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AT THE CROSSROADS OF PEACE AND DENIAL: SREBRENICA THIRTY YEARS LATER

Abstract

The article examines the enduring tensions between law, politics, and collective memory in Bosnia and Herzegovina, thirty years after the Srebrenica genocide. While the atrocity has been firmly established by international courts, its domestic remembrance remains fractured, shaped by the institutional design of the Dayton Peace Agreement and the persistence of ethno-nationalist narratives. The paper explores how Dayton's power-sharing system entrenched competing identities and enabled the politicization of memory, contributing to the normalization of genocide denial in Republika Srpska and Serbia. It further analyses the emergence, forms, and political functions of denialism, as well as its impact on reconciliation and social cohesion. Finally, the article assesses the 2021 Memory Law imposed by the High Representative, evaluating its potential and limitations in countering denial and promoting accountability. The study argues that without firm legal and political protection of historical truth, prospects for genuine reconciliation remain constrained.

KEYWORDS

genocide, Srebrenica, memory law, reconciliation, denial

SŁOWA KLUCZOWE

ludobójstwo, Srebrenica, ustawa o pamięci historycznej, pojednanie, zaprzeczanie

I. INTRODUCTION

On 11 July 2025, the world marked the 30th anniversary of the Srebrenica genocide, one of the gravest crimes committed in Europe since World War II. A year earlier, on 30 May 2024, the United Nations General Assembly (UN GA) adopted Resolution A/RES/78/282,¹ designating 11 July as the International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica. The document underscored the international community's duty to uphold truth, justice, and non-recurrence, calling on States to counter denial and to integrate the lessons of Srebrenica into education. Resolution 78/282, although of great significance, did not pass unanimously – 84 States voted in favour (e.g., the US, Rwanda, Germany, France and Bosnia and Herzegovina), 68 abstained and 19 voted against (e.g., Serbia, Russia and China). The adoption triggered strong opposition from Republika Srpska (RS), Serbia and allied States, reigniting longstanding disputes over memory politics in Bosnia and Herzegovina (BiH) and the wider region. It also revealed that the international commemoration of Srebrenica stands in contrast to the fractured memory landscape within BiH.

Despite extensive judicial findings regarding the Srebrenica genocide, denial and relativization remain deeply embedded in the political discourse. Surveys consistently show divergent interpretations: while Bosniaks overwhelmingly recognize the atrocities as genocide, many Bosnian Serbs (and their supporters) reject the qualification. Memory has thus become a site of political contestation, shaping collective identity and complicating prospects for reconciliation. Lack of unanimity regarding the Resolution's adoption echoes earlier disputes over the genocide denial and historical relativisation caused by the 2021 amendment to the Bosnian Criminal Code (2021 Memory Law),² introduced unilaterally by the High Representative of Bosnia and Herzegovina, Valentin Inzko (HR). Rather than resolving disagreements over the past, both the law and the Resolution illustrate that international and national efforts appear less as closing the chapter on

¹ United Nations General Assembly, Resolution A/RES/78/282: International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica, 30 May 2024.

² Office of the High Representative, Decision Enacting the Law on Amendments to the Criminal Code of Bosnia and Herzegovina, 23 July 2021.

the qualification of the genocide and more as reaffirming how deeply contested such memory remains.

Against this backdrop, this paper examines the intersection of law, politics, and memory in post-conflict BiH, with particular attention to the legacy of the Srebrenica genocide, to assess the possibilities and limits of reconciliation three decades after the atrocity. It first critically analyses the impact of the Dayton Peace Agreement (Dayton Agreement)³ on the BiH's fragmented memory landscape, focusing on how institutional design has shaped competing narratives and hindered reconciliation. Second, it explores the denial of the Srebrenica genocide and its role in perpetuating ethno-political divisions and obstructing trust-building within BiH and the wider region. Finally, the paper evaluates the effectiveness and limitations of the 2021 Memory Law in countering denialism, preserving historical truth, and fostering reconciliation. To achieve the research objectives, both doctrinal and functional approaches are employed. The doctrinal approach enables the analysis of international and domestic legal frameworks, as well as the reconstruction and interpretation of existing norms. The functional approach, in turn, allows for an examination of how these norms are implemented in the BiH's socio-political reality and facilitates an assessment of their effectiveness. By situating legal developments within their broader political and societal context, the paper seeks to capture how memory is constructed, contested, and instrumentalized in post-conflict settings.

(COMPLEX) RECONCILIATION AND MEMORY LANDSCAPE IN 'POST-DAYTON' BOSNIA AND HERZEGOVINA

The conflict in BiH ended with the Dayton Agreement, initiated on 21 November 1995 in Dayton, the US, and signed in Paris on 14 December 1995. Comprising a unique and complex set of instruments, the Agreement reflects the intricacy of the negotiations that led to its adoption.⁴ While widely credited with ending the armed conflict, the document has also generated substantial debate due to its establishment of an ethnically based power-sharing system. Some scholars regard this framework as a pragmatic and necessary means of halting violence. In contrast, others argue that it has created enduring obstacles to political cohesion and democratic governance in BiH.⁵ Given the length constraints and article's

³ General Framework Agreement for Peace in Bosnia and Herzegovina, 14 December 1995.

