**Apologising for Srebrenica:**

**The Declaration of the Serbian Parliament, the European Union, and**

**the Politics of Compromise\***

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On 31 March 2010, the Serbian parliament adopted a Declaration on Srebrenica, condemning the massacre of some 8,000 Bosniak men by Bosnian Serb forces and Serbian paramilitaries in July 1995—one of the worst crimes of the Yugoslav wars of the 1990s and the only one so far condemned by international justice institutions as genocide. Defining the declaration as “historic” and “the first of its kind in the region,” Serbia’s president Boris Tadić—the main force behind this declaration—argued that, with it, Serbia had “demonstrated the courage to be the first to apologize for heinous atrocities that were committed by all sides in the Yugoslav civil wars” and taken the lead in regional reconciliation.[[1]](#footnote-1) According to Tadić, Serbia’s apology had “opened the door for others to step through, in the hope that we can together build a prosperous and inclusive future as members of the European Union [EU]—our central strategic priority.”[[2]](#footnote-2) The Serbian parliament’s Declaration on Srebrenica has widely been viewed as a positive step in the country’s process of confronting its recent past and a signal of Serbia’s commitment to the liberal democratic values that are meant to be underpinning EU accession. Analysts have portrayed it as a “political landmark” that makes denial of the Srebrenica massacre more difficult to sustain[[3]](#footnote-3) and as “a turning point in a process whereby a nation is coming to terms with its shameful past—a process which is always long, slow and painful.”[[4]](#footnote-4) But is this really the case: does the 2010 Srebrenica Declaration represent a new approach to the war crimes issue by the Serbian state and a genuine desire to promote public debate about the 1990s?

Apologies can indeed play an important role in marking a new policy orientation and stimulating a broader societal reckoning with the past. Ruti Teitel argues that “transitional apology constitutes a leading ritual of political transformation”[[5]](#footnote-5) while Elazar Barkan and Alexander Karn note:

A sincere expression of contrition, offered at the right pitch and tenor, can pave the way for atonement and reconciliation by promoting mutual understanding and by highlighting the possibilities for peaceful coexistence. Practiced within its limits, apology can create a new framework in which groups may rehearse their past(s) and reconsider their present.[[6]](#footnote-6)

Apologies are particularly effective when they contain both an acknowledgement that one has been in the wrong and a statement of remorse.[[7]](#footnote-7) Such taking of responsibility by a government can come following an official enquiry or a truth commission report detailing the nature and consequences of the crime committed. Its moral claims are particularly meaningful “if the interrogation has been democratic and deliberative—if peoples from opposing as well as ruling tendencies have been able to air their views.”[[8]](#footnote-8) A parliamentary debate provides one possible setting for such a consideration of different viewpoints, while the apology that arose from that debate would ideally represent a broad political agreement on the facts of the crime and an acknowledgement of the role played by the state in its commission. As many scholars note, an apology of this kind can act both as a stimulus for a public engagement with the past through the process of open dialogue and as a vehicle for “constructing a new language and norms to deal with the notion of responsibility.”[[9]](#footnote-9) However, as they also acknowledge, most state apologies fall short of such lofty standards, representing rather the outcome of political negotiation and “hardnosed deal-making,” or resource-driven and interest-based decisions.[[10]](#footnote-10)

Executive apologies have proliferated in the post-Yugoslav space since the early 2000s. However, the Serbian parliament’s Srebrenica Declaration stands out among them in that it is not a simple expression of regret made by a state president as a personal choice, but an act that was voted after a lengthy debate in a state legislative body; in this respect, it presents an excellent lens through which to view a broader spectrum of political opinion and assess the evolution of official discourses about the past.[[11]](#footnote-11) Secondly, the examination of the process that led to the adoption of the Declaration allows us to understand the factors that drove the state’s decision to adopt such a symbolic gesture of atonement and the poles of resistance that emerged along the way. It also enables us to assess how sustained and effective this policy was in terms of promoting a new narrative and a broader societal reckoning with the past. Finally, because of the extensive international involvement in Serbia’s transition, this analysis provides us with insight into the role that external factors can play in instigating and facilitating internal processes of acknowledging past crimes.

This contribution will argue that the Serbian Parliament’s Srebrenica Declaration represents neither a new official narrative about the past, nor a political strategy of promoting domestic change by seeking to educate the public about the wars of the 1990s. The parliamentary debate and the compromises made by the reformists in the Serbian government to get the declaration passed show that its adoption was not a turning point for the Serbian state but a confirmation of long-standing ideological divisions within the country’s political élite, as well as a reflection of the prevailing balance of power at the time. Rather than symbolising a change in the official approach toward the war crimes issue, this apology is more accurately understood as an instrument of foreign policy, whose primary audience was the European Union, and whose main aim was to aid Serbia’s project of European accession. In this respect, the EU’s strategy of conditioning its relations with Serbia on transitional justice processes (most explicitly compliance with the International Criminal Tribunal for the former Yugoslavia (ICTY), but also more symbolic gestures of atonement for past crimes) has indeed managed to achieve results. Without the EU incentive it is unlikely that the Srebrenica Declaration would have materialised. However, at the same time, the primacy of the external factor has contributed to diverting attention from what is a long-term domestic process of value transformation and the building of a civic public culture to a narrow focus on short-term measures aimed foremost at satisfying European demands and expectations.

