



International Relations and Defence Committee

Corrected oral evidence: The UK and the Western Balkans

Wednesday 17 January 2024

10.30 am

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Members present: Lord Ashton of Hyde (The Chair); Lord Anderson of Swansea; Lord Boateng; Baroness Coussins; Lord Robertson of Port Ellen; Lord Soames of Fletching; Lord Stirrup; Lord Wood of Anfield.

Evidence Session No. 6

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Questions 60 – 67

Witness

I: Christian Schmidt, High Representative for Bosnia and Herzegovina, Office of the High Representative for Bosnia and Herzegovina.

Examination of witness

High Representative Christian Schmidt.

Q60 **The Chair:** Thank you very much indeed for coming. I know you have an extremely busy and heavy workload, so we are very grateful that you made time to come and see us. We will talk today about the threats to security in the country and the actions of the leadership of Republika Srpska, and reflect on and talk about your role as the High Representative. This is a public session streamed live on the Parliament website. A transcript will be taken, and we will send you a copy so that you can correct any errors of fact. Can I remind Members to declare any interests you have when you speak?

With that said, I have the first question. Bosnia and Herzegovina was granted EU candidate status in December last year, which is obviously a positive step, but there remains an awful lot to do before that can progress to membership. Could you outline the main obstacles to integration with the EU, and a realistic timeframe for that?

Christian Schmidt: Thank you very much. I am very pleased to have the opportunity to report about the situation from my specific position as the High Representative for Bosnia and Herzegovina, a position that was created under the framework of the Dayton Peace Agreement and established with a lot of executive powers.

On the shortfalls in the development of the society and the state of Bosnia and Herzegovina, the 1995 Dayton Peace Agreement intended first to create a sustainable ceasefire, as we know. This has worked up to now, and I can report that there is no danger of war or armed conflict in this country.

The second aim, state building, has indeed caused problems up to now. Initially, the High Representative position was intended to be an ad hoc position of the international community. I do not know whether a timeline for the position was discussed, but if I remember rightly from exchanges with my predecessors, starting with Carl Bildt and Paddy Ashdown, their intention was definitely not for this to last for, say, 50 years, or two generations. It has, and that is the only reason why I am able to report to you today.

European integration was part of the vision for the country from the beginning. The composition of multi-ethnic structures is problematic and does not fulfil the intentions of the Dayton Peace Agreement Annexes. I refer especially to Annex 7, which makes it possible for all who had to flee their homes to return. We have seen a significant number of returnees, but the diversity that we had before the war in the 1980s has not come back. We tend to have a split between the Republika Srpska—you referred to it already as one of the entities—and the ethnically composed federation, especially the Croat and the Bosniak caucus. It has to be said that both sides are not uniquely oriented towards Serbs, Bosniaks and Croats, but this should ensure that the country remains multi-ethnic.

I did not attend the Dayton Peace Agreement in 1995, but I have read and talked about it a lot, as I am sure you have, and I have great experience and memory of this time. However, I have to say that it is indeed a challenge to compose a territorial structure with two entities—in addition to the condominium of Brčko, which is for both, because separation is impossible in this city—and to maintain the basic idea of keeping the state together. I do not know what Dick Holbrooke's¹ reflections were in detail, but the fact that I am sitting here nearly 30 years after Dayton is a sign that things have not yet been fulfilled.

If you will allow me a word on European integration, I am sure that European integration is the only way to achieve a wealthy and peaceful country, because the environment in the Western Balkans definitely shows the need for regional and wider co-operation in order to set down the ethnicities spelled out in the Dayton Peace Agreement. There are other ethnicities that do not fit into this, that or the other caucus. They say, "I'm just an individual", so the European Union could be an answer.

I have a slight remark to make about the intention behind European integration. After another report by the European Commission, in March this year the European Council will decide whether negotiations and talks about European Union membership should start. In the opinion of the European Commission of 2019—I paraphrase—"After the devastations of war and the negative effects on the people, now we go". I would like to correct the sense of "has been". It is not "has been", but "is": the country is living in a post-war situation where there is very little reconciliation and ethno-nationalistic narratives, approach and political debate dominate. Politically, they are fighting battles that ended militarily 30 years ago.

The Chair: I think Lord Wood's question is apposite.

- Q61 **Lord Wood of Anfield:** Thank you very much for coming today. Following up on what you said about Bosnia and Herzegovina's constitutional arrangements, to what extent are the constitutional arrangements that embed divisions but also represent the communities, depending on your perspective, a problem for solving Bosnia and Herzegovina's future? Does the constitution itself need to be reformed, or is the constitution the framework within which these solutions need to be found?

