



**REPUBLIC OF SRPSKA
GOVERNMENT**

OFFICE OF THE PRIME MINISTER

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**His Excellency Fu Cong
President of the UN Security Council
Permanent Mission the People's Republic of China to the United Nations
350 East 35th Street
New York, NY 10016**

Dear Ambassador Fu:

To assist the Security Council in its upcoming meeting on Bosnia and Herzegovina (BiH), the Republic of Srpska (RS), as one of the two autonomous Entities that make up BiH, and as a treaty party to the agreements comprising the 1995 Dayton Agreement, presents the attached 35th Report to the UN Security Council.

The report emphasizes the RS's steadfast support for the Dayton Agreement and the BiH constitutional order that it established. The report also reaffirms the RS's unshakable commitment to peace and to the resolution of BiH's divisions through dialogue. The RS is firmly convinced that adherence to the Dayton Constitution is the only way BiH can succeed. The problem is that certain key stakeholders both inside and outside BiH do not accept the Dayton compromise; they strive, instead, for a centralized, unitary state that would eliminate Dayton's protections that have allowed BiH's constituent peoples to live in peace for thirty years.

For decades, the Office of the High Representative (OHR) has undermined BiH's democratic constitutional order by ruling BiH through patently illegal edicts and by centralizing BiH in violation of the country's federal constitutional structure. The report describes how the presence of the High Representative, an unelected but all-powerful foreign official operating outside BiH's democratic constitutional institutions, has warped and degraded BiH's politics. As the report explains, the current pretender to the position of High Representative, Christian Schmidt, has been even more destructive and autocratic than his predecessors at the OHR. The report also describes how the Bosniak political establishment, because of its refusal to accept the RS's status under Dayton, has persistently attempted to disrupt and destabilize the RS.

For BiH to succeed, the Dayton Agreement must be respected by all relevant actors, whether they be BiH politicians or foreign powers. The RS requests that the UN Security Council and its members advocate for the Dayton Agreement's faithful implementation, including by demanding the restoration of self-government in accordance with the BiH Constitution.

We ask that this letter and the Report be distributed to the Security Council's members. Should you or any Security Council member require information beyond what is provided in the Report or have any questions regarding its contents, we would be pleased to provide additional information.

Yours sincerely,

Prime Minister of the Republic of Srpska

Savo Minic

The Republic of Srpska's 35th Report to the UN Security Council

April 2026

The Republic of Srpska (RS), a party to the treaties that constitute the 1995 Dayton Agreement and one of the two autonomous Entities that make up Bosnia and Herzegovina (BiH), respectfully submits its 35th Report to the UN Security Council. This report emphasizes the RS's staunch support for the Dayton Agreement and BiH's Dayton-established constitutional order, which the RS believes are essential to BiH's future success.

Unfortunately, for many years, the Office of the High Representative (OHR) has ravaged the Dayton constitutional order, illegally ruling BiH by decree and centralizing BiH in flagrant violation of BiH's federal structure. The German bureaucrat Christian Schmidt, who falsely claims to be the current High Representative (HR), has been especially destructive of BiH's stability and democratic order. Notwithstanding Mr. Schmidt's recklessness and illegal and autocratic rule by decree, the RS has taken important steps to reduce political tensions caused by Mr. Schmidt's ill-advised edicts. Despite this, members of the Bosniak political establishment who have never accepted the RS's existence as an autonomous Entity continue working to undermine RS governance, eroding the rights guaranteed under the Dayton Agreement. Still, the RS hopes its partners in BiH will engage in good-faith dialogue on the faithful implementation of the Dayton Agreement.

The allegation that the RS threatens the Dayton Agreement turns reality on its head. It is the Bosniak political parties—and their allies in the OHR and in certain foreign capitals—that have done everything they can to undermine the Dayton Agreement. The RS asks the members of the Security Council to steadfastly support implementation of the Dayton Agreement, including BiH's democratic self-government and federal constitutional structure.

The RS supports the Dayton Agreement and insists on its faithful implementation.

The RS is dedicated to the Dayton Agreement and to the preservation of peace and stability in BiH.

The RS is committed to the Dayton Agreement and to the resolution of BiH's problems through domestic dialogue. The RS's top elected officials have consistently affirmed the RS's dedication to Dayton and have recently reaffirmed that commitment in unequivocal terms. For example, RS President Siniša Karan recently told the Chargé d'Affaires of the US Embassy, John Ginkel, that the RS is committed to respecting the letter of the Dayton Agreement.¹ Similarly, in a March meeting with German Ambassador Alfred Grannas, RS Prime Minister Savo Minić reiterated the "absolute commitment" of the RS to the provisions of the Dayton Agreement.²

The RS's support for the Dayton Agreement includes a commitment to BiH's sovereignty, territorial integrity, and constitutional order. Although there is occasionally charged rhetoric in the RS reflecting frustration with the many severe violations of the Dayton Agreement over the years, the RS has no plan to secede from BiH.

