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The Republic of Srpska's 36th Report to the UN Security Council

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 36th Report to the UN Security Council. In the report, the RS stresses that all parties in BiH and all international actors active in the region need to uphold the Dayton Agreement and to restore functioning democratic processes, full sovereignty, and the rule of law in BiH.

In a continuation of lawlessness and typical of the destabilizing meddling of the Office of the High Representative (OHR), it resumes its disruptive activities and continues to submit formulaic reports that flagrantly misrepresent the situation in BiH and misstate the cause of BiH's dysfunction—which is understandable, as the OHR itself has always been the primary cause of that dysfunction, and never a source of solutions.

BiH has become a failed experiment in state-building by meddling diplomats with little understanding of the culture and history of the region and no regard for, or understanding of, the BiH Constitution agreed at Dayton. Their interventionism has eroded the rule of law at every level of society, severely degraded BiH's constitutional order, and exacerbated interethnic distrust. Unfortunately, such state-building practice continues and contributes to centralization efforts which the OHR has consistently supported in violation of the Dayton Agreement, BiH Constitution and the RS Constitution.

In utter defiance of the clear requirements of the BiH Constitution, which mandates the procedures for the adoption of all laws in BiH only by domestic legislative bodies, successive HRs and Christian Schmidt, a pretender to the title, have so distorted the political culture and processes of BiH, that it would be too generous to call BiH a colony, as even colonies are subject to colonial viceroys who answer to some authority somewhere. The lawless overlords that have misruled BiH with reckless decrees have never acknowledged oversight by any legitimate international body whatsoever.

This foreign interventionism has perverted and weaponized the BiH judiciary, criminalized free speech, ousted democratically elected leaders, and supported the usurpation of public property by the BiH-level state in blatant contravention of the Constitution's assignment of state property to the Entities. The only way to rectify this dysfunction and restore the rule of law in BiH is to remove from the BiH legal order all acts imposed on BiH by HRs or Mr. Schmidt that are contrary to the Dayton Agreement and the BiH Constitution. The Security Council should lend its full

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Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

support to this nullification of unlawful acts. Then BiH's own domestic institutions can get on with resolving domestic problems.

All the RS has ever demanded is that the BiH Constitution agreed at Dayton be respected within BiH and internationally and be faithfully implemented by the legitimate democratically elected institutions. To demand that the rule of law be followed in BiH is not obstructionist, is not intransigence, and is not separatist. Rather, it is principled respect for the rule of law.

The Recent BiH Elections

On October 4, in an election widely recognized as free and fair, RS citizens sent an unmistakable message. With the resounding victory of the RS governing coalition, the RS electorate gave a clear democratic mandate for the RS to continue pursuing its policies, including its insistence on respect for the RS's rights under the Dayton Agreement and the end of the lawless and dictatorial actions of the HR. This victory came despite Mr. Schmidt's tyrannical order banning the two largest members of the coalition from receiving the public funding to which they were legally entitled. The triumph of the RS's governing coalition proves that the Serb constituent people solidly back the preservation of the Entity competences and power-sharing mechanisms guaranteed by Dayton, including the permanent, legally settled status of public property as an inseparable component of the Entity's territorial and constitutional integrity.

After winning election to the RS Presidency, current RS Prime Minister Savo Minić sent a message of unity saying, "I want to be the president of all citizens of Republika Srpska, . . . regardless of their religion or nationality."[1] The RS and its leaders are committed to the Dayton Agreement and are eager to cooperate with Bosniak and Croat parties that share the same commitment. Though there remain deep political and ethnic divisions in BiH, the RS believes there is also much common ground to be found. The RS, for example, supports measures to advance BiH on the EU path while maintaining the competences of the Entities as guaranteed by the BiH Constitution. RS leaders stand ready to work with their Bosniak and Croat counterparts to help ensure a peaceful and more prosperous future for citizens throughout BiH, and the RS hopes that its partners will likewise work to end obstructionist tactics that have delayed too many development projects.

It is notable that, with the election of Željka Cvijanović and Darijana Filipović as the Serb and Croat members of the BiH Presidency, two of the three members of the next Presidency will represent parties dedicated to restoring BiH's sovereignty and democratic constitutional order by ending the HR's illegal claims to unrestrained despotic authority.

The peaceful, orderly election demonstrates the vigorous democratic capacity of our citizens and leaves no doubt regarding the legitimacy of the popular support behind the RS's governing institutions; however, this successful exercise of the democratic process does not erase

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

the severe, unlawful overreaches that stained the events leading up to the election and distorted the constitutional system established at Dayton.

