

Icty Action plan scorecard, October 2006

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TO RUEHC/SECSTATE WASHDC IMMEDIATE 9541

INFO RUEHVJ/AMEMBASSY SARAJEVO IMMEDIATE 0263

RUEHTC/AMEMBASSY THE HAGUE IMMEDIATE 0499

RUEAWJA/DEPT OF JUSTICE WASHDC IMMEDIATE

RHEHNSC/NSC WASHDC IMMEDIATE 1206

RUEKJCS/SECDEF WASHDC IMMEDIATE

RUEHBS/USEU BRUSSELS IMMEDIATE

RUEHNO/USMISSION USNATO IMMEDIATE 0616

RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 0250

RHMFSS/HQ USEUCOM VAIHINGEN GE IMMEDIATE

Tuesday, 17 October 2006, 06:20

C O N F I D E N T I A L BELGRADE 001681

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STATE FOR S/WCI

DOJ FOR ALEXANDRE

EO 12958 DECL: CLOSURE OF ICTY

TAGS ICTY, PREL, PGOV, PHUM, KCRM, UNSC, SR

SUBJECT: ICTY ACTION PLAN SCORECARD, OCTOBER 2006

Classified By: DCM Roderick Moore, reasons 1.4 (b,d)

¶1. (c) SUMMARY: In July, the USG provided the GoS with eleven recommendations designed to advance the hunt for Ratko Mladic. Due primarily to the resistance of PM Kostunica himself, the GoS has not carried out in full a single one of our recommendations (two have been, arguably, partially initiated). In fact, Kostunica has literally brushed aside our recommendations, telling A/S Fried recently that Serbia “does not need two action plans.” With a constitutional referendum and follow-on elections likely to dominate the political calendar for the next several months, Action Plan coordinator Rasim Ljajic has told us frankly that we should not expect any more public activity on the issue, though he says below-the-radar operational activities will continue.

¶2. (c) Moreover, Carla del Ponte has sharply criticized the ineffectiveness of GoS implementation of the “Action Plan” Serbia negotiated this summer with ICTY and has told us that the PM has demonstrated no political will to take the steps necessary to bring about Mladic’s arrest. By contrast, the PM declared over the weekend that Serbia has done “absolutely everything” to cooperate with ICTY and criticized the EU’s “irrational” approach on Hague conditionality. Below is an assessment of the GOS’ response to our eleven recommendations. END SUMMARY

Proposal 1: Kostunica publicly calls for Mladic’s immediate arrest and instructs all Serbian government officials to do their utmost to accomplish this goal, stating that those that obstruct this goal will be immediately removed from their position. Kostunica asks for the public’s help in this effort and ensures that the government’s hotline number is widely publicized.

Status: In the three months since the Action Plan was initiated, Kostunica has said twice in prepared written statements (one delivered orally) that Mladic should be “brought in and handed over” to ICTY (i.e., he shied away from using the word “arrest,” despite explicitly assuring the Ambassador that he would do so). Within those two statements, he tempered his calls by also criticizing Bosnia’s “mockery of justice” in not apprehending former BiH General Dudakovic for crimes committed against Serbs. Kostunica has made no appeal for public assistance in the Mladic hunt, has not publicly called upon his security services to find and arrest Mladic, nor publicly threatened to sanction individuals assisting in Mladic’s flight from justice. In our opinion, and that of Ljajic and Deputy PM Dulic-Markovic, neither the PM nor the government has made a sustained effort to address our first proposal. Ideally, we would want to see Kostunica launch a sustained effort with a nationally-televised, Oval Office-type address to the nation to make the points mentioned in our recommendation.

Proposal 2. Kostunica, along with Interior Minister Jovic, issues PUBLIC instructions to all security units throughout Serbia to dedicate full resources to arresting Mladic.

Status: This has not been done and is not currently planned.

Proposal 3. Serbian security forces initiate an effective manhunt along the lines of U.S. Marshal Service recommendations for such efforts.

Status: This has not been done and is not currently planned. The U.S. Marshals provided a detailed briefing to Minister Jovic in 2005, including specific recommendations on the structure and hierarchy of an effective task force. It is our assessment, and that of ICTY, that the gaps in cooperation among the security services (BIA, VBA, and MUP) and the lack of more results are at least in significant measure due to the loose and ineffective operational structure the GOS has put in place. Operational efforts remain largely as they were prior to the announcement of the Action Plan.