Above all, the RS is inalterably devoted to peace. The RS and its leaders have consistently ruled out all use of violence and committed to resolving BiH's political problems solely through peaceful means. All the RS demands is that the Dayton Agreement, including the BiH Constitution, be faithfully implemented. It is, after all, a binding international treaty, and it is long past time for it to be treated as such.

The necessity of maintaining the constitutional structure agreed at Dayton

The population of BiH is composed mainly of three constituent peoples with painful histories of conflict: the predominantly Muslim Bosniaks, the predominantly Orthodox Christian Serbs, and the predominantly Roman Catholic Croats. The Dayton Agreement was a sustainable compromise that established a constitutional order enabling BiH's three formerly warring peoples to live together in peace and with confidence that they would not come under the domination of one or more of the other peoples.

The BiH Constitution, which is the heart of the Dayton Agreement, accomplished this by reserving all but a few governmental functions to the two Entities that make up BiH and by establishing mechanisms designed to protect the vital interests of each people. Adherence to this federal constitutional structure and these protective mechanisms is essential for BiH's stability. As is the case with other multi-ethnic countries in Europe, such as Switzerland or Belgium, Dayton's accommodations for different ethnic groups are a strength, not a weakness, and the only means by which an enduring peace can be maintained in country with such a history.

One of the central conflicts in BiH politics is between the parties representing the Bosniak majority, which aim to centralize the country under Bosniak rule, and the Serb and Croat parties, which wish to preserve the structure and protections of the Dayton Constitution. The Bosniak parties and their international allies have already severely weakened BiH's federal constitutional structure and power-sharing mechanisms, and they wish to continue until there are no such protections left.

The prospect of total Bosniak domination of BiH causes the Serbs and Croats great fear and anxiety—and indeed it should concern much of Europe, because there are significant pockets of radical Islam in the Bosniak community. A worrisome sign of the influence of radical Islamic elements in BiH is the recent upsurge in antisemitism. For example, in May 2025, a meeting of the Conference of European Rabbis that had been planned for Sarajevo had to be cancelled due to Bosniak political pressure. Most recently, at a European under-21 football championship qualifying match

on April 1, Bosniak members of the BiH team refused to shake hands with Israeli players. Even more troubling, the largest Bosniak political party is avowedly Islamist and maintains open ties to the Muslim Brotherhood. When the Serb member of BiH's tripartite Presidency recently proposed steps toward declaring the Muslim Brotherhood a terrorist organization, the other two members of the Presidency, who represent Bosniak interests, blocked the initiative. Given these attitudes among Bosniak leadership, it should be no surprise that many of the deadliest terrorist attacks in Europe and the United States in recent decades have had ties to radical communities in BiH.³ Fortunately, BiH's federal structure has enabled the RS to engage in close cooperation on anti-terrorism and cybersecurity with security agencies in the United States and other countries, thus bolstering the security of BiH and Europe.

The RS supports BiH's path to EU membership, but not at the price of giving away the autonomy to which the RS is entitled under the Dayton Agreement. The RS will not permit Bosniak parties to use EU integration as a Trojan horse to centralize BiH in violation of the Dayton Constitution and its protections for the Croats and Serbs.

The distortion and degradation of the Dayton constitutional formula

The Dayton Agreement authorized the appointment of a High Representative with a strictly limited mandate that includes non-executive functions such as acting as a facilitator between the parties and coordinating international post-war efforts. The position of HR was given no legal authority whatsoever to enact laws or otherwise make decisions that are binding on BiH citizens. Moreover, the BiH Constitution explicitly provides that only the BiH legislature may enact laws.

Unfortunately, instead of respecting the BiH Constitution and the HR's limited legal mandate, successive HRs—and the current pretender to the position, Mr. Schmidt—have illegally ruled BiH by decree, with no oversight whatsoever, imposing new “laws” at a whim simply by posting them on the OHR website. To ensure that there is no check whatsoever on his autocratic power, Mr. Schmidt even maintains a strict ban on any court proceeding that “takes issue in any way” with his decisions,⁴ meaning that his personal edicts are even superior to the rulings of the Constitutional Court.

It is widely acknowledged, even by former HRs, that the HR's asserted dictatorial powers are unlawful. Carl Bildt, who served as the first HR, has written, “The legal basis for [the HR's alleged “Bonn powers”] was questionable in the extreme.”⁵ The first HR to assert the “Bonn powers,” the late Carlos Westendorp, said about those powers, “It was not very legal, I have to admit.”⁶

Moreover, every serious legal analysis of the powers of rule by decree claimed by HRs has concluded that they are flagrantly illegal. For example, in a careful legal analysis of the Bonn powers appearing in the *Goettingen Journal of International Law*, Tim Banning concluded, “[The

Bonn powers] do not qualify as a legal power. Their existence is a powerful, but delusive legal fiction.”⁷ Former OHR attorney Matthew Parish has written, “the extent of the legal fiction involved in creating the Bonn powers was breathtaking.”⁸ It is not lost on political leaders in BiH that many of the same foreign powers that rightly emphasize the importance of rule of law in BiH cynically ignore it when it comes to the OHR’s lawless rule by decree, which plainly violates the BiH Constitution and the HR’s legal mandate under the Dayton Agreement.