**Defining crime and responsibility: Srebrenica, Serbia and international justice institutions**

The events of July 1995 in the UN-declared safe area of Srebrenica have been the subject of numerous investigations and debates, in Bosnia and internationally. The United Nations, the Netherlands Institute for War Documentation, the French and Dutch Parliaments and the government of the Republika Srpska (RS) have all produced their own reports on Srebrenica, detailing the deportation of over 20,000 women and children and the massacre of between 7,000 and 8,000 Bosniak men by the Army of the Republika Srpska (VRS).[[12]](#footnote-12) While there are still disagreements concerning the circumstances leading up to this event, the motivations behind the decision to commit the killings and the roles played by different domestic and international actors, these various reports and investigations have nevertheless established the facts of a criminal act that—of all the war crimes perpetrated in the Yugoslav wars of the 1990s—is the only one so far to have been judged to be genocide by international justice institutions.[[13]](#footnote-13) Srebrenica has not only been the focus of official investigations and soul-searching, but also that of scholars, journalists, film-makers and survivors, who have produced their own accounts of what happened in July 1995. Memory of the Srebrenica massacre has also been preserved by a number of significant civil society actors—notably the Association of Mothers of the Enclaves of Srebrenica and Žepa, and the US-based Association of Survivors of the Srebrenica Genocide—who have unrelentingly lobbied for acknowledgment, reparation and commemoration of this crime. Srebrenica thus stands out in the Yugoslav wars of succession as at once the gravest and the most notorious crime—unique in terms of its magnitude and concentrated time frame, yet also emblematic in its expression of the violence and suffering that characterised those wars and of the failures of the international community in stopping them.

 Serbia’s role in the events of July 1995 has not yet been fully elucidated, partly because the Serbian state never commissioned an official investigation into its own role in the Srebrenica massacre. During Slobodan Milošević’s rule, the official position was that Serbia was not at war with its neighbours and that what was happening in Croatia and Bosnia was a civil war pitting hostile secessionist states against a victimised Serb population which wished to remain in Yugoslavia. The Serbian regime consistently minimised the war crimes perpetrated by the Bosnian and Croatian Serb forces and rejected any responsibility for them. After Milošević was ousted from power in October 2000, the official discourse about the recent past partly changed: the Milošević regime was recognised as criminal, but there was little political will to investigate the wars of the 1990s.[[14]](#footnote-14) There were several reasons for this. The deals struck during Serbia’s revolution of October 2000 between the new political authorities and elements of the old regime—which had ensured the peaceful transition of power but which was now hampering any substantive transformation of the state, the judiciary and the security services—meant that attempts to investigate the recent past were inevitably going to be slow and precarious.[[15]](#footnote-15) In addition, the new government had a more urgent set of priorities on its agenda, notably the rebuilding of Serbia’s economy and improving living standards following a decade of war, sanctions, and the economically devastating 1999 NATO bombing campaign. Then there was also the issue of public opinion: Serbia’s citizens were largely unaware of the systematic nature of the crimes perpetrated by Serb forces in Croatia, Bosnia and Kosovo, and unwilling to contemplate any ‘truth’ emanating from international institutions viewed as an extended arm of those countries that had bombed them so recently.[[16]](#footnote-16) In the context of democratic electoral politics, the recently elected opposition parties were all too aware of these existing perceptions within a Serbian public on whose votes their newly gained power depended. And, finally, the case before the International Court of Justice (ICJ) brought by Bosnia and Herzegovina against Serbia for violations of the 1948 Genocide Convention also contributed to the reluctance of the Serbian authorities to investigate Serbia’s complicity in the Srebrenica events.[[17]](#footnote-17)

As a result, the most important examinations into Serbia’s role in the Bosnian War—and, by extension, the Srebrenica massacre—came in the context of international criminal investigations for the ICTY.[[18]](#footnote-18) These investigations, in turn, provided the basis for the ICJ’s 2007 judgment in the Bosnian *Genocide* case against Serbia, representing so far the most comprehensive statement about Serbia’s involvement in the Bosnian War.[[19]](#footnote-19) The ICJ reiterated the ICTY’s standpoint that the only instance of genocide in the Bosnian War was the Srebrenica massacre.[[20]](#footnote-20) It found that Serbia had helped finance the Bosnian Serb war effort and even paid the salaries of VRS officers, but it nevertheless rejected the Bosnian claim that the VRS was in fact an organ of Serbia—thus determining that the Bosnian Serbs made their own decisions and absolving Serbia of responsibility for their actions. Another element considered in regard to Serbia’s role in Srebrenica was the direct participation of a Serbian paramilitary group—the Scorpions—in the executions of Bosniaks in July 1995. This evidence was presented in the form of a video film, which was shown during the Milošević trial and later screened for the ICJ judges.[[21]](#footnote-21) The Bosnian side argued that because the Scorpions had been created and financed by the Serbian Ministry of the Interior this presented proof of Serbia’s complicity in the Srebrenica massacre. However, the Court ruled that, even if the Scorpions were proven to be *de jure* organs of the Serbian Ministry of Internal Affairs, the fact that they had been put at the disposal of the Republika Srpska meant that their acts were committed on behalf of the RS and not Serbia.[[22]](#footnote-22)