Proposal 4. Kostunica privately calls on the Serbian Orthodox Church to publicly support the arrest/transfer of Mladic. Status: This has not been done and is not currently planned.

Proposal 5. Headed by the PM and President Tadic, Serbian military intelligence (VBA) shares the classified briefing given recently at the country's Supreme Defense Council with U.S. Ambassador and selected EU ambassadors. That briefing should include a comprehensive list of people known or suspected to have supported Mladic, as well as his whereabouts up until the present day and GoS efforts to apprehend him.

Status: This has not been done and is not currently planned.

Proposal 6. Justice Minister Stojkovic announces the opening of a formal investigation into Mladic supporters based in part on the findings of the Republika Srpska Truth Commission report on Srebrenica, which includes a detailed list of people involved in or supporting the Srebrenica massacre, including Mladic and his support network. The focus of this investigation should be to identify current Mladic supporters.

Status: This has not been done and is not currently planned. In fact, Stojkovic's efforts on ICTY since July have been largely counterproductive. For instance, he opposed the War Crimes Prosecutor's effort to introduce legislation that would give him jurisdiction over aiders and abettors of ICTY fugitives.

Proposal 7. As part of the above investigation, those suspected of supporting Mladic or having information on Mladic's support network will immediately be brought in for questioning, and if appropriate, detained. This would include senior figures such as former head of military intelligence Aca Tomic, former Army Chief of Staff Krga, and Mladic son Darko Mladic. They

should be held for questioning on the same basis, as appropriate, as those currently in detention (former lower level Mladic supporters wrapped up in the past several months).

Status: This has not been done. Ljajic told us eight weeks ago it was planned, but it never happened. Tomic is believed to have been close to Kostunica, including during the period that Tomic was involved in protecting Mladic in Serbia.

Proposal 8. Kostunica proposes to parliament a new law that imposes additional criminal penalties on anyone found to be assisting PIFWCs in any way, including financially.

Status: This has not been done. In fact, Kostunica's government initially opposed this legislation when proposed by the War Crimes Prosecutor. Only following high-level interventions by USG and ICTY officials has Kostunica offered to introduce such legislation - an offer del Ponte dismissed as insignificant given that the Serbian parliament is not slated to meet anytime soon.

Proposal 9. The Government of Serbia prepares and makes available to the general public a report on Mladic, containing especially information about war crimes he is accused of committing.

Status: This has not been done. Kostunica's government has done basically nothing to place Mladic's crimes in context. Indeed, before the tenth anniversary of the Srebrenica massacre in 2005, Kostunica's party blocked a special parliamentary resolution that would have condemned the massacre; Kostunica argued that such a resolution would be inappropriate if it omitted an equal condemnation of crimes against Serbs. Ljajic told us he planned to "leak" information about Mladic's alleged atrocities and his massive financial gains from the Bosnia war to local press to start "demythologizing" him, but this never happened and, according to Ljajic, is no longer being planned.

Proposal 10. Kostunica forms an interagency task force within Serbia headed by the Special Prosecutor for War Crimes, which will be responsible for the location and apprehension of Mladic and other high-priority fugitive indictees. All personnel on the task force should be properly vetted to ensure that no investigations or the mission of the task force will be compromised.

Status: This recommendation has been only incompletely fulfilled. The task force, put in place at the behest of ICTY in the course of negotiations over the "Action Plan" (i.e., not in response to the USG recommendation), lacks the sort of centralized, well-resourced structure that the U.S. Marshals recommended. War Crimes Prosecutor Vukcevic is broadly coordinating operational activities, but ICTY has assessed that this has not led to a substantial change in the form or the intensity of the effort.

Proposal 11. Serbia helps establish and actively participates in a regional task force to coordinate efforts among the various law enforcement and intelligence agencies throughout the region to find and apprehend persons wanted for war crimes.

Status: An initiative in this direction has been launched, and one meeting has been held. According to Ljajic, there is some evidence that Bosnian security agencies and BIA are cooperating on some surveillance activities.

¶3. (c) CONCLUSION: In all, at most one or two of our eleven proposals have been partly addressed. The most critical element of the proposals - a consistent, concerted effort by Kostunica and the government to make the public aware that they are serious about tracking down and arresting Mladic - has not been initiated. Yet on October 14, Kostunica told local press that "Serbia has done absolutely everything to complete cooperation with the Hague tribunal." Based on what we have seen to date, we cannot concur with that rosy assessment.

POLT