⁴ Paul Szasz, 'The Dayton Accord: The Balkan Peace Agreement' (1997) 30(3) *Cornell International Law Journal* 759–768, at 759.

⁵ See, e.g., Annika Björkdahl, 'A Gender Just Peace? Exploring the Post-Dayton Peace Process in Bosnia' (2012) 37(2) *Peace & Change* 286–312; Beth K Dougherty, 'Letting Nature Swallow the

thematic focus, a detailed analysis of each provision is not possible; instead, the discussion briefly highlights those aspects of the Agreement most relevant to reconciliation and the post-genocide memory landscape in BiH.

The Dayton Agreement established a complex legal and institutional framework composed of the General Framework Agreement for Peace in Bosnia and Herzegovina between Croatia, the Federal Republic of Yugoslavia and the Republic of Bosnia and Herzegovina, together with numerous Annexes and accompanying arrangements. While preserving BiH's internationally recognised borders, it reorganised the State into two entities: the Federation of Bosnia and Herzegovina (51% of the territory), Republika Srpska (49%) and the Brčko District. This arrangement created a highly decentralised and ethnically structured power-sharing system, with most competences vested in the entities. Although conceived as a peace-preserving compromise, the rigid ethnic framework of political representation entrenched ethnic divisions and enabled competing elites to promote divergent collective memories through selective remembrance and denial. The Agreement also institutionalised significant international oversight, most notably through the establishment of the Office of the High Representative, which was responsible for supervising the civilian implementation of the peace settlement.

Given the above, it is evident that BiH's institutional framework is highly complex. Although designed to secure through power-sharing among Bosniaks, Serbs, and Croats,⁶ its multilayered structure has, in practice, largely paralyzed political processes and continues to shape prospects for reconciliation and the recognition of collective narratives about the conflict.⁷ The territorial arrangements of the Dayton Agreement disregarded demographic disparities⁸ and, while deemed necessary for stability and reconstruction,⁹ effectively cemented wartime territorial gains¹⁰

Past: Politics, Memory, and Abandoned Monuments in Postwar Bosnia and Herzegovina' (2019) 47(2) Nationalities Papers 248–263, at 251.

⁶ Ludovica Benedizione and Valentina Rita Scotti (eds), *Twenty Years after Dayton: The Constitutional Transition of Bosnia and Herzegovina* (Rome: Luiss University Press 2016) 18.

⁷ Roland Kostić, 'Transitional Justice and Reconciliation in Bosnia and Herzegovina: Whose Memories, Whose Justice?' (2012) 54(4) Sociologija 649–666, at 653.

⁸ Stathis Kalyvas and Nicholas Sambanis, 'Bosnia's Civil War' in Paul Collier and Nicholas Sambanis (eds), *Understanding Civil War: Evidence and Analysis*, vol 2 (Washington DC: World Bank 2005) 191–229, at 197.

⁹ Jens Woelk, 'The Constitutional Transition of Bosnia and Herzegovina between Nationalism and European Conditionality' in Ludovica Benedizione and Valentina Rita Scotti (eds), *Twenty Years after Dayton: The Constitutional Transition of Bosnia and Herzegovina* (Rome: Luiss University Press 2016) 25–48, at 26.

¹⁰ Patrice C McMahon and Jon Western, 'The Death of Dayton: How to Stop Bosnia from Falling Apart' (2009) 88 Foreign Affairs 69–83, at 69.

and reinforced nationalist ideologies.¹¹ Rather than dismantling ethno-national divisions, Dayton entrenched fragmentation and enabled the instrumentalization of memory in identity politics.¹² Its ‘no winners or losers’¹³ and forward-looking approach¹⁴ avoided explicit engagement with past atrocities and victims, including those of the Srebrenica genocide. By failing to acknowledge responsibility clearly, the Agreement enabled competing, antagonistic war narratives, providing fertile ground for denial and ongoing memory conflicts rather than reconciliation.

The ethnic divisions reinforced by the Dayton Agreement, along with unresolved issues of remembrance and reconciliation, have fuelled heated debates on memory and memory law.¹⁵ Both immediately after the conflict and today, narratives of past events and crimes reflect competing political strategies and rival human emotions, producing a fractured memory regime in BiH in which at least three versions of the past coexist and clash in political and social discourses.¹⁶ The memory wars centre on the nature of the Bosnian War, responsibility for its conduct, the number and identities of victims, and, most prominently, the Srebrenica genocide. Although the crime remains one of the most explored and well-documented international atrocities, it is still a focal point of contemporary genocide debates.¹⁷ Despite the International Criminal Tribunal for the former Yugoslavia (ICTY) establishing beyond a reasonable doubt in numerous cases

¹¹ Rob Aitken, ‘Cementing Divisions? An Assessment of the Impact of International Intervention and Peace-Building Policies on Ethnic Identities and Divisions’ (2007) 28(3) Policy Studies 247–67.

¹² Tajma Kapic, ‘The Dayton Peace Agreement in Bosnia and Herzegovina and Lessons from the Design of Political Institutions for a United Ireland’ (2022) 33(2) Irish Studies in International Affairs 1–17, at 2.