More key observers are coming to realize that the powers claimed by HRs and Schmidt simply have no basis in law and are, in fact, counterproductive. Like several other countries, the United States has wisely stopped endorsing Christian Schmidt’s rule by decree. At a December hearing of the U.S. House of Representatives Foreign Affairs Subcommittee on Europe, Chairman Keith Self referred to the HR’s asserted “Bonn Powers” as “unchecked authority” that is “legally questionable.” And in February, the Constitutional-Law Committee of the BiH House of Representatives adopted a conclusion confirming what has always been obvious—that the HR has no constitutional authority to enact laws.

Despite the patent illegality of the OHR’s asserted dictatorial powers, HRs and Mr. Schmidt have used them to serve the Bosniak parties’ political agenda of dramatically centralizing BiH in defiance of the federal constitutional structure agreed at Dayton. Moreover, the Constitution’s ethnic power-sharing mechanisms have been sabotaged by those following the HRs’ lead and supporting the concentration of power in the hands of the Bosniak majority.

The BiH Constitution provides, “All governmental functions and powers not *expressly assigned* in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities.”⁹ Despite this clear constitutional instruction, the BiH level now holds many governmental functions and powers that are neither expressly assigned, nor even implicitly assigned, to the institutions of BiH. This unconstitutional centralization of BiH is due almost entirely to the illegal interventions of HRs.

As explained in Attachment 1 to this Report, BiH’s Constitutional Court, which is controlled by an alliance of three foreign judges and two Bosniak judges, has done nothing to stop these obvious and egregious violations of the Constitution and has taken every opportunity to unconstitutionally weaken the RS, typically with support and quiet interference from the OHR and certain foreign capitals.

The OHR looms darkly over BiH, severely undermining not just the rule of law and BiH’s sovereignty, but also its political development. The presence in BiH of an unelected foreigner with dictatorial powers has badly warped BiH’s political culture, undermining the spirit of give-and-take necessary for the development of a mature democracy. BiH’s Bosniak political parties, knowing that they have a staunch centralizing ally at the OHR, refuse to negotiate in good faith with Serb and Croat political parties, instead adopting maximalist positions in hopes that the OHR

will bypass democratic procedures to give them what they want—which it too often does. In some cases, HRs have even intervened to scuttle political agreements made by BiH's elected leaders, needlessly causing political crises, and then pointing to the crises as demonstrating the need for an all-powerful HR.

Carl Bildt, who served as the first HR, has for many years called for the OHR to be abolished. He said in 2023, “For at least a decade [the OHR] has been part of the problem in Bosnia.”¹⁰ Former HR Wolfgang Petritsch has also long called for the closure of the OHR, saying that the HR today is “part of the problem in every respect, not the solution.”¹¹ He has pointedly criticized the HR's “deeply undemocratic” powers.¹² Mr. Petritsch has also warned that the continued use of the so-called Bonn powers was “a blueprint for disaster”¹³ and said that “because of the continued existence of the OHR,” the democratic process in BiH “doesn't work.”¹⁴

Christian Schmidt's destabilizing reign

As examined in Attachment 2 to this report, the current, illegitimate occupant of the OHR, Mr. Schmidt, has been especially repressive, even though he was never legally appointed to be HR.

Annex 10 of the Dayton Agreement requires that, upon request of its Parties, the UN Security Council approve the appointment of the HR, as was the case with the first HR, Mr. Carl Bildt, per Resolution 1031. Each of Mr. Schmidt's predecessors at the OHR were approved by the Security Council, but Mr. Schmidt's nomination to be OHR failed in a Security Council vote. Instead, Mr. Schmidt was selected by an informal group of powerful countries calling itself the Peace Implementation Council Steering Board, but the Peace Implementation Council is not even mentioned or envisioned in the Dayton Agreement. A handful of countries appointed Schmidt not because they had the legal authority to do so but because they reckoned no one could stop them.

Despite his role as HR being entirely illegitimate, Mr. Schmidt has been especially reckless compared to his predecessors at the OHR. He has issued dozens of unlawful decrees, triggering crisis after crisis. Mr. Schmidt's decrees have also been especially oppressive. For example, Mr. Schmidt tried to destroy BiH's largest Serb party, the SNSD, by summarily banning it from receiving any public financing.

