



## CRS Report for Congress

# Balkan Cooperation on War Crimes Issues

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### Summary

By the end of 2006, six individuals indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) remained at large, including wartime Bosnian Serb leaders Radovan Karadzic and Gen. Ratko Mladic. From late 2004 through early 2005, a combination of intensified international pressure and deadlines associated with Euro-Atlantic integration processes prompted a spate of transfers of indicted persons to The Hague. The Tribunal has also referred several lower-level cases to domestic Balkan courts. Full cooperation with ICTY has been 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 and NATO. However, in November 2006, NATO invited Serbia, Montenegro, and Bosnia to join Partnership for Peace despite the ongoing failure to capture Mladic and Karadzic. The 110<sup>th</sup> Congress may consider legislation to encourage full compliance with ICTY obligations. This report will be updated as events warrant. See also CRS Report RS21686, *Conditions on U.S. Aid to Serbia*, by Steven Woehrel.

### Introduction and U.S. Concerns

The European Union (EU) and NATO have long 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 but has also provided a key incentive for the Balkan states to meet their obligations with respect to ICTY.

From late 2004 to early 2005, a steady stream of individuals charged with Balkan war crimes turned up at the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Most of the transfers of indicted persons came from Serbia or the Republika Srpska (RS) entity within Bosnia and Herzegovina, both parties that had the greatest number of suspects and the weakest cumulative record of cooperation with ICTY. Other prominent surrenders included the former Prime Minister of Kosovo's governing institutions and the former Bosnian Muslim (or Bosniak) Army chief. However, top-

ranking war crimes suspects Radovan Karadzic and Gen. Ratko Mladic have eluded capture for over a decade.

Meanwhile, ICTY operations are beginning to wind down after over a dozen years in operation. ICTY Chief Prosecutor Carla del Ponte prepared the Tribunal's final indictments in late 2004 and the last war crimes indictments were unsealed in March 2005. Under its "completion strategy," ICTY had planned to conclude all initial trials by 2008 and all court proceedings by 2010. However, ICTY officials have extended their estimate for a completion date by at least one year. The ICTY President has confirmed that trials will run into 2009 or beyond, depending on many factors, including how soon Karadzic and Mladic are captured.<sup>1</sup> Tribunal officials stress that all of the remaining fugitives, especially Karadzic and Mladic, must be brought to justice before the Tribunal closes its doors for good. The extended trial against Slobodan Milosevic ended without a verdict after Milosevic's death on March 11, 2006, by a heart attack while in custody. In November, Serbian Radical Party leader Vojislav Seselj engaged in a hunger strike while in the detention unit, causing his case proceedings to be suspended. Seselj ended his strike in early December. The Hague opened a major trial concerning the 1995 Srebrenica massacre against multiple suspects in mid-2006, without the presence of Mladic. Overall, the Tribunal has closed about two-thirds of its cases.

U.S. Administration and congressional interest in Balkan cooperation with the Tribunal stems from longstanding U.S. support for ICTY and insistence that the top-ranking indictees 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. U.S. officials have long viewed full ICTY cooperation to be a pre-condition to further Euro-Atlantic integration but altered this policy at the November 2006 NATO summit in Riga, which invited three Balkan states to join Partnership for Peace. In annual appropriations bills, Congress has conditioned some bilateral U.S. assistance to Serbia on ICTY cooperation. Under an FY2006 foreign aid law (P.L. 109-102, H.R. 3057), funding for Serbia was conditional on the President's certification that Serbia was cooperating with ICTY, including the surrender and transfer of indictees Mladic and Karadzic. Unable to make this certification, the Secretary of State suspended \$7 million in FY2006 funds for Serbia on May 31, 2006. The Bush Administration has also supported the Tribunal's completion strategy.

## **Chronology of Transfers Since Early 2005<sup>2</sup>**

*06/10/06* — Former Bosnian Serb military police officer Dragan Zelenovic was transferred to The Hague. He had been captured in Siberia by Russian authorities in August 2005 but only extradited to Bosnia in June 2006.

*02/21/06* — Milan Lukic was transferred to The Hague. He had been arrested in Buenos Aires, Argentina, in August 2005. He is under the same indictment from 1998 as Sredoje Lukic (see below).