¹³ Paul Williams and Michael Schafer, *Peace with Justice? War Crimes and Accountability in the Former Yugoslavia* (Oxford: Rowman & Littlefield Publishers 2002) 160–161.

¹⁴ Gro Nystuen, *Achieving Peace or Protecting Human Rights? Conflict Between Norms Regarding Ethnic Discrimination in the Dayton Peace Agreement* (Leiden: Martinus Nijhoff Publishers 2005) 239–251; James O’Brien, ‘The Dayton Agreement in Bosnia: Durable Cease-Fire, Permanent Negotiations,’ in William Zartman and Victor Kremenyuk (eds), *Peace versus Justice: Negotiations, Forward- and Backward-Looking Outcomes* (Oxford: Rowman & Littlefield Publishers 2005) 93–116, at 108–109.

¹⁵ Melina Sadiković, ‘Narrating the War Experience: The Politics of War Memory and Commemoration within the Framed Peace Process in Bosnia and Herzegovina’ (PhD diss., University of Brighton 2019) 13.

¹⁶ Jessie Barton Hronešova and Jasmina Hasić, ‘The 2021 Memory Law in Bosnia and Herzegovina – Reconciliation or Polarization?’ (2023) 26(4) Journal of Genocide Research 399–417.

¹⁷ Janine Natalya Clark, ‘Judging the ICTY: Has It Achieved Its Objectives?’ (2009) 9(1–2) South-east European and Black Sea Studies 123–142.

(e.g., R Karadžić and R Mladić,¹⁸ R Krstić,¹⁹ V Popović,²⁰ Z Tolimir²¹) that genocide was committed, the crime continues to be subject to relativization and denial, tailoring the ‘post-Dayton’ memory landscape in BiH.

RELATIVISATION AND DENIAL OF THE SREBRENICA GENOCIDE AND ITS IMPACT ON THE CURRENT SITUATION IN BOSNIA AND HERZEGOVINA

Given the contested reconciliation landscape and the ongoing memory wars between Bosniaks and Serbs, both in Republika Srpska and in Serbia, the core dispute lies in the divergent legal and societal interpretations of the Srebrenica genocide. Shortly after the Dayton Agreement, the genocide was politicized and instrumentalized by the different ethnic groups as a contested site of memory and identity. Serbian actors initially pursued outright denial and later shifted toward disputing the legal classification of Srebrenica as genocide, while continuing to relativize and downplay the crime. This ongoing denialism is reinforced by systematic distortions of the historical truth, including conspiracy narratives portraying Serbs as victims of an alleged anti-Serb alliance²² and international bias.²³ A key example is the 2002 so-called ‘Report about Case Srebrenica’, published by the Documentation Center of Republika of Srpska for War Crimes Research, in cooperation with the RS Bureau for Relations with the ICTY. The document described the genocide as an ‘alleged massacre’, and minimized the number and status of victims, establishing an early framework of distortion.²⁴

¹⁸ *Prosecutor v R Karadzic and R Mladic*, Case no IT-95-5/18, ICTY, Judgment, Trial Chamber III, 24 March 2016.

¹⁹ *Prosecutor v R Krstic*, Case no IT-98-33, ICTY, Judgment, Trial Chamber I, 02 August 2001.

²⁰ *Prosecutor v V Popović et al*, Case no IT-05-88, ICTY, Judgment, Trial Chamber II, 10 June 2010.

²¹ *Prosecutor v Z Tolimir*, Case no IT-05-88/2, ICTY, Judgment, Trial Chamber II, 12 December 2012.

²² Klejda Mulaj, ‘Genocide and Ending of War: Meaning, Remembrance and Denial in Srebrenica, Bosnia’ (2017) 68 *Crime, Law, and Social Change* 123–143, at 138.

²³ Jovana Mihajlović Trbovc, ‘Public Narratives of the Past in the Framework of Transitional Justice Processes: The Case of Bosnia and Herzegovina,’ (PhD diss., University of Ljubljana 2014) 90–94; Filip Rudić, ‘Bosnian Serb War Commissions Seeking to Revise Truth: Academics’ (2019) *Balkan Insight*.

²⁴ For more about the report see: Jelena Subotić, ‘Holocaust and the Meaning of the Srebrenica Genocide: A Reflection on a Controversy’ (2022) 24(1) *Journal of Genocide Research* 71–82;

Since 2010, the denial of the Srebrenica genocide and other crimes has become increasingly institutionalised and systematic in both the RS and Serbia.²⁵ A key example is the 2010 Serbian parliamentary resolution, which formally condemned the killings in Srebrenica but deliberately avoided the term ‘genocide’, instead referring to a ‘crime’ or ‘tragedy’, and thus rejecting the internationally recognized legal qualification.²⁶ Serbian politicians consistently resisted the ‘genocidaire’ label, often invoking Serbian victimhood during the World War II to deny the perpetrator status.²⁷ This pattern of historical manipulation was further illustrated in 2015, when then-Prime Minister of Serbia, Aleksandar Vučić,²⁸ attended the 20th anniversary commemoration at the Srebrenica Memorial²⁹ but again spoke only of a ‘crime’, prompting anger among victims and their families and resulting in violent reactions during the ceremony. The episode demonstrates that genocide denial extends beyond reinterpretation of legal and historical facts, as it risks recreating the conditions for destructive behaviour and renewed violence.³⁰

The current situation in BiH shows that the denial of the Srebrenica genocide has not diminished over the years; rather, the distortions and reinterpretations of established historical facts continue to circulate widely in the public sphere. A particularly alarming aspect is the glorification of convicted war criminals as national heroes.³¹ This phenomenon is systematically monitored by the Srebrenica Memorial, which documents not only the persistence of genocide denial but also

Monica Hanson Green, *Srebrenica Genocide Denial Report 2020*, Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide (2020).