But Mr. Schmidt's most repressive edict was his imposition of amendments to the BiH Criminal Code. Mr. Schmidt displayed such contempt for BiH's constitutional democratic processes that he posted the edict as a law on the OHR website, without the Parliamentary Assembly, the mandatory constitutional legislator in the matter, having insight, let alone a deliberation over adoption of the “law”. The edict was decreed to introduce Mr. Schmidt's invention of a new criminal offense called “Failure to implement decisions of the High Representative,” which mandates prison sentences for those who do not treat the HR's whims as

if they were laws duly enacted by the legislature. The obvious target of the new criminal prohibition was then-RS President Milorad Dodik.

Under the watch of Mr. Schmidt, Bosniak prosecutors and judiciary immediately set to work trying and convicting the legitimate RS President. After an expedited trial rife with grave irregularities, a Bosniak judge convicted the RS President and sentenced him to a year in prison and a six-year ban on holding public office. An all-Bosniak appellate panel quickly rejected his appeal, explicitly refusing to examine the crucial issue of whether Schmidt had the constitutional authority to impose the criminal prohibition under which the RS President was convicted.

The utterly lawless trial, conviction, and ouster of the RS President plunged BiH into a deep political crisis. After talks with international friends and allies, RS leaders and institutions took sweeping moves, such as appointing an Acting President and abrogating several controversial pieces of legislation, to immediately calm the political situation and tensions. In recognition of the RS's actions to promote BiH's stability, the United States in October lifted counterproductive sanctions that the Obama and Biden administrations had imposed on RS officials and companies. Since then, RS officials have mounted a campaign of international outreach, calling for internal dialogue and explaining that for BiH to be successful, all key actors must adhere to the Dayton Agreement.

Bosniak officials' unrelenting efforts to destabilize and harm the RS

Because the Bosniak political establishment resents the autonomy the BiH Constitution guarantees to the RS, it incessantly tries to delegitimize the democratic will of RS citizens and otherwise destabilize and harm the RS. There are no corresponding efforts by the RS to interfere with governance in the Federation of BiH.

Repeated interference with RS presidential elections

As explained above, a politicized, Bosniak-dominated judiciary last year prosecuted and convicted the RS's democratically elected president based on a fictional "law" that was never enacted by the BiH Parliamentary Assembly as the Constitution explicitly requires. A heavily politicized Central Election Commission (CEC), ignoring the lawlessness of that conviction, ordered that the then-President be stripped of his mandate and that a special election for the RS Presidency be held.

In a November 2025 special election for RS President, Siniša Karan emerged the clear winner. This result was deeply disappointing to Bosniak officials in Sarajevo, however, because Mr. Karan is a member of the same party as Mr. Dodik. Despite the fact that there were no preliminary reports warning of irregularities on election day and a total of only 13 formal objections by observers and polling station committees, in the days following the election, the

CEC, under pressure from Bosniak media and political structures, refused to let the newly elected President take office. Hoping to change the result, 77-days after the snap election, the CEC took the extraordinary step of annulling the results at 136 polling stations over alleged “irregularities” and ordering a re-vote at those stations. Mr. Karan won the re-vote with an even larger percentage, which finally forced the CEC to let him take office. The CEC’s repeated interference with RS citizens’ electoral will inflamed tensions, deepened BiH’s political crisis, and undermined BiH’s democratic order.

The CEC has also come under widespread criticism for improprieties in connection with the purchase of a voting system that potentially weakens the integrity of the voting process.¹⁵

Challenges to formation of the RS government

The Bosniak political establishment has also repeatedly tried to cause a crisis in the RS by seeking to annul the formation of the RS Government. Bosniak politicians first claimed that then-President Dodik’s formation of the RS Government in 2025 was illegitimate because of his conviction under Schmidt’s “law” and asked the BiH Constitutional Court to declare the Government invalid. To prevent the creation of a legal vacuum, that Government resigned and was re-appointed by the then-Acting President. Bosniak politicians then asked the BiH Constitutional Court to declare even the reappointed Government to be invalid. To again prevent the creation of a legal vacuum, the Government again resigned and was again reappointed, this time by the RS’s new President, Mr. Karan.

Challenges to the leadership of the SNSD

Despite ousting Mr. Dodik from his position as RS President, BiH’s Bosniak political establishment was still not satisfied, especially because he remained president of the leading party in the RS’s governing coalition, the SNSD. The trial judge who convicted and sentenced the RS President, Sena Uzunović, has, since her jurisdiction over the case ended, abused her position to wage a personal and extralegal vendetta. In October 2025, after the BiH Central Election Commission declined to strip Mr. Dodik of his position as SNSD president, Judge Uzunović, acting completely outside of judicial processes and her jurisdiction, wrote a letter to the CEC claiming to represent the Court of BiH and demanding that the CEC reverse its decision. Judge Uzunović’s letter ignored the fact that the Court of BiH’s Appellate Division had already ruled that Mr. Dodik could remain party leader and that, in any event, the CEC lacks any authority over the internal organization of political parties.

