

HUMAN RIGHTS WATCH

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To: European Union Ministers of Foreign Affairs

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Your Excellencies,

We are writing to urge you to use the upcoming European Union (EU) Foreign Ministers' meeting in Luxembourg to re-state clearly the EU's principled approach towards Serbia in relation to its cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). In particular, we believe that the General Affairs and External Relations Council (GAERC) should adopt conclusions insisting that Serbia fully cooperate with the ICTY, including through the arrest and transfer of Ratko Mladic, so that the Commission and eventually the Council can proceed with the signing of the Stabilization and Association Agreement (SAA). This would strongly contribute to the strengthening of ties between the EU and Serbia.

The lead up to the initialing of the SAA represents an important opportunity to press Serbia to increase its efforts to locate, arrest and transfer Ratko Mladic, one of the architects of the Srebrenica massacre, to the ICTY. As you know, Serbia's previous non-cooperation with the ICTY led to the suspension of SAA negotiations in May 2006. At that time, Commissioner Rehn emphasized the importance of the arrest and transfer to the ICTY of Mladic for the resumption of negotiations. As recently as September 2007, Commissioner Rehn appeared to support the approach that Serbia's full cooperation with the ICTY entails the arrest of Mladic and the remaining fugitives and their surrender to The Hague.¹

There have been several encouraging signs regarding Serbia's cooperation with the ICTY during 2007. War crimes suspects Zdravko Tolimir and Vlastimir Djordjevic were arrested earlier this year. Additionally, Serbian President Boris Tadic pledged, in July, to arrest the fugitive war crimes suspect Ratko Mladic by the end of 2007.² Serbia's commitment to arresting missing war crimes suspects was recently reiterated by Foreign Minister Jeremic during his visit to Brussels.³

¹"EU to Accept Any Joint Solution Kosovo, Rehn Tells Serbian Foreign Minister," *BBC Monitoring European*, September 6, 2007.

²"Serbia Vows Arrest and Trial of Mladic by Year-end," *Reuters News*, July 6, 2007.

³Joint Solution Kosovo, Rehn Tells Serbia Foreign Minister," *BBC Monitoring European*, September 6, 2007.

While these developments are welcome, they do not represent full cooperation with the ICTY. Indeed, despite this progress, ICTY prosecutor Carla Del Ponte has publicly urged the authorities in Belgrade to take more effective action towards full cooperation with the ICTY. This includes the arrest and surrender of Ratko Mladic and the remaining fugitives to the tribunal to stand trial.⁴

The prospect for closer ties with the European Union has been the most important factor in ensuring cooperation with the ICTY and the arrest of persons suspected of horrendous crimes in the former Yugoslavia. Ms. Del Ponte has stressed that “90% of all indictees brought to justice [before the ICTY] are a direct result of conditionality applied by the EU.”⁵

We are concerned that there has been a negative shift regarding the meaning of “full cooperation” as including the arrest and transfer of Ratko Mladic to the ICTY. For example, Commissioner Rehn has recently characterized full cooperation with the ICTY as “leading to” the arrest of the remaining war criminals, including Mladic and Karadzic.⁶ This represents a significantly lower threshold for evaluating Serbia’s cooperation with the tribunal.

As with Croatia in the case of General Ante Gotovina, the EU must demand that Serbia arrest and transfer fugitives who are known to be present on its territory, in order to fulfill conditionality. Absent that, Serbia should at least be in a position to provide concrete evidence that the fugitives are not within its reach and is in the process of facilitating their arrest by other authorities.

Along with domestic war crimes trials, Serbia’s full cooperation with the ICTY – which includes the arrest and transfer of Mladic and the other remaining fugitives to The Hague – will help ensure a democratic future based on respect for the rule of law in Serbia. A stable, 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 to the other values that underpin the European Union.

The EU’s leverage to press for justice for the victims will be significantly diminished if it initials the SAA in the absence of Ratko Mladic in The Hague. Human Rights Watch, therefore, urges you to make clear at next week’s meeting that your government continues to view Serbia’s full cooperation with the ICTY, including the arrest of Ratko Mladic, as a necessary precursor to signing a SAA.

⁴ “Prosecutor’s statement on Serbia’s cooperation with her office,” *ICTY Press Release*, October 3, 2007, <http://www.un.org/icty/pressreal/2007/pr1187e.htm> (accessed October 10, 2007).

⁵ “Del Ponte Urges EU to Keep Up Pressure on Serbia,” *Europolitics News Neighbours*, July 23, 2007.

⁶ “Une Europe forte, le regard tourné vers le Sud-est: notre future européen,” EU Commissioner for Enlargement Olli Rehn’s speech at Sciences Po, Paris, October 4, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lotte Leicht', with a stylized, flowing script.

Lotte Leicht
EU Director

A handwritten signature in black ink, appearing to read 'Richard Dicker', with a stylized, flowing script.

Richard Dicker
Director, International Justice Program

Cc: EU Commissioner for Enlargement Olli Rehn
EU High Representative for Common Foreign and Security Policy