Serbia was thus acquitted of the charge of complicity in the Srebrenica genocide. According to the Court, to be guilty of complicity Serbia would have had to continue supporting the VRS while in full possession of knowledge that genocide was imminent or ongoing (thus sharing in the intent to commit genocide)—which was something the ICJ did not find to have been proven beyond reasonable doubt.[[23]](#footnote-23) Instead, Serbia was found guilty of a lesser crime: of having failed to prevent the Srebrenica massacre—an act of omission based on the awareness that there was a serious risk of genocide but nevertheless not ceasing its support for the forces that could commit it.[[24]](#footnote-24) Serbia was also found to be in breach of its obligation to punish genocide by having failed to capture Ratko Mladić, the VRS Chief-of-Staff and the mastermind of the Srebrenica massacre, and transfer him to the ICTY for trial. According to the Judgment, arresting and handing over Mladić (and other war crimes suspects) was Serbia’s sole obligation and, according to the ICJ, “financial compensation [was] not the appropriate form of reparation” for such a breach of international law.[[25]](#footnote-25) Indeed, the Court did “not find it appropriate [even] to give effect to the Applicant’s request for an order for **symbolic** compensation”; Bosnia thus had to be satisfied with the “declaration in the present Judgment that the Respondent has failed to comply with the obligation imposed by the Convention to prevent the crime of genocide.”[[26]](#footnote-26)

From this standpoint, Serbia was legally under no obligation to issue an official apology for failing to prevent and punish the Srebrenica genocide, as has sometimes been argued.[[27]](#footnote-27) Such a declaration was, however, seen by some Serbian politicians and intellectuals as a necessary moral act by a transformed Serbian state committed to democratic values and the respect of basic human rights. From this perspective, a clear statement condemning the Srebrenica genocide and apologising for the role played by Serbia would have gone a long way towards rebuilding relations with the Bosniak community and educating the Serbian public about the recent past—representing a meaningful turning point for the Serbian state and a cathartic moment for the region as a whole. However, the three-year time lapse before the declaration was finally passed by the Serbian parliament, the political compromises made by the Democratic Party to finally enable its adoption, the tenor of the parliamentary debate, and the lack of any official campaign to educate the Serbian public about what had happened in Srebrenica and explain the state’s policy on such a declaration—all diluted the message that it could have carried.

**The politics of acknowledging Srebrenica: Serbian divisions, 2005-7**

The idea for a parliamentary declaration on Srebrenica first arose two years before the ICJ Judgment—in spring 2005—in the context of the approaching tenth anniversary of the massacre. The initiative for such a declaration did not originate with the Serbian state, but with civil society, and represented a reaction to a public event held at the Belgrade Faculty of Law called “The Truth about Srebrenica,” bringing together extreme right wing groups who glorified the ICTY fugitives Mladić and Karadžić[[28]](#footnote-28) and minimized the number of Bosniaks killed in Srebrenica, claiming they were soldiers who had died in combat when Mladić ‘liberated’ the enclave and who had been ‘sacrificed’ by the Bosniak leadership to achieve external military intervention against the Serbs.[[29]](#footnote-29) In response to this event, a second public meeting was held by a group of human rights NGOs, which called on the state to stop shielding war criminals and sanctioning genocide denial under the guise of protecting freedom of speech.[[30]](#footnote-30)

On this occasion, the first proposal for a parliamentary declaration on Srebrenica was read out, demanding that the Serbian state “undertake all available means for the active confrontation with genocide and war crimes and aid in the rehabilitation of the victims and their family members.”[[31]](#footnote-31) The main focus of this proposal was internal: it called for the prohibition of all organisations propagating racial, nationalist and religious hatred and for an official commitment to “uncover and punish all ideological justification of crimes,” as well as to formally designate the Srebrenica massacre as genocide.[[32]](#footnote-32) This text was proposed to the Serbian parliament by two deputies belonging to small, anti-nationalist political parties and probably would not have even been debated if shortly after the NGO event Serbian television had not screened excerpts of the Scorpions video shown at the Milošević trial, graphically depicting the paramilitaries’ execution of six Bosniak youths in an atmosphere of sadistic banter. The Scorpions video had a tremendous impact on Serbian public opinion and provided the most promising occasion for a change of policy on Srebrenica.[[33]](#footnote-33) For a few days, it appeared that a turning point had been reached and a parliamentary declaration condemning the crime could materialise. However, as the fate of the declaration showed, the divisions within the Serbian state were too great for any sustained policy change to materialise.

In addition to the civil society proposal, several other drafts were presented for debate in the parliament—notably one by the Democratic Party of Serbia (DSS), the party of Prime Minister Vojislav Koštunica.[[34]](#footnote-34) The DSS declaration represented the main alternative to the first, civil society-led, proposal of a Srebrenica declaration, and it expressly sought to dilute it within a broader condemnation of “all war crimes in the recent history of Yugoslavia in which the Serbian people were the greatest victim.”[[35]](#footnote-35) Although it expressed an “unequivocal condemnation of the crime committed in Srebrenica,” it did so by couching this single reference to it in a litany of crimes committed against Serbs (including those of the Second World War).[[36]](#footnote-36) While it did not represent outright denial that a war crime had taken place against Bosniaks in Srebrenica, this declaration clearly sought to diminish it by claiming victimhood for the Serbs. Its call for the creation of “an independent institution to work on calculating and uncovering facts relating to war crimes committed on the territory of the former Yugoslavia” also indicated a revisionist attitude to the numbers and facts already established by existing reports and international justice institutions.[[37]](#footnote-37) The debate that ensued in parliament clearly demarcated those parties that sought a declaration specifically condemning the Srebrenica massacre from those that rejected the singularity of Srebrenica and articulated the discourse of Serbian victimhood. The irreconcilable nature of this division and the approximately equal strength of the two opposing sides prevented any declaration being adopted at this stage. A second initiative in 2007 by President Tadić for a parliamentary declaration on Srebrenica following the pronouncement of the ICJ Judgment in the Bosnian *Genocide* case met with the same fate. Tadić’s call for such a declaration on the basis that “the judgment that Serbia had not done everything in its power to prevent **genocide** against the Bosniak population of Srebrenica” was met by the reprimand from the opposition that it was more important to remember the crimes committed against Serbs, who had been the ‘real’ victims of genocide. [[38]](#footnote-38)

