

## **Analysis: Media Castigates Milosevic Prosecution**

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Is negative press coverage of the prosecution's performance in the Milosevic trial justified?

From Belgrade to Paris, media that have almost nothing in common ideologically use remarkably similar language when describing the performance of the prosecution in the trial of Slobodan Milosevic.

"Here comes a disgrace," said Serbia's liberal weekly magazine *Vreme*, which called the prosecutors "amateurish". *Le Monde Diplomatique* of Paris described their performance as the "Fiasco a la Haye" while Britain's conservative *Daily Telegraph* said they would pay a heavy price for what it called an "opera" that had been "badly prepared and poorly executed".

Does the course of the trial truly justify these harsh words? Last Friday, May 24, the Milosevic trial had been underway for 45 working days, excluding the time given over at the start of the trial to the opening statements of the prosecution and the accused.

During that time some 60 witnesses have been heard - a record by tribunal

standards. By contrast, the ongoing trial for genocide in Bosanska Krajina

has heard only one witness in the last four weeks.

According to last month's prosecution statistics, 45 per cent of Milosevic trial time was taken up with direct questioning of the witnesses. The accused's cross-examination took up another 50 per cent. The *amici curiae* (friends of the court) used the rest.

About 30 witnesses have testified through written statements (so called Rule 92bis witnesses) over the last month. The prosecutor had only five minutes to present each one, while the accused examined each for at least an hour.

The fact that the defendant is "calling the shots" in the courtroom - and has been given the opportunity to speak longer, louder and more provocatively than anyone else - adds to an impression that he has gained the initiative and that the prosecution's case is "badly prepared and poorly executed".

Two-thirds of the 60 witnesses heard so far were so called "crime basis" witnesses, who mostly testified on the circumstances under which they were forced to leave Kosovo in spring 1999. Since the deportation or forced transfer of the Albanian civilians has been qualified as a crime against humanity, the prosecution must prove the "systematic and widespread" character of the attacks against civilians organised in the spring of 1999 by Serbian and Yugoslav security forces under Milosevic's command.

And this appears to have been proven by witnesses from towns and villages all over Kosovo, from more than 20 municipalities, all of whom experienced a similar or identical fate in different places at the same time.

Many are poorly educated or illiterate peasants. And Milosevic has confused or intimidated some with his aggressive cross-examination, which has added to the impression that the prosecution has produced "weak witnesses" who have had trouble expressing themselves and understanding what was being said.

But their testimonies have added new pieces to a puzzle that the

prosecution is trying to assemble, and which aims to show firstly that identical events occurred at the same time in different places, and secondly that there were two distinctive "patterns" of Serbian behavior - in villages and in towns.

In towns, the army and police went from street to street and house to house, forcing out the residents and sending them to the railway or bus stations from where they were transferred to Albania or Macedonia.

In villages, on the other hand, the Serbs first encircled and shelled them before going in and burning down houses, killing the occupants and hunting down refugees in the hills and sending them in convoys to the nearest frontier.

These "patterns", described in numerous testimonies, suggest deportations

were planned, systematic, organised and deliberately violent. The testimonies refute Milosevic's basic thesis that people fled from fear of NATO bombardment or of armed conflicts between the security forces and the Kosovo Liberation Army, KLA.

This thesis was also refuted by Dr Patrick Ball, as well as by the victims.

Ball, the first expert witness to testify in the trial, produced statistical analysis showing population movements and mass killings were not linked to NATO bombardment or KLA operations but to Yugoslav army and Serbian police activity.

A study of the damage inflicted to Kosovo's cultural monuments and sacral

objects presented by Dr Andras Riedlmayer also refuted Milosevic's

argument. This showed it was not NATO bombs or fights between Serb forces and the KLA that damaged Kosovo's cultural monuments but systematic actions on the ground involving deliberate shelling, use of explosives and arson. Serbian forces at first inflicted this damage on Albanian monuments. Later, Albanians retaliated in kind.

Finally, in the last week, the court heard a third expert study. This came from a French forensic pathologist, Dr Eric Baccard, who reported on partial results of exhumations and autopsies carried out in Kosovo in the second half of 1999 and during 2000.

In that time several hundred suspected locations were researched and more than 4,000 corpses found. Baccard's report concerns 14 locations of mass

killings listed in the indictment against Milosevic, where the annex to the

indictment lists the names of about 900 people who were killed in Kosovo in the first half of 1999.

