



PROGRESS, DETERMINATION, INFLUENCE

CENTER FOR EURO-ATLANTIC STUDIES

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REPORT OF THE CENTER FOR EURO-ATLANTIC STUDIES

“POLITICAL, MEDIA-RELATED AND LEGAL ANALYSIS OF THE CASES OF RTS, TOPČIDER AND LESKOVAC ”

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Comparative Social and Political Analysis of the Cases of RTS, Topčider and Leskovac

Until this Report, the cases of RTS, Topčider and Leskovac have never been considered in the same social and political context, nor have they been subject to a legal analysis. In the part of this Report which analyses the subject cases subject from legal aspect, prepared by the attorney-at-law Dragoljub Todorović, it is concluded that „five out of six cases¹ are characterised by gross omissions made by the state authorities.“ The reasons for recurrent omissions of state authorities must be searched for in social-political context in which the subject cases took place. That context is, however, characterised by the lack of strong and independent judiciary institutions and democratic control over armed forces and intelligence services. Mindful of the fact that the cases of Topčider and Leskovac, which still miss their legal and political epilogue, as well as the assassination of the prime minister Đinđić, all took place in the period after the 5th October changes, and that most of the judges, prosecutors, pathologists, autopsists, investigating magistrates in these profoundly controversial cases still hold their positions, or have been promoted², it is reasonable to say that Serbia, even ten years later, has not rid itself of the Milošević’s methodology of ruling which, for the purpose of staying in power, implementation of its goals or protection of its interests, did not refrain from murdering its citizens or from denying the very foundations of the state - separation of the lines of rule. The longer these cases remain unsolved and understated, the more justified it is to say that even the present government, even if not using the same methodology, certainly makes it legitimate by its indifference to solve the cases, to punish all the misdoers, and consequently prevent such deeds in future. Also, using these cases, unresolved for many years

¹ The following cases have been considered: cases of soldiers Ivanović, Kostić and Žarković, killed at the facilities of the Military Camp Leskovac within a year’s period, August 2004 – August 2005; the case of two guardsmen murdered in the military facility „Karaš“ in Topčider, Belgrade, 5/10/2005; the case of sixteen employees of RTS killed on April 23, 1999, as well as the case of the soldier Milan Matić, killed on October 12, 2005, in military barracks in Belgrade.

² Authors of this Report endeavoured to name as many people who are undoubtedly related to considered cases as possible. They sincerely hope that it shall be useful to the state authorities, but also to the media and civil sector who can and must play an important role in clarification of these cases, mindful of all the omissions made by state authorities so far.

now, as relevant indicators of the degree of reforms in the society, primarily in judicature and democratic control over armed forces and intelligence services, it shall be ever more justified to state that formal incumbents do not control all the levers of rule. In that case, the state authorities shall find it ever harder in the future, if not at the present, to declare that Serbia is doing its best to, for example, „locate and arrest the remaining Hague defendants,“ which is currently the condition preceding continuation of European integration. The author of the non-legal part of this Report believes that until shedding the light on all the circumstances of these cases Serbia shall not meet the Copenhagen criteria for accession to European Union (EU) and NATO, regardless of what and for which reasons the EU and NATO think about it. Until solving these cases, Serbia shall not be consolidated as a stable democracy, regardless of whether it wants to join EU or NATO or not, which are also legitimate options if chosen under the conditions which imply rule of law, protection of human rights and independent institutions, and not only the formal multi-party elections covered by more or less independent media. Here below follow the arguments which support these theses.

Army's Role and Attitude to Subject Cases

In all the three cases, the Army and the Ministry of Defence play important roles.

During the NATO bombing, before the building of RTS was hit, RTS had been proclaimed a „large-scale technical system of national defence interests“ and in the state of war it fell within the competence of the Civil Defence Department of the Ministry of Defence of FRY. Dragoljub Milanović, the editor-in-chief of RTS at the time, who was validly sentenced to 10-year imprisonment because of this case, and who was treated as an individual during the trial and not as part of the system in the chain of command, was ranked general during the state of war.³

Families of killed employees of RTS and their attorneys have recurrently identified the Ministry of Defence as the competent state authority which refuses to make available the relevant documents which might help to clarify the circumstances under which 16 employees were killed, in fact, whether the then state summit and competent authorities knew that the building was going to be bombed or not and, if they did, whether they deliberately sacrificed the employees for propaganda purposes. The prime objective of that war propaganda was to represent Serbia only as a victim of determination of the western international community and some SFRY republics to destroy it, without any responsibility on its part for the mass crimes committed by its structures in Bosnia, Croatia and finally, before NATO bombing of Serbia and Montenegro, on Kosovo. The Ministry of Defence, as it admitted to the families of missing persons, does not possess the scene reports after the accident, despite being in control of RTS.⁴ This highly unusual circumstance has not attracted proper attention either of professional public or civil sector or most of the media and journalists in Serbia.

