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# U.S. ASSISTANCE TO SERBIA: BENCHMARKS FOR CERTIFICATION

## HEARING

BEFORE THE

SUBCOMMITTEE ON EUROPEAN AFFAIRS

OF THE

COMMITTEE ON FOREIGN RELATIONS
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# U.S. ASSISTANCE TO SERBIA: BENCHMARKS FOR CERTIFICATION

**THURSDAY, MARCH 15, 2001**

U.S. SENATE,
SUBCOMMITTEE ON EUROPEAN AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:07 p.m. in room SD–419, Dirksen Senate Office Building, Hon. Gordon H. Smith (chairman of the subcommittee) presiding.

Present: Senators Smith and Biden.

Also present: Senator Voinovich.

Senator SMITH. Ladies and gentlemen, we welcome you all to this very important hearing on U.S. assistance to Serbia. I am very pleased to be joined by my colleague from Ohio, Senator Voinovich. He takes a very personal and I think a family interest in issues related to the former Yugoslavia.

I must apologize at the outset that we are told there are votes scheduled during the course of the hearing, but I did not want to postpone this hearing. This is a timely hearing, an important hearing, and as best we can, Senator Voinovich and I will make sure we get through this hearing and get our votes in as well.

October 7, 2000, an historic day for the people of the former Yugoslavia, was a day that the Serbian people ended a dark era of tyranny and violence. Slobodan Milosevic was peacefully deposed as one of Europe's last dictators, and Vojislav Kostunica emerged as the leader of a democratically elected FRY Government, a government that has promised sweeping political and economic reforms.

The United States is committed to supporting these reforms. Toward that end, Congress appropriated up to $100 million in development assistance to the Federal Republic of Yugoslavia [FRY]. However, recent history in the FRY prompted Congress to condition much of that assistance on the conduct of the new government in Belgrade. Specifically, that assistance will continue to flow to the FRY after March 31 only if our President certifies that Belgrade is meeting three basic conditions. They are the following.

First, the Government in Belgrade must be cooperating with the International Criminal Tribunal for Yugoslavia, and that cooperation is defined as including access for investigators, provision of documents, and surrender and transfer of indictees or assistance in their apprehension.

Second, Belgrade must be taking steps that are consistent with the Dayton Accords that brought peace to Bosnia. Clearly, Belgrade

must end financial, political, security, and other support to Serbian separatists in Bosnia.

Third, the new Government in Belgrade must be implementing policies which reflect a respect for minority rights and the rule of law.

As the March 31 deadline approaches, it is an appropriate time to assess the FRY's progress in each of these areas. To assist us in this evaluation, we have with us today three very distinguished witnesses. Our first witness will be Ambassador Morton Abramowitz of the Century Foundation. He has served as U.S. Ambassador to many places, Turkey and Thailand, just to name a couple. He remains a powerful voice on matters concerning the Balkans.

Our second witness will be Janusz Bugajski, who directs the East European Project at the Center for Strategic and International Studies. He has written extensively on developments in Central Europe, particularly the Balkans.

The third member of our panel will be Nina Bang-Jensen, executive director for the Coalition for International Justice. The Coalition provides support to the International Court in the form of technical legal assistance, advocacy, and public education.

All of our witnesses are well-qualified to address the subject. I appreciate their willingness to share their views with us this afternoon.

In the past 5 months, there has indeed been positive change in the FRY. I welcome the commitment of the new government to democracy and market reform, as well as establishment of diplomatic relations with Bosnia. I have been particularly impressed by its calm and restrained response to the violence committed by Albanian extremists in the Presevo Valley.

However, I am concerned by other developments in Belgrade. President Kostunica continues to balk on cooperating with the court. He recently condemned the War Crimes Tribunal as illegitimate and politically motivated. Second, Mr. Kostunica has questioned the legality of the Dayton Accords. He has done little to reduce political and material support flowing from the FRY to Serbian separatists in Bosnia.

Third, 5 months after the fall of Mr. Milosevic, hundreds of ethnic Albanians remain wrongfully imprisoned in Serbian jails. They were jailed for resisting the repressions of his regime.

I would like to recognize and honor here today Dr. Flora Brovina, an Albanian prisoner who was tried in Serbia and convicted on false charges of terrorism. We welcome you, madam.

Because so many Albanian prisoners were not as fortunate as Dr. Brovina, and remain in prison, I recently introduced a resolution calling for their immediate release. In short, it appears doubtful that today one could certify that Belgrade is meeting the conditions Congress placed upon assistance to FRY. These are not symbolic benchmarks. They are steps that must be taken if the FRY is to successfully complete its transformation from an unstable and violent kleptocracy into a democratic State that contributes, rather than undercuts, stability in southeastern Europe.

It is imperative that the United States hold the FRY firmly to these standards. Democracy will not prevail in the FRY if it is un-

able to acknowledge that accountability for wars and their atrocities in the former Yugoslavia lies within the Milosevic regime. Democracy will not flourish in the absence of ethnic reconciliation, and that reconciliation cannot occur if Belgrade refuses to release Albanians who have been wrongfully imprisoned.

The consolidation of stability in the Balkans will be undermined if it becomes evident that cooperation with the court and commitment to the Dayton Peace Accords are optional. Indeed, those in Croatia and Bosnia-Herzegovina who are sending indicted war criminals to The Hague and isolating separatists in Bosnia and Herzegovina will closely observe the standards the United States sets for the FRY in these two areas.

Finally, I hope that our European partners will be willing to stand with us in the effort to ensure that the Government of the FRY meets these three conditions. If there is a division between the United States and Europe on this matter, there is little hope that decisive progress will be made in the FRY. Moreover, such division would jeopardize support in the United States to work with our European allies and partners in the effort to bring enduring peace and stability to the Balkans. We now recognize Senator Biden, who is the ranking member of the full committee, and we welcome you, sir.

Senator BIDEN. Thank you very much, Mr. Chairman. In the interest of time, because we are going to have five votes, I am told, beginning at 2:30, I will ask unanimous consent that my entire statement be placed in the record.

Senator SMITH. Without objection.

Senator BIDEN. And I would like to associate myself with the remarks you made. I thought you made a very good opening statement, Mr. Chairman.

Let me just focus on two things very quickly. One, if we examine the policy implications and the possible outcomes of the March 31 deadline, the first seems to me what might be the political and economic ramifications of that decision I think we have to examine. The second is, will we lose leverage in the future with Belgrade if President Bush decides to move ahead with certification, if it took an especially liberal interpretation of the compliance for him to do so?

I am very concerned, quite frankly. The Bush administration is showing signs of caving on certification. My suspicion is only enhanced by the refusal to send up a witness today, but I could be wrong about that. I hope I am.

It seems to me we have to stay the course on this matter, because if we certify Serbia prematurely, without genuine compliance, I fear we will have cashed in our last and our best form of leverage, particularly by signing our unconditional support for to aid Yugoslavia from the World Bank and the International Monetary Fund. Let us be honest about it; support from international financial institutions is of greater value to Belgrade than the approximately $60 million in U.S. assistance not yet distributed this fiscal year.

In the past few days, there have been news reports that Belgrade is hoping to win certification at the eleventh hour by arresting Milosevic. While I would be the first to cheer such a move, I cau-

tion that we must not lose sight of the ultimate goal of the process. I do not want Mr. Milosevic to become this century's Al Capone—a ruthless murderer, as you recall, but was convicted and incarcerated for tax evasion.

I have no objection to the Government in Belgrade arresting and trying Milosevic for domestic crimes if they are going to turn him over after that to The Hague, and I have no objection to having The Hague on the Danube. If that is part of the problem, I have no objection to The Hague moving to Belgrade to conduct those war crimes tribunals. That is what I mean by Hague on the Danube. But I have significant objection if we fail to try Mr. Milosevic.

We do have three distinguished witnesses, one of whom I know extremely well, and I rely on him for his advice. The other two I know of, and have spoken with in the past. I am anxious to hear what they have to say, and I yield the floor, Mr. Chairman.

[The prepared statement of Senator Biden follows:]

PREPARED STATEMENT OF SENATOR JOSEPH R. BIDEN, JR.

Thank you, Mr. Chairman, and thank you for holding this important hearing.

Our goal here today is fairly straightforward. We want to examine whether or not the new regime in Belgrade is meeting or, at the very least, attempting to meet the three conditions set forth in Section 594 of the FY2001 Foreign Operations bill.

This legislation lays out conditions that must be fulfilled by the Government of Yugoslavia in order for U.S. assistance to continue.

These criteria are well known: progress on minority rights and the rule of law; steps to sever aid and other support for institutions in the Republika Srpska; and, perhaps the most demanding of the three, cooperation with the International Criminal Tribunal for the former Yugoslavia in The Hague.

Additionally, I hope we can examine the policy implications of two possible outcomes following the March 31st deadline.

First, what might be the political and economic ramifications if the President decided not to certify?

Second, would we lose leverage in the future with Belgrade if President Bush decided to move ahead with certification, especially if it took an especially liberal interpretation of compliance for him to do so?

But before we discuss these questions, I think it is worthwhile briefly to re-examine the rationale behind the certification legislation.

In truth, Congress was attempting to strike a fairly delicate balance. On the one hand, we wanted to give Kostunica and his allies the chance to gain their political sea legs and to consolidate their hold on power, which they did by winning the December 2000 parliamentary elections and by weathering a severe winter energy crisis—with the help of emergency U.S. assistance, I might add.

On the other hand, we did not want to fall prey to the kind of uncritical "Yugophoria"—to borrow a phrase from former Senator Dole—that gripped some of our European allies in the heady weeks following Milosevic's ouster.

While we all agree that Yugoslavia has made monumental strides in the past year, these accomplishments cannot erase the terrible crimes committed by Slobodan Milosevic's brutal regime. As Nuremberg taught us, accountability is the quickest way to salve the psychic wounds left by war crimes and allow a society to move forward.

Sooner or later, Serbia must come to terms with its role in the tragic events that took place in Bosnia and Kosovo during the past decade. The new regime in Belgrade needs to understand that the United States will stand firm on this issue, even if it must stand alone.

Furthermore, Congress wanted to avoid creating a regional double standard whereby we hold Croatia, whose government is making courageous efforts to comply with The Hague, to a more stringent set of criteria then we do Serbia.

We did not want to create a new policy based on the flawed logic of "Serb exceptionalism."

To be perfectly honest, I do not see how at this moment President Bush could possibly certify Serbia. With a little more than two weeks remaining before the March 31st deadline, the only progress Belgrade can point to is this week's voluntary surrender of Bosnian Serb indictee Blagoje Simiy.

He is one of at least fifteen individuals indicted for alleged war crimes currently believed to be hiding out in Serbia. This was a positive step, no doubt, but a relatively small one.

I am equally concerned that the Bush Administration is showing signs of caving in on certification—a suspicion that is only enhanced, I must say, by the conspicuous absence of any administration witnesses at this hearing.

We need to stay the course on this matter, because, if we certify Serbia prematurely and without genuine compliance, I fear we will have cashed in our last and best form of leverage, particularly by signaling our unconditional support for aid to Yugoslavia from the World Bank and the International Monetary Fund.

Let's be honest—support of the international financial institutions is of much greater value to Belgrade than the approximately sixty million dollars in U.S. assistance not yet disbursed this fiscal year.

In the past few days, there have been news reports that Belgrade is hoping to win certification at the eleventh hour by arresting Milosevic. While I would be the first to cheer such a move, I would caution that we must not lose sight of our ultimate goal in this process.

