

# Remarks by High Representative Christian Schmidt to the United Nations Security Council



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Madam President, Distinguished Members of the Council,

It is an honor to address this distinguished body for the first time in my capacity as High Representative, presenting the 61<sup>st</sup> Report of the High Representative, as it is a good exercise and important to keep the United Nations informed about developments in Bosnia and Herzegovina. With nine months having passed since assuming the role, I can attest that it is not an easy job by any means. But it is a worthwhile endeavor, and I am honored to take it on.

I would like to underline that the people of Bosnia and Herzegovina deserve the understanding and commitment of the International Community. These are hardworking, peace-oriented people of all ethnic backgrounds and others. They are truly on a good way towards European integration, but some political obstacles have to be addressed and monitored in between.

At the outset, let me be clear that while there are threats to the constitutional order of Bosnia and Herzegovina emanating above all from one part of the country, severe challenges to

its functionality exist throughout the whole country, and I shall address the most serious.

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Ladies and Gentlemen,

This April marked 30 years since the start of the war in Bosnia and Herzegovina. Since last year, citizens of the country and even international media have speculated about the possibility of another war. In Sarajevo, protesters gathered in front of my office appealing for my intervention to prevent that from happening.

More than 26 years since the signing of the General Framework Agreement for Peace, Bosnia and Herzegovina remains a country traumatized by war. Every single person who lived through it is still in one way or another wounded. And I see that the desire to keep peace is present among Serbs, Croats, Bosniaks, and others.

Not only this collective memory casts long shadows over the younger generations born during wartime and in the aftermath – who, in the face of continued instability, unfortunately, are leaving the country in record numbers.

The conflict in Ukraine, not so far away, is a sobering reminder that even in the 21<sup>st</sup> Century another war on European soil is not an impossibility. In this context, a visiting United States senator recently said in Sarajevo, “This is a very worrying time” for Bosnia and Herzegovina. As there is no concrete danger of war, the possibility of heating up tensions or creating inflammatory incidents remains high.

In this context, I am grateful for the continued presence of EUFOR-ALTHEA, the military counterpart part to OHR, as a confidence-building measure and a necessary tool to safeguard peace and stability in Bosnia and Herzegovina. But why is the Dayton-created international presence still required in 2022?

In my report to the Secretary-General, I note that as in the previous period, authorities of the Republika Srpska continue to embrace rhetoric and actions, including the adoption of legislation, which undermine, or can undermine the constitutional framework of Bosnia and Herzegovina.

In December, the Republika Srpska legislature adopted conclusions instructing the entity government to withdraw from several previous agreements on the transfer of competences from the entity to the State, including defense, indirect taxation, and the judiciary. The conclusions oblige the Republika Srpska Government to introduce within six months entity laws in these areas with provisions to render the State-level laws non-applicable in the entity.

If followed through, this would mean, at a minimum, the withdrawal of the Republika Srpska from the unified Armed Forces of Bosnia and Herzegovina – which is the result of one of the most significant reforms of the Dayton era and one of the most positive developments seen in recent years – and potentially the formation of its own military. So far, this attempt could be stopped with the help of the international community.

The leading ruling political party in the Republika Srpska Government repeatedly advocates for “peaceful dissolution” of the country, and has subsequently identified the goal of their legislative undertakings as an “independent Republika Srpska within the Dayton Bosnia and Herzegovina.”

I have had an exchange with a head of state from this region. He said to me, you should not forget that there is no peaceful dissolution in this region. I would not like to comment, but just to share this observation with you.

The phrase “original Dayton” often employed by the Republika Srpska authorities in fact reveals disrespect for the Constitution. Changes to the constitutional order cannot be

made unilaterally, but only by joint parliamentary decisions, and must respect the decisions of the Constitutional Court and the Dayton principles. I have made repeated invitations to talk about any structural needs for improving the structure of the Constitution, but I have not received any response from this side. The High Representative, as the responsible interpreter of the General Framework Agreement for Peace as found in Article V of Annex 10, will ensure respect for these fundamental commitments .

