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Balkan Cooperation on War Crimes Issues: 2005 Update

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Summary

A combination of intensified international pressure and deadlines associated with Euro-Atlantic integration processes has prompted a spate of transfers of persons indicted for war crimes to the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague in late 2004-early 2005. Full cooperation with The Hague tribunal has been established as a key prerequisite to further progress toward a shared long-term goal for the western Balkan countries: closer association with and eventual membership in the European Union (EU) and NATO. The Euro-integration efforts of Croatia, Bosnia-Herzegovina, and Serbia and Montenegro have stalled (to varying degrees) over ICTY cooperation, although recent evidence of progress in turning over indicted persons may prompt further consideration. Limited cooperation with ICTY has also held up some U.S. bilateral assistance to Serbia. Some top-ranking war crimes suspects remain at large; meanwhile, the Tribunal is preparing to wind down its operations and has issued its final indictments. This report will be updated as events warrant. See also CRS Report RS21686, *Conditions on U.S. Aid to Serbia*.

Introduction and U.S. Concerns

In the first few months of 2005, a steady stream of individuals charged with Balkan war crimes has turned up at the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Factors contributing to this recent inflow include intensified international pressure and upcoming deadlines associated with the European integration process. The European Union (EU) and NATO have explicitly conditioned closer association with the western Balkan states (mainly Serbia and Montenegro, Bosnia and Herzegovina, and also Croatia) on their respective levels of cooperation with ICTY. To varying degrees, conditionality policy has held up Euro-integration processes in the western Balkans that would otherwise likely have gone forward. In addition, in early 2005, the United States suspended some bilateral assistance programs to Serbia as a result of Belgrade's limited cooperation with ICTY.

Most of the recent transfers of indicted persons have come from Serbia or the Republika Srpska (RS) entity within Bosnia and Herzegovina, both parties with the greatest number of suspects and the weakest cumulative record of cooperation with ICTY. Other prominent surrenders include the former Prime Minister of Kosovo's governing institutions and the former Bosnian Muslim (or Bosniak) Army chief. Even with the recent improvements in cooperation, some problems persist. For example, Serbia's government led by Prime Minister Kostunica has refused to arrest indicted suspects, but instead has encouraged their voluntary surrender. The Tribunal remains a deeply unpopular institution in the eyes of the Serbian (and, increasingly, the Croatian) populations. Many of the recently transferred suspects have been sent off to The Hague as national heroes. Moreover, the fate of top-ranking remaining war crimes suspects, some of whom have eluded capture for a decade, remains uncertain.

Meanwhile, ICTY operations are beginning to wind down after a dozen years in operation. Current plans call for all ICTY court proceedings to finish by 2010, a timetable at risk if the top suspects remaining at large are not soon turned over.¹ ICTY Chief Prosecutor Carla del Ponte prepared the Tribunal's final indictments in late 2004 and the last indictments were unsealed and made public in March 2005. More than 50 accused are currently in ICTY's custody.

U.S. Administration and congressional interest in levels of Balkan cooperation with the Tribunal stems from longstanding U.S. support for ICTY and insistence that the top-ranking indicted persons be turned over to The Hague. The United States supports the region's Euro-Atlantic aspirations, including closer ties to and possible membership in NATO. In legislation, Congress has annually conditioned U.S. assistance to Serbia on ICTY cooperation, including the extradition of Gen. Mladic. The Bush Administration also supports the Tribunal's "completion strategy" to conclude activities by 2010.

Summary of Recent Transfers

Since late 2004, over a dozen persons indicted for war crimes have been transferred to The Hague from Serbia, Kosovo, and Bosnia. A reverse chronology of recent arrivals to the ICTY detention unit follows.²

03/24/2005 — Former Macedonian Interior Minister Ljube Boskovski was transferred to The Hague from Croatia, where he had been incarcerated on charges unrelated to the ICTY indictment. His ICTY indictment cites charges relating to the unlawful killing of ethnic Albanian civilians in northern Macedonia during the 2001 conflict.

03/23/2005 — Former Bosnian Serb General Vinko Pandurevic was transferred to The Hague. Gen. Pandurevic served as a brigade commander of the Bosnian Serb Army (VRS). His indictment for genocide and crimes against humanity relates to the 1995 massacre in Srebrenica.