Christian Schmidt: Yes, there is a need for amendments and reforms. This is in no way, you will accept, a negative comment about the drafters of Annex 4 of the constitution. It is, let me say, very American, with checks and balances put in. That is good, but with checks and balances you need to respect the fact that they should be used as a tool for consultation and not for continuing political conflict. I suggest that we revisit how we could make it easier and not have too many of these checks and balances.

¹ Richard Holbrooke was an American diplomat who helped broker the Dayton Peace Agreement.

For example, the composition of the House of Peoples of Bosnia and Herzegovina is linked to ethnic origin. We have 15 members: five from the Bosnia caucus, five from the Serb caucus and five from the Croat caucus. They have full legal competence in everything. Two years ago, there was a lot of discussion in the country. I looked at functionality in the Federation. I do not have the right to change the constitution under Dayton, I only have the right to interpret it, but I can amend the entity constitutions.

I made use of this right by working to bring the competences to bear in a more functional way, so that if the vital national interest is touched on, this can be checked objectively and would not lead to the need for the entities to have a constitution whereby every caucus, every ethnic group and every people, has the same say in every case. We have to reflect on how far we can go in getting to a closer definition of vital national interests. I contributed to this by deleting the clause that said that everything could be defined as a vital national interest. In the federal constitution now there is just a list of cases that can be seen as vital national interests.

Q62 Lord Soames of Fletching: High Representative, I bet you are glad you are not the Federal Minister for Agriculture any more, in Germany anyway. I think you are probably in an easier job. The role played by the Office of the High Representative in the political system of Bosnia and Herzegovina has at times been extremely controversial and contested by some, if not many, groups in the country.

What steps do you and your colleagues take to ensure that your role is understood by the citizens of Bosnia and Herzegovina and that the Office of the High Representative is seen as being legitimate both by politicians and by all parts of society?

Specifically, and further to that point, why do you, unlike your predecessors, meet so frequently with Croatian officials in Zagreb, despite widespread concern in Bosnia and Herzegovina, and more widely, about Croatia's interference in Bosnia's domestic politics?

Christian Schmidt: Thank you very much, Lord Soames. In times of bilateral co-operation on defence and other issues, I see that the Western Balkans is indeed a place where we Europeans—I do not link it only to the European Union—should be present, because this area has geostrategic importance. There is the influence of Russia, which is to be seen with Dodik.

I have to say that I meet with everybody. Today, I am blamed from the Croat side, but I have met Mr Komšić, who is an elected member of the presidency of the country. He was elected in the ballot from the Croat caucus but not against the HDZ candidate. There may be proposals to re-adjust and amend election law, but that is not my issue. We cannot distinguish between elected representatives I meet and those I do not meet. Clearly, I also meet Serbian representatives, but not Mr Dodik. He refuses to meet. We know each other very well from former times, but this is his strategy.

One has to be able to talk about every part of society. Croatia, Slovenia, Austria, Italy, Greece, and Hungary are the group of friends of the Western Balkans, very much promoting European Union accession and starting negotiations and talks with Bosnia and Herzegovina. I have to say that I do not think there should be special rights for anybody, whether Croatian, Bosniak or Serb.

The problem is that, time and time again, we are missing a view on how one can get a joint position in the country. I cannot get applause from everybody in a democratic political situation, as we know. There is a Pavlov's dog reaction sometimes in the media. If I meet a Croatian, the other part of society says, "How can he?". If I meet the Serbs, they think I have a secret deal with Mr Dodik, which is absolutely wrong, and nonsense, but sometimes these conspiracy theories make it very complicated to come to a solution.

Honest brokering is necessary, and I am working and trying to do this. It is very important that we keep the unity of the international community. There is probably some room for improvement. This comes to the question of whether European integration deletes Dayton. No, it does not, because basic guarantees of the existence of Bosnia and Herzegovina will continue to be drawn from Dayton. This is a political conflict, and some people are masters at creating the feeling that there could be a difference of opinion among the international community, and playing on it and using it.

I started on the defensive, as Dodik said that he would declare me *persona non grata*, arrest me and throw me out of Republika Srpska. I went to Republika Srpska, because it is for me to decide where I go, not him. Then I read something that Dodik had said about the late Paddy Ashdown, and I said, "How can you say such incredibly insulting things about a late honourable person?". So I started defending Paddy Ashdown, basically because this could also happen to me. I am sorry to say that I had to learn that if I started defending and commenting on all statements or insults, I would not have time to do real work. So, yes, I have a very clear commitment, and I have to say that the narrative that I would work closely with the Croatians may also be the work of people interested in giving the wrong picture.

