

HUMAN RIGHTS WATCH

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December 5, 2008

HUMAN
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Dear Foreign Minister,

We understand that at next week's meeting of the General Affairs and External Relations Council (GAERC), Foreign Affairs Ministers will adopt conclusions, among others, on the European Union's (EU) enlargement strategy. The conclusions will be based on the European Commission's report of November 5, 2008, summarizing the progress made in a number of candidate and potential candidate countries.

As you know, Serbia is one of the countries involved in a Stabilization and Association process which could lead to membership into the EU. Human Rights Watch is writing to urge you to adopt conclusions at next week's GAERC meeting emphasizing that Belgrade's full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) remains a necessary precondition for the ratification of the Stabilization Association Agreement (SAA) signed earlier this year with Serbia.

Undoubtedly, Serbia's cooperation with the Yugoslav tribunal has grown stronger in recent months, and these developments should be welcomed. The arrest and surrender to The Hague of former Bosnian Serb police commander Stojan Zupljanin and of former Bosnian Serb leader Radovan Karadzic—one of the indicted architects of the Srebrenica massacre—demonstrate Belgrade's progress in 2008. However, while these are important developments, it must be emphasized that these arrests do not constitute full cooperation with the ICTY. Indeed, the European Commission's recent report urges Belgrade to "build on" the achievements represented by these arrests and to "do all in its powers" to arrest and surrender to the Yugoslav tribunal the two remaining fugitives, Ratko Mladic and Goran Hadzic.¹

¹ "Serbia 2008 Progress Report accompanying the Communication from the Commission to the European Parliament and the Council, Enlargement Strategy and Main Challenges 2008-2009," COM (2008) 674, November 5, 2008, http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/serbia_progress_report_en.pdf (accessed December 3, 2008), p. 21 ("Serbia Progress Report").

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These positive developments have come as a result of the EU's continued pressure on Serbia to cooperate with the ICTY.² As such, the importance of preserving the EU's leverage—through a firm and credible conditionality policy—to ensure that the remaining fugitives, including Mladic, are arrested and brought to face justice before the Yugoslav tribunal cannot be overstated. Maintaining a principled stance on cooperation with the ICTY conveys to Serbia and the broader international community that justice for serious crimes in violation of international law, including genocide, remains at the core of Europe's values. Moreover, it would be consistent with the European Commission's November 2008 progress report—a report which, as noted above, forms the basis for the GAERC's conclusions on the EU's enlargement strategy—in its emphasis that “full cooperation with the ICTY is an international obligation and one of the key priorities of the European Partnership.”³

Furthermore, Serbia's full cooperation with the ICTY, together with fair domestic trials for war crimes, crimes against humanity, and genocide, will help ensure a democratic future based on respect for the rule of law in Serbia. A rights-respecting, democratic Serbia will be better able to normalize relations with its neighbors and eventually become a functioning member of the European Union. The failure to hold accountable those responsible for war crimes and genocide will only strengthen those forces within Serbia hostile to justice and the other values that underpin the European Union.

Human Rights Watch, therefore, calls on EU foreign ministers next week to demonstrate your shared commitment to international justice and to insist on Serbia's full cooperation with the ICTY, including the arrest and surrender of remaining fugitives, before allowing any additional steps in the accession process.

Sincerely,



Lotte Leicht
European Union Advocacy Director



Richard Dicker
International Justice Program Director

Cc: EU High Representative for the Common Foreign and Security Policy Javier Solana;
EU Enlargement Commissioner Olli Rehn; PSC Ambassadors.

² Former ICTY Prosecutor Carla Del Ponte stressed that “90% of all indictees brought to justice [before the ICTY] are a direct result of conditionality applied by the EU.” See “Del Ponte Urges EU to Keep Up Pressure on Serbia,” *Europolitics News Neighbours*, July 23, 2007.

³ Serbia Progress Report, p. 21.