What conclusions could citizens in any society reach, especially a society still recovering from trauma, hearing such rhetoric?

What the Republika Srpska authorities are in fact pursuing through the unilateral withdrawal from agreements on the transfer of competences to the State would, if followed through, achieve a *de facto* secession of the entity by opting out of the constitutional framework and assuming the competences of a State.

I underline that the entities of Bosnia and Herzegovina exist by virtue of the Constitution. They are a constitutional part of the state but they have no right to secede. Announced moves by the Republika Srpska authorities undermine the sovereignty of Bosnia and Herzegovina. I, as High Representative, and the Peace Implementation Council Steering Board, are committed to preserving the country's sovereignty and territorial integrity.

The duty of the international community regarding the General Framework Agreement for Peace is to safeguard the rights of all three constituent peoples and others, so all citizens may express their identity with none dominating the other.

Late last year, I met with representatives of the Associations the Movement of Mothers of Srebrenica and Zepa enclaves, the Women of Srebrenica, Mothers of Srebrenica, and Women of

Podrinje, who are living reminders of the costs of war. This July, they will again commemorate the 1995 Srebrenica genocide. The international community must consider all the measures at its disposal to ensure peace prevails in Bosnia and Herzegovina.

And we must continue the unfulfilled endeavor to entrench reconciliation and social cohesion. In this regard, I must note that the school curricula that radically differs along ethnic lines is not the way to overcome the shadows of the past. So, the diversity of Serbs, Croats, Bosniaks and others must be respected, but there must be as well a commitment to contribute to the whole.

I can report that there is a lot of work in the civil society dealing with this issue. We have a successful development in Brčko, the condominium of the RS and the FBiH, where there is a plan to build a joint memorial for the victims of the war without distinguishing the different ethnic background of the victims. I think this is a significant step.

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Ladies and Gentlemen,

Not only since last year, but for many years, Bosnia and Herzegovina has been mired in a cycle of crises generated by political leaders. For as many years, the international community in Bosnia and Herzegovina has advocated "local ownership".

Having in mind the persistent challenges to the General Framework Agreement for Peace over the past decade, the ambassadors of the Peace Implementation Council Steering Board and I agreed on the need for a different response.

Supported by the Steering Board, I used my executive authority as High Representative to issue decisions as countermeasure to the illegal and destabilizing actions taken by the Republika

Srpska authorities.

These decisions relate to the *Law on Immovable Property Used for the Functioning of Public Authority* adopted by Republika Srpska in February of this year. This law disregards several final and binding decisions of the Constitutional Court. But, after 27 years, we could not manage to get state-level legislation about the transfer of state property to the different levels of public service and public needs. It is disappointing, and I am happy that now, after my decision, there seem to be some attempts to come together, sit down and work on this, which I see as very, very necessary.

Rather than substitute my authority for the entity legislature and repealing the law, I ordered the suspension of its application pending review by the Constitutional Court. So I gave it back to the institutions of the state.

These decisions were not taken lightly, and only as a last resort after exhausting every alternate avenue, including dialogue and appeals to the highest levels of Republika Srpska leadership.

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Nonetheless, unless the Republika Srpska legislature amends its conclusions from December, this is about 130 laws. So I have taken the opportunity to make it very clear that every single piece of legislation which would violate the structure of the Constitution cannot be accepted. It should be worked on together with the EU and other facilitators to come to better legislation that respects the Constitution of Bosnia and Herzegovina.

In supporting the application of my authority as High Representative, and through targeted sanctions and withdrawal of funding by individual nations, the international community has shown it is prepared to take a different approach in Bosnia and Herzegovina.

We will always pursue dialogue as the first option. I have strenuously advocated and continue to advocate reaching solutions in the competent institutions, whether on State Property, genocide denial, reconciliation, or any other issue facing the country.

If constitutional order is to be amended or improved, this must be done by elected representatives working to find a legal solution. Unilaterally usurping competences without establishing a common legal ground goes against Dayton. We will not sit still as parties seek to dismantle 26 years of peace, stability, and progress.

