

ANALYSIS: Milosevic in Language Dispute

Author: [Mirko Klarin](#)

Slobodan Milosevic's grasp of English is at the centre of an unusual procedural dispute.

It may seem that Slobodan Milosevic, judging from his first two appearances at The Hague, does not quite understand the gravity of the charges against him. But there can be little doubt he has a good grasp of the English language, a matter which assumed major significance in the opening stages of the trial.

Except for two sentences uttered in Serbian for home consumption during his initial appearance on July 3, the former Yugoslav president has employed quite good English during his tirades against the "illegal court" and "the false indictments" levelled against him.

Not once did he reach for the headphones in order to follow the simultaneous translation into Bosnian-Croatian-Serbian, a semi-official name for the language used at the tribunal to communicate with defendants from these parts of the former Yugoslavia.

Despite this, the question of Milosevic's linguistic skills became an important issue in the pre-trial phase of his prosecution. Prosecutors' request that the accused be presented with witness statements in English was successfully challenged last week by the three lawyers known as "amicus curiae", or friends of the court, appointed not to defend Milosevic, but to assist the trial chamber in properly determining the case.

The dispute revolved round the tribunal's rules of procedure. These say that all oral and written communication with the accused must take place "in a language the accused understands". This does not necessarily mean the defendant's mother tongue, just so long as he clearly understands the testimony.

The formula was devised to pre-empt defence objections that the accused had not understood what was going on in court. In the early days of the tribunal, this argument was deployed several times. One lawyer, defending a Bosnian Serb, claimed his client could not grasp the "foreign language" translation delivered in his earphones by a Croatian interpreter.

The tribunal consulted linguistic experts familiar with south Slavic languages. These experts ruled that differences between Bosnian, Croatian and Serbian versions of the language are not large enough to impede understanding between people who speak any of the three tongues. The tribunal accepted this.

Prosecutor Carla del Ponte, who understands English even though it is not her mother tongue, concluded from Milosevic's first two appearances that he also understands it well enough for court proceedings to be conducted in English. She argued that this would save translation costs and speed up procedure.

The three "amici" in Milosevic's case - Michail Wladimiroff, Steven Kay and Branislav Tapuskovic - vehemently opposed the prosecution's request. They said they did not know the accused, had no information about his language skills and could not determine whether he understands English well enough to deal with the witness statements in the English language.

The lawyers argued over the definition of the word "understands", saying it might merely imply a defendant's ability to determine the nature of the case and the allegations against him, without taking account of whether he could follow the cut and thrust of court procedures.

What's more, the lawyers said, many witness statements were originally in the mother tongue of the accused and would be better rendered in the original rather than through an English translation.

But the "amici" may be wrong in this case. The first and so far the only indictment against Milosevic is the one charging him with crimes in Kosovo and most of the witness statements here were originally delivered in Albanian, and subsequently translated into English.

Two additional indictments, to be signed by Chief Prosecutor Carla Del Ponte on October 1, are for crimes in Croatia and Bosnia in which the statements of victims and eyewitnesses are largely in the accepted Bosnian-Croatian-Serbian formula.

The three lawyers argued that Milosevic should be able to work on his case - "if he wishes to do so" - with the benefit of the documents produced in his own language.

Judges Richard May, Patrick Robinson and Mohammed Fassi Fihri last week rejected the prosecution's motion that permission be granted to disclose witness statements to the accused only in English. They said the demands of justice outweighed the prosecution pleas for judicial economy.

Which means the prosecution will now have to embark on translating testimony in English or Albanian into Bosnian-Croatian-Serbian. Whether this will benefit Milosevic is questionable. It does mean he has lost the chance of claiming, at a later stage, that he just didn't understand what was going on.

Mirko Klarin is IWPR senior editor for the war crimes tribunal and editor-in-chief of SENSE News Agency.

Location: Balkans
Kosovo
Croatia
Bosnia and
Herzegovina

Focus: International Criminal Tribunal for the former
Yugoslavia

Source URL: <https://iwpr.net/global-voices/analysis-milosevic-language-dispute>