²⁵ Hikmet Karčić, ‘Srebrenica Genocide Denial: From Dodik to TikTok’ in Sead Turčalo and Hikmet Karčić (eds), *Bosnian Genocide Denial and Triumphalism: Origins, Impact and Prevention* (Sarajevo: University of Sarajevo 2021) 60–61.

²⁶ Michel-André Horelt, ‘Serbia-Croatia, Bosnia and Herzegovina: Different Apology Packages, Different Successes’ in Christopher Daase (ed), *Apology and Reconciliation in International Relations: The Importance of Being Sorry* (New York: Routledge 2016) 164–195.

²⁷ Dubravka Stojanović, ‘Memory Laws: The Continuation of Yugoslav Wars by Other Means’ in Elazar Barkan and Ariella Lang (eds), *Memory Laws and Historical Justice: The Politics of Criminalizing the Past*, (Switzerland: McMillan 2022) 225–250.

²⁸ Aleksandar Vučić has served as President of Serbia since 2017. From April 2014 till 31 May 2017 he served as Prime Minister of Serbia.

²⁹ The Srebrenica-Potocari Memorial Center for the Victims of the 1995 Genocide was established in 2000 by the decision of the High Representative for Bosnia and Herzegovina. It is a place of remembrance for the victims of the genocide in Srebrenica, and as such, it is dedicated to preserving history and combatting the forces of ignorance and hatred which make genocide possible.

³⁰ Genevieve Parent, ‘Genocidal Denial: Perpetuating Victimization and the Cycle of Violence in Bosnia and Herzegovina’ (2016) 10(2) *Genocide Studies and Prevention: An International Journal* 38–58, at 54.

³¹ Hariz Hlišović, ‘25 Years after Srebrenica: Local Genocide’, in Hikmet Karčić (ed), *Bosnian Genocide Denial and Triumphalism: Origins, Impact and Prevention* (Sarajevo: University of Sarajevo 2021) 115–125.

its normalization in political and social discourse. Its ‘2022 Srebrenica Genocide Denial Report’³² documented 693 instances of genocide denial recorded between 1 May 2021 and 30 April 2022, primarily in Serbia (476) and the RS (176). These took the form of outright denial, relativization, support for perpetrators, or acknowledgment of crimes without recognizing them as genocide, including, alarmingly, calls for a new genocide. The report also identified 69 media outlets that either promoted or facilitated genocide denial, most of them based in Serbia (43) and Republika Srpska (18), with the most frequent individual deniers being BiH Presidency Member Milorad Dodik (31), Serbian Minister of Internal Affairs Aleksandar Vulin (17) and Member of the National Assembly of Serbia Miodrag Linta (15).

According to the Srebrenica Memorial, genocide denial intensifies following key decisions of international bodies. For example, after the Ratko Mladić verdict,³³ numerous officials in the RS and Serbia publicly denied the Srebrenica genocide and expressed support for Mladić. As documented in the ‘Srebrenica Genocide Denial Report’, such reactions illustrate a clear correlation between international judicial decisions and spikes in the denial narratives. Serbian politicians characterized the ICTY’s decision as ‘anti-Serb’ and ‘unjust’,³⁴ with Milorad Dodik³⁵ and Željka Cvijanović³⁶ openly rejecting the legitimacy of the verdict and disputing the existence of the genocide. Serbian officials likewise instrumentalized the appeal decision to deny the genocide and endorse Mladić, with Prime Minister Ana Brnabić characterizing the ICTY as a political body that failed to promote reconciliation.³⁷ These examples illustrate the persistent reluctance of certain officials in the RS and in Serbia to acknowledge the established historical and legal facts concerning Srebrenica. Instead, they promote counterfactual narra-

³² Green (n 24) at 14.

³³ Ratko Mladić is a former Bosnian Serb military officer who led the Army of Republika Srpska during the Yugoslav Wars. In 2017, he was found guilty of committing war crimes, crimes against humanity, and genocide by the International Criminal Tribunal for the former Yugoslavia. He is serving a life sentence for these crimes in The Hague. In 2021, Mladić’s final appeal was rejected.

³⁴ ‘Reakcije iz Republike Srpske: Mladić pozitivna ličnost, Tribunal antisrpski’ [Reactions from Republika Srpska: Mladić a positive personality, anti-Serbian tribunal], N1, 8 June 2021, <<https://n1info.ba/vijesti/reakci-je-iz-republike-srpske-mladic-pozitivna-licnost-tribunal-antisrpski/>> accessed 1 August 2025.