It said autopsies showed the cause of death in most cases was gunshot

wounds (mostly to the chest, head or back), injuries caused by explosions

and blows from heavy objects. In many cases, the victims had been shot several times.

Although Baccard researched the cause of death, not the manner, in his

cross-examination Milosevic still suggested the injuries were the result of

combat or NATO bombardment. The French expert refused to discuss

such speculation.

As the presentation of evidence for mass killings has yet to begin, Milosevic will have plenty of time to present his own version of the story about the deaths of Kosovo victims to other experts and witnesses.

In the presentation of evidence for deportations, the prosecution touched on

several cases of mass killings at Racak, Izbica, Bela Crkva and Kotlina,

though evidence pertaining to these events has yet to be presented. In the

cross-examination of two former members of the Kosovo Verification Mission, KVM, General Karol Drewienkiewicz and Colonel Richard Cianglinski, Milosevic denied their conclusion that what happened in Racak was a "massacre".

He had little success, not only because they refused to alter their opinions but primarily because Racak was only "a peripheral issue" in their testimony, which centred on the overall development of the situation from October 1998 to March 1999, when the KVM left Kosovo, just before NATO air-strikes began.

In this period, the general and the colonel were able to "verify" numerous actions by the Serbian security forces against the KLA and Albanian civilians, including the burning of villages and displacement of thousands

of refugees. They also were in a position to "verify" a significant increase in the number of units and machinery brought by the Yugoslav army and Serbian police to Kosovo, in violation of the Milosevic-

Holbrooke agreement of October 1998 that temporarily removed the threat of air-strikes.

They were finally in a position to examine the functioning of the army and

police chain of command from Kosovo to Belgrade and to identify who made the relevant decisions and in whose name. Though they had no direct

communication with Milosevic, the two witnesses had no doubts who was at

the top of the chain of command.

In addition to accusations of "amateurism", "lack of seriousness", "poor

preparation" and "even worse execution", the prosecution has been accused,

especially in Belgrade, of engaging in "too much politics".

Statistics, however, do not back this up. Seven witnesses have so far

addressed the "political aspects" of the crisis. One was an "international" - the British politician Paddy Ashdown. Five were from Kosovo, namely Mahmut Bakalli, Ibrahim Rugova, Veton Surroi, Baton Haxhiu and Adnan Merovci. The one "insider" was Ratomir Tanic.

As well as testifying on the overall political context and development of

the Kosovo crisis over the last decade, they confirmed that at the time

cited in the indictment Milosevic knew very well what was going on in the region, and either made all the decisions or was consulted on them

Not all were as efficient and persuasive as Ashdown, Surroi and to an

extent Rugova, whose testimonies were described in detail in previous

Tribunal Updates. Last week, these three were joined by Baton Haxhiu, a Kosovo journalist, invited to confirm elements of Mahmut Bakalli's testimony.

The two of them met Serbia's secret police chief Jovica Stanisic and his

associates several times in spring 1998 and were told if they did not

abandon their independence campaign, a "scorched earth" plan would be implemented in Kosovo, eliminating 460 Albanian villages.

In his cross-examination, Haxhiu laughed at Milosevic's "Balkan conspiracy theories". He described the KLA as "a product of Serbian repression of Kosovo Albanians, the political clumsiness of the international community, which postponed this problem for as long as possible and the conservative approach of President Rugova, who contributed to the status quo".

The testimony of Tanic, "the first Serbian insider", came under a great deal of scrutiny, with some questioning whether he had as much contact with Milosevic as he claimed.

But photographic evidence suggested that he did meet the defendant. And articles published in the Belgrade daily Politika, then the organ of the regime, and lists of participants in various international meetings, showed he did take part in negotiations on Kosovo and was an official of the New Democracy party, even though the party has since denied this.

But if this case depended on the testimony of one key witness, the Kosovo indictment against Milosevic probably would not have been brought.

In May 1999, when the then prosecutor Louise Arbour signed it, Milosevic was in power in Belgrade and Hague investigators had no access to the crime scene, let alone to "insiders". In spite of that, Judge David Hunt confirmed the indictment, concluding that there was a "prima facie case".

He held that the supporting evidence was of such a character that

it could provide the basis for the court to convict him, in spite of the fact that no "insiders' statements" at that time were included in the supporting evidence.

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