¹ For more on the status of ICTY's completion strategy, see addresses by ICTY Prosecutor Carla del Ponte and President Judge Theodor Meron to the U.N. Security Council, Nov. 23, 2004 (ICTY documents CDP/PIS/917e and TM/PIS/916e).

² Details of the indictments can be found at the ICTY home page, [<http://www.un.org/icty>].

03/17/2005 — Former Bosnian Serb Chief of Security Drago Nikolic arrived at The Hague. Nikolic is charged with genocide and crimes against humanity for his alleged individual criminal role in the 1995 Srebrenica assault.

03/16/2005 — Former Macedonian police officer Johan Tarculovski arrived at The Hague. Along with former Macedonian Interior Minister Ljube Boskovski, Tarculovski is charged with unlawful attacks on civilians during the 2001 inter-ethnic conflict in Macedonia.

03/14/2005 — Former Bosnian Serb Chief of Police Gojko Jankovic was transferred to The Hague from Banja Luka.³ He is charged with war crimes allegedly committed in the 1992 attack on the Bosnian town of Foca.

03/11/2005 — Former Bosnian Serb Interior Minister (MUP) Mico Stanisic was transferred to The Hague. He is charged with war crimes and crimes against humanity relating to his role in commanding and directing Bosnian Serb police actions against non-Serb populations in Bosnia during 1992.

03/09/2005 — Ramush Haradinaj was handed over to The Hague after resigning from his position as Kosovo Prime Minister the previous day.⁴ The indictment against former Kosovo Liberation Army commander Haradinaj and two of his subordinates (Lahi Brahimaj and Idriz Balaj, who turned themselves in with Haradinaj) cites charges of war crimes perpetrated against Serbs, other minorities, and Albanians in Kosovo in 1998.

03/07/2005 — Gen. Momcilo Perisic, former Chief of the General Staff of the Yugoslav Army, surrendered to The Hague. He is charged with 13 counts of crimes allegedly committed in Sarajevo, Zagreb, and Srebrenica. His indictment is for individual criminal responsibility and command authority over the Yugoslav Army.

03/01/2005 — Gen. Radivoj Miletic, former Bosnian Serb army chief of operations, arrived at The Hague after surrendering to Serbian government authorities. His indictment, shared with Milan Gvero (below), relates to war crimes allegedly committed in Srebrenica in 1995.

02/28/2005 — Gen. Rasim Delic, former Chief of the General Staff of the Army of Bosnia and Herzegovina, departed Sarajevo for The Hague. He is charged on the basis of his command authority with four counts of violating customs of war in 1993 and 1995.

02/21/2005 — Milan Gvero, a former VRS commander, arrived at The Hague from Belgrade. He is charged with individual criminal responsibility for crimes allegedly committed in the Srebrenica region in 1995.

³ Jankovic was reportedly one of several Serbian indictees who had sought and received refuge in Russia for years. See Ed Vulliamy, "Russians accused of sheltering war crimes suspects," *The Guardian* (U.K.), Mar. 15, 2005.

⁴ ICTY officials had interviewed Haradinaj in November 2004 and the prospect of his indictment clouded his brief term in office (from December 2004 until March 2005), although his energetic performance in implementing the Kosovo Standards received widespread praise.

02/03/2005 — Gen. Vladimir Lazarevic, former commander of the Yugoslav Army Pristina Corps, arrived at The Hague. Lazarevic is one of the four Yugoslav Army generals indicted by ICTY in October 2003 for alleged crimes committed in Kosovo in 1999.

Remaining Suspects at Large

By late March 2005, over one dozen indicted suspects remained at large. For most concerned parties, the short list comprises the top three suspects: former Bosnian Serb leaders Radovan Karadzic and Gen. Ratko Mladic; and former Croatian Gen. Ante Gotovina. The indictments against Karadzic and Mladic charge the former Bosnian Serb leaders with genocide, crimes against humanity, and violations of the laws or customs of war as part of the Bosnian Serb campaign in 1991 to 1995 to control territory and drive out non-Serb populations. Gotovina is charged with crimes against humanity and violations of the laws or customs of war in relation to the 1995 Croatian “Storm” offensive against Croatian Serb-held territory in the Krajina region.