³⁵ ‘Dodik o presudi zločincu Mladiću: Ne može se povezati s voljom naroda da formira RS’ [Dodik on the verdict of the criminal Mladić: It cannot be connected with the will of the people to form the RS], Klix, 8 June 2021, <<https://www.klix.ba/vijesti/bih/dodik-o-presudi-zlocincu-mladicu-ne-moze-se-povezati-s-voljom-naroda-daformira-rs/21060815>> accessed 1 August 2025.

³⁶ Ibid.

³⁷ ‘Brnabić nakon presude Mladiću: Haški sud je politički sud’ [Brnabić after the Mladić verdict: The Hague Court is a political court], Tportal, 8 June 2021, <<https://www.tportal.hr/vijesti/clanak/brnabic-nakon-presude-mladicu-haski-sud-je-politicki-sud-foto-20210608>> accessed 1 August 2025.

tives that invert the roles of victims and perpetrators,³⁸ constituting a further form of denial. Such practices have tangible political and social consequences, shaping public opinion and affecting social cohesion. A 2018 survey showed that 76.1% of Bosnian Serbs in Republika Srpska viewed Ratko Mladić as a war hero, and in case of Radovan Karadžić³⁹ it was 73.6%, despite their genocide convictions by the ICTY. In contrast, a 2021 poll indicated that 82.7% of young Bosniaks and 52.7% of young Croats perceived Mladić as a war criminal.⁴⁰ While most Bosniaks recognize Srebrenica as genocide, only 20.1% of Serbs in the RS shared this view. This stark divergence in collective memory reflects decades of nationalist rhetoric, reinforced by genocide denial and the absence of accountability, particularly in Serbia.⁴¹ In post-conflict societies, such denial poses a serious obstacle to reconciliation and regional stability.

A study of the memory narratives related to the Srebrenica genocide would remain incomplete without reference to the position adopted by the Bosniaks themselves. For them, the genocide has become an intrinsic part of their collective identity, shaping interpretations of the past and present and influencing approaches to reconciliation.⁴² The centrality of Srebrenica within the broader context of the Bosnian War is such that the two are almost inseparable; to reflect on the conflict without reference to the genocide is, for Bosniaks, virtually inconceivable.⁴³ In this sense, the Bosniak cultural heritage and national identity remain incomplete without the memory of persecution and suffering.⁴⁴ At the same time, however, this identity of victimhood is not only a source of collective mourning and resilience but also a resource mobilized in political struggles by Bosniak nationalist actors to advance claims, often exacerbating polarization.⁴⁵ Consequently, the

³⁸ Sabrina Ramet, 'The Denial Syndrome and Its Consequences: Serbian Political Culture since 2000' (2017) 40(1) *Communist and Post-Communist Studies* 41–58, at 44.

³⁹ Jessie Barton Hronešová and Jasmin Hasić, 'The 2021 Memory Law in Bosnia and Herzegovina Reconciliation or Polarization?' (2024) 26(4) *Journal of Genocide Research* 399–417. See also 'Istraživanje: Kako građani RS-a gledaju na genocid u Srebrenici', Al Jazeera, July 2018 <<https://balkans.aljazeera.net/videos/2018/7/11/istrazivanje-kako-gradani-rs-gledaju-na-genocid-usre-brenici>> accessed 11 August 2025.

⁴⁰ Srdjan Puhalo and Marijana Toma, *Kako Mladi u Bosni i Hercegovini Opazaju Protekli Rat?* (Banja Luka: Art Print 2022) 65.

⁴¹ Hronešová and Hasić (n 39) at 408.

⁴² Mulaj (n 22) at 136.

⁴³ David Campbell, *National Deconstruction: Violence, Identity, and Justice in Bosnia* (Minneapolis: University of Minnesota Press 1998) 65.

⁴⁴ McMahon and Western (n 10) at 72.

⁴⁵ Elissa Helms, *Innocence and Victimhood: Gender, Nation, and Women's Activism in Postwar Bosnia and Herzegovina* (Madison: University of Wisconsin Press 2013) 21–39; Christian Axboe Nielsen, 'Surmounting the Myopic Focus on Genocide: The Case of the War in Bosnia and Herzegovina' (2013) 15(1) *Journal of Genocide Research* 21–39.

Bosniak narrative is sometimes criticized for the perceived ‘srebrenization’⁴⁶ of political discourse and for the strategic expansion of the concept of genocide beyond Srebrenica for political ends.

THE 2021 MEMORY LAW IN BOSNIA AND HERZEGOVINA: THE SPARK THAT COULD LIGHT A FIRESTORM?

Given the complex and polarized memory landscape in BiH, it is evident that the memory governance is inherently contentious. Legal or political efforts to regulate collective remembrance risk not only resistance but also the aggravation of existing societal divisions, as they inevitably engage with competing identities, grievances, and historical narratives. This dynamic is particularly visible in the sphere of memory laws, where attempts to legislate remembrance have generated acute legal, political, and social tensions. Accordingly, the changes imposed in 2021 by the outgoing High Representative, Valentin Inzko, immediately intensified public polarization and societal fragmentation. In July 2021, exercising his extensive executive powers, the HR introduced amendments to the Criminal Code criminalizing genocide denial and the relativization of war crimes.⁴⁷ Article 145a was amended to provide prison sentences of three months to three years for public incitement to violence or hatred against protected groups (paragraph 2). More significantly, paragraph 3 of Article 145a introduced penalties of six months to five years of imprisonment for publicly approving, denying, trivializing, or justifying genocide, crimes against humanity, or war crimes, where such crimes have been established by a final judgment of an international or domestic court, the conduct targets protected groups, and it is likely to provoke violence or hatred. The law further mandates a minimum one-year sentence for disseminating related materials (paragraph 4), increasing to a minimum of three years where the act disrupts public peace and order, is threatening or insulting (paragraph 5), or is committed by a public official (paragraph 7). The same penalty applies to the glorification of convicted perpetrators, including through awards, memorials, or the naming of public spaces and institutions after them.

