

CRS Report for Congress

Received through the CRS Web

Balkan Cooperation on War Crimes Issues: 2005 Update

Julie Kim

Specialist in International Relations
Foreign Affairs, Defense, and Trade Division

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 substantial progress in turning over indicted persons has been achieved. The United States also suspended some bilateral assistance to Serbia in early 2005 over ICTY cooperation. 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 four 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 and 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.

Chronology of Recent Transfers²

04/25/2005 — Despite earlier statements that he would not voluntarily surrender, Gen. Nebojsa Pavkovic, former Serbian Army chief of staff, arrived at The Hague. He is the third Serbian general under the October 2003 indictment against four generals to come into custody. He is charged with alleged crimes relating to Serbian military and police operations in Kosovo in 1998-1999.

04/14/2005 — Former Bosnian Serb officer Vujadin Popovic surrendered to The Hague. He is charged with genocide and war crimes related to the 1995 Bosnian Serb attacks on Srebrenica.

04/08/2005 — Former Bosnian Serb commander Milorad Trbic arrived at The Hague and is charged in the same indictment as Vinko Pandurevic (see 03/23).

04/04/2005 — Former Serbian special police Gen. Sreten Lukic was transferred to The Hague from a Belgrade hospital where he had undergone vascular surgery. Lukic is charged with crimes allegedly committed by forces under his command in Kosovo in 1999. The Serbian government denied reports that it had forced Lukic's extradition.

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>].

04/01/2005 — Former Bosnian Serb special police commander Ljubomir Borovcanin arrived at The Hague from Belgrade. His indictment from 2002 charges him with individual and command responsibility for crimes relating to the 1995 Bosnian Serb offensive in eastern Bosnia.

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 Gen. Vinko Pandurevic was transferred to The Hague. Gen. Pandurevic served as a brigade commander of the Bosnian Serb Army (VRS) and is charged with genocide and crimes against humanity relating to the 1995 massacre in Srebrenica.

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 conflict.

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 arrived at The Hague after resigning from his position as Kosovo Prime Minister the previous day. 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 and others 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.

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.

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.

02/28/2005 — Gen. Rasim Delic, former Chief of the General Staff of the Bosnian Army, departed Sarajevo for The Hague, and 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.

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. (ICTY provisionally released Lazarevic and three other suspects on April 15.)

Remaining Suspects at Large

By late April 2005, ten known 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. In April, Serbia and Montenegro Foreign Minister Draskovic stated that the security services knew where Mladic was. A subsequent Serbian news report quoted a former security source claiming that Mladic had been sheltered by the Serbian military in 2004.⁴

Beyond Gotovina, Mladic, and Karadzic, about seven other Serb or Bosnian Serb suspects remain at large.

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

⁴ “serbian Authorities Know Where Mladic Is Hiding,” *Financial Times*, Apr. 5, 2005; Associated Press, Apr. 11, 2005.

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.

Recent examples of the carrot and stick approach include the EU's recent decisions to approve opening association talks with Serbia, on the one hand, while postponing actual membership talks with Croatia, on the other hand. In 2004, NATO twice decided not to invite Bosnia and Serbia-Montenegro to join Partnership for Peace, and High Representative Paddy Ashdown subsequently took 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.

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 (RS), 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 created a special task force to continue to assess Croatia's ICTY cooperation and possibly re-examine the EU 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's decision to postpone accession talks sparked a swift popular Croatian backlash against the EU and a renewed wave of support for Gotovina. Polls show that a majority of Croats oppose 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. 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 make 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 forced indictee transfers to The Hague. However, the extent of Kostunica's political vulnerability over ICTY cooperation is open to debate; the fate of the recent SRS bid to initiate a vote of no confidence in the government (in response to the transfer of Gen. Lukic) may provide greater clarity.

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 lagged 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 In April 2005, in recognition of Serbia's substantial progress in cooperating with ICTY, the European Commission approved its Feasibility Study on the SAA, and the EU Council called for stalled SAA negotiations to begin later in the year. However, the Council reiterated that it expected ICTY cooperation to continue and all remaining persons indicted for war crimes to be brought before the Tribunal.

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 Complications arising from the state of the Serbia and Montenegro union had also presented some obstacles to EU integration.