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One Hundred Seventh Congress

Congress of the United States

Committee on International Relations

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May 9, 2002

The Honorable Colin L. Powell
Secretary
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

We wish to draw your attention to recent developments relating to the International Criminal Tribunal for the Former Yugoslavia (ICTY). On February 28, 2002, the Committee on International Relations held a hearing on the work of the United Nations ad hoc tribunals for the former Yugoslavia and Rwanda. Your Ambassador for War Crimes Issues, Pierre-Richard Prosper, testified before the Committee that the Administration fully supports the two ad hoc tribunals and wishes to see them complete their work by the years 2007-08. We strongly support the Administration's efforts to help the ad hoc tribunals complete their mandate by a fixed date in the not-too-distant future. To this end, we encourage you to continue working with our Allies and governments in the region to bring about the prompt arrest of individuals such as Ratko Mladic and Radovan Karadzic whose prosecution must be completed before the ICTY can finish its work.

During the hearing it was suggested that the Chief Prosecutor for the ICTY, Carla Del Ponte, may investigate U.S. military and civilian personnel for actions undertaken by them in an official capacity in Croatia in 1995. According to an August 2001 *Newsweek* magazine article by Roy Gutman, the Clinton Administration provided intelligence and other assistance to the Republic of Croatia in connection with its August 1995 offensive against forces allied with Slobodan Milosevic, codenamed "Operation Storm."


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The ICTY has indicted a Croatian General, Ante Gotovina, for war crimes and crimes against humanity. These allegations are based on reports that he failed to intervene to stop forces under his command who intentionally drove thousands of Serb civilians from their homes during this operation. Testimony was presented at our hearing questioning the factual basis for this indictment, and indeed the U.S. Ambassador to Croatia at the time of this operation, Peter Galbraith, has argued that Serbian civilians were not forced to flee. Nevertheless, it was brought to our attention that the ICTY may investigate U.S. officials for potential command responsibility in connection with Operation Storm.

Mr. Secretary, you know of the great concern in Congress regarding the International Criminal Court and the risk that it may investigate and prosecute U.S. personnel. The ICTY's ongoing investigation of Operation Storm may present similar risks. Accordingly, we urge the Administration to carefully monitor the Gotovina case and related investigations in order to ensure that no U.S. official is investigated or prosecuted by this U.N. tribunal for formulating or carrying out U.S. government policy.

Sincerely,


HENRY J. HYDE
Chairman


CHRISTOPHER H. SMITH
Vice Chairman