The HR’s initiative was unexpected, particularly given his prolonged passivity during his twelve-year tenure in office. He justified his decision by pointing to the growing denial of genocide in the RS (and the region) as a serious obstacle

⁴⁶ Hronešová and Hasić (n 39) at 411.

⁴⁷ US Embassy in BiH, ‘Statement on High Representative’s Decision on Enacting the Law on Amendment to the Criminal Code of BiH’ 23 July 2021 <<https://ba.usembassy.gov/statement-on-high-representatives-decision-on-enacting-the-law-on-amendment-to-the-criminal-code-of-bih/>> accessed 1 August 2025.

to peace, reconciliation, and trust-building.⁴⁸ His actions nonetheless provoked highly divergent reactions in BiH. Associations of Bosniak victims, especially Srebrenica survivors, regarded it as long overdue but ultimately a positive step,⁴⁹ reflecting their ongoing demands for truth⁵⁰ and accountability regarding the fate of the missing.⁵¹ The HR's decision was also welcomed by non-Serb members of the State-level institutions, who described it as a 'civilizational act' and a prerequisite for BiH's European aspirations.⁵² Supporters viewed the law as complementing bottom-up commemorative efforts with legal measures against denial.⁵³

By contrast, the amendments provoked strong opposition in the RS and Serbia. Milorad Dodik immediately rejected the law, declaring that Serbs would not accept it and describing it as the 'last nail in the coffin of Bosnia and Herzegovina'.⁵⁴ Similar views were expressed by Božica Živković Rajilić, the president of the RS Female War Victim Association, who portrayed the decision as an attempt to institutionalize a fabricated narrative of the Srebrenica genocide and to stigmatize (in original, 'satanize') the Serb population.⁵⁵ Both Dodik and Rajilić openly denied that genocide had ever happened. Vojin Pavlović, president of the Bratunac association 'Eastern Alternative', likewise disputed the genocide and the

⁴⁸ Ibid.

⁴⁹ Nermina Kuloglija and Azra Husaric, 'Bosnian Genocide Denial Ban Pleases Survivors, Angers Serbs', *Balkan Insight*, 23 July 2021.

⁵⁰ Małgorzata Myl-Chojnacka, 'Association "Mothers of Srebrenica": The Fight with Injustice and Uncertainty' in Marilisa D'Amico, Tania Groppi, and Costanza Nardocci (eds), *Women and Peace: The Role of Women and Women's Civil Society Organizations in Peace Processes* (Milano: FrancoAngeli 2024) 149–163; Lara Nettelfield, *Courting Democracy in Bosnia and Herzegovina: The Hague Tribunal's Impact in a Postwar State* (Cambridge: Cambridge University Press, 2010) 102.

⁵¹ Isabelle Delpla, 'In the Midst of Injustice: The ICTY from the Perspective of Some Victim Associations' in Xavier Bougarel, Elissa Helms, Ger Duijzings (eds), *The New Bosnian Mosaic: Identities, Memories and Moral Claims in a Post-War Society* (Farnham: Ashgate Publishing 2007) 211–234; Lara Nettelfield, *Courting Democracy in Bosnia and Herzegovina: The Hague Tribunal's Impact in a Postwar State* (Cambridge: Cambridge University Press 2010) 105.

⁵² Predrag Zvijerac, 'Top International Official in Bosnia Criminalizes Genocide Denial', *Radio Free Europe/Radio Liberty*, 23 July 2021, sec. Bosnia-Herzegovina <<https://www.rferl.org/a/russia-bosnia-high-representative/31373163.html>> accessed 15 August 2025.

⁵³ Sadiković (n 15) at 221; Ger Duijzings, 'Commemorating Srebrenica: Histories of Violence and the Politics of Memory in Eastern Bosnia' in Xavier Bougarel, Elissa Helms, and Ger Duijzings (eds), *The New Bosnian Mosaic: Identities, Memories and Moral Claims in a Post-War Society*, (Farnham: Ashgate Publishing 2007) 141–166, at 157.

⁵⁴ 'Sarajevo, Dodik names Inzko's Decision on Genocide Denial the "Last Nail in BiH's Coffin"' N1, 23 July 2021, 102 accessed 15 February 2023, <<https://ba.n1info.com/english/news/dodik-names-inzkos-decision-on-genocide-denialthe-last-nail-in-bihs-coffin/>> accessed 1 August 2025.

