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The Hague Tribunal: Substantial Progress, Key Arrests Expected

By Ylli Bajraktari
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With the anniversary of the Srebrenica massacre approaching in July and the two most wanted individuals, Ratko Mladic and Radovan Karadzic, still at large, the [Balkans Working Group](#) of the U.S. Institute of Peace hosted a [meeting on June 14 featuring Carla Del Ponte](#), Chief Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The meeting took place shortly after the prosecutor in the trial of Slobodan Milosevic released a video showing the execution of Bosnian Muslim men by Serbian paramilitary forces near Srebrenica in 1995.

Nina Bang-Jensen, Executive Director of the Coalition for International Justice, introduced the Chief Prosecutor. [Daniel Serwer](#), Vice President and Director for Peace and Stability Operations at the Institute, moderated the session. This report seeks to summarize the main views expressed by the prosecutor. The Institute of Peace does not advocate specific policy positions.

The tide is turning...

Cooperation between authorities in the Balkans and ICTY has increased dramatically in the last six months with the transfer of 20 indictees, including the former prime minister of Kosovo and several other prominent figures. Particularly important is the positive change in attitude by Serb authorities in Belgrade, representing a turnaround from previous reluctance to cooperate with ICTY. International pressure, especially from the European Union (EU), supported fully by the United States, is the main reason for the change.

...but Serbia and Republika Srpska still need to act on Karadzic and Mladic

However, the two most wanted Serb indictees, Karadzic and Mladic, are still at large. ICTY cannot call itself a success until they are in The Hague on trial.

The execution video released earlier in June by the prosecution, which has been shown to a wide audience in Serbia, prompted authorities in Belgrade to arrest several of the apparent perpetrators. In addition, the few minutes of video had a dramatic impact by demonstrating that torture and murder by Serb paramilitary forces had definitely occurred and undermined denials originated under the Milosevic regime and continued thereafter. There is reason for optimism that the new public attitude in Belgrade will enable the Serbian authorities to carry through and bring Mladic, and perhaps Karadzic, to The Hague.

ICTY is not responsible for arrests and transfers and must rely on others for these critical functions. Locating Mladic and Karadzic will require a collaborative relationship between the international community and the local authorities, including those in Serbia and Republika Srpska as well as Montenegro. There is evidence of greater willingness to cooperate in Belgrade but less so in Banja Luka.

Croatia needs to remove the last obstacle to cooperation with ICTY...

The last unresolved issue between Croatia and the ICTY is the arrest and transfer to ICTY of the indicted General Ante Gotovina, who has been hiding in the border region of Croatia and the Croat-majority portions of southern Bosnia. Until recently, Zagreb denied any knowledge of where Gotovina is located.

The March EU decision to postpone the beginning of the membership negotiations has served as a wake up call to the Zagreb authorities, who have subsequently adopted an "Action Plan" to locate and apprehend Gotovina but still need to make bold decisions. Gotovina owes it to his reputation as a war hero to defend himself in The Hague. His transfer will bring additional pressure on Serbia and Republika Srpska to act.

...allowing ICTY to complete its work, albeit with some lingering controversies

The Tribunal has finished indicting people accused of war crimes as of the end of 2004, as instructed by the United Nations Security Council, though it occasionally amends an existing indictment. One amendment has been grossly misconstrued in Croatia. It does not accuse the entire Government and/or treat its effort to regain control of Croatian territory by military means as in-and-of-itself a war crime. This is wrong. In fact, the defense for a Croatian indictee requested the amendment, so as to clarify the charge.

The Tribunal is accelerating its work in order to finish all the trials by 2008 and all appeals by 2010. At the same time, the ICTY has begun to work closely with national prosecutors in the region with the intention of transferring cases that have not yet seen indictments in The Hague, as well as some lesser indictees, to national courts. International judges and prosecutors are training Balkans counterparts in order to upgrade their capability to conduct trials. So far, only the court in Bosnia has received cases, while other transfers are pending. While there have been complaints that ICTY has not indicted an Albanian in connection with the 2001 war in Macedonia, the fact is that the Macedonian government has shown concern over the transfer of cases from The Hague.

There have also been complaints about the controversial indictment of Croatian journalists for revealing confidential ICTY information. The Tribunal ordered these indictments, which were not undertaken independently by the prosecutor.

ICTY has now indicted 162 individuals for war crimes, crimes against humanity, and genocide. While the Tribunal might have been better equipped and funded for public outreach, there is no evidence that its efforts have set back the cause of democracy in the region. To the contrary: it has held individuals accountable for terrible crimes and enabled the region to proceed with its democratic transition.

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This USIPeace Briefing was written by Ylli Bajraktari in the [Peace and Stability Operations](#) program at the Institute of Peace. The views expressed here are not necessarily those of the Institute, which does not advocate specific policies.

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