

## **Admission of Milosevic Intercepts Urged**

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Court contemplates introduction of wiretap evidence in Milosevic case

Prosecutors in the Milosevic trial pushed this week to introduce as evidence some 245 intercepted telephone conversations, most of them involving the defendant and members of the so-called joint criminal enterprise he is alleged to have run.

The intercepts, some of which have been played in court even though they have not yet been admitted as evidence, were made available to IWPR by the prosecution.

If they are accepted, they could prove to be some of the best evidence of both Milosevic's direct involvement in the operation to ethnically cleanse parts of Croatia and Bosnia of their non-Serb populations and his role in the Srebrenica massacre, because they include conversations the defendant had with Bosnian Serb president Radovan Karadzic, as well as other Bosnian Serb political and military leaders.

In one conversation between Milosevic and Karadzic in July 1991, the two are heard discussing plans to force Slovenia and Croatia to secede from Yugoslavia so Milosevic can realise his vision of a Greater Serbia.

In another intercept, in July 1991, Milosevic and Karadzic are heard discussing the formation of a Bosnian Serb force, and the importance of making it look as if Serbs are only trying to defend the idea of Yugoslavia.

Although the prosecution will not say who provided them with the telephone intercepts, they are believed to have come from the Bosnian government whose intelligence services often wiretapped telephone lines.

The existence of the intercepts was first revealed by the prosecution a year ago but both Milosevic and the amici curiae the court appointed to aid in his defense challenged the legality of their admission as evidence. They have remained in limbo since then, pending a decision by the trial chamber on their admissibility.

Milosevic's argument seems to be that since they were made by the Bosnian state security service they were inherently unreliable. He claims that the intercepts were falsified as part of a Bosnian government conspiracy to secede from the former Yugoslavia by making the Serbs look as if they were committing crimes against Bosnian Muslims and Croats.

Amicus curiae Steven Kay contended that the transcripts legality under state law has not been established.

Judge Patrick Robinson interrupted Kay's argument to point out that the trial chamber in the Kordic case (on which both he and presiding Judge Richard May sat) ruled that inadmissibility under state law does not make evidence inadmissible in the tribunal.

In the Kordic trial, the chamber decided that rules against admitting illegally obtained evidence do not apply to eavesdropping on an enemy's telephone calls during wartime.

May added that the purpose of the tribunal is not to enforce state regulations.

Kay agreed that the real determinant is reliability, referring to a recent decision by a trial chamber in the Brdjanin case in which the judges ruled that they had "no doubt at all that intercepts, the authenticity of which cannot be proved beyond a reasonable doubt, should be excluded".

May pointed out that in spite of the ruling, the Brdjanin trial chamber eventually did admit the intercepts as evidence.

Kay argued that the intercepts should not be admitted in the Milosevic trial until they have been properly authenticated.

Prosecutor Geoffrey Nice, on the other hand, told the court the tapes were authenticated by last week's witness who testified in closed session. That witness gave an account of the history of the intercepts from the date of their creation until copies were turned over to the tribunal.

The issue, Nice said, is whether the tapes have been falsified, as Milosevic alleges. Nice pointed out that the prosecution asked Milosevic to identify intercepts he asserted were falsified, but that he declined to do so. Therefore, Nice told the court, there is no reason to doubt the authenticity of the intercepts at this stage.

The trial chamber will consider the oral arguments and written submissions before rendering its decision, but given the tribunal's preference for the admission of all relevant evidence, legal analysts said they thought it was very likely the court would allow the intercepts into evidence.

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