I do not want Mr. Milosevic to become this century's Al Capone—a ruthless murderer who, you'll recall, was convicted and incarcerated on the far lesser crime of tax evasion.

I would have no objection to the Yugoslav Government's trying Mr. Milosevic for domestic crimes, but only if Belgrade clearly stipulated that his extradition to The Hague to face war crimes charges would follow.

I look forward to hearing the viewpoints of our distinguished witnesses. I thank each of you for taking time out of your busy schedule to testify before this committee.

Nina Bang-Jensen is the highly regarded Executive Director of the Coalition for International Justice.

Janusz Bugajski a prominent expert on the Balkans, joins us from the Center for Strategic and International Studies, where he heads the Center's East European Project.

And, of course, we are fortunate once again to have with us Ambassador Morton Abramowitz, one of America's most distinguished diplomats and a person with an unsurpassed knowledge of the region. From my conversations with Mort, I believe that he has a keen sense of the policy direction toward which this country ought to be moving.

Mr. Chairman, I will stop here. I would like to thank you again for calling this hearing.

Senator SMITH. Thank you, and I share your concern about the State Department's response in not sending a witness or the memo that they have sent so that we could examine it.

Senator Voinovich, do you have an opening statement?

## STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM OHIO

Senator VOINOVICH. Just a brief response. First of all, I want to thank you very, very much for giving me the opportunity to sit in on this meeting of your Subcommittee on European Affairs. I think you know that during the last 2 years I have been very active on issues affecting Southeast Europe. I have traveled to the region five times, and I have met with leaders of every country in the Balkans, as well as representatives here in the United States.

Most recently, over the New Year's holiday, I traveled to the Balkans with Senator Specter to visit with the new leaders in Serbia and the Federal Republic of Yugoslavia. My goal has been to work toward democratization in the FRY, to emphasize the importance of human rights, the rule of law, and a market economy. I have also encouraged the United States and our allies to remain committed to the implementation of the stability pact and to stay involved in the region.

Earlier this morning, I spoke with President Kostunica and reiterated the importance of arresting Milosevic before March 31 and cooperating with The Hague. I encouraged him to grant a Presidential pardon to the 143-member Djakovica group, ethnic Albanians held in Serb prisons on charges of terrorism, and I told him it was important that he take steps before the March 31 deadline to demonstrate his commitment to making real progress on the three conditions for certification.

President Kostunica said he was doing his best to work through the three conditions outlined in the FY2001 Foreign Operations Appropriations bill. After talking to Ambassador Montgomery, I know that President Kostunica has made progress, particularly on dealing with the Dayton situation and taking steps to release the Albanians that are in jail.

President Kostunica also indicated that his country's high unemployment rate, failing economy and so on, make it pretty difficult for him. He is not having an easy time of it. The violence in the Presevo Valley has put a lot of political pressure on him, and he has had to exercise a great deal of restraint there. I understand from talking to the Ambassador this morning that President Kostunica and his government are cooperating with Covic and so forth in southern Serbia.

And last but not least, the FRY government has present and serious challenges with President Djukanovic talking about independence. I think President Kostunica gets the message, and I will be interested in hearing from the witnesses here today on their observations of what they think is happening there.

Thank you.

Senator SMITH. Let us hear first from Ambassador Abramowitz, then Mr. Bugajski, and Ms. Bang-Jensen. We thank you, and we welcome you, sir.

## STATEMENT OF HON. MORTON I. ABRAMOWITZ, SENIOR FELLOW, THE CENTURY FOUNDATION, WASHINGTON, DC

Ambassador ABRAMOWITZ. Mr. Chairman, Senator Biden, Senator Voinovich, I gather we are going to be constrained in time, so I will dispense with much of my testimony. Much of what you gentlemen have already said is very similar to my own thinking, so let me highlight some of the things I want to say.

First of all, on this certification I think it is important to make no mistake, this is an enormously important decision. It will affect all the countries of the former Yugoslavia, and the ultimate success of our efforts, and it comes at an extraordinary juncture in the Balkans.

First, the change in Serbia, remarkable, has been welcomed by the world. Obviously, we all feel that a Serbia increasingly democratic and free of the virulent nationalist aspirations of the last decade is indispensable for Balkan stability, but democracy in Serbia is far from assured, and the United States must stand with those forces in Belgrade battling for real, systemic reform, and facing up to Serbia's role over the past decade.

It is not encouraging that so few of Serbia's leaders, including President Kostunica, have expressed even the slightest remorse for

Serbia's contribution to ethnic cleansing and all the death and destruction of the Milosevic era.

Second, the situation in Kosovo is deteriorating because of the delay in establishing a Kosovo-run Government. The West has helped undermine moderate elements and encouraged militants there by the unconditional embrace of the Nationalist Democrats in Belgrade, raising for Kosovars the possibility of the return of Serbian rule to Kosovo.

Extremist Albanian activities in southern Serbia are, I believe, in part directly related to the fact that the area in Kosovo north of Mitrovica has been allowed by the West to effectively separate from Kosovo, which has supported Belgrade. Such militant Albanian activities, including those in Macedonia, I might add, are destroying international support for the Kosovars.

Third, and most important for the United States, NATO faces a serious dilemma in helping stop the violence in south Serbia and increasingly in Macedonia. The alliance once again confined its viability, threatened by a failure to staunch an emerging Balkan conflict with significant spill-over capacity. NATO's recent pledge not to station peacekeeping forces in Macedonia could become an invitation to Albanian militants.

Finally, the Dayton Accords on Bosnia are presently under strain from extremist Bosnian Croats, and radicals and moderates there will watch how the West responds to Serbia's handling of Milosevic and its relationship with the Republic of Srpska, and the three conditions, I think the case is open and shut. Unless major steps are taken in the next 15 days, Belgrade is nowhere near on the way to meeting any of the conditions for certification.

Let me go briefly, on cooperation with the international criminal tribunal, Belgrade has yet to detain and transfer a single indictee to The Hague, and President Kostunica's hostile public statements have left no doubt about his attitude toward cooperation with The Hague in general, and the effort to have Milosevic face charges in The Hague in particular.

Early this week, one indictee did go to The Hague under American importunings, a Bosnian Serb of dual nationality, and Mr. Kostunica's Government was eager to emphasize his surrender was voluntary and entailed no change in policy. I think we should take them at their word.

Ending support for separate Republic of Srpska's institutions. Belgrade's policy of supporting the extremist party in Srpska has not altered since the opposition took over. President Kostunica instead effectively campaigned for them during Bosnian elections last fall, and he has publicly praised Radovan Karadzic as a national hero. He has left in place the shadow infrastructure of financial military support that sustains the Republic of Srpska army and counterintelligence services and destabilizes Bosnia.

Let me add a personal aside on a matter of great interest to me. I am simply amazed that the U.S. Government sees fit to publicly critique some electoral rules of a potential Montenegro referendum designed to permit the people of Montenegro to vote on whether or not to separate from Serbia, but is completely timorous on getting Serbia to refrain from its separatist activities in Bosnia. The message seems to be, beware of being a small, friendly country that

acted as a key NATO wartime ally and cooperates with The Hague tribunal.

Now, respecting minority rights and the rule of law, President Kostunica came to office on the shoulders of thousands of Serbs demanding that the rule of law govern their elections and their lives. Progress has been made in eliminating many of the oppressive aspects of the Milosevic regime. Yet many of Milosevic's cronies still hold positions of great influence. Police and military officers who led Milosevic's assaults are still in office, or have gained greater power.

Minorities are still under discriminatory law, and on the subject you mentioned, Mr. Chairman, Belgrade announced plans, as you know, to release the Kosovar Albanians in jail for almost 2 years on unsubstantiated charges of terrorism, but in reality the new amnesty law would leave three-fourths of them behind bars.

Now, let me discuss the case that will be made that there are overriding reasons to certify Serbia's progress, however tenuous, toward satisfying the congressional conditions, and I agree with both of you, Senators, that I think the State Department is determined, or the administration is determined to make a certification whatever the circumstances.

In any event, the reasons for a wider look at this are an important matter. First, let me make clear what I think the administration is doing on this issue. Like many previous administrations, they are following policies that do not fit the facts on the ground, and that usually gets the United States into trouble.

The previous administration was correctly criticized for basing its policy toward Russia on certifications that were more fantasy than fact. Now this administration seems to be directing the State Department to follow that same road. In this case, because of your interest, and your attention to the facts, they feel the need to find or produce some signs of progress to provide some ostensible basis for certifying compliance, thus, according to the New York Times, our envoy in Belgrade has been working out with the Belgrade Government the steps it should take or announce to show some progress on the three conditions, and some cover for certification.

For example, as you pointed out, Senator Biden, the administration has reportedly asked the Yugoslav Government to arrest Milosevic, something they had been planning to do, I believe, anyway, and that is good, but for charges other than war crimes, and without any commitment to send him to The Hague, and as far as Belgrade's support for the Bosnian Serb army, effectively paid for with millions of outside aid dollars, moneys fungible here, the State Department apparently insists not that Belgrade stop, but that its activities become transparent. I am not sure what that does to support the Dayton Accords. Maybe Yugoslav Army officers will now wear their FRY uniforms all the time instead of part-time.

So let me now deal with the serious considerations for keeping the flow of support to Yugoslav going, and not the pattern of compliance that we are asking of an unwilling government. Now, some have suggested that these three conditions are evidence of anti-Serb bias, pure and simple. I reject that completely. It is not anti-Serb to say that the new government in Belgrade is only at the beginning of the road, a long road. It is not anti-Serb to say, quite

simply, that extreme nationalism has no place in 21st century Europe, and it is profoundly in the interests of the people of Serbia. Serbs and all Serbian minorities have heard too many false promises for too long to give them a straightforward map back to full membership in the international community.

Second is your question, Mr. Biden. The United States has no real leverage. It is certainly true that our $100 million, $60 million now, or $40 million now in direct aid is only a small part, but a large chunk of the aid which is actually already dispersed. It is only a small part of the assistance Serbia is receiving, or needs to receive, and it is regrettably true that Serbia maybe benefactor, the European Union, has opted out of conditionality altogether.

Until now, most of Europe seems to go along with anything Mr. Kostunica does. That has been unfortunate, because in the long run there is no question that Europe will have to play the leading role in the reintegration of Belgrade and the entire region into the world economy, and they can best serve that goal by making clear to the government in Belgrade what international norms are, and that the EU takes them seriously.

Now, it is true that leverage we have will diminish with time, and we will likely lose it all once Serbia is certified, and that is despite various elements in the State Department. We will lose it. Where our voice can make a crucial difference is in discussing Belgrade's membership in and assistance from the national financial organizations and in rescheduling the large external debt.

Economic revival will not get anywhere without debt restructuring and significant assistance from the World Bank, and the administration should be focusing in getting the political and economic conditions right for those efforts and you, gentlemen, I hope will make sure that it happens.

Third and most important is the argument that existing on these conditions will prompt a back-lash in Belgrade, that they will weaken the new government, fuel extreme nationalism, and discredit the goals we seek to advance, and that is a serious concern. While it is unlikely, I certainly cannot rule it out. I think, however, that certifying now has likely produced far greater political damage. It lends more support to nationalist forces, indicates that Serbia does not have to change much to get the West to open its pockets.