Authorities in Belgrade, Sarajevo, and Zagreb insist they do not know the whereabouts of these suspects; ICTY and other international officials believe that local governments can do more than they have to bring about their arrest and capture, especially by going after their support networks. For example, ICTY Chief Prosecutor del Ponte has charged that Gen. Gotovina was “within reach” of Croatia’s authorities and was allegedly spotted in the country as recently as mid-2004. She has also claimed that Belgrade has had knowledge about Gen. Mladic’s whereabouts. Similarly, the Office of the High Representative in Bosnia has charged that some authorities in the Republika Srpska had supported and sheltered Gen. Mladic as recently as mid-2004.

Other priority suspects include the remaining former Yugoslav military generals under the October 2003 indictment, including former Serbian police and army generals Sreten Lukic and Nebojsa Pavkovic, both thought to be residing in Serbia. A third Serbian general under the same indictment, Vlastimir Djordjevic, is thought to be hiding in Russia. By late March, Serbian officials predicted that Generals Lukic and Pavkovic would very soon agree to surrender.

Policy Implications

By early 2005, the implications of the established international conditionality policy had become more pronounced, as international actors such as the European Union, United States, and Office of the High Representative in Bosnia wielded “carrot and stick” instruments more explicitly. Securing the region in a stable and prosperous Euro-Atlantic zone, as opposed to an area of incomplete postwar transition susceptible to destabilizing trends or criminal elements, remains a shared goal. On the incentive side, officials have expressed continued support for the Euro-Atlantic aspirations of the western Balkan states and a strong interest in moving forward in these integration processes, some of which have lagged primarily over ICTY cooperation. At the same time, recent actions have made clear that these processes cannot be completed until the Balkan states adhere to standards on international commitments and the rule of law, especially with regard to meeting obligations on ICTY cooperation and overcoming the legacy of the wartime years. Still lagging behind other nations in the integration process, the western Balkan states have made closer ties to NATO and especially the EU a key strategic priority.

Invoking ICTY cooperation as a roadblock to further progress in European integration was most recently demonstrated with the EU's decision to postpone membership talks with Croatia (see below). Other prominent examples include NATO's decisions in 2004 not to invite Bosnia and Serbia-Montenegro to join Partnership for Peace, and High Representative Paddy Ashdown's subsequent measures to remove obstructionist Bosnian Serb leaders from office. Another related example was the U.S. decision in January to withhold a portion of FY2005 bilateral assistance to Serbia because of Belgrade's poor cooperation with ICTY.

Leaders in Bosnia, Croatia, and Serbia have acknowledged the necessity of demonstrating full cooperation with ICTY in order to remove this hurdle to achieving their Euro-Atlantic goals, even if they disagree on methods to demonstrate such cooperation. As mentioned earlier, increased awareness of the policy consequences of incomplete cooperation has prompted the recent upswing in transfers of suspects as well as moves to freeze their financial assets. Other policy implications are outlined below.

Bosnia and Herzegovina. Like Serbia and Montenegro, Bosnia and Herzegovina currently seeks membership in NATO's Partnership for Peace program and a Stabilization and Association Agreement (SAA) with the European Union. The EU concluded an SAA Feasibility Study for Bosnia in November 2003 and identified 16 priority reform areas that have become a blueprint for Bosnia's ongoing reform process. At the same time, limited cooperation with ICTY especially by the Republika Srpska has caused a slowdown in the association process. Until January 2005, RS authorities had not turned over a single indicted suspect. The ICTY issue has also provided High Representative Paddy Ashdown justification for exercising his authority to remove obstructionist officials, freeze assets, and even re-shape governing institutions especially in the defense and security sectors, segments of which were thought to support war crimes fugitives. Bosnia's authorities are seeking to demonstrate improved cooperation before May 2005, when the EU is expected to consider opening SAA negotiations with Bosnia.⁵ The status of Radovan Karadzic will remain a key challenge for Bosnia's authorities as well as for the EU military force and residual NATO presence in Bosnia, whose mandates include apprehending persons indicted for war crimes.