After her effort to strong-arm the CEC failed, Uzunović wrote a similar letter to the Basic Court in Banja Luka in March 2026, again asserting falsely that Mr. Dodik must be ousted from his position as SNSD president. It is highly unusual and improper for a judge to issue demands like these outside of formal judicial procedures. Judge Uzunović’s continuing campaign against

Mr. Dodik underlines that she is politically biased against him and was never an impartial judge in his case.

The body responsible for judicial discipline, the High Judicial and Prosecutorial Council (HJPC), failed to admonish Uzunović over her outrageous letter to the CEC. On the contrary, acting completely outside of its legal authority, the HJPC itself wrote a letter to the Basic Court in Banja Luka asking what has been done regarding the “removal of [Dodik] from the register of political parties.” This was extremely inappropriate, given that the HJPC legally is forbidden from influencing specific judicial proceedings or expressing positions on the merits of cases. The HJPC’s move exemplifies the Bosniak political establishment’s determination to weaponize the judiciary for their political goals and control the RS’s politics and governance.

Bosniak seizures of property

The major Bosniak political parties share a common goal of confiscating all the RS’s public property, including its natural resources, roads, schools, and hospitals, and transferring it to the BiH level of administration, thus rendering the RS politically and legally irrelevant and allowing Bosniaks to control the RS’s resources. Meanwhile, a court in the Federation of BiH has been registering Orthodox cemeteries and chapels as the property of the “state,” confiscations that directly threaten the property, religious and historical rights of the Serbian Orthodox Church.

Blocking of new border crossing

The Bosniak political establishment’s pure spite for the RS and its citizens was yet again evident in the Bosniak obstruction of the opening of a new border crossing in the RS city of Gradiška. The new border crossing and bridge connecting BiH and the EU (Croatia)—built on the highest traffic frequency point in the country, with an investment of 100 million euros—have been ready since December, but a Federation of BiH appointee to the board of the Indirect Taxation Authority, Zijad Krnjić, has repeatedly vetoed the opening for purely political reasons. Mr. Krnjić’s blockade has caused significant economic losses to the RS and BiH by needlessly forcing travelers and freight to use the badly congested old crossing.

For BiH to succeed, the Bosniak political establishment must accept the Dayton Agreement, including the BiH Constitution’s recognition of the RS as a highly autonomous Entity. The RS asks for the UN Security Council’s active support for the faithful implementation of the Dayton Agreement by all parties inside and outside of BiH.

¹ *Karan with Ginkel: Institutions of Srpska committed to respecting letter of Dayton and preserving constitutional position of Srpska*, SRNA, 17 Feb. 2026.

² *Srpska fully committed to provisions of Dayton Agreement*, SRNA, 16 Mar. 2026.

³ Among the terrorist attacks with significant connections to BiH are the 9/11 attacks in the United States, the 2004 Madrid Train bombing, the 2005 London bombings, and the 2015 Paris attacks. Washington's Wilson Center indicates that, amongst European countries, BiH had the highest per-capita number of citizens who left to wage jihad in Syria and Iraq. *Report: More than 20,000 Foreign Fighters in Syria/Iraq*, Wilson Center, 26 Jan. 2015.

⁴ Office of the High Representative (OHR), Order on the Implementation of the Decision of the Constitutional Court of Bosnia and Herzegovina in the Appeal of Milorad Bilbija et al, No. AP-953/05, March 23, 2007.

⁵ Carl Bildt, *Bosnia to war, to Dayton, and to its slow peace*, European Council on Foreign Relations, 28 Jan. 2021.

⁶ Adis Merdzanovic, *Democracy by Decree, Prospects and Limits of Imposed Consociational Democracy in Bosnia and Herzegovina* (2015), 256.

⁷ Tim Banning, *The 'Bonn Powers' of the High Representative in Bosnia Herzegovina: Tracing a Legal Figment*, Goettingen Journal of International Law 6 (2014) 2, 259-302, at 302.

⁸ Matthew Parish, *A Free City in the Balkans* 91 (2010).

⁹ BiH Constitution, art. III(3)(a) (emphasis added).

¹⁰ Michael Martens, *Der König von Bosnien-Herzegovina*, Frankfurter Allgemeine Zeitung, 26 Feb. 2023.

¹¹ *Id.*

¹² *Id.*

¹³ Esmir Milavić, *Wolfgang Petritsch: Bosnia and Herzegovina needs a radical turning point*, N1, 28 Mar. 2023.

¹⁴ *Id.*

¹⁵ *Paving the way for Smartmatik to receive 74.5 million KM: Controversial in the world, good for BiH*, ATVBL, 17 Apr. 2026.