Moreover, all the evidence suggests that, since Congress put these conditions into law last year, they have, in fact, promoted debate, and have promoted increasing openness in Belgrade, and the democratization of Croatia, one of the real positive lessons from the experience of the international community in the Balkans, reinforces the conclusion that this kind of leverage does promote serious change. In that country, the U.S.-led full performance based conditionality on cooperation with the tribunal, including the transfer to The Hague of all Croatian and Bosnian-Croat indictees and the cutoff of Zagreb's military and economic support for Bosnia were pivotal to breaking down the old structures and declaring the way for reform. I might add, uncharitably, that the U.S. Government initially did not support any such effort.

Now, let me point out the negative consequences if the administration certifies progress that does not, in fact, exist. The costs will

be severe, particularly for the position of reformers in Belgrade, as well as for the position of the reform options in the region. It is now recognized that NATO's failure to apprehend the most wanted war criminals in Bosnia after Dayton was signed has probably been the single biggest blow to the peace process in that country. Instead of sending a message about responsibility, we gave encouragement to extremists on all sides, and helped continue the mafias and the construction to flourish, and letting up on pressure to send Milosevic and his cronies to The Hague will produce a similar effect, not just on Serbia, but throughout the region.

In Croatia, President Mesic has resolutely supported these three conditions, and his has been a brave and principled voice in trying to overcome the poisoned legacy of the past. We cannot simply say that is acceptable for Belgrade to do less. We will be sending also the wrong signals to the Kosovars who urgently need to back away from their own extremists, and we will send a wrong signal to Macedonia, which is now struggling in a very difficult situation.

The nationalists in Belgrade will continue to help fuel extremism across the region, and that is harmful, and this is not an effort to deny aid to Serbia. No one questions the need and the help they require in establishing a democracy and rebuilding the society and the role that the United States can play, but I hope you will stand firm, and you will hold the administration's feet to the fire as best you can, in saying that the extremism and the hate that we helped defeat on the battlefield not be allowed to triumph through our neglect. There is always reasons to postpone hard-making decisions, but this is a time to make our standards clear, and I urge you to stay involved and to keep asking the hard questions.

Thank you.

Senator SMITH. That we will do.

[The prepared statement of Ambassador Abramowitz follows:]

PREPARED STATEMENT OF HON. MORTON I. ABRAMOWITZ

Mr. Chairman, Members of the Committee:

Congress has mandated, in the 2001 Foreign Operations Assistance Act, that the President certify by March 31 whether or not the government of President Kostunica in Belgrade has met three conditions for further American aid and other forms of support. Thank you for inviting me here to discuss the choice that the Bush Administration must shortly make. I will be brief and as pointed as possible.

Make no mistake. This is an enormously important decision. It will affect all the countries of the former Yugoslavia and the success of American and allied efforts there. Congress has a great responsibility on this critical issue and I know will look at it with the candor and thoroughness it deserves.

This decision comes at an extraordinary juncture in the Balkans:

- The remarkable change in Serbia since last fall has been welcomed by the world. A Serbia increasingly democratic and free of the virulent nationalist aspirations of the last decade is indispensable for Balkan stability. But democracy in Belgrade is far from assured—and the US must stand with those forces in Belgrade battling for real systemic reform and facing up to Serbia's role over the past decade. It is not encouraging that so few of the country's leaders, including its President, have expressed even the slightest remorse for Serbia's contribution to ethnic cleansing and all the death and destruction of the Milosevic era.
- The situation in Kosovo is deteriorating because of the delay in establishing a Kosovo-run government. The west has further helped undermine moderate elements and encouraged militants there by their unconditional embrace of the nationalist democrats in Belgrade, raising for Kosovars the possibility of the return of Serbian rule to Kosovo. Extremist Albanian activities in Southern Serbia are, I believe, in part directly related to the fact that the area in Kosovo

north of Mitrovica has been allowed by the west to effectively separate from Kosovo with the support of Belgrade. Such militant activities including those in Macedonia, I might add, are destroying international support for the Kosovars.

- NATO faces a serious dilemma in helping stop the violence in south Serbia and increasingly in Macedonia. The alliance, once again, can find its viability threatened by a failure to staunch an emerging Balkan conflict with significant spillover capacity. NATO's recent pledge not to station peacekeeping forces in Macedonia could become an invitation to Albanian militants.
- The Dayton accords in Bosnia are presently under strain from extremist Bosnian Croats. Radicals and moderates alike there will watch too how the West responds to Serbia's handling of Milosevic and its relations with Republika Srpska.

On the three conditions Congress has placed on assistance to Serbia, I think the case is open and shut unless major steps are taken in the next 15 days Belgrade is nowhere near or on the way to meeting any of the conditions for certification. When the condition is progress, incessant talk and promises do not fit the bill. Briefly:

1. *Cooperation with the International Criminal Tribunal for the Former Yugoslavia:* Belgrade has yet to detain and transfer a single indictee to the Hague Tribunal. It has plagued the work of the Tribunal's Belgrade office with bureaucratic obstacles. And President Kostunica's hostile public statements have left no doubt about his attitude toward cooperation with the Tribunal in general, and the effort to have Milosevic face charges in the Hague in particular. Earlier this week, one indictee did go to the Hague—a Bosnian Serb of dual nationality—and Mr. Kostinica's government was eager to emphasize that his surrender was "voluntary" and entailed no change in policy. I think we should take them at their word.

2. *Ending support for separate Republika Srpska institutions:* Belgrade's policy of supporting the extremist party in Republika Srpska has not altered since the opposition took power. President Kostunica instead effectively campaigned for them during Bosnian elections last fall and has publicly praised Radovan Karadzic as a "national hero." He has left in place the shadowy infrastructure of financial and military support that sustains the Republika Srpska Army and counterintelligence services—and destabilizes Bosnia. Let me add a personal aside: I am simply amazed that our government sees fit to publicly critique some electoral rules of a potential Montengro referendum designed to permit the people of Montengro to vote on whether or not to separate from Serbia, but is so timorous on getting Serbia to refrain from its separatist activities in Bosnia. The message seems to be beware being a small friendly country that acted as a key NATO wartime ally and cooperates with the Hague Tribunal.

3. *Respecting minority rights and the rule of law:* President Kostunica came to office on the shoulders of thousands of Serbs demanding that the rule of law govern their elections and their lives. And progress has been made in eliminating oppressive aspects of the Milosevic regime. Yet many of Milosevic's cronies still hold positions of great influence. Police and military officers who led Milosevic's most murderous assaults are still in office—or have gained greater power. Minorities are still under discriminatory laws. Belgrade announced plans to release the Kosovar Albanians held in its jails for almost two years on unsubstantiated charges of terrorism. But in reality, the new amnesty law will leave three-fourths of them behind bars. And the work of building strong, legitimate judicial and economic institutions has hardly begun.

Let me now discuss the case that will be made that there are over-riding policy reasons to certify Serbia's progress—however tenuous—toward satisfying the Congressional conditions. That is an important matter, and I would like to devote the rest of my time to it.

First it needs to be made clear what the administration is doing on this issue. Like many previous administrations they are following policies that do not fit the facts on the ground. That usually gets the U.S. into trouble. The previous administration was correctly criticized for basing its policy toward Russia on certifications that were more fantasy than fact. Now this administration seems to be directing the State Department to follow that same road. In this case because of Congressional attention to the facts, they feel the need to find or produce some signs of progress to provide some ostensible basis for certifying compliance.

Thus, according to the New York Times, our envoy in Belgrade has been working out with the Belgrade government the steps it should take or announce to show progress on the three conditions and some cover for certification. For example, the

Administration has reportedly asked the FRY government to arrest Milosevic, something they have been planning to do anyway—but for charges other than war crimes and without any commitment to send him to the Hague. As far as Belgrade's support for the Bosnian Serb army, effectively paid for with millions of outside aid dollars, the State Department apparently insists not that Belgrade stop but that its activities be "transparent." I am not sure what that does to support the Dayton accords. Maybe FRY officers will now wear their FRY army uniforms all the time instead of part time. Let me deal with the serious considerations for keeping the flow of support to Yugoslavia going and not the patina of compliance we have asked for from an unwilling government.

Some have suggested that the three conditions are evidence of anti-Serb bias, pure and simple. I reject that completely. It is not anti-Serb to say that the new government in Belgrade is only at the beginning of a long road. It is not anti-Serb to say quite simply that extreme nationalism has no place in 21st-century Europe. And it is profoundly in the interest of the people of Serbia—Serbs and all minorities—who have heard too many false promises for too long, to offer a straightforward roadmap back to full membership in the international community.

Second is the assertion that the United States has no real leverage. It is certainly true that our hundred million dollars in direct aid is only a small part—but a large chunk of the aid already actually disbursed—of the assistance Serbia is receiving or needs to receive. And it is regrettably true that Serbia's main benefactor, the European Union, has opted out of conditionality all together. Until now most of Europe seems prepared to go along with anything Mr. Kostunica does. That has been unfortunate, because in the long run, there is no question that Europe will have to play the leading role in the reintegration of Belgrade and the entire region into the world economy. Today, they could best serve that goal by making it clear to Belgrade what international norms are—and that they take them seriously.

It is also true that what leverage we do have will diminish with time. We will likely lose it altogether once Serbia's progress is certified. Where our voice can make a crucial difference is in discussing Belgrade's membership in and assistance from the international financial organizations—and in rescheduling Belgrade's large external debt. That debt now equals the country's GDP, crippling any effort to restore infrastructure and social services in Serbia. Economic revival will get nowhere without debt restructuring and significant assistance from the World Bank. The Administration should be focusing on getting the political and economic conditions right for those efforts—and Congress should be there to make sure that it happens.

Third and most important is the argument that insisting on these conditions will prompt a backlash in Belgrade; that they will weaken the new government, fuel extreme nationalism, and discredit the goals we seek to advance. This is a serious concern. While not likely I cannot rule it out. I think, however, that certifying now is likely to produce far greater political damage. It lends more support to nationalist forces and indicates that Serbia does not have to change much to get the West to open its pockets. Moreover, all the evidence suggests that since Congress put these conditions into law last year, they have in fact promoted debate and increasing openness in Belgrade. And the democratization of Croatia—one of the real positive lessons from the experience of the international community in the Balkans— reinforces the conclusion that this kind of leverage will help promote positive change. There, the U.S. led full performance-based conditionality on cooperation with the Hague tribunal, including the transfer to the tribunal of all Coatians and Bosnian Croat indictees and the cut-off of Zagreb's military, economic and political support to Herceg Bosnia, were pivotal to breaking down the old structures and clearing the way for reform. I might add uncharitably that the USG initially did not support such an effort.

Lastly, let me point out that there will be negative consequences if the Administration certifies progress that does not in fact exist. The costs will be severe not only for the position of reformers in Belgrade, but also for the prestige of the reform option in the region and ultimately for regional stability.

It is now broadly recognized that NATO's failure to apprehend the most-wanted war criminals in Bosnia quickly after Dayton has been probably the biggest single blow to the peace process there. Instead of sending a message about responsibility, we instead gave encouragement to extremists on all sides and helped the mafias and corruption to continue to flourish.

Letting up on pressure to send Milosevic and his cronies to the Hague will produce a similar effect not just in Serbia but throughout the region. In Croatia the outspoken President, Stipe Mesic, has resolutely supported just these conditions—cooperation with the Tribunal, breaking ties with Croat extremists in Bosnia, and increasing respect for minority rights in Croatia itself. His has been a brave and principled voice in trying to overcome the poisoned legacy of the past. We cannot

simply say that it is acceptable for Belgrade to do much less. We will be sending the wrong signal to the Kosovars, who urgently need to back away from their own extremists. We will send the wrong signal also to Macedonia, as it struggles to succeed as a multi-ethnic state. Nationalism in Belgrade will continue to help fuel extremism across the region—and that will be harmful to the region's interests and to our own.