³ This was said to Žanka Stojanović, the mother of a killed RTS employee..., by Slobodan Petković, assistant minister of defence, Krapović. This information has been announced several times in the media and has never been officially denied.

⁴ For further details of the cases subject to this part of Report refer to separate legal analyses further on in the document.

The inappropriate reaction of officials in the Ministry of Defence to the statements made by a retired military officer, colonel Lakić Đorović⁵, quoting that the army and Ministry of Defence knew that RTS building was going to be bombed, is emphasized by the fact that ten years after the tragedy the matter of death of 16 RTS employees still represents one of the major neuralgic points for the army and Ministry of Defence.

The author of this analysis believes that one of the possible reasons for such a behaviour is continuity with the Milošević's regime with the intention to protect any remaining persons responsible for this tragedy. Another possible reason is to hide the actual number of persons killed that night in RTS building. The circumstance that there are no scene reports gives rise to such a doubt. A number of relevant collocutors, friends of the victims or their families, with whom the author of this analysis has spoken, also claim that, during their struggle to clarify the circumstances of death of their dearest ones, they have encountered a number of indicators supporting this doubt. Similar suspicions were expressed by several military officers and civilians who were interviewed during the project implementation, and who wished to remain anonymous.⁶

However, a large number of families of the victims of NATO air campaign over FRY still have no knowledge of the place where they were killed, and the army often treats that information as confidential. The number of killed soldiers during the bombing is also subject to reasonable doubts.⁷ At first, immediately after the end of bombing, they manipulated with the number of about 400 soldiers, while in the book *Heroes of motherland* Slobodan Milošević and Ojdanić they quoted the number of 1002. The latter is officially quoted in the announcement of the present government of Serbia, published on the occasion of the tenth anniversary of NATO air campaign over Serbia and Montenegro. Mindful of all the proved facts about brutal nature of Milošević's regime which did not refrain from manipulating with the number of victims, which is still an occasional practice, the author of this analysis believes that it is necessary to initiate a new, independent investigation on the number of killed soldiers, but also the number of killed civilians, citizens of Serbia and Montenegro, during the NATO bombing.

The soldiers in Topčider and Leskovac may not have been directly sacrificed for political propaganda purposes, as is probably the case with RTS employees, but the manner in which these cases are handled shows that the post-5th October government, or at least its uncontrolled and informal parts which still have control over the government, are also ready at least to discredit the others, or that they drastically violate the procedures in order to conceal their own responsibility for any possible omissions, maybe even to such a length as to eliminate the witnesses of their criminal acts.⁸

⁵ <http://www.b92.fm/channel/Pe%C5%A1%C4%8Danik/38552.html>

⁶ These indications, which have not been officially denied yet although they were revealed in public by the author of this part, shall be subject to additional intensive investigation in the forthcoming period.

⁷ <http://www.vreme.com/cms/view.php?id=427142&print=yes>

⁸ This particularly pertains to parts of army, Ministry of Defence and judicial system.

Investigating magistrate at the Court Martial, Vuk Tufegdžić, who undoubtedly produced the inaccurate first report on the death of soldiers in Topčider, still holds the office, only in a special department of the District Court, because military courts have been dismissed in the meantime. The army and other state authorities, despite the repeatedly confirmed fact that in the Topčider case one soldier did not first kill the other and then himself, as claimed by Tufegdžić and his team, have never replaced or called anyone to account for those faults.