**Achieving the Srebrenica Declaration: European aspirations and the politics of compromise, 2008-10**

What changed in 2010? Why did the elusive Srebrenica Declaration finally materialise on this third attempt? The answer to these questions lies in the confluence of international and domestic factors since 2008. On the international level, the EU’s two-pronged approach of pursuing closer links with Serbia while maintaining the policy of conditionality proved effective in achieving some important results. This more pragmatic approach to conditionality was inaugurated in late 2007, following a period of stagnation and a suspension of relations with Serbia the year before over Serbia’s failure to deliver Mladić to the ICTY.[[39]](#footnote-39) The EU’s pragmatism paid off: the resumption of negotiations leading to the conclusion of a Stabilization and Association Agreement (SAA) on the eve of the Serbian legislative elections in May 2008 bolstered Tadić’s coalition “For a European Serbia” (ZES), while the prospect of Serbia’s accession to the Union subsequently provided an important incentive for the ZES government to pursue policies favoured by the EU, such as the arrest and extradition to the ICTY of the former Bosnian Serb president Radovan Karadžić in July 2008. The importance of the EU process for Serbia was confirmed by the capture of Mladić in May 2011, just in time to counter an impending negative report on Serbia by the ICTY prosecutor which risked derailing progress towards formal EU candidate status.[[40]](#footnote-40)

While EU conditionality focused on the issue of war crimes fugitives, European policymakers also sought other, more symbolic expressions of atonement from Serbia. References to the German Chancellor Willy Brandt and his iconic knee-drop at the Warsaw Ghetto Memorial in 1970 were ubiquitous in visits of foreign dignitaries to Belgrade after the fall of Milošević.[[41]](#footnote-41) The passing of a Resolution on Srebrenica by the European Parliament (EP) on 15 January 2009 thus undoubtedly acted as a form of moral pressure and an impetus for the revival of the project of a Serbian parliamentary declaration. The EP resolution reiterated the EU’s official position on conditionality—that “full and unrestricted cooperation with the ICTY remains a basic requirement for further continuation of the process of integration into the EU for the countries of the Western Balkans.”[[42]](#footnote-42) However, it was equally focused on symbolic reparation for the Srebrenica genocide: it proposed the recognition of 11 July as the Srebrenica commemoration day throughout the EU and called on all the countries of the Western Balkans to follow suit. Stressing “the importance of reconciliation as part of the European integration process,” it urged all countries in the region “to make further efforts to come to terms with a difficult and troubled past.”[[43]](#footnote-43) This statement of expectations from the European Parliament was followed by several positive incentives throughout the year, notably the lifting of visa requirements for Serbian citizens, the unblocking of an important trade pact with Serbia and a positive report on Serbia’s EU prospects by the European Commission.[[44]](#footnote-44) On 22 December 2009 Serbia formally submitted its application for EU membership; less than three weeks later, President Tadić announced that the parliamentary declaration on Srebrenica was back on the agenda.[[45]](#footnote-45)

 Tadić’s decision to relaunch the Srebrenica declaration came at a moment that was only marginally more propitious than the previous occasions in 2005 and 2007. In the 2008 election, the pro-European ZES coalition had won 38.7% of the vote, but only 102 of the 250 mandates in the Serbian parliament—thus having to find other partners to establish a governing majority.[[46]](#footnote-46) These were eventually found in a smaller coalition centred around Slobodan Milošević’s former party, the Socialist Party of Serbia (SPS), which was seeking to distance itself from its policies of the 1990s and achieve a new image. Despite seeking rehabilitation, however, the SPS was—in view of its own recent history—reluctant to engage in any genuine reconsideration of wars of the 1990s; also, its smaller coalition partners (a pensioners’ party and the United Serbia party led by a local tycoon) were still wedded to the nationalist discourse of Serb victimisation. While they could find common ground with ZES on issues of European integration and economic reform, agreement on questions concerning the recent past was thus much more elusive. A second problem for the reformists in the Serbian government was the continued strength of the nationalist opposition. The Serbian Radical Party (SRS) had done very well in the elections of 2008, with its leader, Tomislav Nikolić, receiving the most votes in the first round of the presidential election and only narrowly losing to Tadić in the second round. The SRS had also achieved 78 mandates in the legislative election, making it the largest single party in the Serbian parliament. Although the Radicals subsequently split over the ratification of the SAA in October 2008 and its leader Nikolić founded a new party—the Serbian Progressive Party (SNS)—the standpoints of the political right on issues concerning the wars of the 1990s and closer links with the Republika Srpska (aimed at a future unification with the entity) were initially not affected by this parting of ways.[[47]](#footnote-47) This was the political context in which Tadić announced the revival of the Srebrenica declaration: a fragile coalition with the Socialists and a more fragmented but still strong nationalist opposition.

