



Helping Keep Bosnia and Herzegovina Together

Bosnia and Herzegovina is on the verge of falling apart as Republika Srpska, the smaller of its two ethnically divided parts, threatens to break away. In this excerpt from the Watch List 2024 – Spring Update, Crisis Group urges the EU to help stop the fragmentation.

Bosnia and Herzegovina (hereafter, Bosnia) is at its most fragile moment in years. Republika Srpska (RS), the smaller of its two ethnically divided parts, is taking cautious but steady steps to break away, due to grievances with the country's international supervision. A dispute about who should supervise local elections due on 6 October created a confrontation pitting RS leaders against High Representative Christian Schmidt, the international overseer appointed under arrangements that have secured the country's tenuous peace for nearly three decades. That crisis erupted just days after 21 March, when European Union member state leaders approved opening accession talks with Sarajevo. While dissolution is not imminent, should it happen, neighbouring Serbia will be under pressure to support RS, though a wary Belgrade knows that doing so would wreck its ties with the West. Violence is possible, especially in ethnically mixed areas, though it is unlikely in the near term.

For now, the crisis is political, but the challenges to resolving it are still significant. Leaders in Banja Luka have for the first time gone past secession rhetoric to take concrete steps denying Sarajevo's authority in RS territory, passing laws that pre-emptively reject all future

decisions of the constitutional court and the High Representative. They do so as Serb leaders stoke anger about a draft UN General Assembly resolution commemorating the genocide in Srebrenica. (The resolution will be voted on shortly after this Watch List is published.)

RS President Milorad Dodik has sought Russian, Serbian and Hungarian support for his agenda. He has promised that independence will come when geopolitics allows. He surmises that such an opportunity might arise if Donald Trump is elected a second time as U.S. president in November. The EU and member states have leverage in Bosnia, including in RS, which they should use vigorously, lest the situation become worse.

To keep Bosnia and Herzegovina from falling apart, the EU and member states should:

- Work toward a deal in which RS stops trying to run its own elections; the High Representative refrains from imposing punitive measures absent consensus support from the Peace Implementation Council's Steering Board – an international body comprising eleven states and agencies helping manage the peace process; and Bosnia's parliament enacts a new election law;

- Coordinate with the U.S. through the above-referenced Steering Board and the Quint – France, Germany, Italy, the UK, the U.S. and the EU – to provide guidance to the High Representative so that he uses his powers (which RS sees as lacking democratic legitimacy) solely when there is clear consensus that they are needed to prevent irreparable damage;
- Offer to take the lead in helping Bosnian leaders settle ownership of state and defence

property, which is the remaining condition identified by the Peace Implementation Council before the High Representative's office can be closed.

- Make clear that EU accession for Bosnia (and Serbia, should it play a spoiler role) would face insurmountable impediments if the integrity of the Bosnian state is compromised through secession.

Collision Course

The present dispute hinges on the question of who exercises supreme authority in RS – its own government or some combination of the central government and the High Representative. The Dayton peace agreement that ended the four-year Bosnian war in November 1995 settled this question only on paper. It created a nominally sovereign central government, but one with few powers, able to act only when representatives of all the Bosnian peoples – Bosniaks (Bosnian Muslims), Croats and Serbs – agreed. It also planted the seed for a High Representative appointed by the Peace Implementation Council with the prerogative to appoint and remove officials and enact or amend legislation. In effect, RS remained in charge on its own territory, but at constant risk of having its decisions overruled by the centre or the High Representative using what are referred to as the Bonn Powers.

The Bosnian state has grown stronger over the years, by agreement and by High Representatives' fiat, but without fully resolving certain tensions and ambiguities in the Dayton arrangements. The High Representative's role is the source of particular friction, given that this unelected official enjoys vast sovereign powers but is viewed by Serbs and others as lacking democratic legitimacy.

Within this framework, RS President Dodik and High Representative Schmidt are on a collision course with no obvious off-ramp. Over

the last few years, as Dodik has become more aggressive in steering a secessionist course, the High Representative's office has been more assertive in using its Bonn Powers. On 26 March, Schmidt imposed sweeping amendments to Bosnia's election law to promote integrity and thwart cheating, which has been a lingering problem.

The RS National Assembly, which rejects Schmidt's authority in principle, resolved three days later to enact its own election law. It also threatened to instruct Serb representatives to cease participating in Bosnian state institutions and to withdraw from the state armed forces, the VAT system and the state body that appoints judges. The U.S. embassy immediately called the resolution a "direct attack" on Bosnia's state structure and on the Dayton accord; two weeks later, in mid-April, it warned of consequences for anyone involved in organising what it called "an unconstitutional, parallel election system".