This is not an effort to deny aid to Serbia. No one questions that Serbia badly needs outside help in establishing democracy and rebuilding its society—and no one questions that the United States ought to play an important part in assisting that country. But I hope Congress will stand firm in saying that the extremism and hate that we helped defeat on the battlefield must not now be allowed to triumph through our neglect, or our unwillingness to confront facts we do not like.

There will always be reasons to postpone making hard judgments. But there will not come a better time than this to make our standards clear, and express our determination to see a democratic Serbia emerge as the anchor of a stable region. To seize that opportunity, this discussion must be a first step, not a last step. I urge Congress to stay involved; to keep asking the hard questions about whether U.S. policy is truly furthering the cause of peace and justice in the Balkans; to keep insisting on the three conditions being met before aid is provided, and to send the strong message that we will do our best not to allow the region to slide back into the habits of violence and extremism.

Thank you.

Senator SMITH. Mr. Bugajski.

**STATEMENT OF MR. JANUSZ BUGAJSKI, DIRECTOR, EAST EUROPEAN PROJECT, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, WASHINGTON, DC**

Mr. BUGAJSKI. Thank you very much, Mr. Chairman, Senator Biden, Senator Voinovich. To save on time I will simply sum up my paper, which is not that long to begin with, but I will try and make it even briefer.

In sum, while the Government in Belgrade has made some progress domestically in the human rights front in promoting pluralism and so forth, in the three crucial areas specified by the U.S. Senate, they are clearly falling short of the targets. Let me just summarize the three.

First of all, in terms of cooperating with the International War Crimes Tribunal, despite persistent urging by the IWCT to begin proceedings for extraditing Slobodan Milosevic and other high-ranking Serbian war criminals to The Hague, the Government in Belgrade has failed to meet international requirements.

Indeed, Serbia remains the only country in the world with an indicted war criminal serving as its President. Instead of reaching out to the international community and its neighbors by promoting justice and disassociating itself actively from the Milosevic regime, Belgrade has instead reached out primarily for foreign funds. This has left a network of civilian and military war criminals at liberty and in business inside Serbia.

Second, abiding by the Dayton Accords to end support for Serbian separatists. Kostunica has cast doubts on his support for the integrity of Bosnia-Herzegovina by claiming that the Dayton agreement was never ratified by the Yugoslav Parliament. Moreover, he maintains close ties with the leadership of the Republica Srpska in Bosnia, and little has been done to reduce political, military, intelligence and materiels support for separatist groupings.

Serbia continues to provide the Bosnian Serb military with officers and resources, and it controls the entity's intelligence structures. The recent agreement on special relations between Yugo-

slavia and the Bosnian-Serb Republic must be carefully monitored, as it appears reminiscent of a similar concord between Tudjman's Croatia and the Croat Muslim Federation designed to break up the central state.

And third, in terms of implementing policies in respect to human rights and the rule of law, although Serbia has made some progress in lifting the most repressive features of the Milosevic regime, the law remains obstructed. Substantial segments of the socialist apparatus remain intact, reinforcing the supposition that this was not a revolution but a secret deal enabling the socialists, the former war criminals, to preserve their positions and privilege even after Milosevic's ouster.

The country's economy is subject to organized crime and corruption, while the lack of transparent government institutions is evident in many situations, including the unreformed judicial system.

A number of Serbian security officers continue to operate, the ones responsible for some of the worst atrocities during the wars in Bosnia, Croatia and Kosovo. Belgrade has insufficiently addressed the position of ethnic minorities. Serbia's numerous minorities were constantly under threat during the past decade, and their demands and aspirations continue to be neglected. Belgrade's opposition to restoring an autonomous status for Vojvodina has escalated tensions with the new democratically elected authorities in that province, and moreover, Belgrade's tolerance of indicted war criminals and Serbian paramilitary leaders responsible for war crimes encourages lawlessness and criminality inside Serbia.

Very briefly, there are four minimal steps that that Serbia has to meet in order to meet the conditions specified by the Senate. First, it must promptly begin the process of extraditing Milosevic and other indicted war criminals to The Hague, and establish full informational and logistical cooperation with The Hague. Belgrade must also publicly acknowledge the responsibility of the Milosevic Government in perpetrating genocide in the former Yugoslav Republics.

Second, Serbia must cutoff all state funding to the Bosnian Serb military forces, police units, separatist political parties, and other institutions promoting the disintegration of Bosnia. Belgrade should focus on developing strong bilateral relations with Sarajevo, and not primarily with one of the Bosnian entities.

Third, Serbia needs to remove from office a number of military officers and security chiefs instrumental in repression over the past decade. Additionally, I believe it must offer the Presevo Albanian leaders a position in the central government to diffuse the ongoing conflict, and then pursue administrative decentralization throughout Serbia that would restore autonomy to Vojvodina.

Fourth, in terms of the future of Yugoslavia, Serbia must not interfere in or seek to disrupt the upcoming Montenegran parliamentary elections, and the subsequent referendum of independence. Belgrade must respect the will and decision of the Montenegran people, and aim to build cooperative bilateral relations between the two emerging states. I think here Washington can also play a very constructive role in this process.

Last, very briefly, let me just say why it is important to keep these conditions. First, democratic development, second, regional

security, third, international law. First, Serbia's lack of full compliance with U.S. conditions undermines democratic developments inside the country and encourage nationalist forces emboldened by a lack of accountability and a permissive international climate. Belgrade must be actively encouraged to pursue more extensive structural reforms to root out criminality and foster bilateral cooperation with all of its neighbors.

Second, regional security. Croatia, Bosnia, and Kosovo are dismayed that after 10 years of aggression Serbia is not being held accountable for offenses against its neighbors, and has failed to acknowledge its responsibility. This, in turn, encourages revanchist and extremist sentiments in all these three territories, and boosts populist and nationalist formations waiting in the political wings. Belgrade's lack of acknowledgement for the mass murder of Kosovar Albanians prevents any hopes of inter-ethnic reconciliation and encourages calls for revenge attacks by Albanian militants.

And last, international law. The allies must curtail the widespread impression that double standards prevail on the war crimes issue, one for Serbia, and one for the other former Yugoslav republics. Responses to war crimes must not become an issue of political expediency, but a measure of justice, morality, and Western values.

Contradictory policies on war crimes send precisely the wrong message to Serbia. Belgrade has concluded, quite frankly, that their threat of domestic instability, whether real or imaginary, can extract concessions in foreign aid with a brazen disregard for international norms. In practice, I believe flexible standards on war crimes will corrode the legitimacy of the international court, as well as the consolidation of democratic government and rule of law throughout the region.

Thank you.

[The prepared statement of Mr. Bugajski follows:]

PREPARED STATEMENT OF JANUSZ BUGAJSKI

In sum, while the two governments in Belgrade (a Yugoslav administration led by Vojistav Kostunica and a Serbian administration led by Zoran Djindjic) have made significant progress domestically in removing the most blatant human rights abuses, in three crucial areas specified by the U.S. Senate they have fallen short of meeting targets that are important for consolidating an indigenous democracy and promoting regional security.

HAS THE SERBIAN GOVERNMENT MET U.S. SENATE CONDITIONS FOR FUNDING?

*Cooperating with International War Crimes Tribunal:* Despite persistent urging by the IWCT (International War Crimes Tribunal) to begin proceedings for extraditing Slobodan Milosevic and other indicted high-ranking Serbian war criminals to The Hague, the governments in Belgrade have failed to meet international norms.

President Kostunica, much like his predecessor, continues to claim that the international court is an anti-Serb body despite the fact that IWCT recently sentenced Croatian generals for their role in war crimes against Muslim civilians in Bosnia. Kostunica also claims that Yugoslavia has no extradition agreements with foreign countries, a proposition contradicted by the government in Montenegro which points out that The Hague is not a foreign state but an international legal instrument. Indeed, the glaring difference between Serbia's obstruction and Montenegro's cooperation with the IWCT was underscored by the UN's chief war crimes prosecutor Carla del Ponte after her recent visits to both capitals.

Serbia remains the only country in the world with an indicted war criminal serving as its President, Milan Milutinovic, a close accomplice of Milosevic. Instead of reaching out to the international community and to its neighbors by promoting justice and disassociating itself actively from the Milosevic regime, Belgrade has instead reached out primarily for foreign funds. This has left a network of civilian and

military war criminals at liberty and in business in Serbia. The impending trial of Milosevic on corruption charges inside Serbia does not constitute cooperation with the IWCT. On the contrary, it may hinder the process of international justice and worsen relations between Belgrade and its neighbors. Moreover, Belgrade's assertion that NATO leaders should be tried concurrently on alleged war crimes charges does not foster international cooperation.

*Abiding by Dayton accords to end support for Serbian separatists in Bosnia?* Kostunica has cast doubts on his support for the integrity of Bosnia by claiming that the Dayton agreement was never ratified by the Yugoslav parliament. Moreover, he maintains close ties with the leadership of the Serb Republic in Bosnia and little has been done to reduce political, military, intelligence and material support to separatist groupings. Serbia continues to provide the Bosnian Serb military with officers and resources and controls the entity's intelligence structures.

The recent agreement on "special relations" signed between Yugoslavia and Bosnias Serb Republic must be carefully monitored as it appears reminiscent of a similar concord between Tudjman's Croatia and the Croat-Muslim Federation designed to break up the central state. Belgrade has also refused to cooperate in extraditing Bosnian Serb war criminals known to be residing in Serbia. For example, General Ratko Mladic conveniently disappeared from his home in Belgrade recently when the IWCT requested that as a sign of good will non-Yugoslav citizens indicted for war crimes be dispatched to The Hague. Former Bosnian Serb leader Radovan Karadzic has also reportedly traveled to Serbia unhindered in recent months.

Additionally, there is a palpable fear that in the event of Montenegro declaring its independence, Belgrade will seek a new federal "partner" to maintain a Yugoslav state. In such an eventuality, Bosnia's Serb Republic could become a primary candidate. Such a move would further undermine regional stability and encourage Croatian separatists in western Hercegovina who, contrary to the position of the Croatian government, are pushing for the breakup of the Bosnian Federation.

*Implementing policies in respect of human rights and the rule of law?* Although Serbia has made visible progress in lifting the most repressive features of the Milosevic regime, the institutionalization of the rule of law remains obstructed. Substantial segments of the Socialist kleptocracy remain intact, reinforcing the supposition that DOS (Democratic Opposition of Serbia) made a "secret deal" with the entrenched establishment enabling it to preserve its positions and privileges even after Milosevic's ouster. The country's economy is subject to organized crime and corruption while the lack of democratic and transparent government institutions is evident in the unreformed judicial system and in recent appointments to Serbia's security services. These include several officials who served under Milosevic throughout the Balkan wars. Numerous military and police commanders who engaged in brutal attacks on the Kosovar population remain in office.

Belgrade has insufficiently addressed the position of ethnic minorities. Serbia's numerous and sizeable ethnic minorities were constantly under threat during the past decade and their demands and aspirations continue to be neglected. The application of laws established under the Milosevic dictatorship have prolonged tensions with several minority populations. The partial amnesty law passed in February left several hundred Albanians in prison on terrorism charges despite the lack of credible evidence. Belgrade's opposition to restoring an autonomous status for Vojvodina has escalated tensions with the new democratically elected authorities in that province. Moreover, Belgrade's evident tolerance of indicted war criminals and Serbian paramilitary leaders responsible for war crimes in Croatia, Bosnia, and Kosova encourages lawlessness and criminality inside Serbia and maintains a persistent fear of repression against minority groups.

