

A Legitimacy Scandal Rocks Bosnia and Herzegovina. “Technically a Sovereign State”, Who is in Charge?

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Over quarter of a century after the signing of the Dayton Peace Agreement in 1995, though technically a sovereign state and a member of the UN, Bosnia and Herzegovina continues to limp along as no more than an international protectorate. Basic issues concerning its governance remain unresolved and/or deliberately obfuscated. One of the most fundamental of those issues is who is in charge there, the locally constituted authorities or the “international community’s” [High Representative](#) with his parallel system of authority? An equally puzzling question is why is there a “High Representative” at all in what theoretically is an independent and sovereign country?

All these and many other critical issues climaxed with the appointment in August of 2021 of [Christian Schmidt](#) as the latest incarnation of that odd office. The oddity of the office resides in the fact that, after all, Bosnia is not some distant possession of the former British Empire but, in appearance at least, is an independent country endowed with all the outward paraphernalia of sovereignty. Yet the effective centre of political power, whence elected officials can be fired, judges named, and laws arbitrarily annulled or promulgated without parliamentary interference, is not in any elective office within the country. It is located in a viceroy appointed by foreign powers who renders no account of his actions to any of the natives.

For legally compelling reasons, the legitimacy of Schmidt’s appointment is not recognised by one of Bosnia’s constituent entities, the Republic of Srpska, nor by two permanent members of the UN Security Council, Russia and China. One should expect that under normal circumstances such a rebuff ought to be a sufficient for Schmidt to politely withdraw. That however does not occur either to him or to the usual suspects who comprise the chorus of his international backers.

Recalling briefly the history of the High Commissioner's office, it was set up in 1995, at the conclusion of the tripartite conflict in Bosnia, to assist the parties with the implementation and interpretation of the terms of the Dayton Peace Agreement. The Agreement, signed by the locals and the foreign powers instrumental in facilitating it, who thenceforth assumed the role of its guarantors, provided that the High Commissioner in Bosnia and Herzegovina would be appointed by resolution of the UN Security Council and that the mandate of his office would last for one year. Clearly, the actual duration of the mandate has been greatly exceeded beyond the one-year limit that originally had been set. As for the High Commissioner's *de facto* powers, as a result of what might be called "mission creep," they have been vastly and intrusively expanded into areas never envisioned by the original agreement.

But the crux of the current political crisis in Bosnia is not so much any of the above (though these remain valid grievances) as in what the dissenting parties regard as the intolerably abusive and flagrantly improper manner of Christian Schmidt's appointment. To be precise, he was not appointed by resolution of the UN Security Council, as he should have been in order to be legitimate, but by a privately constituted unofficial multi-state body calling itself the "Peace Implementation Council," or PIC for short, an entity that in pertinent legal documents has no official status nor consequently any standing whatsoever to decide upon such matters.

In an attempt to clarify Schmidt's position, Željka Cvijanović, Serb member of Bosnia's collective Presidency and current rotating President of Bosnia and Herzegovina, directed a formal inquiry to UN Secretary General Antonio Guterres requesting proof that Schmidt was duly appointed by the Security Council. Guterres' response was bewildering. Disregarding long-standing practice, he tried in his response to mislead Mrs. Cvijanović that the UN Security Council is not charged with responsibility in this matter and that if she has any further questions the "relevant institution" she must turn to is the aforementioned juridically non-existent Peace Implementation Council [PIC].

In a scathing commentary, Banja Luka international law professor Milan Blagojević has made mincemeat of Guterres' amazingly ignorant or, perhaps more likely, Machiavellian reply. He points out that there is no provision in international law that recognises the legality of PIC or grants to it the right to make any binding decisions with regard to Bosnia and Herzegovina. Rather, he argues, the secret of its influence must be in the fact that it is comprised of states such as the US, Great Britain, France, Germany, Italy, and others belonging to the geopolitical grouping interested in governing Bosnia and Herzegovina through the veneer of a High Representative who obeys their directives and serves their agenda. That agenda can be summarised in a few words: unitary Bosnia without the bothersome Republic of Srpska, membership in NATO, and hostility to rather than cooperation with Russia. However, Prof. Blagojević continues, their game is unequivocally prohibited by the UN Charter which prescribes in Article 2 that relations among states must be based on the principle of sovereign equality. That means that neither the UN as an organisation nor any of its member governments has the right to impose its rule on any third country. Furthermore, Article 78 of the Charter forbids member governments to treat sovereign states as protectorates. A protectorate may legally be instituted only in a non-self-governing territory, but under no circumstances over a UN member state.

The illegal and illegitimate imposition of Christian Schmidt as Bosnia's viceroy with self-ascribed powers is in deliberate contravention of applicable principles of international law and makes a farce of the "rules based order."

It remains to be seen how resistance to Schmidt's unlawful operation in Bosnia will ultimately play out. But tensions there will not subside before Schmidt is driven out, not just from the office that he illegitimately occupies but from the entire country that has been given to him as a satrapy, to wantonly misrule.

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