt can you please make sure that we do not stumble into a war again?" To this, I always respond that I do not see a danger of war, as nobody wants to go through such an experience. Unfortunately, inflammatory political rhetoric, insults, and the disregarding of the terror and the atrocities that culminated in the Genocide of Srebrenica are put into question the political will by some actors to ensuring the continued existence of Bosnia and Herzegovina as stated in Article 1 of the Constitution. I have to add that the international community and the neighboring countries did in reality not follow any of such attempts.

Respected Members of the Security Council,

Since my appointment by the PIC Steering Board on May 27,

2021, I have had the honor of submitting to the UN Secretary General and the Security Council eight reports on the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina, better known as the Dayton Peace Agreement.

My competence given to the HR – High Representative by the PIC Steering Board have been reaffirmed, endorsed, and welcomed in the United Nations Security Council resolutions 1031, 1174, 1247 and others repeatedly. The Dayton agreement was no ordinary legal document. 30 years after its signing, it remains the basis for the democratic and multiethnic structure of Bosnia and Herzegovina. Annex IV, the constitution of this state, is a very complex document which would benefit from further democratic development. The implemented rules and checks and balances to safeguard the representation and participation in decision-making by the three Constituent Peoples and the Others includes non-discriminatory rights for all voters of Bosnia and Herzegovina. All constituent peoples are not politically homogenous but contribute to the richness of their respective different political positions beyond the ethnic or religious background. This was highlighted in the so-called “Sejdic-Finci” judgements 2009 by the European Court of Human Rights as well as other decisions, such as the Komsic and Ljubic case of the Constitutional Court of Bosnia and Herzegovina. These judgements addressing election requirements are to be implemented. The Croat political parties in the country, also supported by the Prime minister of Croatia, have clearly expressed their position in this regard. The Prime minister of Croatia also indicated that this issue has a particular importance for Bosnia and Herzegovina’s European integration. At this moment, in which BiH is invited to join negotiations over future European Union membership, the need to amend the constitution, not only in this context, is both evident and indispensable. This has to be ensured by the *pouvoir constituant* of the peoples and citizens of Bosnia Herzegovina and their legitimately elected representatives.

The International Community, based on its competences agreed on and founded in the Dayton Agreement, can play a supporting role in this process. Allow me another clarification. Colonialism has been beaten out of the hands of those who suppressed their individual and collective right of decision. In Bosnia-Herzegovina the right of decision is in the hands of all – not unilaterally against the international agreed constitution and agreed laws, but by developing and amending it. The European Union's requirements regarding the necessary adoption of internationally accepted state of law – with the stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities – as stated in the Copenhagen Criteria describe the path that needs to be followed. The current status of Bosnia and Herzegovina, based on Chapter VII-authorization of the UN Charter, could then be finalized. Furthermore, this could create the conditions for the mandate of the *ad hoc* institutions of the Dayton Peace Agreement to phase out.

Ladies and Gentlemen,

Today, I came to inform you that the conditions for a full implementation of the civilian aspects of the Peace Agreement in Bosnia and Herzegovina have vastly deteriorated with respect to previous reporting periods. Especially, the first quarter of this year was marked by a significant rise of tensions, which without question amounts to an extraordinary crisis in the country since the signing of the Dayton Agreement. I may underline that I see a political crisis; I do not yet have indications for a security crisis.

As indicated in my report, this sudden deterioration of the conditions is stemming from the reactions to the first-instance verdict of the Court of Bosnia and Herzegovina that convicted President of the Republika Srpska Entity Milorad Dodik. In hindsight, the recent actions appear to be a deliberate culmination of policies that had been planned and prepared for a long time and which I regularly pointed out in

my previous reports. Thus, the recent development was initiated by merely taking advantage of the opportunity that the verdict offered.