The Foreign-Dominated Constitutional Court's Sabotage of BiH's Constitutional Order

A country's constitutional court should be an institution composed of distinguished judges from that country and dedicated to upholding that country's constitutional order. Bosnia and Herzegovina's (BiH) Constitutional Court is something far different. The controlling votes in the BiH Constitutional Court belong to foreign judges, and the court majority has dedicated itself to subverting BiH's constitutional order. The court has acquiesced in the Office of the High Representative's (OHR) utterly lawless rule by decree and supported the progressive centralization of BiH, both of which flagrantly violate the Constitution's explicit terms.

The BiH Constitution's peculiar provision reserving three of the nine seats on the Constitutional Court to foreigners was agreed at Dayton to be a transitional measure lasting just five years, but it remains in operation today, more than 30 years later. The foreign members of the Constitutional Court are chosen by the President of the European Court of Human Rights and foisted upon BiH without any required approval by any BiH institution. It has always been bizarre for the deciding votes on the BiH Constitutional Court to be controlled by foreigners who have no expertise in BiH's constitutional order or legal system and who do not even speak any of the local languages. The initial rationale for temporarily reserving seats on the Constitutional Court for foreigners was to give the court three neutral members who would stand apart from BiH's ethnic politics.

In practice, however, the three foreign judges have mainly served the role of ensuring that the Court's decisions satisfy the OHR and certain foreign embassies. The foreign judges, instead of exercising independent judgment, have been utterly subservient to the OHR, and they have subordinated constitutional text to the OHR's political goals. One former foreign judge of the court admitted that constitutional text is only "a source of inspiration rather than a determining factor" in deciding cases.¹ Another former foreign judge made the shocking admission that there was a "tacit consensus between the Court and the High Representative that the Court . . . will always confirm the merits of his legislation"² In his 2019 study of the foreign judges' role on the BiH Constitutional Court, Dr. Alex Schwartz found that the foreign judges' review of laws decreed by the OHR was so deferential that the judges used "questionable legal reasoning" in order to uphold them.¹ Indeed, to call the twisted, tortured reasoning seen in the purely political decisions emanating from the Constitutional Court "questionable" is being much too charitable.

The OHR has ensured the court's servility in a number of ways. For example, a High Representative once unilaterally ousted two RS appointees to the Constitutional Court,³ sending an unmistakable message to the other judges. The current illegitimate claimant to the position of High Representative, Christian Schmidt, decreed a law making "failure to implement decisions of the High Representative" a criminal offense, thus putting any judge who objects to Mr. Schmidt's lawless decrees at risk of imprisonment. But the OHR's most overt interference with the Constitutional Court

¹ Alex Schwartz, *International Judges on Constitutional Courts: Cautionary Evidence from Post-Conflict Bosnia*, 44 Law & Social Inquiry 1, 21 (Feb. 2019).

is a 2006 decree, which remains in effect, that nullified a decision of the court and banned any proceeding before the Constitutional Court or any other court that “*takes issue in any way whatsoever with one or more decisions of the High Representative.*”⁴ The Constitutional Court meekly accepted the OHR’s lawless decree, thus acquiescing in the OHR’s dominion over it.

The foreign judges are widely perceived to be engaged in judicial improprieties by engaging in communications with officials at the OHR and certain embassies. They have also formed a durable bloc with the two Bosniak judges, natural allies who share their commitment to unconstitutionally centralizing BiH in accordance with the OHR’s political agenda. The foreign-Bosniak bloc of judges has often outvoted the majority of BiH citizens on the Court.

The foreign-dominated Constitutional Court majority has shirked the court’s sacred responsibility to enforce BiH’s democratic constitutional processes for the approval of laws. The Constitution establishes a democratic system in which “[a]ll legislation shall require the approval of both chambers” of the Parliamentary Assembly.⁵ Thus, when the High Representative’s imposition of a law by edict was challenged in the Constitutional Court, it should have been the easiest of decisions for the court to declare that a “law” not approved by the Parliamentary Assembly is invalid. Instead, without explaining its reasoning in any meaningful way, the court majority simply wrote that the HR’s exercise of its “powers” is “not subject to review by the Constitutional Court.”⁶ As a study by Sarajevo-based Analitika observed, “The Court did not scrutinize the legal basis given by the High Representative for its actions but uncritically accepted them.”⁷

The foreign-dominated Constitutional Court majority has also reliably approved the OHR’s patently unconstitutional centralization of BiH. For example, in a 5-4 decision, the Constitutional Court upheld the High Representative’s creation of the Court of BiH despite its blatant violation of the Constitution’s division of responsibilities between BiH institutions and the Entities. Article III(3)(a) of the Constitution provides, “All governmental functions and powers not *expressly assigned* in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities.”⁸ The court majority’s decision did not even pretend that the Constitution expressly assigned the BiH level the authority to create courts, admitting that the Court of BiH is not “provided in the Constitution of Bosnia and Herzegovina.”⁹

In order to nonetheless uphold the Court of BiH’s creation, the court majority disregarded the Constitution’s unambiguous requirement that a BiH-level power be “expressly assigned” and instead invented an *implicit* BiH-level power to create the court. This conclusion rested, essentially, on the personal views of the foreign and Bosniak judges that the BiH Constitution *should have* provided for the creation of Court of BiH, even though it did not—and there can hardly be a more egregious example of judges unconstitutionally legislating from the bench.