The RS remains profoundly concerned about the illegitimate interventions in the BiH electoral system by Mr. Schmidt, who—lacking the required Security Council appointment and support of the Dayton parties—imposed anti-democratic decrees to force the unconstitutional extraction of millions of BAM from Central Bank funds for untested election technologies. This international overreach was directly aided by Bosniak politicians, for example within the BiH Ministry of Finance and Treasury, where the Bosniak Deputy Minister bypassed the RS-appointed minister to sign related payment orders.

Furthermore, the structural integrity of the process remains heavily compromised by the Central Election Commission (CEC), whose very composition lacks legal validity due to irregular parliamentary maneuvers that bypassed mandatory public vacancy procedures and selection panels. By installing former opposition advisors into key Serb seats alongside Bosniak figures explicitly tied to the Sarajevo political establishment—and keeping members who unlawfully passed their statutory retirement age—the CEC was transformed into a partisan tool for centralization designed to usurp the RS's constitutional right to manage its own Entity elections.

These concerns are compounded by the forced implementation of electronic voter identification and ballot scanners procured from Smartmatic without domestic consensus or transparent testing, introducing critical vulnerabilities regarding digital sovereignty and data security. Concerns with these problems are not unique to the RS; similar concerns about Smartmatic systems have frequently been raised in both the EU and the United States. Moreover, high-profile U.S. indictments against Smartmatic executives for bribery and financial manipulation to secure election contracts underscore global skepticism and justify the RS's refusal to blindly trust foreign-managed, unverified electronic systems, especially a system that enables the company's free access to public databases, including citizens' biometric data.

Although the election results conclusively validate the popularity of the RS's leadership, these systemic violations remain an unacceptable precedent that must be legally and politically answered to protect the constitutional future of the country.

The Dayton Agreement must be upheld.

The RS believes that adherence to the clear terms of the Dayton Agreement is the only way for BiH to build a successful future.

The RS and its leaders are dedicated to the Dayton Agreement.

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

The RS and its elected leadership are inalterably dedicated to peace and stability and seek nothing more than the faithful implementation of the Dayton Agreement. They fully respect BiH's sovereignty and territorial integrity. The RS's top elected officials have consistently and unequivocally affirmed the RS's dedication to Dayton. For example, RS Prime Minister Minić said in August that the RS only insists on exercising the rights guaranteed to it under Dayton and is not seeking anything that does not belong to it.[2] During a meeting in May with EUFOR commander Maurizio Fronda, Minić expressed the RS's full commitment to ensuring a safe and stable environment and welcomed EUFOR's activities to that end.[3]

Similarly, in a meeting this past July with Denmark's ambassador to BiH, RS President Siniša Karan emphasized that the RS consistently advocates for the strict application of the BiH Constitution and respect for the letter of the Dayton Agreement. He also underlined the commitment of RS institutions to dialogue and to the preservation of peace and stability.[4] According to SRNA, President Karan said in September "that the biggest misconception is to portray Republika Srpska as a problem for BiH, stressing that it is the only defender of the constitutional order of Dayton BiH."[5] Speaking in September at the annual Concordia Summit in New York, the Serb member of the BiH Presidency, Željka Cvijanović, stressed that the RS will remain committed to dialogue and to preserving peace and stability.[6]

In sum, as the head of the SNSD Caucus in the RS National Assembly said in September: "We are not against BiH, but against imposition; we are not in favour of crises, but of agreement; and we are calling for BiH to finally begin functioning as a sovereign country in which decisions are made by local, democratically elected representatives."[7]

Bosniak political parties and their foreign allies have undermined the BiH constitutional order agreed at Dayton.

For more than three decades, the Dayton Agreement has maintained peace and stability in BiH through a decentralized federal system and ethnic power-sharing mechanisms. Unfortunately, Bosniak political parties and some of their international allies advocate abolishing this carefully designed constitutional order. For example, just weeks ago, BiH Defense Minister Zukan Helez used inflammatory language to call for the international abandonment of the Dayton Agreement and the abolition of the RS, saying, "I call on the international community to withdraw its signature from the creation of this genocidal para state entity, and we know what we have to do after that."[8] These threats from Bosniak leaders against the RS's very existence rightfully cause deep concern among RS citizens and hinder the interethnic cooperation BiH needs to succeed.