After the verdict, Mr. Dodik intensified his attacks on the constitutional order of the country by directing the authorities of the Republika Srpska to adopt legislation that effectively bans State-level judiciary and State-level law enforcement in the Republika Srpska and by even putting on the table a draft Entity constitution, hinting at de facto secession. This draft constitution, a document of considerable complexity, was revealed shortly after the verdict was announced. The speed with which this document, but also the draft laws, were made public suggests strongly that they had been prepared well in advance.

For one, these acts and this legislation fundamentally contradict the implementation of the Dayton Peace Agreement and its Annexes. In consequence, the Constitutional Court has at once annulled all these laws passed by the RSNA.

For two, they endanger the territorial and societal integrity of the country and of its peoples by performing secessionist acts.

And three, they also create legal and executive insecurity by establishing Entity laws and institutions that contradict and compete with State law and competence. It will require institutions created in Dayton, such as the Constitutional Court, to prevent this country from falling apart, and when it comes to safeguarding the functionality of the state, my legal competencies as High Representative, as well.

Consequently, the State-level coalition has been seriously affected, the European Union accession momentum has stalled, the functionality of the State is being undermined, and reforms have been sidelined. This development is not irreversible, but it is severe. It needs to be addressed

without delay; it requires active engagement by the international community.

Respected Members of the Security Council,

As I have reported in my current report, the general economic situation appears to be stable for the time being despite the current crisis. However, the demographic situation in the country is not improving. The heavy loss of young and skilled members of the population constitutes an impediment to the economic and societal sustainability of the country. A better understanding of the danger requires better data, ideally in the form of a new census. Alas, the discussion surrounding a new census is highly politicized. We are just waiting these days for the new UNFPA report about the demographic development in the country.

Coupled with unmistakable environmental degradation and recurrent disasters, it is safe to conclude that daily life in Bosnia and Herzegovina is not getting easier.

In these troubling times, Bosnia and Herzegovina has felt the unwavering support of the international community on its side against this existential threat. All members of the Peace Implementation Council Steering Board and a great number of UN members have reacted to these policies by expressing their concerns, urging to stop such disruptive actions, and stressing, *inter alia*, their unwavering support for the full implementation of the Dayton Peace Agreement and for the unity and territorial integrity of Bosnia and Herzegovina. It is imperative to continue these efforts.

I would also like to express hereby my gratitude to the UN Security Council for reaffirming its unequivocally commitment to the sovereignty, independence, unity, and territorial integrity of Bosnia and Herzegovina in full accordance with the Dayton Peace Agreement. I regard this statement as a compassionate support for Bosnia and Herzegovina.

I note that the Serb community did not pay heed to Mr. Dodik's unlawful directives. For example, ethnic Serbs employed in State-level institutions have been pressured into abandoning their posts, but these calls and threats have been left overwhelmingly unanswered. Despite the difficult political situation, I also have no doubt about the Serb community's commitment to pursue the European path. It is clearly expressed by the opposition parties PDP, SDS and others.

The Bosniak community has been able to remain calm despite the tensions and to continue on the path of patient dialogue also in order to keep the country's European integration on the table.

And as for the Croat community, I also notice a continuing pro-European commitment as well as an increased willingness to engage in inter-ethnic dialogue, including in local disputes. The case of the central district of Mostar, the details of which are present in my current report, without taking sides, constitutes a good example. In this specific case, I would prefer local actors to work out a solution among themselves rather than a solution brought about by the international community. Goodwill exists and needs to be encouraged so that it can overcome the disruptive noise that is spread by some actors. We put our trust in those who remain committed to ensuring a peaceful coexistence in one city. As I hear Mayor Kordic, and the Head of City Council Rahimic have taken concrete steps for solving the situation. Let's wait and see.

Let us be clear that people of Bosnia and Herzegovina can and do live together. For the most part, the communities in the country do not support extremism or secessionism. There is ample evidence for that in daily life, but ethnocentric politics spends too much time on dividing the communities rather than uniting them.

We witness the good and the bad developments all at once. Having said that, what is the way forward?