### WHAT DOES SERBIA NEED TO DO TO MEET CONGRESSIONAL CONDITIONS?

In order to meet the conditions established by the U.S. Senate, Belgrade must initiate three minimal steps.

- First, Serbia must promptly begin the process of extraditing Slobodan Milosevic and other senior indicted war criminals to the Hague Tribunal and establish full informational and logistical cooperation with IWCT officials in this matter. Belgrade must also publicly acknowledge the responsibility of the Milosevic government in perpetrating genocide in the former Yugoslav republics.
- Second, Serbia must cut off all state funding to Bosnian Serb military forces, police units, separatist political parties, and other institutions promoting the disintegration of Bosnia-Hercegovina. Belgrade should focus on developing strong bilateral relations with Sarajevo and not primarily with one of the Bosnian entities—a strategy that encourages separatism and irredentism.

- Third, Serbia needs to remove from office a number of military officers and security chiefs instrumental in repression over the past decade. Additionally, it must offer Presevo Albanian leaders a position in the central government to defuse the ongoing conflict and pursue administrative decentralization throughout Serbia that would restore autonomy to Vojvodina and local self-government to the country's Hungarian, Albanian, Muslim, and other sizeable ethnic and territorial minorities.
- Fourth, in terms of the future of Yugoslavia, Serbia must not interfere in or seek to disrupt the upcoming Montenegrin parliamentary elections and the subsequent referendum on independence. Belgrade must respect the will and decision of the Montenegrin people and aim to build cooperative bilateral relations between the two emerging states. The United States can play a constructive role in this process.

WHY IS IT IMPORTANT FOR THE ALLIES TO UPHOLD CONDITIONALITY?

There are three principal reasons why the Allies need to strictly maintain conditions in return for releasing aid to Serbia: democratic development, regional security, and international law.

*Democratic Development:* The foundations of any democratic state need to be based on constitutional principles in line with international standards. If either domestic laws or their implementation fail this test, then legislation needs to be changed and strictly applied by an incoming democratic administration. Delaying democratization and international cooperation because of an evident concern for legalism is merely a convenient cover for inaction and obstruction. Serbia's lack of full compliance with U.S. Senate conditions will undermine democratic developments inside the country and encourage authoritarian and nationalist forces emboldened by a tack of accountability and a permissive international climate. Kostunica and Djindjic need to be actively encouraged to pursue more extensive structural reforms, to root out criminality, to launch a process of "denazification," and to foster bilateral cooperation with all of Serbia's neighbors. Lax international standards will paradoxically do more harm than good in propelling Serbia toward democratic rule.

*Regional Security:* Croatia, Bosnia, and Kosova are dismayed that after ten years of aggression and genocide, Serbia is not being held accountable for offensives against its neighbors, and indeed has failed to acknowledge its responsibility. This in turn encourages revanchist and extremist sentiments in all three territories and boosts populist and nationalist formations waiting in the political wings. The most glaring example of this tendency has been evident in Croatia where the former governing party, the HDZ, has latched on to the war crimes issue to try and discredit the democratic government for being too accommodating with The Hague tribunal.

Belgrade's lack of acknowledgement for the mass murder and mass expulsion of Kosovar Albanians in 1999 prevents any hopes of inter-ethnic reconciliation and encourages calls for revenge attacks by Albanian militants. Instead of seeking rapprochement, the Kostunica government continues to blame NATO for the devastation in 1999 and shirks away from recognizing Serbia's primary responsibility for provoking the war. Indeed, the violence in the Presevo Valley is being fueled both by Albanian radicalism and by Serbia's inability to generate confidence among the Albanian population. Belgrade's political offers are not perceived as the genuine moves of a democratic government but the result of pressures exerted by NATO.

*International Law:* The Allies must curtail the widespread impression that double standards prevail on the war crimes issue: one for Serbia and the other for all other former Yugoslav republics. For example, in the case of Croatia, a strict standard has been set since the demise of the Tudjman regime, but in the case of Serbia a lax and flexible standard evidently appiies. The international community has paid lip service to the arrest of leading Serbian war criminal in an apparent effort to keep Kostunica in power. Western leaders fear that pursuing Milosevic and company too vigorously will undermine Kostunica and democracy in Serbia. As a result, they have tacitly condoned the deal that the DOS coalition struck with the Milosevic apparatus in October 2000 and allowed Yugoslavia to gain entry to several international organizations without having to deliver anything substantial in return. Indeed, valuable bargaining chips have been discarded that could have contributed to apprehending the principal instigators and practitioners of genocide. Responses to war crimes must not become an issue of political expediency but a measure of justice, morality, and "Western values." In this context, by failing to cooperate with the IWCT Belgrade is violating the international convention on genocide.

Contradictory policies on the war crimes issue send precisely the wrong message to Serbia. Belgrade has concluded that the threat of domestic instability (whether real or imaginary) can extract concessions and foreign aid and this in turn encour-

ages nationalist arrogance and a disregard for international norms. In practice, flexible standards on war crimes will corrode both the legitimacy of the international court and the consolidation of democratic governance and the rule of law throughout the region.

Senator SMITH. Thank you. Unfortunately, the voting buzzer has gone off. I do not know how long your statement is. We want to hear it.

Ms. BANG-JENSEN. I can make it very short.

Senator SMITH. Why don't we proceed with you, and we will stay until the last moment, and we apologize for this. We rendered our objections to the leadership that they would call a vote at such a time, but——

**STATEMENT OF MS. NINA BANG-JENSEN, EXECUTIVE DIRECTOR, COALITION FOR INTERNATIONAL JUSTICE, WASHINGTON, DC**

Ms. BANG-JENSEN. I understand. Thank you very much for inviting us to testify, and most importantly, to appear before the three of you who have done so much to promote the rule of law and peace in the Balkans. I am afraid we are going to have to call on you again to help the State Department avoid its instinct, which is so often an instinct toward equivocation and appeasement in the face of hardliners.

With 16 days left before March 31, the Serbian Yugoslav Governments really have come nowhere close to complying with Congress' modest conditions. On the specific benchmark of cooperation with the International War Crimes Tribunal in The Hague, even rhetorical progress is lacking. Significantly, none of the leadership in Belgrade is even claiming that they have met the standards for certification. For its part, the State Department, by publicly and privately stating over the past few months its low expectations of what Belgrade can do by the 31st has created an almost self-fulfilling prophesy of noncompliance, which we have seen before.

As a result, the new government in Belgrade seems to have expended near zero political capital in pursuing the reasonable targets for progress toward the rule of law and democracy identified by Congress. There is, however, very good news coming from Serbia itself. Recent polls in Serbia indicate the citizens are well ahead of their leadership. Over 66 percent have expressed a willingness to hand over indictments at The Hague. And 60 percent support the transfer of Milosevic, particularly if there are economic consequences for not doing so. Given those poll numbers, a lot can happen in 16 days if leaders in Belgrade and in Washington muster the necessary political will. Again I am afraid we are going to have to count on the Senate to help muster that political will.

Much is at stake. You have heard from Ambassador Abramowitz and Janusz Bugajski about how hardliners are watching what happens here. Those hardliners can be in Belgrade, or Mostar, or Foca, or in the Presevo Valley, or now in Macedonia. What we do here has significance far beyond Serbia.

As you have heard also, according to the New York Times the State Department is effectively rewriting the standard. The language of the law is very clear. It requires that the President certify that the Federal Republic of Yugoslavia is cooperating with the Tri-

bunal, and that includes access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension.

You have already heard about the surrender on Monday. You know very well that the Yugoslav Government has gone to a great extent to say that the surrender was a personal act, that they had nothing to do with it. The head of Kostunica's party said it could not be interpreted as the beginning of FRY citizens indicted by the tribunal being handed over to The Hague. Regrettably, we agree. While a positive development, this is not cooperation by the government.

A Presidential certification of Serbian and Yugoslav compliance under this section of the Foreign Operations Assistance Act despite Belgrade's failure to make any serious efforts at cooperation with the tribunal, to even acknowledge a willingness to turn over indictees—and that is plural—as the plain language of the law requires, would have grave consequences, as you have heard from Ambassador Abramowitz and Mr. Bugajski, to reform and stability throughout the region.

Federal Interior Minister Zoran Zivkovic acknowledged yesterday that about 15 indictees are currently in the FRY. Five months have passed since Slobodan Milosevic was overthrown, and 2 months since the installment of a new government. Belgrade has yet to even detain any indictees, let alone transfer anyone.

The recent opening of a tribunal office in Belgrade is, of course, welcome, but it has been plagued with bureaucratic obstacles and really does not represent significant progress. The office was open during the Milosevic regime. We talked to the tribunal as recently as yesterday. They said the effective level of cooperation with the tribunal office in Belgrade is the same as it was pre-NATO intervention in 1998.

The lack of progress on the tribunal cooperation is likely due to President Kostunica's sincere nationalist convictions that the tribunal is anti-Serb and unjust because it has not investigated the 1999 NATO intervention sufficiently, in his mind. The intervention Kostunica has called "senseless, unnecessary, irresponsible, and largely criminal." He has explicitly linked the tribunal's refusal to investigate alleged NATO war crimes to his refusal to transfer Slobodan Milosevic to The Hague.

That core belief of Kostunica's that Belgrade should not cooperate with an anti-Serb tribunal has been cloaked in numerous other more reasonable-sounding excuses designed to ease pressure from the West. However, these excuses, like the contention that the tribunal is anti-Serb, do not stand up to scrutiny.

Certainly, there have been lots of reformers within the coalition itself, the governing coalition, who initially were quite bold about the need for cooperation with the Tribunal. They are beginning to couch their statements. That is a worrisome development.

You have heard before the claim that the constitution forbids transfer to The Hague. It is simply not true. The Justice Minister has said that is not the case. Some claim, and the State Department has even picked up on this, that there needs to be a law in cooperation with the tribunal. That's simply not so. The State De-

partment is even claiming that the same kind of law was needed and passed before Croatia turned over indictees. Not so again.

In response to Senator Biden's question about the Europeans, it is worth reminding that really the push on Croatia using international financial institution conditionality was led by the United States. There was no support, initially, from Europeans. Congress can again force the hand of the administration to garner support elsewhere. The Europeans eventually came along. The same is entirely possible here.

I can also say, too, the Europeans have not all been that bad on this. As recently as February, the European Union mission said that they were going to condition long-term assistance. Certainly there is room to go, though.

Senator BIDEN. I love your optimism.

Ms. BANG-JENSEN. Since a lot of this has been addressed already, and you have not much time, I will just turn in closing to the most difficult issues, which are the arguments that Serbia should not be required to send Milosevic to The Hague, but should be allowed to try him themselves on other charges, or host a trial on Serbia run by the tribunal.

The prosecutor has said that this absolutely will not happen. It cannot happen for really practical and logistical problems, as well as fairness. If you do this in Belgrade, do you do this in Sarajevo, do you do this in Zagreb? Every time you have part of a hearing you have to bring all the judges, all the documents, all the prosecutors, you have to bring the person who is accused, all the witnesses. Witnesses are simply not going to feel safe in Belgrade. Witnesses from Kosovo, witnesses from Croatia, from Bosnia, Belgrade is not, regrettably, yet a safe and secure place.

The court system there, while there has certainly been progress in the removals of some of the judges, is not independent yet. We need to help them with judicial reform, but it is not going to happen quickly.