The commanding officer of the Priština Corps in the period 2004-2005, when three soldiers from the military post of Leskovac allegedly committed suicide under rather vague circumstances, was the then Deputy Chief-of-Staff, General Mladen Ćirković. Mindful of the slow pace at which these cases have been solved, as well as the other evident omissions listed by the attorney-at-law Todorović, but first of all the never publicly denied statements given by the father of the soldier Srđan Ivanović, one of the soldiers who lost their lives in Military Post Leskovac under vague circumstances, quoting that the soldier Ivanović during his regular military service used to drive not only General Ćirković but also Ratko Mladić, the reasons for the tragedy and for all the controversial circumstances associated to it, as well as investigation about it, should be perhaps searched for in the following circumstance: during the war of 1999, Mladen Ćirković was the commanding officer of the 15th Armoured Brigade, when the commanding officers of the Priština Corps and the Third Army were Vladimir Lazarević and Nebojša Pavković. After the war, all the three of them were promoted further to the order of Slobodan Milošević. Pavković was promoted Chief-of-Staff, Lazarević the commanding officer of the Third Army, and Ćirković the commanding officer of the Priština Corps, seated in Niš. All of them except for Ćirković were charged of war crimes over Kosovo Albanians by the Hague Tribunal. Mladen Ćirković himself said to the families of the late soldiers Žarković and Kostić that “some officers are guilty” for the deaths of their children.⁹

The Leskovac case is indicative because neither the government nor the non-governmental sector, not even the media, have ever examined the three alleged suicides committed by soldiers within a year's period in the same Military Post, previously known for indications to ammunition smuggling and other illegal activities. In all the three cases, it is characteristic that investigations and results of autopsy undoubtedly gave rise to the need for clarification of a large number of additional circumstances but the competent state authorities have never initiated it. All the three alleged „suicides“ happened when the Commanding Officer of the Priština Corps, to which the Military Post Leskovac belongs, was the present Deputy Chief-of-Staff, Mladen Ćirković. The statement made by the current Minister of Defence, Dragan Šutanovac, in informal conversation with the author of this Report, that the dead soldier Ivanović never used to drive General Ćirković, does not match the repeated statements of the dead soldier's father, Milorad Ivanović. Officially, the cause of death of the soldier Ivanović was heroin poisoning. It is interesting that the alleged poisoning happened on the last day of his military service. If the statements of the father Ivanović are true, how could it happen that

⁹ This has been repeatedly confirmed and emphasized to the author of this part of Report by the Žarković and Kostić family members.

a heroin addict was sent to serve the regular military service, and was entrusted to drive his seniors. The father of the deceased Ivanović has repeated several times in public that Srđan Ivanović also drove the Hague defendant Ratko Mladić on several occasions. Despite publicly repeated statements that the state authorities are doing their best to locate Ratko Mladić, none of the competent authorities or those in charge of checking whether Mladić is located in the territory of Serbia, has found it appropriate to question the father Ivanović about these circumstances, directly and publicly, or in court.

Neither in the Kostić nor Žarković case, the court of jurisdiction or the Army internally, have initiated the investigation about the origin of numerous wounds on the bodies of the named soldiers, inflicted by blunt objects, in a way which is hard to inflict to oneself, although the specified causes of death in both cases were wounds inflicted by firearms.

The Role of Political Public

The deeds of the Milošević's regime during the NATO aggression, sacrifice of civilians and soldiers for propaganda purposes, are granted amnesty by the current government's indifference to resolving of all the circumstances associated to the analyzed cases. It is highly probable that the reason thereto lies in the fact that it suits the present political elite to represent Serbia to the Serbian and world public as a victim without any responsibilities on its part, in their diplomatic efforts to „preserve Kosovo“. A part of that strategy is that Serbia was victim of NATO aggression in the sole function of creating independent Kosovo and/or removal of the Slobodan Milošević's regime, and not for the western international fear of responsibility for continuation of mass violation of human rights in Kosovo. The fact that NATO is undoubtedly responsible for the deaths of RTS employees is used by the Koštunica's government and Radical Party openly, and by Democratic Party and others indirectly, through inertia to clarify all the aspects of the RTS case, as an argument against approach of Serbia to NATO. The author of this Report believes that despite the NATO responsibility, it is necessary to identify all those from within the regime and political elite in Serbia of that time, who are responsible for the deaths of RTS employees, and ascertain whether the latter were deliberately sacrificed or not.

Although the latter, guilt of both NATO and the then Serbian authorities and political elite, might serve the interests of Democratic Party (DS) which is more open to cooperation with NATO than the Democratic Party of Serbia (DSS), the common policy in the function of „preservation of Kosovo“ is probably the reason why the present government, the same as the Koštunica's, appears indifferent to full clarification of the RTS case.