They had this problem in the Federation some six years ago. There has been an acting Government since 2018. There was no Presidency—although they have a sort of Presidency on the level of the entity—because they could not vote because they did not meet the quorum in the House of Peoples. The Prime Minister was accused under investigation and got a sentence of four years, in the first instance for misuse of his official position. I do not know the final outcome. I think two Ministers in the Federation passed away, and one was nowhere to be seen. This is the state of functionality in the Federation. If the Federation has no functionality, how can we press Republika Srpska to continue with its contribution to functionality?

This is why I made intense, and I think important, changes to the constitution and election law. Three days after the election, I can report that the missing members of the Constitutional Court of the Federation were on their way to being appointed. Now we have a full court and a full Presidency again. I had to intervene again, because there is no clause in the constitution to say what happens if the House of Representatives has a proposal for a future government and the Presidency does not have a unanimous position on it. So I created a way to change this by offering to change the constitution with a snapback; I said that functionality would happen only if this gap in the constitution was filled. I have to say that, up to now, no initiative in parliament has been taken. This is part of the strange way in which communication happens in this region of the world.

The Chair: Thank you very much.

Q63 Lord Robertson of Port Ellen: Mr Schmidt, I have no financial interests to declare in Bosnia and Herzegovina, but I do have a long-time interest in the country and in the position that you now hold. I used help Paddy Ashdown during his tenure there, despite the fact that we came from different political parties, and I was at Thessaloniki when the great offer was made to the Western Balkan countries for eventual membership of the European Union.

I want to take you back to what you said at the very beginning. I thought you said that you did not think there was a likelihood of conflict or war starting again, and yet the actions of Republika Srpska, and of Dodik in particular, challenge you and the international community quite substantially and fundamentally, because they are intent now on a separatist path. So the question, really, is: will the EUFOR Operation Althea be enough to deal with that crisis, that confrontation, or should it be reinforced? Perhaps is there a case now for yet another NATO force to be deployed in the country.

Christian Schmidt: Thank you very much, Lord Robertson. The situation is calm, but it is not without tensions. In my last report to you and to the United Nations Security Council, I stated that we see returnees coming under pressure. We have had cases of beatings, and unfortunately of one being killed, so there is an overall feeling that tensions are increasing. What is the reason? Is it Mr Dodik? I would not say it is him, but the situation is unclear. In Sarajevo, we have talked to people who went through three and a half years of siege without significant international support because it took time for us to intervene, so they do not feel safe. It is unclear what the Russian impact is. I could not tell you what the impact of Moscow's decision-making is on Mr Dodik, but there are indeed observations that it is not helpful.

On EUFOR Operation Althea, the follow-up mission to SFOR—this is my personal observation, because in my competence as High Representative I cannot talk about military issues, so let me switch to my former position as Deputy Minister of Defence of Germany—I see a need to look at the future of EUFOR Operation Althea and its capabilities, mobility, communication, and capacity to bring down any hotspots that could

occur. We all know, you better than the rest of us, how easy it is to have a crisis in the Western Balkans just by the creation of any hotspot.

I allowed myself to send a letter to the NATO Secretary-General last year, and he came to Sarajevo. This is a very personal position, but I would not be unhappy—in fact, the opposite—if in the future there was also a British contribution to EUFOR Operation Althea. We have had Austrians for 10 or 12 years now, and now Hungary is taking over. There is a small, and hopefully growing, German detachment as part of EUFOR. The Italians are there, as are the Romanians, and we have a NATO office with no executive competences.

I was asked what would happen if the United Nations Security Council did not come to a position on the continuation of EUFOR. It has worked out, which is very good. However, in my legal understanding, in Dayton Annex 1(a) there remains the fallback obligation and possibility of NATO support. This is not under discussion today, but one should keep it in mind, as it has been seen and read about not only in our capitals but in Moscow.

Q64 Lord Anderson of Swansea: As High Representative, you are perhaps condemned to be optimistic, but after three and a half fairly bruising years, do you feel more positive or more negative about the future of the country? I am thinking particularly of the role of Mr Dodik in Republika Srpska. What is your response to his several provocations in response to Dayton and several other matters? We note that the UK and the US have already sanctioned him. Do you think that the European Union should do the same?