The consequences of a spurious certification are immense. If we accept a lesser standard for certification, we are really sending a troubling message to all the leaders in the Balkans who have met their obligations, to those reformers in Belgrade brave enough to understand this obligation and speak about it, and most importantly to the hundreds of thousands of people who lost their homes, lost family members, lost their livelihoods in this carnage, the worst carnage since World War II on European soil.

The first Bush administration stood up for these victims before by vigorously supporting the establishment of the tribunal, and now is not the time to abandon them.

Thank you very much.

[The prepared statement of Ms. Bang-Jensen follows:]

PREPARED STATEMENT OF NINA BANG-JENSEN

With sixteen days left before March 31st , the Serbian and Yugoslav governments have come nowhere close to complying with Congress' modest conditions for eligibility for substantial U.S. bilateral and multilateral economic assistance. On the specific benchmark of cooperation with the international war crimes tribunal in The Hague, even rhetorical progress is lacking. Significantly, none of the leadership in Belgrade is claiming that they have met the standards for certification.

For its part, the State Department, by publicly and privately stating over the past few months its low expectations of what Belgrade "can" do by the 31st has created

an almost self-fulfilling prophecy of non-compliance. As a result, the new government in Belgrade seems to have expended near zero political capital in pursuing the reasonable targets for progress toward the rule of law and democracy identified by Congress.

There is, however, good news. Recent polls in Serbia indicate that its citizens are well ahead of their leadership. Over 66% have expressed a willingness to hand over indicted persons to The Hague. Given those poll numbers, a lot can happen in sixteen days if leaders in Belgrade and Washington muster the necessary political will.

Much is at stake. Extremists and hard-liners—whether they be in Belgrade, Mostar, Foca or the Presevo Valley or Macedonia—are watching and hoping to see signs that if they wait long enough and are intransigent enough, they can outmaneuver State Department officials and Congressional standards. At critical moments concerning U.S. policy in the Balkans over the past decade, Congress has reined in the State Departments first instincts toward equivocation, prodding it successfully to apply standards consistently and firmly. A firm prod is necessary here.

According to Saturday's *New York Times,* the State Department appears to be in the process of effectively rewriting the standards of Section 594 of the 2001 Foreign Operations Assistance Act. The leadership in Belgrade has apparently been told by State Department officials, in a memo entitled "Specific actions that would contribute to March 31 certification," that at least one indictee—explicitly not Slobodan Milosevic—needs to be transferred to The Hague by March 31, 2001 and that Milosevic should be arrested and held in custody in Belgrade.

The language of the law is clear. It requires that the President certify, "that the Federal Republic of Yugoslavia is . . . cooperating with the International Criminal Tribunal for Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension."

As you know, on Monday, a Bosnian Serb indictee named Blagoje Simic flew to The Hague and surrendered to the Tribunal. Dr. Simic had served as the mayor of Bosanski Samac in Bosnia when the town was overrun by Serb forces in 1992 and "ethnically cleansed" of non-Serbs. While charged with serious crimes, he should not be considered a high level suspect. Simic is reported to have been living in Belgrade for the past four years and to be a FRY citizen.

During his court appearance, Simic's lawyer emphasized that his surrender was entirely voluntary and at his own initiative. The spokesperson for President Kostunica's party, Milorad Jovanovic, was at pains to say that the surrender was a "personal act and cannot be interpreted as the beginning of FRY citizens indicted by the Tribunal being handed over to The Hague." Regrettably, we agree. While a positive development, this is not "cooperation" by the government.

A presidential certification of Serbian and Yugoslav compliance under Section 594 of the 2001 Foreign Operations Assistance Act at this point, despite Belgrade's failure to make any serious efforts at cooperation with the tribunal, to even acknowledge a willingness to turn over indictees (*plural*) as the plain language of the law requires, would have grave consequences for reform and stability in Serbia and throughout the region.

There are at least six, and as many as 15 publicly indicted war criminals in Serbia. Federal Interior Minister Zoran Zivkovic acknowledged yesterday that "about 15" indictees are currently in the FRY. Five months after Slobodan Milosevic was overthrown, and two months after the installment of a new government in Serbia, Belgrade has yet to detain any indictees, let alone transfer any to The Hague. The recent opening of a tribunal office in Belgrade is welcome, but it has been plagued with bureaucratic obstacles and does not represent significant progress.

Indeed, a high-level tribunal source told us last week that the level of cooperation from Serbia is the same now as when the office was open under Milosevic—a time when investigations were limited to crimes against Serbs and could generally proceed only when investigators were accompanied by Serbian officials. This morning, an official in the Office of the Prosecutor indicated again that the level of cooperation with the Tribunal is akin to that of the Milosevic regime in 1998.

The lack of concrete progress on tribunal cooperation is likely due to Yugoslav President Vojislav Kostunica's sincere nationalist convictions that the tribunal is anti-Serb and unjust because it has not investigated the 1999 NATO intervention, an action Kostunica has called "senseless, unnecessary, irresponsible and largely

cnminal." Kostunica has *explicitly* linked the tribunal's refusal to investigate alleged NATO war crimes to *his* refusal to transfer Slobodan Milosevic to The Hague.[1]

This core belief of Kostunica's—that Belgrade should not cooperate with an "anti-Serb" tribunal—has been cloaked in numerous other, more reasonable sounding excuses designed to ease pressure from the West. Indeed many of these excuses seem to have found resonance within the State Department, leading to public statements from State Department officials urging a lenient interpretation of the March 31 criteria. However, these excuses, like the contention that the tribunal is anti-Serb, do not stand up to scrutiny.

- There is a reasonable concern among many in Washington that applying too much pressure on Belgrade to fully comply with its tribunal obligations could spark a nationalist backlash and undermine reformers—but the evidence is to the contrary. An opinion poll conducted in Serbia last month showed that 66 percent of respondents favored the transfer of indictees to The Hague, with 60.3 percent specifically supporting the transfer of Milosevic to The Hague. Over half (51 percent) of those polled thought their government would transfer Serbian indictees to the tribunal.[2] The Serbian and Yugoslav justice ministers and the Yugoslav Deputy Prime Minister have in the past spoken in favor of full compliance with the tribunal. In short, there is a majority constituency in Serbia that supports full compliance with the tribunal, but compliance will only materialize if the March 31 deadline is publicly wielded as leverage to pressure hard-liners in the leadership.
- President Kostunica, Serbian Prime Minister Zoran Djindjic, and others have claimed that the Serbian constitution forbids delivery of Milosevic and other Yugoslav nationals to The Hague. This assertion has been given credence by some western policymakers, but this assertion is false. Serbian constitutional experts, among them Yugoslav Justice Minister Momcilo Grubac, have pointed out that the constitution forbids extradition of Serbian citizens to other states, but not their transfer to an international tribunal.
- The claims of some FRY officials that they need six months to enact a law before cooperation with the Tribunal begins is a delaying tactic. Some State Department officials have lent support to this notion and have even suggested, erroneously, that the new government in Croatia waited to pass a new law on cooperation with the Tribunal before turning over indictees. Over a dozen indictees have ended up in The Hague with the assistance of the current Croatian government and its non-democratic predecessor.
- Another excuse raised in Belgrade and sometimes echoed here and in Europe, is that the new governments face daunting tasks—economic and political reform, the unrest in Southern Serbia, relations with Montenegro and the future of Kosovo—and that compliance with the tribunal, therefore, cannot be a priority. However, hard-liners in the new Serbian and Yugoslav leadership must be made to realize that fulfilling their commitments to the UN Tribunal is not inconsistent with addressing what they regard as more important priorities. In fact ridding Serbia of war criminals well connected with organized crime organizations will aid political and economic reform, and strengthen the rule of law. The new leadership in Serbia and Yugoslavia currently enjoys widespread popularity. If it can not deal with the war crimes issue now, then it will be all the more difficult down the road when the public becomes impatient with the pace of economic recovery, as has been the pattern in all Eastern European countries in transition.
- Many have argued that Serbia should not be required to send Milosevic to The Hague, but should be allowed to try him itself on other charges, or host a trial in Serbia run by the international tribunal. The Chief Prosecutor at the tribunal, Carla Del Ponte, has stated unequivocally that Milosevic must first face trial in The Hague for war crimes before facing other charges in Belgrade. The Tribunal's position is well-founded in law and common sense. Security Council resolutions established and then reinforced the tribunal's primacy of jurisdiction over domestic prosecutions for war crimes in the former Yugoslavia because the war-ravaged domestic judicial systems were not yet ready or likely to try their own war crimes suspects. While domestic war crimes prosecutions have begun

[1] "Mrs. Carla Del Ponte says that there was not enough time to investigate the consequences of the NATO bombing of this country . . . which [was] seen in 1999 on televisions all around the world. Just because of that, the case of Slobodan Milosevic will be treated, and must be treated, in this country." B-92, 2/13/01.

[2] Poll conducted February 12-19, 2001 by the polling firm "Argument" with a sample of 910 in 26 Serbian municipalities. *Blic,* February 28 and March 1, 2001.

in Croatia and Bosnia and will, over time, occur in Serbia, the Tribunal has been entrusted by all member states of the United Nations with the responsibility of pursuing the major figures from all sides.

Furthermore, conditions for a safe and fair trial in Belgrade are nowhere near adequate. Protection for witnesses, prosecutors and judges would not be guaranteed, especially given the level of nationalist vitriol directed at the tribunal by President Kostunica and others. Kosovo Albanian, Croatian, Bosnian Muslim, and even Serb prosecution witnesses would doubtless fear for their safety, especially since violent mafia organizations thought to have links to the accused continue to flourish in Serbia. Even a domestic trial of Milosevic on corruption charges held now would be dangerous and difficult, more so now than later because the long process of judicial reform has only just begun.

- The same rules that apply to Zagreb and to Sarajevo should apply to Belgrade. Most prosecutions for war crimes in Croatia and Bosnia are being handled through their domestic systems. Where the Tribunal has exerted primacy, however, those governments have transferred indictees. In earlier years when Croatia did not do so, the international community—led by the U.S.—exerted strong conditionality on economic assistance.

If Belgrade does not fulfil the Congressional criteria for funding by March 31 and the Administration chooses to certify it anyway based on a weak standard of "progress" based principally in wishful thinking rather than facts, there will be serious negative ramifications for stability in Serbia and the Balkans, and for U.S. policy options there.

- A spurious certification would undermine the real reformers in the ruling coalition—the same individuals who also have sought more aggressive reforms in other areas. By coddling Kostunica and other hard-liners at the expense of more pragmatic and less nationalist members of the ruling coalition, the mistake of U.S. policy toward Russia in the early 1990s is repeated. By putting support for individual leaders above support for policies, we are in danger of undermining true reformers who would otherwise rise to the top.
- The current Croatian government has faced strong western pressure and taken genuine political risks to comply with the Hague tribunal. Creating a separate standard for Serbia will fuel nationalist anger within Croatia against the reformist government in Zagreb and teach that obstructing tribunal compliance might have been a reasonable alternative to the reformist approach.
- An unearned presidential certification of Serbia's compliance with the criteria crafted by Congress would undermine efforts in Serbia at establishing the rule of law. Serbia has an unambiguous legal obligation to fully comply with the tribunal. If it feels it can skirt the law with a wink and a nod from the U.S., then the message will just be reinforced that it is acceptable for nationalist policy desires to take precedence over laws—a concept that Belgrade must overcome if it is to progress and become a stable democracy.
- Finally, an unearned presidential certification of Belgrade's compliance with the tribunal would undermine the crucial NATO missions in Bosnia and Kosovo, prolonging the need for U.S. troops there. Not only has the new leadership in Belgrade failed to turn over any of the publicly indicted Bosnian Serb war criminals in Serbia, but in January Yugoslav President Vojislav Kostunica even went so far as to raise the prospect of granting them political asylum in a bid to protect them from prosecution.[3] Among those Bosnian Serb indictees still in Serbia is wartime army commander Ratko Mladic, indicted for genocide for among other things, the Srebrenica massacre. NATO sources have also reported that the indicted wartime Bosnian Serb leader Radovan Karadzic also spends time in Serbia. Until these men are arrested and transferred to The Hague, they will lend hope and power to ultranationalist forces in Bosnia, destabilizing the country and delaying the day when U.S. troops can leave.