Further escalation around the election law issue may get pushed back to 2025 or later. Bosniak delegates appealed the RS election law to the RS's constitutional court, which will likely approve it, but with too little time left for the entity to organise for the October vote. Against this backdrop, Banja Luka agreed on 21 May to participate in local elections organised by the state election commission, which is a de-escalatory step. The dispute with the High

Representative has not gone away, but Bosnia's leaders at least get another chance to find a negotiated solution before the 2026 national elections force the issue. The RS strategy continues to be to push out the High Representative and other foreign officials (another vestige

of the Dayton constitution is that foreign judges occupy three of nine seats on the constitutional court), while waiting for a chance to break away and unite with Serbia. This campaign shifted into higher gear after Schmidt imposed his election law.

A Cagey and Incremental Approach

As in the past, Banja Luka has mixed incendiary rhetoric with cautious practice, taking mainly incremental steps in an effort to avoid provoking a strong U.S. or EU response.

The signs of Dodik's cagey and incremental approach are easy to see. While the RS parliament formally rejected Schmidt's authority in June 2023, its courts are still respecting past High Representative decisions in their jurisprudence. A special parliamentary session on 18 April passed the RS election law, but quietly shelved all the other, more inflammatory measures they had threatened, like boycotting Bosnian state institutions and withdrawing from the joint armed forces. Instead, the assembly moved bit by bit to shore up RS defences against further steps by Schmidt and Washington. The assembly's actions include requiring employers to pay in cash staff whose bank accounts are frozen due to sanctions and granting sweeping legal immunity to top RS officials, though it is unclear what effect that would have on state-level prosecutions.

Also on 18 April, the Bosnian governing coalition (which includes Dodik's party) proposed a deal in which the Sarajevo parliament would adopt a new state election law, superseding Schmidt's imposed statute. In response, Dodik's party submitted a draft resolution to parliament condemning Schmidt's action and welcoming a new state-level election law. Though written in provocative language that guaranteed it would not pass, the draft still included a provision endorsing the "sovereignty, territorial integrity and political independence of Bosnia and Herzegovina". Similar formulations have appeared in RS National Assembly legally

binding conclusions. The message is that Serb leaders are willing to support Bosnia – at least for the moment – in return for their coalition partners' help in getting rid of the High Representative. What happens afterward – whether a good-faith attempt to work together in a Bosnia without international supervision or a renewed push for separation – is unclear.

Schmidt is likely to annul the RS election law, and Banja Luka will probably ignore him, as it did when he struck down two other laws on 1 July 2023. Dodik is already on trial before the Court of Bosnia and Herzegovina for failing to implement High Representative decisions – a crime Schmidt added to the criminal code on 1 July 2023. Dodik filed the charges against himself, as a way of scoffing at the spectacle of an international official making defiance of his own authority a crime. He is participating in the trial but says any attempt to detain him will be met by force; his party has likewise said it will not accept a guilty verdict, which could lead to up to five years in prison. Yet even before issuing its ruling, the Court can provisionally remove him from office if it finds he is likely to repeat the offence. The High Representative can also dismiss him.

If the crisis escalates to the point that Dodik is defying an arrest warrant or a High Representative decision to remove him, Bosnia will be in uncharted waters. It is hard to predict who would then hold the stronger hand.

That might depend in part on what kind of support Dodik would get from outside. While Dodik has appealed for support to Russian President Vladimir Putin, Serbia is his main partner; indeed, the RS leadership enjoys a

closer relationship with Belgrade than it has for many years. The two governments are coordinating policies. Dodik now talks of unification with Serbia, a shift from past rhetoric that focused on RS independence alone. At a rally attended by former Serbian Prime Minister Ana Brnabić and a former Serbian intelligence chief, Dodik told a cheering crowd that RS would eventually unite with Serbia, adding that “Belgrade is our capital”. He said RS would act when the time is right. In a February interview with a Russian newspaper, he seemed to go a step further: “For example, if it happens that Donald Trump wins the U.S. presidential election, certain conditions may arise for

[an independence referendum] to happen”. Trump’s inner circle includes individuals with notable connections to Belgrade, though it is not clear how a Trump administration would view RS secession.

For Serbia, however, the situation would present something of a bind. Supporting RS secession would likely poison relations with the EU and the U.S., while withholding recognition would be very unpopular at home. Belgrade is still trying to avoid this choice; Brnabić’s speech emphasised Serbia’s ironclad support for the Dayton accord along with fraternal ties with Banja Luka.

The Politics of Genocide Denial

Parallel to the elections crisis, an emotional controversy over a UN General Assembly resolution on commemorating the Srebrenica genocide is fuelling Bosnia’s woes. On 23 May, the General Assembly is voting on a resolution making 11 July an “international day of reflection and commemoration of the 1995 genocide in Srebrenica”, when Bosnian Serb forces killed some 8,000 Muslims. The resolution does not call for any action to be taken against Serbs, Serbia or RS – indeed it does not even mention them; rather, it calls for reflection and for combating “denial of the Srebrenica genocide”. Nevertheless, it has sparked a furore.

While on one level the resolution breaks no new ground, it has played into local sensitivities in a way that Dodik and other RS politicians have effectively manipulated. That the Srebrenica massacre constituted a genocide is confirmed by judgments by the International Criminal Tribunal for the former Yugoslavia, which the International Court of Justice later endorsed.