⁵⁵ 'Oštra reagovanja iz Srpske na odluku Inzka [Harsh reactions from Srpska to Inzko's decision]' RTRS, 23 July 2021 <https://lat.rtrs.tv/vijesti/vijest.php?id=439455&fbclid=IwAR0bx1mzvR0R-puikKj9lNHlFwYF4pLm3robMcv8fllXQ56nUdrB_4j0zkrq> accessed 1 August 2025.

legitimacy of the 2021 Memory Law, arguing that externally imposed legislation undermines the authority of the HR and risks further conflict.⁵⁶ These reactions illustrate that, while Bosnians broadly welcomed the HR's intervention, it was met with deep hostility among many Bosnian Serb actors. The 2021 Memory Law thus triggered one of the most severe crises in post-conflict Bosnia and Herzegovina, the consequences of which persist.⁵⁷

At the end of 2021, the National Assembly of the RS adopted a resolution to withdraw from key State-level structures, including the armed forces, border management, judicial institutions, and the tax administration, while announcing the creation of separate structures.⁵⁸ Although Serb representatives returned to the State institutions in February 2022, they continued to challenge the HR's decision, further destabilizing BiH's fragile institutional framework.⁵⁹ Milorad Dodik and other Bosnian Serbs have repeatedly refused to comply with the 2021 Memory Law and have persisted in actions glorifying convicted war criminals, including a January 2022 parade marking an outlawed RS holiday linked to the outbreak of the war.⁶⁰ In response, the Prosecutor's Office of BiH initiated proceedings against RS representatives. In August 2023, Milorad Dodik and Milos Lukic were charged with violating the 2021 Memory Law and, thus, defying the HR's decisions, offenses punishable by up to five years' imprisonment. Dodik rejected the charges as politically motivated, claiming he acted in accordance with the RS Constitution. Despite these objections, he was indicted in February 2024, sentenced in August 2025 to one year's imprisonment and a six-year ban from political office, with the prison term later commuted to a fine. Following the rejection of his appeal and the termination of his mandate as RS president, the RS authorities dismissed the ruling, further deepening BiH's institutional and political crisis.

The adoption of the 2021 Memory Law, together with its broader legal and political implications, attracted significant international attention. International reactions,

⁵⁶ Nermina Kuloglija and Azra Husarić, 'Žrtve očekuju da se zabrana negiranja genocida počne sankcionisati odmah [The victims expect the ban on denial of genocide to be sanctioned immediately]' BIRN, 23 July 2021 <<https://detektor.ba/2021/07/23/zrtve-ocekuju-da-se-zabrana-negiranja-genocida-pocne-sankcionisati-odmah/>> accessed 1 August 2025.

⁵⁷ Hronešová and Hasić (n 3) at 401.

⁵⁸ Omer Karabeg, 'Most: Da li će Dodik ovog puta ići do kraja?' Radio Slobodna Evropa, 31 October 2021 <<https://www.slobodnaevropa.org/a/most-dodik-prijetnje/31537058.html>> accessed 15 August 2025.

⁵⁹ Majda Ruge, 'The Past and the Furious: How Russia's Revisionism Threatens Bosnia – European Council on Foreign Relations', ECFR, 13 September 2022, <<https://ecfr.eu/publication/the-past-and-the-furious-how-russias-revisionism-threatens-bosnia/>> accessed 2 October 2025.

⁶⁰ OSCE Warns Against Hate Incidents Destabilising Bosnia, Reuters, US News, 12 January 2022 <<https://www.usnews.com/news/world/articles/2022-01-12/osce-warns-against-hate-incidents-destabilising-bosnia>> accessed 2 October 2025.

however, have been far from uniform and can broadly be grouped into three categories: normative support for countering genocide denial, procedural criticism concerning the manner of the law's enactment, and systemic opposition challenging both its substance and the authority of the High Representative. While many actors endorsed the objective of combating denial and revisionism, concerns were raised – particularly within the European Union – about the imposition of the law by the High Representative at the end of his mandate.⁶¹ From this perspective, externally imposed measures risk undermining local ownership. They may hinder the long-term internalization of the norms they seek to promote, reflecting a broader tension within the EU accession framework between normative commitments and procedural legitimacy. At the same time, several Western States adopted concrete measures against actors perceived as undermining BiH's constitutional order. In April 2022, the United Kingdom imposed sanctions on Milorad Dodik and Željka Cvijanović for their destabilizing activities,⁶² while the United States introduced similar measures against Dodik for violations of the Dayton Agreement.⁶³ Regional responses also followed, including Slovenia's 2025 decision to bar Dodik from entering the country after he refused to comply with a domestic court ruling.

A markedly more critical stance has been adopted by the Russian Federation, which has consistently rejected both the legitimacy of the High Representative and the legality of measures imposed under his executive powers.⁶⁴ Russia's opposition to the 2021 Memory Law should be understood within a broader geopolitical context, as part of its ongoing challenge to the post-Dayton institutional order and to the Western influence in the Balkans. In this regard, Moscow's position aligns with its political support for actors in Republika Srpska advocating increased autonomy and resisting central State authority.⁶⁵ Symbolic gestures, such as the high-level reception of Milorad Dodik in Moscow, further reinforce this alignment and help embed external geopolitical dynamics into BiH's internal political landscape.⁶⁶

⁶¹ Julian Borger, 'EU Working to Amend Genocide Denial Law That Is Blamed for Bosnia Crisis', *The Guardian*, 22 December 2021, <<https://www.theguardian.com/world/2021/dec/22/eu-working-to-amend-law-on-srebrenica-genocide-denial-to-blame-for-bosnia-crisis>> accessed 10 October 2025.