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Ladies and Gentlemen,

Although the activities of the Republika Srpska authorities have justifiably been cause for concern, this does not diminish international community's dismay with the dysfunction in the Federation, the other entity.

Three and a half years since the 2018 General Elections, with the 2022 General Elections only five months away, parties in the Federation have failed to agree and appoint a new Government. This is also the case in the Herzegovina-Neretva Canton.

Thus, in that canton and at the Federation level, governments from the 2014-2018 mandate still sit. This in affront to basic democratic principles, particularly the expressed will of the voters.

Other crucial appointments in the Federation remain pending, not least the appointment of judges to the Federation Constitutional Court.

Regrettably, these issues are tied to the negotiations on electoral reforms between the two main Federation parties, the

Bosniak SDA and the Croat HDZ, in which the latter has used the issue of appointments as a bargaining chip. Nonetheless, an agreement remains elusive.

In the context of State Property, while the Federation authorities have not attempted to introduce legislation to undermine the preeminence of the State, it has neither updated its existing laws to be consistent with rulings of the BiH Constitutional Court in this regard. I have invited the competent Federation and canton authorities to correct this situation.

Moreover, there are reports of outright violations of the State Property Disposal Ban, and I encourage the competent judicial authorities to investigate and prosecute such cases, wherever they may be.

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As I mentioned, an agreement on electoral reforms was not reached despite two years of tireless engagement in negotiations by the US and EU. Despite broad agreement among parties on a package of amendments to improve transparency and restore voter confidence, to respect decisions of international and national courts in the electoral process, such a package has unfortunately not been adopted.

While there is still time for an 11<sup>th</sup>-hour agreement, 2022 is a General Election year, and the elections can and will be held on schedule in October, just as General Elections were conducted on schedule in 2018.

The holding of regular, fair, and free elections is a requirement under the General Framework Agreement for Peace, and citizens must be allowed to voice their will through the democratic process.

With the campaign season upon us, I urge all political parties to conduct themselves with grace and dignity.



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Ladies and Gentlemen,

As High Representative, I continue to meet political leaders and other interlocutors in Bosnia and Herzegovina, as well as with leaders in the region, including neighboring Serbia and Croatia, and nearby Hungary.

While we may not always see eye to eye, I am grateful for their perspectives. Everyone has important and influential roles to play in fostering constructive dialogue, and I have received some encouraging commitments.

I have also met with those responsible for Western Balkans policy in several capitals, especially those in the PIC Steering Board. Not only because of the urgency of the current situation, but because of the necessity of reengaging the capitals in completing the tasks at hand once we are finally back on track. Meanwhile, the Russian Federation as a member of the PIC has suspended itself from participation.

The fulfillment of the 5+2 Agenda and the EU recommendations I believe would not only bring certain grievances to resolution but contribute to lasting peace and stability, thereby fundamentally improving the lives of every citizen of Bosnia and Herzegovina.

This in turn would stem the persistent and ever-increasing flow of young people out of the country seeking better opportunities – not to mention respect for rule of law and political stability – abroad.

In my address last fall to the State-level House of Representatives, I underlined the importance of engaging in reforms on the course for the EU, which remains the indispensable partner for the future of the country. There is a broad acceptance for the road to European integration.

In this regard, it is crucial that Europe's door remain open to Bosnia and Herzegovina and the rest of the Western Balkans.

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Ladies and gentlemen,

Bosnia and Herzegovina and the international community are, in my understanding, at a crossroads. What happens going forward and how the international community chooses to react will resonate throughout the Western Balkans. We remain committed to Bosnia and Herzegovina and the General Framework Agreement for Peace.

We have shown we are prepared to be decisive. But we also value dialogue and openness. It is my hope that the political leaders of Bosnia and Herzegovina will find value in that too and let the citizens they represent no longer worry about another conflict.

This would give the international community the opportunity to reduce their practical commitment in Bosnia and Herzegovina. As long as this is not the case, I see from my experience that the Dayton institutions have a severe and important need to stay and work, and assist those in BiH to come to a sustainable development for the country.

Thank you.