The Constitutional Court majority continues to assist in the unconstitutional centralization of BiH in recent cases. For example, on 27 March 2026, the court determined that provisions of the RS Law on Police and Internal Affairs referring to digital signing and the issuance of qualified digital certificates and the personalization of documents, as well as the protection of infrastructure, are unconstitutional because they are out of harmony with BiH laws. The fact, however, is that the RS Law

on Police and Internal Affairs does not encroach on any functions and powers expressly (*or even implicitly*) assigned by the Constitution to BiH institutions. It is the BiH laws, not the RS law, that are incompatible with the BiH Constitution.

The European Union (EU), understanding that the foreign judges' presence on the Constitutional Court is incompatible with BiH's sovereignty, has listed the replacement of the foreign judges among its 14 key priorities for BiH's EU integration. The Constitution permits the foreign judges to be replaced with BiH citizens through an ordinary law, but the Bosniak political parties, knowing that the foreign judges are their staunch allies, have blocked this necessary reform.

Ultimately, any judicial institution relies only upon its integrity, professionalism, and credibility for its rulings to be respected; the foreign judges on the BiH Constitutional Court have knowingly sacrificed all of these in hopes of keeping the OHR pleased and their positions secure. Thus, rulings of the Constitutional Court are worthy of no respect whatsoever, and this critical institution in BiH is instead a disgraceful sign of the dysfunction in the country—dysfunction created and continually fostered by the OHR's unfettered meddling, and by the Bosniak political elite who care more about weakening and eventually eradicating the BiH Constitution's protections for the Croats and the Serbs than they do about creating a successful and functional state.

Members of the international community should support BiH reforming its Constitutional Court so that it is, at last, made up of BiH citizens. Such a reform would help ensure a truly independent Constitutional Court, bolstering the Constitutional Court's legitimacy and BiH's sovereignty. It would also bring hope that the Constitutional Court will finally enforce BiH's democratic constitutional process for enacting laws as well as protect BiH's federal constitutional structure.

¹ Nedim Kulenović, [*Court as a Policy-Maker?: The Role and Effects of the Constitutional Court of Bosnia and Herzegovina in Democratic Transition and Consolidation*](#), Analitika Center for Social Research (2016) ("Analitika Study") at 26.

² Joseph Marko, Five Years of Constitutional Jurisprudence in Bosnia and Herzegovina, European Diversity and Autonomy Papers (July 2004) at 17 and 18 (emphasis added).

³ Office of the High Representative, Decision Annuling the Appointment of Two Judges from the RS to the BiH Constitutional Court, 16 Sep. 2002.

⁴ Office of the High Representative, Order on the Implementation of the Decision of the Constitutional Court of Bosnia and Herzegovina in the Appeal of Milorad Bilbija et al, No. AP-953/05, March 23, 2007 (emphasis added).

⁵ BiH Constitution, art. IV(3)(c)

⁶ BiH Constitutional Court, Case U-9/00, Decision, at para. 5.

⁷ Analitika Study at 36.

⁸ Emphasis added.

⁹ BiH Constitutional Court, Case U-26/01, Decision, at para. 26.

An Unelected Foreigner's Autocratic Rule Over Bosnia & Herzegovina

It is difficult to believe that more than 30 years after the Dayton Agreement ended the war in Bosnia and Herzegovina (BiH), the country is ruled not by its democratically elected constitutional authorities, but instead by an unelected foreigner's illegal rule by decree. A retired German bureaucrat named Christian Schmidt illegitimately claims the title of High Representative (HR) in BiH and decrees laws whenever and however he sees fit, in violation of the BiH Constitution agreed at Dayton and with total disregard for the rule of law.

Schmidt's claim to be HR is widely acknowledged to be illegitimate. Unlike all of the HRs who preceded him, Schmidt's appointment was not approved by the UN Security Council, as the Dayton Agreement requires. Schmidt was instead selected by an informal gathering of self-appointed, powerful countries calling themselves the Peace Implementation Council (PIC) Steering Board. But the Dayton Agreement, which is the sole legal basis for the existence of the HR, does not give the PIC or its Steering Board any authority to appoint the HR. Indeed, the agreement does not even *mention or contemplate* the PIC, which is, as the European Court of Human Rights has confirmed, merely an "informal group of states"; the PIC has no charter, no rules of procedure, no legal existence, and no authority whatsoever.