None of this jurisprudence was intended to do what Dodik and other RS and Serbian leaders complain about, namely tarring the Serbian people or their states as inherently genocidal. Indeed, one of the tribunal’s main goals was to repudiate such notions of collective guilt by

focusing on individual criminal responsibility. Yet there is a widespread popular belief among Serbs – encouraged by Dodik and other leaders – that the genocide label cannot be allowed to adhere because it brings with it an indelible stain with fateful political consequences.

Dodik, Vučić and many other Serbs tend to walk a complicated line when it comes to wartime atrocities. They generally acknowledge that Serb forces committed crimes after Srebrenica fell, but some also promote a parallel rhetoric of war crimes denialism, and virtually all firmly reject the idea that their actions amounted to genocide while portraying the UN resolution as part of a campaign to libel the Serb people. At a rally to oppose Schmidt and the UN resolution, Dodik made familiar denialist points, while complaining that the war’s many Serb victims have been ignored. He went on to warn the resolution’s sponsors that “this will not bring us together. This always separates us, and we do not want to live with you who say the Serb people are genocidal. We do not want to live with you, and we will not be in the same state with you”.

Serbian frustration over the resolution goes beyond substance. The original idea for the resolution dates back to a 2019 appeal by a Bosnian NGO called Mothers of Srebrenica

and it was subsequently picked up by Bosnian state officials. Yet the officials promoting it – the Bosniak and Croat members of the state presidency and the country’s permanent representative at the UN – bypassed the procedures for setting the country’s foreign policy, which give Serb representatives a say. This manoeuvre has provided grist for Dodik’s grievance that the Bosniak majority’s representatives treat the country as belonging to them alone, disregarding the views of others.

Politically, the controversy over the genocide resolution has come at an opportune moment

for Dodik, allowing him to unify Serbs who might otherwise differ behind a common cause. The RS opposition parties are divided about the wisdom of his confrontation with Schmidt, in part for fear of provoking the U.S., but they are in lockstep with Dodik in opposing the Srebrenica resolution. Belgrade also has its doubts about RS moves toward independence but welcomes the chance to show its support for Banja Luka’s defiance of alleged international pressure. This cohesion may not last long once the resolution recedes into memory.

What Europe Can Do

The latest escalation in Bosnia’s political crisis comes as the EU is distracted. Its institutions are gearing up for European Parliament elections in June, and policymakers’ attention is fixed on the wars in Gaza and Ukraine. U.S. policy after the November presidential election is also uncertain. The RS and Serbian leaderships openly say they are looking to the U.S. vote – suggesting that they hope for a Trump win – which they believe will give them opportunities to advance their respective agendas.

The EU’s priority should be to break the cycle of escalation that Banja Luka and the High Representative are locked in. Brussels and member states engaged in Bosnia, notably France, Germany, Italy and the Netherlands, should use their influence with the High Representative to discourage him from further use of his extraordinary powers, as that would likely push RS further along the road to secession. They should also push Dodik and the RS leadership not to implement their controversial – arguably unconstitutional – new law for the 2026 national elections. The Bosnian governing coalition should go ahead with its plans to adopt and then amend Schmidt’s imposed election law.

While this is a tall order, the EU has considerable leverage in Bosnia, including in RS. The prospect of starting membership talks and benefiting from the EU’s €6 billion growth pact

for the western Balkans, announced in 2023, is more attractive than anything Brussels has had to offer before. EU officials should be clear that full EU accession for both Bosnia and (if it plays a spoiler role) Serbia depends on there being an intact, stable and fully functional state in Bosnia. While the history of accession as leverage is fraught to say the least, it is also true that membership will not move forward with this crisis, and the attendant risk of disintegration, unresolved.

The EU should also use the start of membership discussions, on a date yet to be determined, to stimulate dialogue about re-evaluating the Dayton accord framework, which underpins the recurrent crises between RS and the High Representative. They should push Bosnian leaders to begin articulating how they see their country dispensing with the need for a High Representative and the foreign judges on its court in favour of more conventional democratic institutions and taking on the responsibilities of membership in the Union.

The EU should do what it can to make progress in the same direction. In 2008, the Peace Implementation Council set conditions for closing the High Representative’s office. Most of these have already been met, and only the issue of apportioning Bosnia’s state- and military-owned property remains outstanding; the EU should revive the push to settle it. In the

meantime, through the Council and the Quint, Brussels should insist that the High Representative obtain consensus support for any further use of his powers, the exercise of which he should view as a last resort to avoid irreparable harm.

Brussels should in parallel work with the U.S. on a roadmap to closing the High Representative's office down. It may take some convincing: Washington sees Dodik as a major threat to Bosnian sovereignty and the High

Representative as the most potent tool for reining him in. Yet if the standoff between Dodik and Schmidt escalates out of control, it would create a crisis on the EU's doorstep. RS secession would, too, but at this point the High Representative's powers are no longer an effective tool for stopping it and may instead be hastening it. ■