The systemic pattern of institutional centralization and infringement of rights of constituent peoples is further demonstrated in the Federation of Bosnia and Herzegovina, where the ongoing land registry harmonization process is being structurally utilized to strip the Serbian Orthodox Church of its historical property rights. By re-registering centuries-old churches, chapels, and

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

cemeteries as state assets rather than religious holdings, the Federation's administrative bodies are actively undermining the cultural heritage and legal autonomy of the Serb constituent people.

Bosniak parties have also intentionally sabotaged the RS's economic development by engaging in multi-year blockades of key RS economic development projects like the Buk Bijela hydroelectric project and the Trebinje Airport. The RS is hopeful that the new Bosniak leaders chosen in the October 4 elections will refrain from all such obstructionist policies and destabilizing attacks on the Dayton Agreement and will instead work cooperatively with all parties to improve the stability and economic development of BiH.

Democracy, sovereignty, and rule of law must be restored to BiH.

For many years, successive HRs (and Mr. Schmidt, who claimed the position) imposed laws on BiH by personal decree despite having no legal authority to do so and in defiance of the BiH Constitution's clear requirement that all laws be approved by the legislature. An egregious example was when Mr. Schmidt unilaterally decreed that failure to implement the HR's edicts is a criminal offense, entirely bypassing BiH's democratic constitutional institutions. This illegal edict was subsequently enforced through the Bosniak-controlled BiH-level judicial system to prosecute the RS's democratically elected president, Milorad Dodik, for executing his explicit constitutional obligation to sign Entity-level legislation. Following the verdict, the CEC applied the Schmidt-decreed amendments to terminate President Dodik's presidential mandate and compel an early election process.

The sequential coordination between illegal foreign decrees, weaponized judicial activism, and BiH-level administrative bodies effectively neutralized the domestic constitutional order, rendering BiH's democratic institutions bystanders to external edicts. By allowing an unelected foreign official to simultaneously define a criminal offense, prescribe political disqualification, and reverse an electoral outcome, this process shattered the foundational democratic principles of popular sovereignty and the separation of powers.

Knowledgeable observers increasingly recognize that the era of an HR claiming the power to rule by decree must end.

Since Mr. Schmidt's "resignation" in May, key policymakers and many other observers around the world have finally become more vocal about acknowledging that the HR's dictatorial rule of BiH must come to an end at once.

Most prominently, the United States has made clear that it now supports BiH's sovereignty, meaning that it insists that decisions be made by BiH's own democratically elected institutions instead of being imposed by the HR. At the UN Security Council's May 12 meeting regarding BiH, U.S. Deputy Ambassador to the UN Tammy Bruce said that the OHR "was never intended to be

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

permanent" and made clear that "a sovereign Bosnia and Herzegovina is one in which decisions are made by local leaders driving pragmatic locally owned solutions facilitated by international voices rather than dictated by them."

The Serb member of the BiH Presidency, Ms. Željka Cvijanović, heartily welcomed the new U.S. approach, saying, "We absolutely support the efforts of the U.S. administration aimed at reaffirming the sovereignty of Bosnia and Herzegovina. We are grateful to officials of the United States of America for their efforts to promote local solutions, internal dialogue among the constituent peoples, and the full responsibility of democratically elected institutions at all levels of government in Bosnia and Herzegovina."[9]

In May, two former HRs, Carl Bildt and Wolfgang Petritsch, reacted to Mr. Schmidt's announcement of his "resignation" by reiterating their calls for the closure of the OHR. Mr. Bildt wrote on the social media site X, "OHR has after 30 years outlived its usefulness. A new initiative is called for."[10] Also in May, Adnan Ćerimagić, Senior Analyst for the Western Balkans at the European Stability Initiative (ESI), said that the OHR "goes against the rule of law because it fails the basic democratic test."[11] Sabine Beppler-Spahl, chair of the German liberal think tank Freiblickinstitut, wrote in May that the U.S. withdrawal of support for Mr. Schmidt "is a step to be welcomed. May his removal usher in a period in which democracy and freedom are given a chance."[12]

In June, the *Sarajevo Times* reported, "The largest Croat political parties in BiH are unanimous that the time has come to end the work of the [OHR] . . . ."[13] Dragan Čović, the leader of BiH's largest Croat political party, the HDZ BiH, in July reiterated his view that the OHR must close for BiH to make progress.[14]

Regional observers agree. In an August appearance on *Deutsche Welle*, Marko Prelec of the International Crisis Group said, "In my view the U.S. position is the correct one on [the High Representative]. Thirty years after the cessation of hostilities, it is very difficult to explain why there ought to be an internationally appointed official with the degree of power that high representatives have wielded in Bosnia and Herzegovina."[15]