Croatia. With one major exception, largely positive assessments of Croatian government cooperation on war crimes issues — as well as considerable advancement in economic and institutional reforms — have enabled Croatia to progress steadily in the EU integration process. Croatia signed an EU Stabilization and Association Agreement in October 2001. Croatia formally applied for EU membership in February 2003 and in June 2004, the EU named Croatia a candidate country for membership. In December 2004, the EU agreed to open accession negotiations with Croatia in March 2005 provided that Croatia continued to cooperate with ICTY. However, the unresolved status of Gen. Ante Gotovina, who disappeared in June 2001 and represents the final obstacle to full cooperation with ICTY, has had a negative impact on this timetable.

⁵ Beyond the issue of extradition, a recent achievement in Bosnia was the inauguration in March 2005 of the War Crimes Chamber of the State Court of Bosnia and Herzegovina, which is expected eventually to take over for ICTY prosecution of war crimes in Bosnia.

On March 16, 2005, European Union members decided to postpone indefinitely the opening of accession negotiations with Croatia. The EU is expected to continue to investigate the matter and possibly re-examine its position on Croatia in coming months, although some further resolution of the Gotovina situation will likely be required before membership talks can begin.⁶ Meanwhile, the EU decision to postpone accession negotiations sparked a swift popular Croatian backlash against the EU and a renewed wave of support for Gotovina. Polls show that a majority of the population opposes Gotovina's extradition and a move by the Sanader government to capture Gotovina could imperil political stability. Some analysts are concerned that popular resentment over the Gotovina case could erode support for reforms essential for eventual EU integration. Others note that Croatia is otherwise well positioned to join the EU relatively soon.

Serbia and Montenegro. Despite Serbia's notable achievement of extraditing wartime Serbian leader Slobodan Milosevic to The Hague in 2001, assessments of Serbia's level of cooperation with ICTY remained largely negative until recently, especially with respect to Belgrade's willingness to deliver war crimes suspects to The Hague. Beginning in late 2004, the Kostunica government increased its efforts to encourage the voluntary surrender of indicted persons, with evident results, even while it has not abandoned its reluctance to making arrests. Politically, the Kostunica government is constrained to some extent because it is supported in parliament by Milosevic's Socialist Party (SPS) and because the SPS and the nationalist Radical Party (SRS) vehemently oppose cooperation with The Hague. However, the extent of Kostunica's political vulnerability over ICTY cooperation is open to debate.

Serbia's cooperation with ICTY has been a sore spot in its foreign relations for the past few years. In accordance with annual foreign aid appropriations legislation, the United States suspended portions of bilateral assistance to Serbia over war crimes issues in FY2004 and FY2005. In 2004, Serbia and Montenegro was twice denied entry into Partnership for Peace despite significant progress in defense reforms. Serbia and Montenegro lags behind other western Balkan states in the EU's Stabilization and Association process, the precursor to closer EU association and targeted EU assistance. Most observers believe that a projected EU timetable of March-April 2005 to finalize a Feasibility Study for a Stabilization and Association Agreement (SAA) with Serbia and Montenegro spurred Belgrade to demonstrate substantially improved ICTY cooperation. Increased activity began in late 2004 when ICTY delivered its most recent negative assessment of Serbia's record of cooperation and after the EU again postponed movement on the SAA Feasibility Study.⁷ Current reports speculate that the EU could decide favorably on a Feasibility Study in April, provided that the two police and army generals (Lukic and Pavkovic) known to remain in Serbia are turned over by then. Serbian officials have indicated that about 10 more suspects likely remain in Serbia, not including Mladic. However, most observers also believe that Mladic's status will ultimately need to be resolved before Serbia's leaders can put the ICTY obstacle fully behind them.

⁶ ICTY Prosecutor del Ponte reportedly stated to EU ministers that "until such time as (Gotovina) is brought to The Hague, it cannot be said that Croatia is cooperating fully with the International Tribunal." *Agence France Presse*, Mar. 10, 2005.

⁷ Until the EU decision to take a "twin track" approach to Serbia and Montenegro, complications arising from disparities within the union had also presented some obstacles to EU integration.