Through the reconciliation agreement with the Socialist Party of Serbia (SPS), for the purpose of establishing a government which would be probably formed anyway, even without that inappropriate act, bearing in mind the SPS attitude about its role in our recent past, DS has granted amnesty, in political terms, to remaining SPS members who are directly or indirectly responsible for the deaths of 16 RTS employees. Having formed the government with a party whose present official is Minister Milutin Mrkonjić, who requests release of the validly

sentenced Milanović, or Ivica Dačić, the Minister of Interior which might take a more active part in clarification of all the circumstances in RTS case, both of them at the top of national and political power in 1999, DS has directly made further processing of these cases harder. Actually, it must be kept in mind that there exists a very wide consensus that our judicial system already functions with difficulties, and sometimes rather dubiously. If the critics of the President Tadić about the high degree of corruption in Serbia on all levels and in all bodies should be added to that, it becomes clear that it is relatively easy to have political influence on judicial bodies and other state offices.

Unjustified legitimization of the Serbian Progressive Party and its leaders, who have shown no difference from the Serbian Radical Party (SRS) by any act since seceding from it, and whose leader Tomislav Nikolić has recently stated in public at RTS that he would organize the meeting of support to Ratko Mladić if he were arrested¹⁰, certainly does not simplify the political context which obviously plays an important role in clarification of these cases.

Even the part of political public which for a while used to insist more intensively, and with reason, on clarification of the political background of the Prime Minister Đinđić's murder, has never paid due attention to these cases, either individually or collectively, although many circumstances and the context in which they took place are very similar. Murder of the Prime Minister Đinđić was not the last brutal impact of powerful extremities of former regime which still suffocate our society. Both the Topčider and Leskovac case took place after the assassination of the Prime Minister. From this time perspective, the author of these lines believes that the rare moments when the Liberal Democratic Party (LDP) mentioned the Topčider case in election campaigns, or in diplomatic circles of that time, soon to be almost completely forgotten, only confirm that they were mentioned not because of determination to reach the truth but only for campaign purposes.

The Role of Civil Society

With the exception of the Belgrade Human Rights Center, which assisted the families of the killed RTS employees with their charges against NATO, civil society organizations in Serbia have not shown willingness to be directly involved in solving of these cases. This is particularly indicative if taking into account that they interweave: violation of human rights; omissions made by state authorities; controversial role of army and intelligence services in a transit society; and other, i.e. the matters which they are properly interested in and which they deal with in many other cases. Non-governmental organizations supported most of the initiatives of the RTS employees' families, but in none of the cases did they undertake the role of legal, political or media promoters and participants in solving of those cases, as some of them did in some other cases, considered less important by the author of this Report. In addition, all the analyzed cases, without any exceptions, concern families which are not financially or in many other ways able to withstand such a long struggle for truth given the numerous obstructions they have faced over a very long time period.

¹⁰ <http://www.nspm.rs/prenosimo/ms-mili-ljuta-na-amere-britance-i-b92-da-se-zna.html>

Comparative Legal Analysis of the Cases of RTS, Topčider, Leskovac and Matić

For five out of the six cases¹¹ which I have considered for the requirements of the project „*END OBLIVION-Legal and Media Support for Families of Civilians and Soliders who Have Died Under Unclear Circumstances since 1999 on*“ of the Center for Euro-Atlantic Studies from Belgrade¹², it is characteristic that there are gross omissions made by the state authorities.

In the Matić case only¹³ the action was quick, efficient and in compliance with law, so that the investigating magistrate ordered expertise by the Forensic Medicine Expert Committee and DNA Analysis Expert Committee. The same procedure should have been applied in the cases of Žarković, Kostić and Ivanović.

Apart from the above said, it is also characteristic that some investigative activities, such as exhumation, were undertaken with delay which strongly influenced the quality of undertaken activities.

Without expertise by the Forensic Medicine Expert Committee and possible expertise of the DNA Analysis Expert Committee, the reports on autopsy and exhumation in the cases: Žarković, Kostić and Ivanović, as well as in the Leskovac case, are useless.

¹¹ The following cases have been considered: cases of soldiers Ivanović, Kostić and Žarković, killed in the barracks of the Military Post Leskovac within a year's period, August 2004-August 2005; the case of two guardsmen killed in the military facility „Karaš“ in Topčider, Belgrade, October 5, 2005; the case of sixteen RTS employees killed on April 23, 1999, as well as the case of soldier Milan Matić, died on October 12, 2005, in military barracks in Belgrade.