Finally, in an August article in the *Harvard Journal of Law & Public Policy*, Joseph E. Schmitz and Brian T. Kennedy write that "with the appointment of an American Acting High Representative on July 1, 2026, it's time for the tyrannical Bonn Powers of the Office of High Representative, under which hundreds of 'Acts of pretended Legislation,' to quote our July 4, 1776, Declaration of Independence, have issued, to be declared 'Void ab Initio,' i.e., void from the beginning, as if they never existed."[16]

Those international actors who truly support the country's sovereignty and advocate for its stability and prosperity, especially those who claim to value democracy and the rule of law, should,

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

as many other countries already have, call for the end of the HR's illegal exercise of "executive" powers, allowing BiH's democratically elected institutions to assume full domestic accountability.

The presence and activities of the OHR subvert domestic institutions and political processes.

The activities of a foreign-run bureaucracy with no effective oversight vitiate BiH's sovereignty and are inconsistent with European standards and basic democratic principles. Indeed, in its Opinion on BiH's application for EU membership, the EU said regarding the OHR, "Such extensive international supervision is in principle incompatible with the sovereignty of Bosnia and Herzegovina and therefore with EU membership."[17] As former HR Wolfgang Petritsch has observed, "unless all of the external interventions stop, there is not going to be a European future for Bosnia and Herzegovina."[18]

The equilibrium established by the Dayton Constitution is increasingly challenged by Bosniak centralist political agendas that have, for decades, been relying on the OHR to bypass mandatory constitutional mechanisms and interfere, directly or indirectly, with BiH's democratic and judicial processes.

Bosniak political parties have even obstructed a reform to replace the three foreign judges on the BiH Constitutional Court with BiH citizens, a reform the EU has included among its 14 "key priorities" for BiH. BiH's main Serb and Croat parties strongly favor replacing the Constitutional Court's foreign judges with BiH citizens, but Bosniak parties have refused to consider such legislation, thus standing in the way of BiH's full sovereignty and its progress toward EU integration. Legislation to enact reforms to the judiciary is urgently needed, as the current composition of the BiH Constitutional Court with just seven judges is directly contrary to Article VI(1) of the BiH Constitution, which mandates that the Constitutional Court "shall have nine members." As stated in Attachment 1 to Republika Srpska's 35th report to the Security Council, such reforms are necessary to help ensure the independence and legitimacy of the Constitutional Court, which is itself currently acting outside of constitutional requirements.

Unattainability and absurdity of the 5+2 agenda

There is nothing legal or legitimate about the so-called 5+2 agenda for closure of the OHR. It was written in 2008 by the OHR itself and endorsed by the members of a self-appointed group of countries calling itself the Peace Implementation Council (PIC) Steering Board. But the PIC, which was not contemplated or even mentioned in the Dayton Agreement, has no legal authority to set the conditions for the OHR's closure. Indeed, the PIC has no legal authority at all. In practice, the 5+2 agenda has proven to be impossible to fully implement, thus endowing the OHR and its bureaucracy with something close to immortality. BiH's Bosniak political parties, which see the OHR as a muscular political ally, will never allow the 5+2 agenda to be fulfilled because they hope

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

to see the OHR stay in BiH indefinitely. Even former HRs support closing the OHR without demanding completion of the 5+2 agenda.[19]

It must be emphasized that the OHR as an administrative operation has no independent charter, legal authority, or legitimate role at all, and exists only as an office to provide administrative support to the HR, whose legal mandate is defined in full by Annex 10 of the Dayton Agreement.

Laws illegally decreed by HRs must be annulled.

It is high time for BiH to restore the rule of law by annulling all "laws" that were decreed by HRs rather than being adopted by the legislature as the BiH Constitution requires. Every law decreed by the HR is a brazen and continuing violation of BiH's democratic constitutional order. The BiH Constitution establishes that BiH "shall be a democratic state, which shall operate under the rule of law and with free and democratic elections." The BiH Constitution explicitly endows the BiH Parliamentary Assembly with the *exclusive* authority to enact BiH laws. Moreover, consistent with the BiH Constitution, the constitutions of the two Entities entrust lawmaking solely to their own designated democratic institutions. Thus, in BiH's constitutional order, the enactment of laws is a power reserved exclusively for parliaments, the constitutionally mandated democratic authority, and there is no exception to this rule for foreign diplomats with grandiloquent titles.