 Public opinion in Serbia was also no more favourable towards a declaration on Srebrenica than it had been in the past. An opinion poll carried out in 2009 showed that while 21% viewed Srebrenica as “the greatest crime” of the post-Yugoslav wars of the 1990s (but of those only 3% qualified it as genocide), some 29% still purported they did not know what had happened there.[[48]](#footnote-48) A second poll in the same year by the National Council for Cooperation with the ICTY focused specifically on the issue of a parliamentary declaration on Srebrenica. It showed that 46.2% of respondents favoured a single parliamentary declaration condemning all crimes perpetrated in the post-Yugoslav wars; another 20.8% did not see any declaration as necessary. Only 20.3% could envisage a declaration on Srebrenica, but accompanied by another declaration condemning crimes committed against Serbs.[[49]](#footnote-49) With such results in mind, the Serbian government should have seen it as imperative to launch a campaign to educate the public about Srebrenica prior to the passing of a declaration—for example through the media, public debates and roundtables, along with testimony of survivors and victim families. However, nothing of this kind materialised. The approach taken by the Democratic Party was rather to ensure enough votes in the parliament by a behind-the-scenes politics of compromise directed principally at their coalition partner, the Socialists—the party that had been at the forefront of Serbia’s policy in the 1990s.

 As in previous years, the political divisions in Serbia on questions concerning the recent past resurfaced immediately as discussions on the declaration resumed. Whereas Tadić’s ZES coalition and the smaller, anti-nationalist Liberal Democratic Party (LDP) welcomed the initiative, the opposition parties immediately rejected any declaration that singled out Srebrenica—the Radicals announcing that “Srebrenica is an instrument used to accuse the Serb nation of a genocide which it did not commit,” and the SNS and DSS stating that the only declaration they could support was one that condemned all war crimes of the 1990s.[[50]](#footnote-50) More problematically for the Democrats, their coalition partners, the Socialists and United Serbia, also publicly rejected a resolution on Srebrenica—favouring instead one on all victims along the lines suggested by the opposition.[[51]](#footnote-51) As Serbian newspapers quickly calculated, a declaration on Srebrenica alone would thus have received only 121 votes, which was insufficient to pass.[[52]](#footnote-52) As a way out of this conundrum, Tadić announced that “the only possible and correct procedure would be with two resolutions”—one on Srebrenica and one on Serb victims. Although Tadić was careful to state that this should not be the occasion “to equate and compare victims,” this was clearly an important concession.[[53]](#footnote-53) However, as the LDP deputy Vesna Pešić put it, if the Srebrenica Declaration was “honestly done” such a compromise would have still been acceptable; everything hinged on the text adopted.[[54]](#footnote-54)

 Over the course of the next two months a heated debate ensued over the wording of the text. A number of prominent personalities, including Serbia’s Chief Prosecutor for War Crimes, his deputy and Serbia’s chief legal counsel in the ICJ Bosnia *Genocide* case, urged the parliament to adopt the term “genocide” to designate the nature of the crime committed in Srebrenica, in accordance with international justice institutions.[[55]](#footnote-55) Human rights NGOs demonstrated in front of the Serbian parliament, calling on it to pass a resolution modelled on the European Parliament’s and designate 11 July as Srebrenica commemoration day.[[56]](#footnote-56) Political pressure mounted as the LDP conditioned its vote on a number of important points,[[57]](#footnote-57) while the nationalist opposition and diaspora organisations mounted public campaigns against the Srebrenica Declaration. The DSS screened a television advertisement called “Srebrenica – not in my name,” while a “Petition of Diaspora Intellectuals” called on the parliament to reject the proposed declaration, arguing with such a resolution Serbia would symbolically “put itself on the same level as Nazi Gemany.”[[58]](#footnote-58) Finally, the Socialists and their coalition partners also stepped up their own conditions in return for their votes—refusing the term genocide and providing their own additions to the text.[[59]](#footnote-59) By early March no text had been agreed, while the parliament’s speaker announced that “political compromises” were still being made “to ensure that as many parliamentarians as possible would accept [the declaration’s] content.”[[60]](#footnote-60)

After a lot of behind-the-scenes wrangling and deal making, the declaration was finalised within the governing coalition and proposed to the parliament on 27 March, just in time to be rushed through in a special session before the onset of its spring recess. The parliamentary debate, broadcast live on national television, confirmed the chasm that separated Serbia’s political élite on Srebrenica. Whereas the Democratic Party representatives urged the parliament to pass the declaration as a question of both moral and political imperative and insisted that the parliament was not the place to discuss the facts of the Srebrenica crime or “to count victims,”[[61]](#footnote-61) the opposition—particularly the Radicals—did precisely that, devoting their allocated time to denying the facts and figures provided by international institutions and expounding their own version of the past. For them, as for the DSS and SNS, this declaration weakened the Republika Srpska and undermined Serbia’s self-respect and national interest; as one Radical deputy put it, “from the point of view of history, this declaration will be characterised as an act of treason.”[[62]](#footnote-62) After some twelve hours of debate, the DS deputy who had proposed the declaration was forced to admit that “this declaration has opened those same political discussions that took place in the 1990s”—that, in fact, nothing had changed in the positions and discourses of the Serbian political parties on questions concerning the recent past.[[63]](#footnote-63) At half past midnight, after most members of the opposition had demonstratively walked out, the declaration was finally adopted by a majority of just two votes.

