

ANALYSIS: Milosevic Prosecution Breakthrough

Author: [Mirko Klarin](#)

The prosecution in the Milosevic case last week delivered a series of what may turn out to be decisive blows.

If it had not been obliged to prove the systematic and widespread character

of the crimes described in Kosovo indictment, the prosecution might have

limited its case to the witnesses and evidence that were presented over five days last week.

It was undoubtedly the most comprehensive week of evidence presentation so far, in which almost all the elements of the prosecutor's case against Slobodan Milosevic were successfully condensed.

First, the remaining three so-called crime-base witnesses strongly confirmed previous testimonies about the attack on a refugee column near Vucitrn and the massacre in Izbica, which together resulted in over two hundred casualties.

Then two Serb policemen who had come to The Hague as "unwilling insiders" confirmed that the operation to remove all traces of crimes committed in Kosovo and the hushing-up of the scandal about the refrigerator truck full of corpses in the Danube were carried out on instructions from top-level politicians, namely the then interior minister Vljako Stojiljkovic and president Slobodan Milosevic.

There then followed a presentation of forensic findings, which established that some of the corpses discovered in mass graves at a police training range in Batajnica, near Belgrade, were Albanians killed in Kosovo and later transferred to Serbia in well-organised operation.

Key evidence supporting this was DNA analysis of some of the bones found at one of the Batajnica sites, which showed that they belonged to several members of the Berisha family killed in March 1999 in a cafe in Suva Reka.

And the prosecution's case was further strengthened with a perfect match between the testimonies of a British officer, General Sir Peter de La Billiere, and a Yugoslav private, who gave evidence on condition of anonymity.

The general's expert account, made in answer to the defendant's questions, was that the Yugoslav army "was highly disciplined and that it executed its orders", adding that the "question is what orders they received". The private, who was in Kosovo in the first half of 1999, testified that he had killed, burned and looted on the orders of his superiors.

The presentation of evidence for the Izbica massacre was concluded by Dr Liri Loshi, after three elderly Kosovo Albanians claimed they had survived the

shootings and a local KLA commander said he had observed the killing of a group of 39 of the victims

through binoculars from about 500 metres.

Dr Loshi, a local physician, came to Izbica two days after the atrocity and videotaped three groups of bodies found in different locations, taking part in the identification and burial of total of 127 victims.

On the basis of his medical experience, he concluded that the men had been shot dead from close range, and were killed at the sites where they were found.

Milosevic, however, said Izbica was "another invented massacre", which is how he earlier described the killings at Racak. He said the bodies were those of KLA members killed in combat with Serbian security forces that were then were "piled up in one place" in Izbica to create the impression of a massacre.

Although they dislike video-presentations in court, the judges allowed several short clips from Loshi's tape to be shown. They showed the bodies of middle-aged or elderly men in civilian clothes, some with walking sticks or crutches. After that, the prosecutor asked the witness if he believed KLA members "were old men and invalids?" Of course not, the witness said.

One important detail of the Izbica story has been left for the rebuttal phase, when the prosecution will counter the evidence presented by the accused. The prosecution allegedly has gained possession of evidence showing that at the end of May 1999 the army and police returned to Izbica and, over several days, dug up graves, removed the bodies and transported them to unknown destinations.

Around 40 bodies from Izbica were found in a grave near Kosovska Mitrovica, while the objects belonging to some of the Izbica victims were found in the exhumed mass graves in Batajnica.

Milosevic offered no explanation so far as to why the bodies of "dead KLA members" were taken from the graves in Izbica and transported to mass graves in secret locations.

Caslav Golubovic and Zoran Stijovic, the two "unwilling insiders" who

were ordered by the Belgrade authorities to testify and

were released from their obligation to keep state secrets, confirmed the

previous testimonies of two Serbian policemen about the refrigerator truck affair.

At the same time, they questioned some of the claims of the former head of Milosevic's secret police Radomir Markovic made in his testimony at the end of July (see TU 276).

Golubovic was the former police chief of Bor in eastern Serbia, near the place in the Danube where the refrigerator truck from Kosovo containing 86 bodies surfaced in April 1999. He testified that he had reported the sinister discovery to his direct superior, the head of public security sector, General Vlastimir Djordjevic, with whom he had at least four telephone conversations on the night of April 6.

Golubovic said General Djordjevic had ordered him to transfer the bodies from the freezer truck to other

trucks and bury them somewhere in the vicinity of Kladovo, the town where they were discovered. He also told him to destroy the refrigerator truck and "close all information about it", that is, give no statements to the media.

When he issued these orders to his subordinate colonel, the general had allegedly stated that he was acting under the instructions of his own superior, the Serbian interior minister, Vlado Stojiljkovic. On whose orders Stojiljkovic was acting, and whether he would be willing to disclose such information, may never be revealed; he committed suicide rather than face extradition to The Hague.

The prosecution says the "refrigerator truck operation" was part of a broader action to remove all traces of Kosovo crimes ordered in March 1999 by Milosevic himself. It aims to prove this, using a statement issued in June 2001 by Radomir Markovic, former head of the state security sector, in which he claimed Milosevic, on the initiative of General Djordjevic, issued just such orders to Stojiljkovic.

After his transfer from jail in Belgrade to The Hague to testify at the Milosevic trial at the end of June (see TU 276), Markovic then insisted this statement was a "free interpretation" of the conversation he had had with the Serbian police officers; that it was "not exactly what he said"; and that he had signed it without reading, practically under pressure.

However, Zoran Stijovic, the secret police officer who took the statement, claimed Markovic had made an "incorrect" interpretation of the circumstances of their meeting and the manner in which the minutes were composed. In other words, he told the court that Markovic was not telling the truth. Stijovic last week described in detail the circumstances of their conversation and how the minutes comprising the statement were made.