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<sup>1</sup> Statement by Judge Fausto Pocar, ICTY President, to the U.N. Security Council, Dec. 15, 2006, available at [<http://www.un.org/icty/>].

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

12/10/05 — Croatian Gen. Ante Gotovina was transferred to The Hague. Spanish authorities arrested Gotovina in the Canary Islands on December 7. Gotovina's indictment charges him 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.

09/16/05 — Former Bosnian Serb paramilitary leader Sredoje Lukic was transferred to The Hague from the RS. His indictment from 1998 charges him, his cousin Milan Lukic, and Mitar Vasiljevic (already in custody) with war crimes committed in the Visegrad area, 1992 to 1994.

04/25/05 — General Nebojsa Pavkovic, former Serbian Army chief of staff, arrived at The Hague. He is charged with alleged crimes relating to Serbian military and police operations in Kosovo in 1998-1999. ICTY's provisional release of Pavkovic in September was held up in appeal; he was eventually released pending trial on November 21.

04/14/05 — 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.

04/07/05 — Former Bosnian Serb commander Milorad Trbic arrived at The Hague and is charged in the same indictment as Vinko Pandurevic (see 03/23).

04/04/05 — Former Serbian special police General 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. Lukic was granted provisional release on October 3.

04/01/05 — 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.

03/24/05 — 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.

03/23/05 — Former Bosnian Serb General 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 related to the 1995 massacre in Srebrenica.

03/17/05 — 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.

03/16/05 — 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.

03/14/05 — Former Bosnian Serb Chief of Police Gojko Jankovic was transferred to The Hague from Banja Luka.<sup>3</sup> He is charged with war crimes allegedly committed in the 1992 attack on the Bosnian town of Foca.

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<sup>3</sup> 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.

*03/11/05* — 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 Bosnian Serb police in Bosnia during 1992. ICTY provisionally released Stanisic on July 22.

*03/09/05* — Ramush Haradinaj arrived at The Hague after resigning from his position as Kosovo Prime Minister. The indictment against the former Kosovo Liberation Army commander 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. Haradinaj was granted provisional release, with conditions, including permissions to engage in some political activities.

*03/07/05* — General 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. The tribunal granted Perisic provisional release on June 9.

*02/28/05* — General 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. Miletic was provisionally released on July 22.

*02/28/05* — General Rasim Delic, former Chief of the General Staff of the Bosnian Army, departed Sarajevo for The Hague, and is charged with command authority over four counts of violating customs of war in 1993 and 1995. Delic was granted provisional release on May 6.

*02/24/05* — 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. Gvero was provisionally released on July 22.

*02/03/05* — General 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 the end of 2006, six known indicted suspects remained at large. The short list for most concerned parties comprises the top two remaining suspects: former Bosnian Serb leaders Radovan Karadzic and Gen. Ratko Mladic. The indictments against Karadzic and Mladic charge them 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 from Srebrenica and other areas.

ICTY Chief Prosecutor Carla del Ponte has frequently charged that five of the remaining suspects, including Mladic and Karadzic, remain “within reach” of authorities in Serbia and the RS, with the sixth believed to be in Russia. In particular, she has charged that Belgrade could “easily arrest” Mladic.<sup>4</sup> Throughout much of 2005 and early

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<sup>4</sup> See address by ICTY Prosecutor Carla del Ponte to the U.N. Security Council, December 15, 2006. Serbian government officials dispute this claim. However, Belgrade authorities have revealed that Mladic had occasionally received shelter from the Serbian military until mid-2002.

2006, several news stories reported sightings of Karadzic and Mladic and unconfirmed surrender negotiations with local authorities. However, Serbian and international officials immediately discounted these reports, and Mladic remains at large. Other reports have suggested that Mladic has become seriously ill.

## Policy Implications

The United States and the European Union, often in conjunction with ICTY's Office of the Prosecutor, have frequently wielded conditionality policies in order to foster improved Balkan cooperation with ICTY. On the incentive side, western officials have expressed support for the Euro-Atlantic aspirations of the western Balkan states and for moving forward in these integration processes, some of which have lagged primarily over limited ICTY cooperation. All of the western Balkan states have made closer ties to NATO and especially the EU a key strategic priority. At the same time, western officials also emphasize that the Balkan states must 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. In this regard, NATO's invitation in November 2006 to Serbia and Bosnia (in addition to Montenegro) to join PfP was seen as a significant shift in long-standing conditionality policy.