Christian Schmidt: I remember that in 2011, when I was in the Council of Ministers and Baroness Ashton, a Member of this House, had responsibility as High Representative of the European Union—there were attempts by Dodik then too—the European Union had a sanctions regime focusing on all those who were contra Dayton or working against it. I would be happy if this basic tool, used or not, could be reopened within the framework of the international community, not only the US and the UK but the European Union. I see that the United Kingdom used the sanctions regime again, just three days ago, after the unconstitutional ceremonies on 9 January commemorating the founding of Republika Srpska by Radovan Karadžić. It has its effect, although I would prefer to have a joint international community position on this.

On my side, I had to strengthen the country's criminal court. This is why, after the strengthening of and amendments to the constitution, Dodik is now in court because of misuse of his powers. He openly puts into question the existence and the competence of the Constitutional Court of Bosnia and Herzegovina and of my office. Both these Dayton institutions may be seen from his side as potentially limiting his operations, so we have to wait and see what the BiH court, which has accepted this Motion now, does. The trial is in progress. I think we are beyond the impression that this is only Balkanist rhetoric; there is more behind it.

The danger of segregation is there. I refer to a Slovenian statesman who said, "Maybe in this country you can talk about dissolution, but you cannot talk about peaceful dissolution in this region". So I am taking this very seriously, and I am not taking any tools in the international community's reserve and my personal reserve off the table. Sometimes I say that I can imagine what Paddy Ashdown would have done already.

Lord Anderson of Swansea: Do you feel that there has been some regression over the past three years?

Christian Schmidt: Yes and no. I see that the people in the country are oriented towards Europe; nobody tends to move to Russia or anywhere. So I remain optimistic, but if we are going the regular way of European integration now, with negotiations starting, we need political signals, especially for the young generation who are deciding where to stay and work. If they have professional competences, they ask to move to Europe. At my embassy, Germany's, in Sarajevo, you can see a line of people every morning just waiting to get access and a visa.

People say that there is an urgent need to bring people into the UK to work at hospitals in the UK. My position is, "Wonderful, but we need these young people in Bosnia and Herzegovina". If we lose this generation, I do not see us having the opportunity to have multi-ethnic approach. Instead, we will have an increased nationalistic approach.

I am optimistic if we manage to have proposals for keeping young people's start-ups in the country. This means being open to the neighbourhood and somehow to European integration, not in the free movement of people but in the free movement of goods.

The Chair: We have talked about ethnicity and potential violence, and actual violence in some cases. Can we test your optimism a bit further? Lady Coussins has a question about some other problems you face.

Q65 **Baroness Coussins:** One of the things that Bosnia and Herzegovina will have to show in order to advance from EU candidate status to EU accession is to demonstrate some genuine progress in tackling corruption and state capture. What is your assessment of the level of genuine progress being made in this area, and is your Office of the High Representative able at all to support these efforts?

Christian Schmidt: First, there is the reactive way I amended the criminal court and dealt with the issue of electoral fraud, behaviour at the elections and more. My optimism is not that far-reaching. Unfortunately, Bosnia and Herzegovina ranks third from the bottom in Transparency International's index and last in the rankings of European countries. The second from the bottom is Ukraine, and at the bottom is the Russian Federation. Bosnia and Herzegovina had a better standing at the time of Paddy Ashdown, including in the Western Balkans. It was a frontrunner. Now, that standing has unfortunately decreased.

So we have to put into legislation something that I am also promoting: the inclusion of the HJPC², the council nominating the judges and the

prosecutors. I have an initiative, with the OSCE, to exchange prosecutors' experience from European countries to Bosnia and Herzegovina.

There is also a need to increase integrity in elections, because people in Bosnia and Herzegovina openly do not rely on the counting of the results of the elections. They have no confidence in their political class. If we want to bring the country into European integration, we definitely have to meet the Copenhagen criteria and what was discussed in Thessaloniki in 2003: the European standard of human rights and European standards for elections. So this is where we are going.

I have been part of a 15-year public discussion on improving electoral fraud in Bosnia and Herzegovina. There are proposals from ODIHR³, the OSCE, the Venice Commission that are very well developed. They have met again in the last two years, facilitated by the European Union and the United States of America, but the result is unfortunately zero. Everything is on the table, including, due to technical possibilities these days, the identification of voters by biometrical data card and so on, although that is not my business. However, we have local elections in October this year, and the question will be whether we can keep the momentum on avoiding electoral fraud by having improved election law, or at least making it much less complicated to go for it. That is my daily concern these days.

