



United Nations Secretary-General

Mr António Guterres

United Nations, S-233

New York, NY 10017

(Mr Stéphane Dujarric, Spokesman for the Secretary-General)

Göttingen, 1 November 2024

Request for your intervention ahead of the appearance of the High Representative for Bosnia and Herzegovina Mr Christian Schmidt before the Grand Chamber of the ECtHR on 20 November 2024 in the case of *Kovačević vs. Bosnia and Herzegovina*

Dear Secretary-General,

Public figures, ordinary citizens and NGOs including the Circle 99 Association of Independent Intellectuals (Asocijacija nezavisnih intelektualaca Krug 99), fear that the policies and actions of Christian Schmidt, the Peace Implementation Council's current High Representative in Bosnia and Herzegovina (BiH), are jeopardising their country's hopes of a democratic future.

See attachment: PROCLAMATION by Intellectuals and public persons in the case of Schmidt vs the future of BiH

Schmidt's actions go beyond his mandate and against modern democratic practice. In his approach to implementing the civilian elements of the Dayton Peace Agreement, in particular his October 2022 mid-election imposition of electoral law changes, he champions ethnoseparatist interests over the constitutional interests of BiH's citizens. His 24-hour suspension of the Federation's Constitution in 2023 and his stance against implementing the European Court of Human Rights (ECtHR) judgment in the *Slaven Kovačević vs BiH* case are causing major long-term harm not just to BiH, but also to the European Union (EU) and the wider international community.

The ECtHR's *Kovačević vs BiH* judgment calls for an end to the legal and political discrimination embodied in BiH's current Constitution. Schmidt's opposition to its implementation stands in the way of legal and political equality for BiH's citizens, obstructing the country's move towards modern democratic standards and its accession to membership of the EU.

Schmidt does not actively oppose the ECtHR's five previous final findings against BiH or its first-instance judgment in *Kovačević vs BiH*. He does not

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dispute the Court's ruling that the BiH constitution is discriminatory but advises against implementing its decisions. This appears to call into question the Court's other judgments against ethnically-based constitutional discrimination. Schmidt seems intent on preserving the existing constitutional, legal and political inequalities between BiH's citizens. Schmidt's obstructive abuse of his position of influence is undermining citizens' confidence in the Court and seen as evidence of its vulnerability to political pressure.

Rather than acting as the international community's impartial representative, Schmidt appears to be promoting the political agendas of Croatia and Serbia. His Election Law amendments favoured Croat interests, his support for the Federation's ethnic compartmentalisation paves the way for the revival of a Croat third entity and he appears to endorse ethnic discrimination in favour of Bosnian Croat voters over Bosniaks. His inaction in the face of the irredentist and separatist aspirations of Republika Srpska politicians and his failure to condemn the Declaration of the All-Serbian Meeting are regarded as anti-Bosnian, counter to the spirit of Dayton and serving Serbia's interests in BiH.

Schmidt appears to be consolidating Bosnia's wartime political divisions, taking the side of the two former Joint Criminal Enterprises against BiH and treating defenders and aggressors as equals. He tolerates, fosters and encourages political blackmail and violence in his relations with internal political forces hostile to BiH's existence.

Schmidt's failure to promote Western democratic values in BiH is leading to increased scepticism about Europe and hopes of EU membership. He is undermining the BiH authorities' efforts to meet the conditions for EU accession.

As High Representative, Schmidt has pursued a reactionary, ethnocentric approach to foreign and domestic policy issues. His support for ethnonationalists has encouraged political isolationism, discrimination, segregation, political and constitutional/legal inequality and communal mistrust. He appears determined to thwart hopes for a more functional constitution, a more democratic state and a better life for the ordinary citizens of BiH.

There seems to be no consensus among PIC (Peace Implementation Council) member states concerning Schmidt's intervention in *Kovačević vs BiH*. He appears to be acting on his own initiative. He should not continue in office.

Dear General Secretary, we expect you to defend human rights in Europe and worldwide in a consistent manner, to seek to ensure respect for the rule of law and to protect the citizens of Bosnia and Herzegovina against discrimination by nationalists and extremists of all kinds.

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We call on you to do everything in your power to persuade High Representative Christian Schmidt to reconsider his intervention in the Kovacevic case. Should the international community choose to condone the High Representative's inexplicable disregard for human rights, it must expect to forfeit trust and credibility.

We expect the High Representative and the Government of Bosnia and Herzegovina alike to respect the findings of the European Court of Human Rights.

We would be grateful if you would keep us informed of any action you may take.

With best regards.

For Society for Threatened Peoples, Germany

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Identical copy of this letter have been sent to:

Mr Michael O'Flaherty, Commissioner for Human Rights, Council of Europe
Commissioner for Human Rights

Mr Volker Türk, United Nations High Commissioner for Human Rights

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Mr Bernard Duhaime, Special Rapporteur on the promotion of truth, justice,
reparation and guarantees of non-recurrence, OHCHR

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