**Bosnia and Herzegovina.** Bosnia and Herzegovina has sought membership in NATO's Partnership for Peace (PfP) program and completion of a Stabilization and Association Agreement (SAA) with the European Union. Limited cooperation with ICTY, especially by the Republika Srpska (RS), contributed to a slowdown in both efforts. Until January 2005, RS authorities had not turned over a single indicted suspect, and ICTY officials have since reported little effort by the RS to locate or arrest Radovan Karadzic. The ICTY issue also provided former High Representative Ashdown justification for removing obstructionist officials, freezing assets, and even re-shaping governing institutions especially in the defense and security sectors. The EU opened SAA negotiations with Bosnia in November 2005 after Bosnia's leaders came to a preliminary agreement on police reforms; stalled reforms in the police and other sectors have presented obstacles to concluding the SAA, although incomplete ICTY cooperation may also present an unfulfilled requirement. As noted earlier, Bosnia gained entry into NATO's PfP program in late 2006.

**Croatia.** Croatia had a largely positive record of cooperation with ICTY since 2001 except for one high-profile case involving indicted Gen. Ante Gotovina. In March 2005, EU members indefinitely postponed the opening of membership talks with Croatia and created a special task force to assess Croatia's ICTY cooperation. The Croatian government adopted an Action Plan to increase efforts to track down Gotovina. ICTY Prosecutor del Ponte reported "full" cooperation with Zagreb on October 3, paving the

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<sup>4</sup> (...continued)

*Financial Times*, Feb. 3, 2006. More recent news accounts speculate that Mladic may have been hiding in Belgrade as late as January 2006

way for the EU to formally open accession negotiations with Croatia.<sup>5</sup> Gotovina's subsequent capture resolved the matter of ICTY cooperation for Croatia.

**Serbia and Montenegro.** Despite Serbia's notable achievement of extraditing wartime Serbian leader Slobodan Milosevic to The Hague in 2001, Serbia's level of cooperation with ICTY has been limited, according to most assessments. Beginning in late 2004, the Kostunica government substantially increased efforts to encourage the voluntary surrender of indicted persons, even while it did not abandon 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 much larger nationalist Radical Party (SRS) vehemently oppose forced indictee transfers to The Hague. With Serbia now set to hold new elections in January 2007, few observers expect further action to arrest indicted suspects. Generally, however, some analysts believe that strong domestic support for EU integration and signs of diminishing public opposition to Serbian cooperation with ICTY favor eventually meeting EU requirements. Many analysts also cite the manner in which Croatia secured Gen. Gotovina's arrest as a model example for Serbia to follow. In July 2006, the Serbian government adopted its own Action Plan but has not yet achieved similar success. Serbian authorities have brought charges against associates of Mladic for helping him avoid arrest.

Serbia's cooperation with ICTY has been an intermittent sore spot in its foreign relations. In accordance with annual foreign aid legislation, the United States suspended portions of bilateral assistance to Serbia over war crimes issues in FY2004, FY2005, and most recently in May 2006, affecting some FY2006 funds. Serbia and Montenegro had long been denied entry into Partnership for Peace, despite having made some significant progress in defense reforms, until the 2006 NATO summit. In recent years, Serbia and Montenegro lagged behind other western Balkan states in the EU's Stabilization and Association process.<sup>6</sup> The EU opened SAA negotiations with Serbia in October 2005 but suspended the talks in May 2006, explicitly over the issue of cooperation with ICTY. Brussels has expressed readiness to resume talks once full ICTY cooperation is achieved and is likely to review the status of the SAA talks after Serbia's January 2007 elections.

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<sup>5</sup> EU officials denied that the positive decision on Croatia was made in exchange for Austria's acceptance of opening accession talks with Turkey, but several media commentators questioned the "suspiciously expedient" circumstances. Del Ponte later reported that her assessment of Croatia's "full cooperation" came after she was given information that Croatian authorities had located Gotovina in Spain.

<sup>6</sup> Complications arising from the state of the Serbia and Montenegro union had also presented some obstacles to EU integration. With the separation of Montenegro from the union in May 2006, both countries have pursued independent paths toward EU integration.