

BiH Dayton Project



Schmidt is lying or ignorant about the High Representative's interpretive authority

📅 June 20, 2024

In an [interview](#) with week, Christian Schmidt, the German politician who pretends to be High Representative (HR) in Bosnia and Herzegovina (BiH), claimed, "When it comes to interpreting the Dayton Agreement, the final interpreter is the High Representative, that is, myself."

Leaving aside that Schmidt is not a legitimately appointed HR, Schmidt's claim that the HR is the final interpreter of the Dayton Agreement is utterly false, as the text of the Dayton Agreement shows. The Dayton Agreement includes the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP) and 12 annexes. The only part of the Dayton Agreement that provides any interpretive authority to the HR is Annex 10, the Agreement on the Civilian Implementation of the Peace Settlement, and that interpretive authority extends only to Annex 10 itself, not to any

other part of the Dayton Agreement. As the Annex 10 provides, "The High Representative is the final authority in theater regarding interpretation of this Agreement on the civilian implementation of the peace settlement."

The words of Annex 10 could hardly be clearer on this point. But other parts of the Dayton Agreement confirm that the HR's interpretive authority does not extend to the entire Dayton Agreement. No other part of Annex 10 provides the HR with interpretive authority, and other annexes of the Dayton Agreement even specifically designate other interpreters. For example, Annex 1A provides that "the IFOR Commander is the final authority in theatre regarding interpretation of this agreement on the military aspects of the peace settlement." Other examples can be found in Annexes 1B, 2, 3, 4, 5, 6, 7, and 8. Thus, in addition to clear words of Annex 10, the plain terms of the rest of the Dayton Agreement are clear: The HR's interpretive authority is strictly limited to Annex 10.

It is also important to emphasize that even the HR's interpretive authority regarding Annex 10 is limited by the actual terms of the HR's mandate in Annex 10, and by international law. The HR's authority is limited, for example, by his obligation under the Vienna Convention on the Law of Treaties to interpret Annex 10 "in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose" (Article 3 of the Convention).

Christian Schmidt has repeatedly breached this requirement of the Vienna Convention by asserting and using powers of rule by decree, extrajudicial punishment, and other autocratic authorities. The terms of Annex 10 manifestly do not give the HR any legislative, executive, or judicial powers, and Annex 10 cannot, in good faith, be interpreted to empower the HR to decree laws or otherwise act as a final executive, prosecutorial and judicial official.

Apart from their lack of any legal basis, the dictatorial authorities claimed by the HR are obviously incompatible with the human rights of BiH citizens, such as the right to a fair trial under Article 6 of the European Convention on Human Rights and the right to free elections under Protocol Number 1 of the ECHR. Moreover, the HR's interpretations of Annex 10 are inconsistent with other sources of law, including the BiH Constitution and the International Covenant on Civil and Political Rights, to which BiH is a party.

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Schmidt's making a false claim about the scope of the High Representative's interpretive authority despite the clarity of the Dayton Agreement on this point leaves two possibilities: that Schmidt is lying or that he, despite claiming to hold the position of High Representative, has never bothered to read the Dayton Agreement. With either possibility, Schmidt has disgraced himself and his supporters in the international community.

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