The text of the Serbian parliament’s Declaration on Srebrenica clearly represents an act of political compromise. Not using the term genocide, it condemns instead the “crime” committed against Bosniaks in Srebrenica in July 1995 “in the manner established by the judgment of the International Court of Justice” apologises to the families of the victims “because not everything had been done to prevent this tragedy”—thus remaining deliberately vague on the magnitude of the crime and the identity of the perpetrators. [[64]](#footnote-64) In very broad terms, it condemns “all social and political processes and manifestations that led to the use of armed force and physical violence against members of other nations and religions” and reiterates the parliament’s support for both domestic war crimes trials and cooperation with the ICTY. [[65]](#footnote-65) While calling for “the discovery and arrest of Ratko Mladić for trial by the ICTY,” it does not specify Mladić’s role in the Srebrenica massacre nor the crimes for which he was sought.[[66]](#footnote-66) The last point of the declaration is particularly contentious in a message meant to be specifically apologising for a crime committed by Serb forces:

The National Parliament of the Republic of Serbia expresses the expectation that the highest institutions of other states of the former Yugoslavia will, in the same way, condemn crimes perpetrated against members of the Serb nation and offer an apology and express condolences to the families of Serb victims.[[67]](#footnote-67)

Unable to omit the reference to Serb victims (by reserving it for the second declaration eventually adopted in October 2010),[[68]](#footnote-68) the declaration thus showed the limits of contrition in Serbia. It was simply impossible, even in 2010, to adopt an official act focused solely on Srebrenica without simultaneously demanding a “return apology” for crimes committed against Serbs. European pressure, combined with the Democratic Party’s politics of compromise, had indeed managed to produce a result—but one of dubious moral integrity and devoid of genuine remorse.[[69]](#footnote-69)

 **Conclusion: Apologies, state power and external actors**

In a state like Serbia, where decades of state socialism were followed by thirteen years of semi-authoritarian rule, the challenges of transitional justice mean not just the establishment of the rule of law and an independent and credible judiciary to prosecute war crimes, but also the fostering of an open public debate about the past that allows a plurality of voices to emerge and confront each other. In order to play a constructive role in such a debate—as, for example, through an official declaration—the government must clearly articulate and justify its actions, marshalling evidence for its position and presenting its policy as the outcome of a deliberative process in which both moral claims and the interests of the country as a whole were considered. Building a human rights culture and achieving the legitimacy of symbolic acts of reparation such as official apologies—which are by their very nature often difficult and unpopular—rests not just on the broad acceptance of the facts and findings that underpin them, but also on the widespread understanding and approval of the process through which they were achieved. In the case of Serbia’s Srebrenica Declaration, that process was defined primarily by a behind-the-scenes politics of compromise that neither sought nor achieved broader political or social legitimacy—this particular apology thus failing as a mechanism of societal transformation and an expression of atonement for past wrongdoing. Furthermore—judging by the reactions of those at whom the apology was nominally aimed (the Srebrenica survivors and families) and of those at whom it was in fact directed (the European Union)—the Serbian parliament’s Declaration did not score a success in terms of either regional reconciliation or EU accession.[[70]](#footnote-70)

This case also shows that external actors have a limited capacity to influence domestic processes of confronting a traumatic recent past. Whereas the EU’s policy of conditionality—linking transitional justice to the prize of closer relations with the Union and the prospect of future membership—has achieved important results in terms of bolstering the ICTY and apprehending war crimes suspects, it has nevertheless not promoted social change and democratic debate about the past either in Serbia or elsewhere in the Western Balkans. Broader and more deep-rooted forms of reparation and reconciliation have remained remarkably absent in the region; the executive apologies and parliamentary declarations witnessed since 2000—including Serbia’s 2010 Declaration on Srebrenica—have not been accompanied by any genuine societal reckoning with war crimes and questions of responsibility. Indeed, the overwhelming focus of regional governments on trying to satisfy European expectations and produce results—from the arrest of war crimes fugitives to parliamentary declarations—has undoubtedly contributed to their unwillingness and their lack of courage to seek broader popular approval for their actions. Instead, the tendency has been to resort to easier and less risky instrumentalist justifications for difficult and unpopular actions. As a commentator for the liberal Serbian magazine *Republika* noted after the adoption of the Srebrenica Declaration, conditionality and external pressures do not lead to debate and analysis of the past, but merely “produce politically calculated declarations and apologies by Balkan politicians and the recalcitrance of ordinary citizens.”[[71]](#footnote-71)

Without the EU incentive, the Serbian parliament would probably not have achieved its Declaration on Srebrenica in 2010—but in view of the problems with both the process and the text adopted, would this have been so negative? After all, it took decades for some established Western democracies, members of the EU, to present their own apologies for their states’ past war crimes and human rights abuses and, in many of those cases, official expressions of contrition came only after years of extensive research, domestic trials of perpetrators and media-intense public debate about the past.[[72]](#footnote-72) Indeed, the West European experience indicates that conditionality may in fact work the other way round: a broad societal reckoning with the past will only take place when more propitious political and economic conditions are in place, when civil society has developed sufficiently to enable a constructive engagement with difficult moral questions, and when this debate represents a response to a public demand for knowledge and understanding. External actors can contribute to the creation of such conditions by supporting reform-minded governments in building institutions of democratic governance, promoting economic development, facilitating civil society projects and fostering multiple links with country, as well as by making available the results of their own investigations to domestic actors seeking to stimulate debate about the past. However, they also need to recognise that this is a long-term process whose outcome is both uncertain and beyond their control.

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1. \*This contribution is an amended version of an article published under the same title in *East European Politics* 28, no. 2 (2012): 163-79, reproduced with permission.