⁶² <<https://www.gov.uk/government/news/uk-announces-sanctions-under-bosnia-and-herzegovina-sanctions-regime-11-april-2021>> accessed 11 October 2025.

⁶³ <<https://ba.usembassy.gov/u-s-treasury-sanctions-members-of-milorad-dodiks-family-and-patronage-network/>> accessed 11 October 2025.

⁶⁴ Hronešová and Hasić (n 39) at 408.

⁶⁵ Ruge (n 59).

⁶⁶ 'Putin Receives Bosnia's Wanted Serb Leader Dodik in Kremlin', *The Moscow Times*, 1 April 2025 <<https://www.themoscowtimes.com/2025/04/01/putin-receives-bosnias-wanted-serb-leader-dodik-in-kremlin-a88572>> accessed 22 March 2026.

Taken together, these divergent reactions demonstrate that the 2021 Memory Law has evolved beyond a legal instrument addressing genocide denial and has become a focal point for broader debates concerning international authority, domestic legitimacy, and geopolitical alignment in Bosnia and Herzegovina.

CONCLUSIONS

The 30th anniversary of the Srebrenica genocide underscored the enduring fragmentation of memory in BiH. Much of this division can be traced back to the Dayton Agreement, which, although instrumental in ending the conflict, entrenched ethnic divisions into the State's constitutional framework. Its rigid power-sharing system and its avoidance of explicit references to the wartime atrocities created fertile ground for antagonistic narratives to flourish. By institutionalizing wartime territorial gains, the Dayton Agreement secured peace but froze divisions within Bosnia's political system. In this way, memory became a political weapon, shaping identity and obstructing reconciliation.

Within the context, denial of the Srebrenica genocide emerged as a central obstacle to reconciliation. Since the post-Dayton period, denial has become increasingly institutionalized. The avoidance of the term genocide in official documents and speeches, the glorification of convicted war criminals, and the systematic relativization of atrocities have all contributed to a political culture in which denial is normalised. Such denial and glorification cannot be understood merely as alternative interpretations of history; rather, they constitute an assault on legally established truth that perpetuates conditions conducive to renewed conflict.

The 2021 Memory Law, imposed by HR Valentin Inzko, sought to confront this reality directly by criminalizing genocide denial, the relativization of war crimes, and the glorification of perpetrators. Victims' associations, particularly Bosniak survivors, welcomed the law as a long-overdue recognition of their pursuit of truth and justice. However, the manner of its adoption proved as controversial as its substance, exposing the structural fragility of BiH's governance system. The subsequent backlash – including the temporary withdrawal of RS representatives from State institutions and the open defiance of Milorad Dodik – demonstrates that efforts to regulate memory in a deeply divided society are likely to provoke sustained political resistance. These tensions were further exacerbated by UN Resolution 78/282. While the Resolution strengthened the international normative framework against denialism, it also intensified domestic contestation. In the RS,

both the law and the Resolution have been framed as externally imposed measures that delegitimize Serb political identity, thereby linking resistance to memory governance with broader claims for autonomy and, increasingly, secession.

In this context, secessionist aspirations in Republika Srpska are best understood not as a coherent or imminent project of independence, but rather as a gradual, strategic process aimed at weakening State-level institutions and contesting the authority of international actors. Opposition to the 2021 Memory Law forms part of this broader political logic, as it enables elites to portray the central State and external actors as biased and incompatible with Serb interests. Denialist and revisionist narratives play a key role in sustaining this dynamic. By rejecting internationally established judicial findings and disputing the legal qualification of the Srebrenica genocide, political actors in RS construct an alternative narrative in which RS is positioned as a victim of selective justice and external interference. This reinterpretation of the past provides an important source of political legitimacy, reinforcing claims that the existing constitutional framework is fundamentally unjust. These dynamics are further reinforced by selective external support, which amplifies secessionist rhetoric and raises the political costs of compromise. At the same time, the feasibility of full secession remains limited due to constraints imposed by international law, the continued presence of international actors, and economic interdependence within BiH. As such, secessionist discourse functions less as a concrete political program and more as a tool of mobilization, negotiation, and internal legitimation.

This controversy underscores a central paradox in Bosnia's memory governance: while legal measures are essential to protect truth and confront denial, their imposition in a politically fragmented context may exacerbate divisions. Nevertheless, resistance cannot justify inaction; it underscores the need for legal mechanisms to challenge entrenched nationalist myths. Thirty years after Srebrenica, Bosnia remains marked by a paradox: the peace preserved through the Dayton Agreement continues to coexist with deep structural divisions. The 2021 Memory Law, though imperfect in form and timing, represents a crucial step toward confronting denial and aligning Bosnia with international standards of truth and justice. Its success will depend on sustained enforcement and continued international engagement. Without firm protection of truth, reconciliation remains impossible – demonstrating that peace built on denial is not peace, but merely a postponement of future conflict. In this sense, memory politics in BiH is not merely a struggle over the interpretation of the past, but a central mechanism through which contemporary political divisions are reproduced and the State's territorial integrity is implicitly contested.

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