As I reported previously, discrimination remains to be a complex problem encompassing many issues and groups. I, therefore, renew my call upon political leaders in Bosnia and Herzegovina to launch comprehensive constitutional and legal reforms to tackle this problem.

Whilst the constitutional framework has to be improved, past attempts have shown the sensitivity of the matter. It is important to keep in mind that Bosnia and Herzegovina is a state of three Constituent Peoples, representatives of Others and all citizens, and the protection given to all has to be safeguarded while removing discrimination from the current constitutional framework.

Such a constitutional reform process should also be aimed at addressing the European Commission's 14 key priorities. Needless to say, there is a considerable amount of overlap between the 14 key priorities and 5+2 Agenda objectives, which are the basis of my engagement by the decision of PIC. Upholding the Rule of Law is one of the most important issues. Therefore, I take this opportunity to reiterate that the way forward also requires acknowledging that Dayton and the European Union reform agenda are mutually reinforcing.

The task of amending the constitution in a way that is fully compatible with European Union norms is by no means easy. I suggest that all those interested in ensuring a bright and prosperous future for Bosnia and Herzegovina organize a conference on these issues.

The issue of state property in Bosnia and Herzegovina remains unresolved. This issue continues to represent a significant barrier to the country's economic development. Considering the challenges caused by the current lack of a State-level legislation on the matter, there is a need for the international community to remain engaged. As part of 5+2 Agenda, I also follow my obligation to initiate a facilitation process.

Thus, the challenges faced by Bosnia and Herzegovina are complex and varied; but let us be clear: the extraordinary crisis Bosnia and Herzegovina is currently facing is the result of severe attacks by of those politically responsible against the Dayton Peace Agreement, encompassing the constitutional and legal order of Bosnia and Herzegovina. It puts on the misinterpretation of Dayton. The Dayton Agreement is to be developed democratically and discussed but not put into question.

Everybody in Bosnia and Herzegovina must understand that no individual stands above the law; on the contrary, everybody has to respect the rule of law.

Distinguished Members of the Security Council, to conclude!

Bosnia and Herzegovina is facing difficult times. Nobody would have expected thirty years ago that the international community is needed as much today as it is. But the Peace Agreement that this UN Security Council endorsed thirty years ago remains the very foundation on which the future of Bosnia and Herzegovina with its sovereignty, territorial integrity, and political independence, can be built. Reopening or redefining the peace agreement challenges the basis for peace and prosperity in Bosnia and Herzegovina. This does not mean we should not talk about necessary amendments and adoptions of this Constitution.

The way forward includes counter threats and attacks to its very foundation, but also implementing meaningful reforms, including in the context of the country's European integration. It is about strengthening institutional stability and functionality of the State and continuing to reinforce election integrity in view of the country's general elections in 2026. This should be in the focus.

The High Representative as an international ad-hoc institution was never intended to be permanent. But Bosnia and

Herzegovina's aspirations for European integration will, for the foreseeable future, be built on the Dayton system as the foundation for its constitutional order. BiH is a fully reorganized subject of international law in legal continuation of the Republic Bosnia and Herzegovina, and there are no other subjects of international law in BiH.

However, it must be made clear that eventually the international community cannot determine the future of the country. The impulses and the directions must come from the domestic level. I, therefore, call on the political leaders throughout the country to continue their pursuit of full European integration, implement reforms, and build a well-governed democratic society that provides prosperity for the current and future generations.

The International Community should continue giving its support and assistance to help the country and the people of Bosnia and Herzegovina to shape their future and give reassurance to the people in this country that they are not forgotten.

In closing, I would like to take this opportunity to thank you and your governments for the unwavering support you have provided for Bosnia and Herzegovina, and the Office of the High Representative. This support is also particularly relevant in relation to the necessary executive decisions which have to be taken under the authority vested in the High Representative. When there is no other option, it should remain the last resort.

Thank you.