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2. *Ibid.* [↑](#footnote-ref-2)
3. Tim Judah, “Serbia’s Honest Apology,” *New York Times,* 2 April 2010. [↑](#footnote-ref-3)
4. Paul Miller, “Bolje nego ništa,“ *Dani* 669, 8 April 2010. All translations completed by the author. [↑](#footnote-ref-4)
5. Ruti Teitel, “The Transitional Apology,” in Elazar Barkan and Alexander Karn, eds., *Taking Wrongs Seriously* (Palo Alto: Stanford University Press, 2006), 101. [↑](#footnote-ref-5)
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9. Barkan and Karn, 24. [↑](#footnote-ref-9)
10. Richard B. Bilder, “The Role of Apology in International Law and Diplomacy,” *Virginia Journal of International Law*, 46, no. 3 (2006): 438-39. [↑](#footnote-ref-10)
11. The only other similar case was the apology offered in 2004 to the Bosniaks of Srebrenica by the Republika Srpska (RS) following the publication of the report of the RS’s Srebrenica Commission. (“Vlada RS: Žaljenje zbog Srebrenice,” *B-92*, 10 November 2004). [↑](#footnote-ref-11)
12. All these are examined in Xavier Bougarel, Isabelle Delpla and Jean-Louis Fournel, eds., *Investigating Srebrenica* (New York: Berghahn Books, 2011). [↑](#footnote-ref-12)
13. For the ICTY’s judgment of this crime as genocide, see *Prosecutor v Radislav Krstić*, Case no. IT-98-33-A, ICTY Trial Chamber Judgment, 2 August 2001 and Appeals Chamber Judgment 19 April 2004. [↑](#footnote-ref-13)
14. Vojin Dimitrijević and Marko Milanović, “The Strange Story of the Bosnian *Genocide* Case,” *Leiden Journal of International Law* 21 (2008): 65-94. [↑](#footnote-ref-14)
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16. Svetlana Logar and Srdjan Bogosavljević, “Vidjenje istine u Srbiji,” *Reč* 62 (2001): 7-34. [↑](#footnote-ref-16)
17. This was a major consideration for Serbian political élites across the board, regardless of their political affiliation and moral standpoint on the wars of the 1990s. Mladen Ostojić, “International Judicial Intervention and Regime Change in Serbia 2000-2010,” PhD diss., Queen Mary, University of London, 2011 [↑](#footnote-ref-17)
18. Notably the *Milošević* case and the case of the representatives of the Serbian State Security Service (*Stanišić and Simatović*). [↑](#footnote-ref-18)
19. ICJ Judgment, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro). Summary of the Judgment,* 26 February 2007, <http://www.icj-cij.org/icjwwwidocket/ibhyframe.htm> (last accessed 5 March 2007). [↑](#footnote-ref-19)
20. This may be revised pending the judgments in the *Karadžić* and *Mladić* cases currently before the ICTY, in which the defendants are also accused of genocide in several other Bosnian municipalities. [↑](#footnote-ref-20)
21. See Ivan Zveržhanovski, “Watching War Crimes: The Srebrenica Video and Serbian Attitudes to the 1995 Srebrenica Massacre,” *Southeast European and Black Sea Studies* 7, no.3 (2007): 417-30. [↑](#footnote-ref-21)
22. Marko Milanović, “State Responsibility for Genocide: A Follow-Up,” *European Journal of International Law* 18, no. 4 (2007): 675. [↑](#footnote-ref-22)
23. Critics of the judgment have focused on the decision of the ICJ not to demand the transcripts of meetings of Serbia’s Supreme Defence Council, which allegedly would have proven Serbia’s complicity in the Srebrenica massacre. However, according to Marko Prelec, the senior researcher on the *Milošević* case who examined these transcripts, they do no such thing. Marko Prelec, “Body of Evidence—The Prosecution’s Construction of *Milošević*,” in Timothy Waters, ed., *The Milošević Trial—An Autopsy* (New York: Oxford University Press, 2013), 356-76. [↑](#footnote-ref-23)
24. Milanović, 687. The ICTY’s acquittals of the heads of the Serbian State Security Service in May 2013 *de facto* endorse the ICJ’s judgment. [↑](#footnote-ref-24)
25. ICJ Judgment, paras. 459-70. [↑](#footnote-ref-25)
26. ICJ Judgment, paras. 459-70. Emphasis added by the author. [↑](#footnote-ref-26)
27. I thank Vojin Dimitrijević for clarifying this point. [↑](#footnote-ref-27)
28. The former president of the RS, captured in Serbia in 2008 and now on trial at the ICTY. [↑](#footnote-ref-28)
29. Bojan Tončić, “Užasni zadah srpske sramote,” *Danas*, 19 May 2005, 19. [↑](#footnote-ref-29)
30. Olga Rusovac, “Ohrabrenje suprotstavljanju zločinu,” *Republika* 17 (2005): 358-9. On the complexities of denial in Serbia, see Jelena Obradović-Wochnik, “Knowledge, Acknowledgement and Denial in Serbia’s Responses to the Srebrenica Massacre,” *Journal of Contemporary European Studies* 17, no.1 (2009): 61-74. [↑](#footnote-ref-30)
31. “Deklaracija o obavezama Države Srbije da preduzme sve mere zaštite prava žrtava ratnih zločina, a posebno žrtava genocide u Srebrenici.” Proposal presented on 26 May 2005 at the Centre for Cultural Decontamination, Belgrade, <http://www.helsinki.org.rs/serbian/tpsrebrenica.html> (last accessed 21 December 2010). [↑](#footnote-ref-31)