Likewise, Belgrade's failure to transfer to The Hague the five leaders publicly indicted for war crimes in Kosovo—among them Slobodan Milosevic—only feeds acceptance among ethnic Albanians for the current wave of extremist acts in Kosovo, Southern Serbia, and Macedonia. Rewarding nationalist policies in Belgrade not only sidelines Serbian reformers, but also moderate forces in the Albanian community.

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[3] "If we assume that in Yugoslavia there are people who are indicted and they are citizens of some other country, they could seek refuge in this country. This country could give them asylum." *Christian Science Monitor,* 1/19/01.

In adopting Section 594 as law, Congress has provided a service to the true reformers in the DOS coalition and to the citizens of the former Yugoslavia by explicitly setting forth the minimum standards for eligibility for U.S. bilateral and multilateral economic assistance.[4] This law has impressively defined and guided the international debate about aid to the region. Without it, there is little doubt that the debate about progress by the new government, within and without Belgrade, would be even less rigorous than it now appears to be. Prosecutor Carla Del Ponte has called upon European governments to adopt similar laws, and has vowed to go to the Security Council in April seeking sanctions if progress is not made.

It would be a great mistake now for Congress to allow the Administration to define the law so loosely to deprive it of any meaning in the mistaken notion that now is the time for unconditional carrots instead of incentives to be earned. That tack has been tried in U.S.-Balkans policy before and it does not work. Holding firmly and consistently to standards does.

Again, the language of the law is clear. It requires that the President certify, "that the Federal Republic of Yugoslavia is . . . cooperating with the International Criminal Tribunal for Yugoslavia including access for investigators, the provision of documents, and the *surrender and transfer of indictees* or assistance in their apprehension." If Congress accepts a lesser standard for certification, it is sending a troubling message to the new Administration, to leaders in the Balkans who have met their obligations to the Tribunal, to reformers within Belgrade who understand this fundamental obligation and, most importantly, to the hundreds of thousands of people in the region who lost relatives, homes and livelihoods in the worst carnage on European soil since World War II.

The first Bush Administration stood up for these victims before by vigorously supporting the establishment of the Tribunal. Now is not the time to abandon them by interpreting this straight-forward standard in anything less than a rigorous, common-sense way.

Cooperation cannot be certified now because it does not exist.

Senator SMITH. Thank you very much. Again, we apologize for this intrusion on an important hearing. I do want to say the timing of this was so important we thought we should at least do as much as we can, because these messages need to be sent to Belgrade and perhaps to the State Department as well.

Senator Biden.

Senator BIDEN. I would just like to make one point. I apologize for it but we are going to have these five votes, and one of the five votes is an amendment that I have on the floor. I think you are absolutely right on all three of your statements, and as far as I am concerned, I will do everything in my power that I am able to do, which is limited, to not certify. Not certify.

I want to point out one thing. You have some real genuine folks in this Government in Belgrade. They are not all bad guys. You have got guys like Djindjic and Covic. I met with Covic for a long time at the request of General Casey at KFOR, sitting down with him and talking about what to do in the Presevo Valley. They made some significant concessions and progress, and talked about it.

If you read what happened today, Covic went down there, and the deal was, anyone coming into that zone now, that little piece that the Serb military is now allowed to be in, could have no part of any of the atrocities that took place before. Who shows up in a white jeep but General Pavokvic—Covic went off the wall on this. He is being undercut. We need to stop this most radical element of the Yugoslav military.

I have been speaking with the folks in Kosovo from Rugova on down through Thaci, and—I am mispronouncing this name—

[4] The law exempts humanitarian and democratization assistance.

Haradinaj, and so far they have been behaving well. The ethnic Albanian minority in Macedonia has been behaving well. Yet when you see these two generals come rolling down, who are like billboards saying, "we are back." It sets everything back. So I just give you that as one concrete example of what is happening this very moment to undercut Covic.

Now, that old general headed back up to Belgrade he had made his presence felt, but is anybody in the Presevo Valley going to believe that? Is anybody going to believe that Covic had really winnowed around and put together a clean military operation down in this small 5 meter, or 5 kilometer area? I do not think so. I do not think so.

I am really sorry that we have these votes. I do not know, Mr. Chairman, whether there is more. Are there still five? If not, maybe we can come back, but otherwise I think we are holding these——

Senator SMITH. Senator Voinovich, do you have anything you want to say?

Senator VOINOVICH. The only thing I would like to say is, first of all, I am glad I was here today, and I am going to send both your opening statements to President Kostunica, because I tried to convey to him, and so did Senator Specter when we were there, that we were dead serious about the cooperation with The Hague, that in spite of the fact that he claims political problems in trying to get things going there, that that is not going to be acceptable.

In regard to the three areas that you both talked about, or the three of you talked about, I agree wholeheartedly in terms of The Hague. I think that in terms of the issue of Bosnia, from what I understand, that the cooperation there with the Republic of Srpska has diminished substantially in the last several weeks and that the President has made it very clear that they are not going to support those individuals, and I know that—what you said today verifies some testimony that was from the OSCE meeting that was held. I think there is more progress that has been made there than you think.

In terms of the Albanians in jail, they have released a substantial number of them under the amnesty agreement. What it is suggesting to them is that some of them they say are really criminals, that each case be taken care of individually very quickly, and that try and get the Djakovica people, let them out of jail right off.

So I guess what I am saying to you, Mr. Chairman, and ranking member, that there is a major problem with The Hague, and I think in the other two areas that some substantial progress has been made, and the only suggestion I would make is that before we finally make this decision, or you make this decision, that you bring in Ambassador Montgomery and have him come here so you can question him and some other people to get their perspective on how they praise this progress in terms of all three of these issues.

Senator BIDEN. Mr. Chairman, one very important person is here that we have not introduced. Sonia Biserko a Serb who has been very courageous and who is a leading, leading person. I would just like to recognize her, and thank her for being here.

Ms. BISERKO. Thank you.

Senator SMITH. Ladies and gentlemen, thank you, and I am sorry. We will leave the record of this hearing open for an additional 3 days, and any other additional comments or questions, we will leave it open for colleagues.

Senator BIDEN. Mr. Chairman, with their permission, I will send—I am not going to make a lot of work for you, but send a few questions so that we have them for the record, if you do not mind.

Senator SMITH. Thank you all. We are adjourned.

[Whereupon, at 2:58 p.m., the subcommittee adjourned.]

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## ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

### PREPARED STATEMENT OF ALBANIAN AMERICAN CIVIC LEAGUE—OSSINING, NEW YORK

President George Bush must certify to the U.S. Congress by March 31 that the newly elected Serbian government of Vojislav Kostunica is ready to arrest and imprison former President Slobodan Milosevic, transfer at least one indicted war criminal to The Hague Tribunal, release the Albanian prisoners of war in Serbian jails, cooperate with the Dayton Agreement, and educate the Serbian people about the crimes against humanity that were committed in their name. Otherwise, $100 million in American aid ostensibly will be cut off and the United States will also withdraw its support for IMF and World Bank loans to Serbia.

The Albanian American Civic League urges the Bush administration not to back down from its original demand that Slobodan Milosevic be extradicted to The Hague and allow the transfer of another indicted war criminal in his place. The Civic League is concerned about the Administration's apparent willingness to certify Belgrade whether or not it recognizes the authority of the International War Crimes Tribunal and complies with the set of demands that were delivered to the Kostunica government by U.S. Ambassador William Montgomery last week. This is reminiscent of the failed policy of appeasement toward Serbia that enabled the country, under the Milosevic regime, to rise to power on a platform of anti-Albanian racism, to brutally occupy Kosova for ten years, and to wage four wars of conquest in Slovenia, Croatia, Bosnia, and Kosova that left more than 350,000 dead and more than two million homeless.

If we do not want to lose the prospects for resolving the Balkan conflict and unifying Europe, then the Kostunica government's access to more American aid and to international financial institutions should be contingent on its demonstrating a genuine commitment to democracy and the rule of law by meeting the following conditions:

- All Albanian prisoners of war must be released immediately from Serbian jails and returned to Kosova. Serbia must also begin the investigative work necessary to giving a full accounting of the missing Kosovar Albanians. America's oft-lamented "lack of leverage" over Belgrade is at an end, and so now is the time to rectify the Clinton administration's mistake in dropping the provision in the war-ending agreement that would have guaranteed the release of all Kosovar Albanian prisoners of war. Indeed, if we certify Serbia without first securing their release, we will lose the only real leverage that we have ever had to free 500 or more innocent men and women.
- There can be no shelter for war criminals. The Kostunica government has repeatedly denounced the International War Crimes Tribunal in The Hague as "anti-Serb" and refused to turn over Slobodan Milosevic and other indicted war criminals. If the United States is serious about reinforcing the rule of law, then Serbian war criminals, beginning with Slobodan Milosevic and including Bosnian Serb commanders Radovan Karadzic and Ratko Mladic, must be apprehended and brought to The Hague for trial. America's decision in this matter will reveal the level of our commitment to opposing genocide and dramatically impact our ability to bring a just and lasting peace to the Balkans, to prevent future conflicts, and to build respect for human rights around the world. It is now widely understood that the major reasons why democracy remains illusive in postwar Bosnia is the West's failure to confront war crimes, allowing war criminals and their accomplices to maintain their political and economic power. The same is true in Serbia, where Milosevic's cronies have retained their control over large sectors of the economy and the military, and the result has been

rampant official corruption, the spread of organized crime, and continuing violence against minority populations.

- Serbia must begin a "de-Nazification" campaign to end a century of anti-Albanian and anti-Muslim racism, apart from which there will be no stability in the Balkans. The Kostunica regime could constructively initiate such a program by publicly acknowledging Serbia's responsibility for war crimes and by apologizing to the victims in Bosnia, Croatia, and Kosova. To date, there has been no acknowledgment of any kind by President Kostunica and his colleagues of the atrocities and mass murder committed by Serbia during the Milosevic era. This failure has fueled reprisal killings by Albanians and stymied efforts to bring interethnic reconciliation to Kosova.
- Serbia must honor its stated commitments in Bosnia-Herzegovina and help bring peace and democracy to this fragile nation. The Kostunica government's continuing financial and moral support for Serbian separatist leaders in Republika Srpska is destabilizing Bosnia and undermining the full implementation of the Dayton Accords.
- In order to bring an end to the conflict in the Presheva Valley, Serbia must cease its historic repression and violence against the Albanians of Presheva, Medvegja, and Bujanoc, recognize their civil and human rights, and enable them to participate meaningfully in both municipal and central governments, the police, and the judiciary.
- Serbia must come to understand, and the Kostunica government must accept, the new reality of Kosova and Montenegro. The new reality is that both Kosovars and Montenegrins refuse to come back under Serbian rule and have chosen to exercise their right to self-determination, just as the other constituent units in the former Yugoslavia did in the 1990s. Instead of continuing to assert its authority over Kosova and Montenegro, Serbia should work to develop constructive bilateral relationships with its neighbors.