Each of the HR's decreed "laws" is also an egregious and continuing violation of the HR's legal mandate as established under Annex 10 of the Dayton Agreement. In its detailed definition of the HR's powers and functions, Annex 10 uses such verbs and phrases as "monitor," "promote," "coordinate," "facilitate," "participate in meetings," "report," and "provide guidance." Annex 10 includes not a single word or phrase that would remotely suggest that the HR has the outlandish, unrestricted power to decree laws or otherwise make decisions that are binding on BiH or its citizens.

It is widely acknowledged, *even by former HRs*, that the HR's decreed laws have always been illegal. Former Swedish Prime Minister 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." Even the first HR to assert the power to decree laws, the late Carlos Westendorp, later said about that power, "It was not very legal, I have to admit."[20] Moreover, the few detailed scholarly analyses of the possible legal bases for the HR's powers of decree have uniformly concluded that such powers are flagrantly unlawful. For example, Dr. Tim Banning, in his thorough legal analysis published by the *Goettingen Journal of International Law*, stated bluntly that the Bonn powers "do not qualify as a legal power. Their existence is a powerful, but delusive legal fiction."[21]

Every "law" decreed by the HR is an outrageous offense against BiH's sovereignty. The obligation to respect the sovereign equality of states is well established in international law by

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

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Article 2(1) of the UN Charter, customary international law, and the jurisprudence of the International Court of Justice. Sovereignty is the legal independence of a state, which includes its right to govern itself and exercise supreme authority within its territory without being subordinate to another state or outside authority. Obviously, the continued existence of "laws" in BiH that were decreed by an unelected foreign diplomat is a breathtaking violation of BiH's sovereignty.

Finally, the existence of laws in BiH that were decreed by the HR is a flagrant and continuing violation of BiH citizens' right to free elections guaranteed under the first Protocol to the European Convention on Human Rights and the International Covenant on Civil and Political Rights (ICCPR), both of which are made directly applicable in BiH under its Constitution. In 2005, the Council of Europe's European Commission for Democracy through Law (the Venice Commission) condemned the HR's asserted authority to enact laws by decree, and the staff of the European Commission has stated in no uncertain terms that the exercise of such illegal violations of BiH's sovereign rights is inconsistent with EU values and EU membership.

Until all the HR's illegal edicts are either annulled or freely enacted by the relevant legislature, acting within its constitutionally limited scope of competence, such "laws" are a continuing violation of BiH's democratic constitutional order, the Dayton Agreement, BiH's sovereignty, and the human rights of its citizens. For international actors to continue to pretend that such diktats are in fact legal acts is an egregious affront to the rule of law.

The RS is not alone in calling for the annulment of the HR's illegal decrees. The HDZ BiH, whose president, Dragan Čović, recently stated that his party remains "strong partners" with the RS governing party,[22] has joined the RS in calling for their annulment. To continue treating the HR's diktats as legitimately enacted laws is a grave affront to the BiH Constitution, a gross violation of the limits of the HR's legal authority, and a severe breach of the rule of law, BiH's sovereignty, and the human rights of its citizens.

The RS believes that ensuring local ownership and placing political and legislative processes firmly in the hands of the elected representatives of all three constituent peoples will foster institutional maturity and set the country on a path of stability and prosperity. Reaffirming its commitment to peace and security, the RS stands ready to cooperate with all domestic and international stakeholders who uphold the Dayton Accords. The BiH Constitution, agreed after painstaking negotiations more than 30 years ago in Dayton, provides the only viable framework for that to take place, and the RS calls for all stakeholders to recommit to its faithful implementation.

Received by NSD/FARA Registration Unit 10/28/2026 4:46:02 PM

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[15] The video is available at www.dw.com/en/will-the-us-europe-rift-derail-balkan-eu-ambitions/video-78249068 .

[16] Joseph E. Schmitz and Brian T. Kennedy, *Bosnia and Herzegovina: What is the American People's Interest?,* Harvard Journal of Law & Public Policy, 3 Aug. 2026.

[17] European Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union, 29 May 2019, at p. 7.

[18] *Id*.

[19] In May, former HR Wolfgang Petritsch told the German daily *Frankfurter Allgemeine Zeitung*, "One could close the OHR and transfer the outstanding tasks [of the 5+2 agenda] – such as settling the question of state property – as conditions into the individual negotiating chapters of Bosnia's EU accession process."

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

[21] 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.

[22] *Dodik and Covic reaffirm alliance, vow to lead Bosnia's post-election coalition talks*, N1, 12 Oct. 2026.

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