32. *Ibid.*, 6-7. [↑](#footnote-ref-32)
33. On the impact of the Scorpions video on Serbian public opinion and the reactions of public officials see Jelena Subotić, *Hijacked Justice* (Ithaca: Cornell University Press, 2009), 62-66, and Zverzhanovski, “Watching War Crimes.” On citizens’ private reactions, see Obradovic-Wochnik, “Knowledge,” 69-71. [↑](#footnote-ref-33)
34. Four draft declarations were presented at one point. Slobodan Kostić, “Slepo oko,” *Vreme* 844, 8 March 2007. [↑](#footnote-ref-34)
35. Demokratska Stranka Srbije (DSS), “Deklaracija o osudi ratnih zločina na prostoru nekadašnje Jugoslavije,” Belgrade, 15 June 2005, <http://www.dss.org.rs/pages/documents.php?id=166> (last accessed 21 December 2010). [↑](#footnote-ref-35)
36. *Ibid.* [↑](#footnote-ref-36)
37. *Ibid.* [↑](#footnote-ref-37)
38. Boris Tadić, “Skupština mora da donese deklaraciju o Srebrenici,” *Politika,* 27 February 2007. Emphasis added by the author. [↑](#footnote-ref-38)
39. On the evolution of EU policy towards Serbia, see Jelena Subotić, “The Paradox of International Justice Compliance,” *International Journal of Transitional Justice* 3, no. 3 (2009): 362-383, and Victor Peskin and Mieczysław P. Boduszyński, “Balancing International Justice in the Balkans: Surrogate Enforcers, Uncertain Transitions and the Road to Europe,” *International Journal of Transitional Justice* 5, no. 1 (2011): 52-74. [↑](#footnote-ref-39)
40. Stephen Castle, “With arrest, Serbia makes big leap in quest to join EU,” *International Herald Tribune*, 27 May 2011. [↑](#footnote-ref-40)
41. Drinka Gojković, “Budućnost u trouglu: o krivici, istini i promeni,” *Reč* 57, no. 3 (2000): 17-24. [↑](#footnote-ref-41)
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43. EP Resolution. [↑](#footnote-ref-43)
44. Peskin and Boduszyński, “Balancing,” 70. [↑](#footnote-ref-44)
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51. “Stranke o Deklaraciji.” [↑](#footnote-ref-51)
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57. Liberalno Demokratska Partija, “Amandmani LDP na Deklaraciju o Srebrenici,” 28 March 2010, <http://www.ldp.rs/amandmani-ldp-na-deklaraciju-o-srebrenici.84.html?newsId=2752>(last accessed 11 January 2011). The amendments were all rejected by the parliament by an overwhelming majority. [↑](#footnote-ref-57)
58. “Po uzoru na peticiju Dveri,” *Danas*, 21 February 2010, and “Došlo vreme da se osudi zločin,” *Danas*, 29 March 2010. [↑](#footnote-ref-58)
59. “Još uvek bez teksta o rezoluciji,” *B-92*, 3 March 2010. [↑](#footnote-ref-59)
60. Slavica Djukić-Dejanović quoted in “Još uvek bez teksta o rezoluciji.” [↑](#footnote-ref-60)
61. Nada Kolundžija, transcript of parliamentary debate of 30 March 2010. Document in the possession of the author. [↑](#footnote-ref-61)
62. Gordana Pop-Lazić, transcript of parliamentary debate. [↑](#footnote-ref-62)
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65. *Ibid.* [↑](#footnote-ref-65)
66. *Ibid.* [↑](#footnote-ref-66)
67. *Ibid.* [↑](#footnote-ref-67)
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69. The Declaration fits well Richard Bilder’s definition of a “pseudo-apology,” characterised by “offering a vague or incomplete acknowledgement of the offense, using a passive voice, making the apology conditional” and “minimizing the offense.” Bilder, “The Role,” 439. [↑](#footnote-ref-69)
70. Members of the Association of Mothers of Srebrenica and Žepa characterised the Declaration as “shameful,” while Stefan Füle, the Commissioner for Enlargement, welcomed it as “an important step” but as insufficient for building closer ties with the EU. Quoted respectively in “Tužićemo UN sudu u Strazburu,” *Danas*, 31 March 2010, and Dan Bilefsky and Stephen Castle, “EU Finds Serbia’s Apology Lacking,” *International Herald Tribune*, 1 April 2010. [↑](#footnote-ref-70)
71. Dušan S. Bogdanović, “Da li je u Srebrenici počinjeno delo genocida?,” *Republika* (2010): 486-489. [↑](#footnote-ref-71)
72. On this, see Tony Judt’s seminal essay, ‘From the House of the Dead: An Essay on Modern European Memory’, in Judt, Tony, *Postwar: A History of Europe since 1945* (London: Pimlico, 2009): 803-831. The literature on European memory is vast. A recent overview can be found in Pakier, Małgorzata and Stråth, Bo, eds., *A European Memory? Contested Histories and Politics of Remembrance*. (New York/Oxford: Berghahn, 2010). A good account of the German case is contained in Lüdtke, Alf, ‘”Coming to Terms with the Past”: Illusions of Remembering, Ways of Forgetting Nazism in West Germany’, *Journal of Modern History* (2010), 65:3, 542-572; on France, see for example Fette, Julie, ‘The Apology Moment: Vichy Memories in 1990s France’, in Barkan and Karn, eds., *Taking Wrongs Seriously*, op. cit., 259-286. [↑](#footnote-ref-72)