Stijovic said Markovic "took an active part" in the dictation of the minutes, had examined and corrected the "draft version", and had read the final version of the statement and signed every page. These minutes, Stijovic claimed, "reflect the facts that were presented by Mr Markovic." It remains to be seen whether Stijovic's version will be confirmed next week by witness Olivera Antonic-Simic, who typed the minutes - that is Markovic's statement, and also signed it.

Whether Milosevic personally ordered the operation to remove the traces of Kosovo crimes may remain an open question, but the evidence presented so far shows such an operation was organised. In his short testimony last week, the investigator John Martin Zdrilic added a few more details pertaining to the scope and character of this operation.

The Australian policeman took part in the investigation of the massacre of more than 40 members of the Berisha family in Suva Reka, and was present at exhumations in this area.

At one of the researched locations, a former Yugoslav army shooting range near the village of Korisha, British forensic experts and Hague investigators discovered "remnants of a mass grave" from which the bodies had been removed, as well as bones, human remains and personal belongings. These remains, Zdrilic testified, have not been identified so far, but it has been established that 11 objects found in the grave belonged to members of the Berisha family.

The fact that at least some of the bodies from the empty grave near Korisha found their way to Batajnica, near Belgrade, was confirmed by results of DNA analysis, which recently arrived from an institute in Madrid.

A comparison of the samples taken from the bones found in Batajnica with blood samples of surviving family members resulted in the identification of six members of the Berisha family. Only two out of five mass graves discovered in the police compound in Batajnica have been exhumed so far.

Thus, it has been proven that the mass graves in Serbia contain Kosovo Albanians and not "Kurds", which was Milosevic's favourite interpretation of where the bodies from the refrigerator truck originated. Now the prosecution has to prove the defendant ordered not only removal of the traces of the crimes, but the crimes themselves, or at least knew about them and did nothing to intervene or punish the perpetrators.

Important new elements in the prosecutor's reconstruction of Milosevic's role in the events described in the indictment were introduced last week by the previously mentioned British general and Yugoslav private.

General Sir Peter de La Billiere has 40 years of military experience and took part in several wars, including the conflicts in Korea, the Falklands and the Gulf. In the 1991 Gulf War he commanded a British troop contingent within the coalition forces. On the basis of his own experience, documents on the organisation of the Yugoslav army and description of its actions in the indictment against Milosevic, the general made an expert analysis of the military doctrine and structure of Yugoslav armed forces.

His conclusion was clear. "I am in no doubt," his report stated, "that the extensive and prolonged activities in Kosovo could not have taken place without the connivance, direction (whether by default or express), and agreement of the top echelons of the military and police forces involved and, also, of civilian leadership of the day in the FRY (Federal Republic of Yugoslavia). This implies that the president of FRY in particular, especially bearing in mind his additional role as commander-in- chief of the armed forces, holds direct responsibility."

In his report and in his testimony, the general categorically excluded the possibility that the mass movement of population and killings described in the Kosovo indictment could have resulted from "rogue operations by break-away company or brigade" or local commander who "went berserk".

All these operations "must have been controlled and commanded under the military system," he said. The main part of the operations in Kosovo, according to him, "must have been in congruence with the wishes of the army leadership".

During his cross-examination of the general, Milosevic insisted Yugoslavia's supreme and other military commands issued frequent orders to soldiers to observe the Geneva Conventions and international humanitarian law. However, his insistence on these orders backfired, when General De la Billiere said his suspicion had been aroused by numerous orders which insisted on the need for observation of the norms of international war law.

The fact they were issued indicated "there was something wrong", the general said, because the observation of international law is "a part of official doctrine and practice of every well trained and disciplined army and it need not be repeated".

Milosevic fared no better with his claims about the discipline of the Yugoslav army, for while the general confirmed that it "was well-disciplined and carried out received orders", he added, "The question is what orders the army was given?"

De la Billiere's rhetorical question was answered the following day by a Yugoslav private who testified by video-link, under the concealed identity K-41. He testified that his superior officers in Kosovo in the first half of 1999 ordered him to kill, burn and loot.

In spite of formal notification from presiding judge Richard May that he was not obliged to give evidence that might incriminate him, K-41 confessed he acted on these orders, killing civilians, burning houses and looting shops. He described several operations in which he participated, during which Yugoslav forces

attacked Albanian villages, killed civilians and burned houses, even though no clashes took place with the KLA and nobody returned fire.

The testimony of K-41 to a large extent confirmed the earlier testimony of another Yugoslav private, K-32, in July (see Tribunal Update No. 275). This testimony, and the manner in which Milosevic had treated the witness during the cross-examination had inspired K-41 to get in touch with the prosecution and offer his testimony.

Milosevic tried to discredit K-41 by claiming that he was a "criminal" and that there was an order for his arrest for robbery. The defendant also presented written statements sent by the officers of the unit in which K-41 served, denying any orders to kill, burn and loot were issued. Finally, Milosevic asked the witness if he was "promised any favours" in exchange for the testimony and a confession that he had committed these crimes.

The former private, who spoke with a strong Montenegrin accent, replied that he made this decision on his "free will", and said nobody had "promised him anything". He felt sufficiently rewarded "by the fact that he had an opportunity to give testimony in presence of the man who is most responsible for all these crimes".

The prosecution will finish the presentation of evidence for the Kosovo indictment next week, most probably on Tuesday. Then, after a two-week pause, the presentation of evidence for the Croatia and Bosnia-Herzegovina indictments will begin.

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

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