¹² Note by the leader of the project “END OBLIVION”, Jelena Milić – This is the first time that the subject cases are analyzed together and comparatively. This project was implemented with participation of coordinators of informal organization “Parents in Black”, Živana Stojanović and Milijan Kostić, as well as other members of the families of the deceased, the cases of which we have analyzed.

Separate attachments include individual analyses of all the cases, also prepared for the requirements of the project “END OBLIVION” by the attorney-at-law Dragoljub Todorović. Their common, and indicative feature is that the actions recommended by the attorney Todorović have not been implemented or have been only partly implemented, which actions belong to the domain of regular investigation-court practice. Also, the state authorities either do not respond or respond vaguely and with long delays to most of the requests made by legal representatives.

¹³ Soldier Milan Matić, V.P. 1552- Belgrade, was found dead on October 12, 2005, in military barracks in Belgrade.

Only the specified expertise can identify the actual state of affairs, precise causes of death of those three soldiers. All the expertise and hearings must be conducted by an investigating magistrate based on prosecutor's request to conduct certain investigation activities against an unknown perpetrator. Such a request was put forward by the prosecutor and investigative activities were conducted by the investigating magistrate only in the Matic case.

In the cases of murder of 16 RTS employees and two soldiers in Topčider, omissions of the state authorities are even more drastic. In fact, in neither of the cases, the highly relevant and so to say crucial witnesses were released from keeping official, military and state secret. Without release from keeping secret, those witnesses are not able to make a statement before the investigating magistrate. It is completely unacceptable and absolutely inexplicable why the competent authorities did not release those witnesses from keeping state secrets. There was no risk, and there still isn't one, of disclosing an important official, military or state secret after witnessing before the investigating magistrate. Court investigation is in its nature confidential, and such confidentiality may be made stricter and more profound so that release from keeping secret appears to be a purely technical issue. Even so, the key witnesses in these two cases, however, were not released from keeping secret. Release from keeping secret is extremely important for assessment of responsibility of officers of the Ministry of Defence and Army, both for the faults regarding murders of RTS employees and guardsmen in Topčider, and for obstructions during assessment of facts.

From the forensic and ballistic aspect, it was assessed that the two soldiers in Topčider were killed by a third person. This is no more just a court matter, or routine police investigation of a murder, it is a serious national problem. Two members of an elite military unit were killed, on their duty as guardsmen. If this court matter does not get solved, it will raise serious doubts about the entire system of functioning of the army and consequently of the state. What kind of state is the one where guardsmen who protect important national structures are killed and their murderers cannot be found? Undertaking of investigation activities in this cases is intolerably late. Any delay makes it more difficult to find the murderers.¹⁴

In the murder case of 16 RTS employees, there is a serious obstruction of final clarification of this event in the Ministry of Defence. The competent persons in the Ministry of Defence, including the minister, do not wish to show the relevant documents either to the families of the killed or to their legal representatives. I described the method of solving and final clarification of this event in the part of analysis pertaining to that case.

The families of the killed and their legal representatives in most of the cases have submitted a number of initiatives, petitions, proposals and requests to a large number of state authorities

¹⁴ In June 2009, some new investigative actions were taken regarding hearing of witnesses, some of whom, as I have learnt, were released from keeping secret. However, the Prosecutor, despite their testimonies which indicate that the guardsmen were killed by a third person, still insists on additional forensic and ballistic testimonies, which are absolutely superfluous, since the case is completely clear from the forensic and ballistic aspect.

but everything went on slowly, inadequately, and proved absolute indifference to final solving of these cases in all state structures: political, administrative and judicial.

The RTS Case

In NATO bombing of the RTS building in Belgrade, at 02:06 a.m. on April 23, 1999, 16 employees of RTS were killed. The only person convicted of this crime was Dragoljub Milanović, the then general manager of RTS, sentenced to a 10-year imprisonment for criminal act of serious offence to public safety from Article 194 paragraph 2 related to Article 187 paragraphs 2 and 3 of the Criminal Law of the Republic of Serbia. The sentence is irrevocable.¹⁵

Criminal charges were filed against nine officers of RTS, however, the court processed and found guilty only Dragoljub Milanović.