It was highly offensive to the citizens of BiH for any German to be selected for the position of HR, given that Germany and its allies committed genocide against Serbs, Jews, and Roma in BiH during World War II. But Schmidt's selection given his sympathies, was outrageous. Schmidt has come under fire even within the German press for his extreme sensitivity to the Nazis' victims. He is an unapologetic member of *Kameradenkreises der Gebirgstruppe* (the "Circle of Comrades of the Mountain Troops"), an organization that has frequently honored Nazi "heroes" of World War II. In 2007, Schmidt, alongside Nazi war criminal Josef Scheungraber and other veterans of the Nazi Wehrmacht, attended an event paying tribute to fallen mountain troop soldiers, including troops who committed massacres in Yugoslavia during World War II. Furthermore, as Parliamentary State Secretary of Defense in the 2000s, Schmidt took great efforts to rehabilitate Werner Molders, a Nazi fighter pilot who had close ties with Hermann Göring and was awarded as a "hero of National Socialism."

That a man like Schmidt, with such offensive views and associations, should be considered for any diplomatic position is astonishing enough; to select him for a mission in a land so ravaged by the German troops that he lauds is an utter disgrace. And for the Biden Administration to allow Chancellor Merkel to select such an offensive character to be appointed for any post in BiH was diplomatic malpractice of the highest order.

The Dayton Agreement, which is the sole source of the HR's lawful mandate, restricts the HR's functions to activities such as reporting on the Agreement's implementation, coordinating international efforts in BiH, and acting as a facilitator. No provision of the Dayton Agreement, or any other source of law, makes even the slightest suggestion that the HR has any authority to impose laws. Moreover, the Dayton Agreement requires—through the BiH Constitution (Annex 4 of the agreement)—that all BiH laws be "approved by both chambers" of the BiH Parliamentary Assembly. The Constitution gives the HR no role whatsoever in lawmaking. It further provides that BiH "shall be a democratic state, which shall operate under the rule of law and with free and democratic elections." An unelected foreigner's imposition of laws by decree runs roughshod over these constitutional provisions and flagrantly violates international laws guaranteeing citizens' rights to democratic rule.

Nevertheless, with the support of certain powerful foreign capitals, successive HR's have simply declared the power to impose laws on the citizens of BiH, simply because no one could or would stop them. In doing so, they have badly distorted the constitutional order in BiH. Whereas the Dayton Agreement set out careful protections ensuring that each of the three main communities in BiH—the Muslim Bosniaks, the Catholic Croats, and the Orthodox Serbs—was protected from political domination by any other group, certain HRs have recklessly wielded their self-proclaimed autocratic powers to upend this delicate balance and centralize control over BiH in the hands of Bosniak-dominated institutions in Sarajevo.

Mr. Schmidt has been especially reckless and repressive with his self-claimed autocratic powers. He has decreed dozens of laws simply by publishing them on his website, creating one political crisis after another in BiH. He has consistently shown utter contempt for BiH's democratically elected officials, especially those from the Republic of Srpska (RS), one of the two autonomous Entities that make up BiH. Last year, for example, Schmidt tried to destroy the main political party in the RS's governing coalition by summarily banning it from receiving any public funding, including funds to which it is entitled under the law passed by the BiH Parliament. But his most outrageous edict is a criminal prohibition that he invented in July of 2023 that threatened prison sentences for anyone who fails to treat Schmidt's edicts as if they were validly enacted by the legislature as the Constitution requires. The scarcely cloaked goal of this decree was to use BiH's politicized judicial system to remove then-RS President Milorad Dodik from office, and it succeeded, thanks to a judiciary controlled by the Bosniaks.

Schmidt has even repeatedly threatened to bypass the BiH justice system entirely and impose extrajudicial punishments, including the summary removal and banning of individuals from public office. He has made his rule completely immune from any form of accountability to any domestic or international body. He maintains a ban on any court proceeding that "challenges or takes issue in any way whatsoever with one or more decisions of the High Representative."

Schmidt's abusive tenure has also been marked by brazen disregard for ethical norms. Under the Standards of Conduct for the International Civil Service, approved by the UN General Assembly in 2013, international civil servants "should not interfere in the policies or affairs of Governments." The Standards further provide, "Any activity, direct or indirect, to undermine or overthrow a Government constitutes serious misconduct." Schmidt obviously pays no heed to any such standards, whether from the United Nations or any other source. It is a disgrace to the international diplomatic community that Schmidt's illegal, unethical, destructive recklessness in BiH has not been brought to an end once and for all.

Schmidt's illegal ouster of President Dodik has only steeled the RS's determination that BiH must be governed by its own democratic institutions in accordance with the Dayton Agreement instead of by an unelected foreign bureaucrat wielding self-proclaimed autocratic powers. For BiH to succeed and have a stable future, it must be ruled by its own citizens.

The RS asks those who value democracy and the rule of law to demand the end of foreign colonial rule in BiH and insist that BiH be governed by its own elected leaders in accordance with its Constitution.