There are a lot of people in the acting coalition Government and NGOs who are very much in favour of my decisions. I have demonstrations outside my office in favour of my decisions and encouraging me to make more of them. I am hesitant about doing this, because it would be best if the bodies and the Diets had the responsibility for making those decisions. I am not sure we will convince people in Bosnia and Herzegovina if we say to them, "You must understand that we are now bringing you to European integration, and we'll do a lot more, but we cannot stop electoral fraud, because this has to be done by Republika Srpska, the Federation and so on". I am very aware of the disappointment and frustration people will have if we are not prepared to use, if necessary, the tools that unfortunately lie with me. So, on my side, I jump between optimism and frustration.

The Chair: Lord Boateng has a question that we are particularly interested in.

- Q66 **Lord Boateng:** The existence of Bosnia and Herzegovina and the success of its further European integration depends very much on a balancing act to which you and your High Office have contributed to. Russia has an interest in upsetting that balance and has, over the years, backed Bosnian-Serb separatism, both officially and informally, through a range of cultural and religious education and paramilitary groups. Could you

² The High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

³ The Office for Democratic Institutions and Human Rights (ODIHR) is a subdivision of the OSCE, providing support to states and civil society organisations to promote human rights, democracy, and the rule of law.

share with us your latest assessment of Russia's role in that regard and whether it has changed at all since you last gave evidence to the House of Commons Foreign Affairs Committee?

Christian Schmidt: Things are not getting better. There is something that we probably cannot talk about in open session, as we have just discussed, that does not give us full confidence that Russia's influence of Russia is decreasing.

In my personal assessment, creating a crisis is not a strategy every day, but Russia has the potential to be destructive very quickly and able to influence the political scenery in Bosnia and Herzegovina. The narrative of Mr Dodik and his friends is that my position is not legitimate because the position has not been approved by the United Nations Security Council. That is wrong. It is the Peace Implementation Council that approves it and, from the point of view of a veto, the only difference between it and the United Nations Security Council is that there is no veto, so unanimous voting is not needed.

The member of the presidency from the Republika Srpska side, Madam Cvijanović, wrote a letter in July last year—so after my meeting with the House of Commons Foreign Affairs Committee—asking on what basis my appointment would be. United Nations Secretary-General Guterres answered in a very short but clear letter that this is the task of the Peace Implementation Council, and the United Nations has no say in this but has a contribution to make in the sense of co-operation.

So I do not know from whom this narrative is coming, but if I were looking, I would not stress the constitutional and international law competencies of Milorad Dodik. I could, however, imagine that some people in Moscow created this idea in order to be part of the political battle.

The Chair: Lord Robertson of Port Ellen has a question, which is one we always end up on.

Q67 **Lord Robertson of Port Ellen:** The purpose of this Committee is to advise the British Government, so we will send them a letter on the Western Balkans following up our 2018 report. Are there any recommendations that you think we should be making to the British Government about Bosnia and Herzegovina, given your experience? It is not an easy job that you are doing, and I think we all wish you well and thank you for it. What would you tell the British Government they should be doing to help you?

Christian Schmidt: First, I am very happy to see that the UK Government are very supportive of Dayton. We have the cadre of the Quint consisting of the UK, the US, Italy, France, Germany, and the European Union, so five plus one, and I would invite this tool to be used as a reflection of how the process of integration with the European Union adapts to the Dayton requirements. In a practical way, this would also mean that the ad hoc position of the High Representative remained, as long as it is put into question by people like Mr Dodik.

Also, the basic structures of Dayton should not be on the table in any negotiations. Out of nine international judges at the constitutional court, three—a Swiss judge, a German judge, and an Albanian judge—are internationally appointed by the President of the European Court of Human Rights. We have tried our utmost not to have segregation in the country along the lines of ethnic groups.

This is an important state of law, but how do we deal with the issue of state property? Up to now, Bosnia and Herzegovina has been the only successor country of the former Yugoslavia where the question of who owns state property and defence property is unclear and unsolved. My mandate is to work on this. I am doing this very intensely now, but I need support on the basis of the standards that we have.

On defence—again, this is my personal reflection—I would say that the possibility of implementing the Dayton achievements needs and depends on a reasonable and accepted EUFOR Althea mission. I repeat that the United Kingdom, one of the key players and most experienced militaries in Europe, should think about contributing. It would be heartily welcomed in Bosnia and Herzegovina; Bosnia and Herzegovina would like a UK contribution.

The Chair: Thank you very much. Having heard everything you have said and our questions, we are even more grateful that you have managed to find time to come here. As Lord Robertson said, we wish you well in your task. I have a job for you when you have finished this. Could you sort out the composition of the House of Lords? We have been dealing with it since 1911. Everyone agrees it is not correct, but we need someone like you to help us. Anyway, thank you very much. I just remind you that we will send you a transcript to review. Thank you.