Unless Serbia makes a real effort to meet these conditions, ultranationalist forces will prevail inside the country and regional stability will be threatened. And unless Serbia makes a radical change in the direction of compliance with the conditions for certification in the next two weeks, the Albanian American Civic League believes that the Bush administration should cut off aid to Belgrade.

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## PREPARED STATEMENT OF FRANK KOSZORUS, JR., PRESIDENT, AMERICAN HUNGARIAN FEDERATION OF METROPOLITIAN WASHINGTON, DC

Although the Serbian and Yugoslav governments have made some progress in the area of human rights, they have not complied with the three conditions for American assistance, including in the area of minority rights. Nonetheless, humanitarian assistance and assistance to promote democracy in municipalities should be provided, especially for the beleaguered province of Vojvodina. In addition, a comprehensive policy that would promote regional security and stability should also be developed and implemented.

### THE 2001 FOREIGN OPERATIONS ASSISTANCE ACT (THE "ACT")

Pursuant to the Act, U.S. assistance and other forms of support can be made available to Serbia after March 31, 2001 only if the President determines and certifies that Yugoslavia is (1) cooperating with the International War Crimes Tribunal; (2) abiding by the Dayton Accords to end Serbian support for separate Republika Srpska (i.e., Serb) institutions; and implementing policies in respect for minority rights and rule of law. The certification (and other) requirements of the Act do not apply to humanitarian assistance or assistance to promote democracy in municipalities. While meaningful progress is lacking as to all three benchmarks, this statement will focus on the deficiencies relating to the third benchmark, particularly with respect to the Hungarians of Vojvodina.

### VOJVODINA

Vojvodina is one of two provinces in the Republic of Serbia which along with Montenegro forms the Federal Republic of Yugoslavia. Vojvodina occupies the northern one-fifth (8,348 sq. miles) of the country's territory, bordering Hungary in the north, Croatia in the west, Bosnia-Herzegovina in the southwest, Serbia proper in the south, and Romania in the east. The province has 2.2 million inhabitants of which 57 percent are Serbs, 17 percent Hungarians, 5 percent Croats, 3 percent Slovaks,

2 percent Montenegrins, 2 percent Romanians, 1 percent Ruthenians, and 13 percent others. These numbers are based on the 1991 census and have likely changed during the Balkan wars in the 1990's.

BACKGROUND

Prior to World War I Vojvodina was part of Hungary for approximately 1,100 years, with the exception of 200 years of Turkish occupation (1526-1699/1718). That occupation resulted in the depopulation of the area. Thereafter, the Habsburgs began to repopulate the area with German and Serb settlers and the Hungarians also began to resettle in the region. In 1910 the 1,320,000 inhabitants included 30.2 percent Hungarians, 25 percent Serbs, 23 percent Swabian Germans, 10 percent other South Slavs (including Croats, Bunjevci, Sokci), and 10 percent others (Romanians, Slovaks, Ruthenians). It is unlikely that this region would have become part of Yugoslavia had Woodrow Wilson's principle of self-determination been respected. It was not and the Paris peace treaties awarded Vojvodina to the newly created Kingdom of Serbs, Croats and Slovenes (renamed Yugoslavia in 1929).

The Serbs began an aggressive Serbianization process that, among other things, radically altered Vojvodina's ethnic composition in the 20th century. As soon as Vojvodina was transferred to Yugoslavia, they moved tens of thousands of Serb families into Vojvodina, dispossessing the original residents.

This was repeated after World War II when twenty to thirty-five thousand Hungarian men and boys were massacred between October and December 1944. An additional 40-50,000 Hungarians fled this terror. The massacres were done ostensibly in retaliation for the execution of 3,300 Serbs and Communists by renegade Hungarian officers in the winter of 1941-42. In addition, three hundred thousand Germans were either expelled or exterminated and their property given to a new wave of Serb colonists.

VOJVODINA UNDER MILOSEVIC

A third wave of "ethnic cleansing" took place under Milosevic: tens of thousands of Serb families poured in from Kosovo, Croatia, and Bosnia, while some hundred thousand Hungarians and Croats fled the forced mobilization and intimidation. The ethnic structure of Vojvodina has thus been significantly altered—international treaties notwithstanding—through forced or state-sponsored relocation, in favor of the Serbs, as noted in the statistics noted above.

In 1988 Milosevic's Serbian parliament, supported by populists rallies financed by Serb nationalists, destroyed the province's autonomy when it illegitimately overturned the 1974 Yugoslav Constitution which guaranteed legislative, executive, and judicial powers to both Vojvodina and Kosovo, including equal representation with the six republics in the federal collective presidency. As noted by the March 15, 2001 RFE/RL Newsline, "[d]estroying the two provinces" autonomy was an important step in the consolidation of Milosevic's power." For Vojvodina this has resulted in total domination by Belgrade. For instance, beginning twelve years ago, Belgrade has appointed not just judges and police chiefs but factory managers, hospital directors, and even school principals in Vojvodina, thereby violating every precept of local self-government.

Despite years of intimidation, Vojvodinians consistently and peacefully voted against Milosevic, demonstrating their deep commitment to democracy. In fact, the decimated minorities and those Serbs whose historical roots are in Vojvodina have not resorted to violence. They merely want autonomy, both territorial for the province (indeed, legislative, executive, and judicial) and "personal" autonomy (in education, the media, publishing, and cultural institutions) for members of the ethnic minorities.

SERBIA HAS NOT SATISFIED THE THIRD BENCHMARK OF THE ACT

Serbia has disappointingly fallen short of satisfying the third benchmark of the Act. Echoing Milosevic's "unification of Serbia" rhetoric, newly elected federal president Vojislav Kostunica's party intends to reorganize the remaining state, but keep Vojvodina under Serbia's control. This *ab initio* precludes any meaningful autonomy. When the new provincial assembly (with comfortable majority by the same 18-party coalition that won the federal and the Serbian elections) appointed a new board for Vojvodina's five-language public TV and radio stations, Belgrade promptly reminded them that the decision "belongs" to the Serbian parliament. It conveniently "overlooked" the fact that the building housing the media originally belonged to Vojvodina before it was illegally expropriated by Milosevic in 1989.

Even after the new Serbian republican government was sworn in, with ethnic Hungarian leader Jozsef Kasza as one of its Deputy Prime Ministers, the Serbian

Constitutional Court in February ruled that the names of cities, towns, and villages must be displayed in Serbian only. This decision negated recent decisions by democratically elected municipal governments to erect multi-lingual signs. Ethnic political parties and independent intellectuals have condemned this latest display of majoritarian intolerance by Serb nationalists.

Zoran Djindjic admitted in Novi Sad that the restoration of Vojvodina's autonomy is "not a priority" for the new government. RFE/RL Newsline, March 15, 2001. The same issue reports that Dragan Veselinov, head of the pro-autonomy Vojvodina Coalition, responded by pointing out that the new government's attitude toward Vojvodina is no different from that of Milosevic's Socialists or Vojislav Seselj's Radicals. *Id.*

In sum, all three conditions, including respect for minorities and minority rights, must be satisfied before aid is provided under the Act. This, unfortunately, has not occurred. At the same time it must be recalled that Vojvodina suffered devastating economic consequences as a result of NATO's intervention in 1999: all three bridges in the capital of Novi Sad were destroyed while none were touched in Belgrade. The country's only two oil refineries are located in Vojvodina and they were heavily damaged. Moreover, Vojvodinians, including the Hungarian community, have amply demonstrated their unflinching commitment to democracy and peace.

Accordingly, the province should receive assistance under the two exclusions of the Act, namely, humanitarian assistance and assistance to promote democracy in municipalities. This aid should be directed to support NGO's, the local school system, the independent media, and municipal governments in Vojvodina, especially since they have received little support in the past compared to Belgrade-based organizations.

ALTERNATIVE POLICIES TO FACILITATE DEMOCRACY, STABILITY AND SECURITY AND TO FORESTALL AMERICAN MILITARY INTERVENTIONS

Beyond the immediate question of assistance programs, the United States should adopt imaginative and forward looking policies toward the region instead of reacting to crises, requiring the commitment of American troops to drawn out military and non-military assignments. This would require a comprehensive approach that is not necessarily wedded to the *status quo,* but one that is designed to facilitate genuine democracy, stability and, therefore, regional security.

As noted above, the United States should unequivocally support the restoration of Vojvodina's autonomy as well as the regional autonomy of the various ethnic groups of the province. It should support the legitimate demands of a peaceful population, and not ignore them just because an immediate crisis or imminent threat to peace is not looming. Autonomy is the *sine qua non* of genuine democracy, stability and security in the context of the Balkans; it is the desired goal.

Thus, a reorganization of the current Yugoslav state (consisting of the republics of Serbia and Montenegro and the provinces of Vojvodina and Kosovo) must respect and adequately reflect the vastly different historic heritage of each of these entities. The *status quo* is not acceptable, however, and either Vojvodina must be granted rights it previously enjoyed as an equal federal unit of Yugoslavia or Vojvodinians will seek independence that will place them on equal footing—as Montenegro's President Milo Djukanovic suggests. Decentralization of Serbia would be meaningless without real federal status for Vojvodina.

What if Belgrade refuses and continues to pursue intolerant and discriminatory policies toward ethnic minorities—policies that fuel disputes, tensions and violence and could threaten the peace? Graham Fuller, former vice chairman of the National Intelligence Council at the CIA, astutely observes that the "simple reality is that in the next [21st] century minorities will be increasingly unwilling to live within borders—to which they have been arbitrarily assigned by history—when conditions seem intolerable. More than ever before they will demand a voice over what peoples will rule them and how." He then points out that if the "states cannot provide good governance, their minorities" may seek "to gain maximum autonomy or independence." In other words, he foresees the unwillingness of minorities "to put up with gross misgovernance in a world rife with talk of democratization, globalization, civil society, human rights, porous borders and growing U.N. norms. How long can we expect that minorities will indefinitely accept unacceptable status quos?" The *Washington Post,* "More Kosovos," April 4, 1999.

In the context of Yugoslavia, Professors John J. Mearsheimer (University of Chicago) and Stephen Evara (Massachusetts Institute of Technology) assert that the "history of Yugoslavia since 1991 shows that ethnic separation breeds peace, while failure to separate breeds war." The *New York Times,* "Redraw the Map, Stop the Killing," April 19, 1999). This separation does not have to result in the further dis-

solution of Yugoslavia. Rather than a centralized state, the Swiss model could be applied whereby each national group has its own autonomous self-governing unit free of domination by another, intolerant ethnic group. Janusz Bugajski has gone even farther by suggesting that the "only viable short and long-term solution . . . is sovereignty, independence and statehood for the Republic of Vojvodina." "The Republic of Vojvodina," reprinted in *Hungarian American Coalition News,* June 2000.

In the final analysis, whether peace and stability will characterize the Balkans will depend to a large extent on Belgrade and the vision and leadership exercised by the West. As William G. Hyland, former editor of Foreign Affairs who also served in the Nixon and Ford administrations, suggested the United States "should take a page from history and do what the European leaders did in the last century—convene a European summit conference, as the Great Powers did in 1878 at the Congress of Berlin; then as now the purpose would be to redraw the map of the Balkans and avoid an all-out war." The *Washington Post,* "On to a Big Table," March 31, 1999.