In my opinion, the criminal act for which Milanović was sentenced was wrongly legally qualified by the then prosecutor Krsman Ilić, given the assessed state of facts in this criminal suit. The sentence pronounced to Milanović being irrevocable, it only remains for the affected families to submit an initiative to the Republic Prosecutor General's Office to institute the request for protection of the rule of law, to be used as basis for court decision that criminal law was violated to the benefit of the accused Milanović. In fact, the actions of Dragoljub Milanović include all elements of criminal act of first degree murder as per Article 114 paragraph 1 item 9 of the Criminal Law of the Republic of Serbia. That decision is only of declarative nature and Dragoljub Milanović cannot be sentenced for this criminal event.

Besides, I fully support the „Request of the Families of the Killed Employees to Renew and Expand the Procedure in the Case of Possible Sacrifice of Sixteen RTS Employees“, submitted by the families of killed employees to the Special Prosecutor's Office for Organized Crime in Belgrade, on April 30, 2009. As a matter of fact, back in 2006, the families presented to the Special Prosecutor's Office for Organized Crime, the book „Silence in Abardareva“, with evidence which the previous court failed to process.

¹⁵ The suit was at first litigated by the District Court in Belgrade, before which court Dragoljub Milanovic was irrevocably sentenced. The investigating magistrate in this case was Vučko Mirčić, the prosecutor was Krsman Ilić, the present deputy republic public prosecutor, and the chairman of the tribunal was the judge Radmila Dragičević Dičić, the present judge of the District Court in Belgrade – special division for organized crime. The judge in charge of legal inquiry in appellate proceedings before the Supreme Court of Serbia was the judge Novica Peković. Legal representatives of the families were, among others: Slobodan Šišić and Borivoje Borović. The latest “request of the families of killed employees to renew and expand the proceedings on the case of possible sacrifice of sixteen RTS employees committed, as believed by the families themselves and public, by the state and military summit of the Republic of Serbia during the NATO air campaign at 2:06am on April 23rd 1999”, was submitted on 30/4/2009 to the Special Prosecutor's Office for Organized Crime in Belgrade. The Prosecutor's Office did not respond to this request until mid June 2009.

The mentioned Request, among other, quotes: „At the hearing before the District Court in Belgrade 2001-2002, Dragoljub Milanović appeared as an individual and not as a part of social, political and military hierarchy (in the war, he held the rank of general) to which he belonged, and whose orders he executed. Although the court failed to indulge in examining of Milanović's motivation to consciously break a wartime superior measure of supreme power (which involves court-martial in the state of war) or functioning of the short chain of command behind Milanović, he was anyway sentenced to unique 10-year imprisonment, primarily because of violation of the government's order on obligatory relocation of broadcasting headquarters to a reserve place of work, in compliance with the National Defence Plan („Order No. 37“).“

The request pertained to reexamination of the criminal liability of Milan Topalović, the then technical director of RTS, and colonel Petar Pajčin from the Ministry of Defence, in charge of Civil Defence Sector for RTS defence. His liability is reflected in the fact that Radio Television of Serbia was proclaimed a large-scale technical system of interest for national defence and, during the state of war, it was under the jurisdiction of the Civil Defence Sector of the Ministry of Defence. Likewise, it was demanded to examine the liability of Dušan Vojvodić, deputy editor-in-chief of informative program. It is required to assess the liability of Milorad Komrakov, editor-in-chief of RTS at the time of subject event.

In this case, it is particularly important to carefully and thoroughly examine the statement given by the retired lieutenant-colonel Lakić Đorović, who used to work at the Law Administration of the Federal Ministry of Defence. It is also important to check the quotations from his statement, saying that he received the case which is filed in Law Administration as confidential under number 466/2001 on August 9th 2001 as urgent for consideration and that, due to the importance of the case, it was decided to have it permanently filed. Lakić Đorović had insight into that case and found that it contained over 20 letters and documents. Among other documents, there was a letter from the investigating magistrate of the District Court in Belgrade, Vučko Mirčić, requesting to release the officers who dealt with RTS defence from keeping official and military secret. The conclusion drawn by military officers in the Civil Defence Sector and Law Administration of the Federal Ministry of Defence, colonel Petar Pajčin, lieutenant-colonel Zulević, major general Aleksandar Ignjatović and colonels Milovan Mihajlović and Svetozar Cvetković was: „...*not to release, until further notice, anyone from keeping military, official or state secret, since that would harm the national interests and security.*“

Further on in his testimony, Lakić Đorović states that the documents also contain official records of transcripts with the contents of intercepted conversations among NATO pilots, intercepted and processed by members of the military security service of the Federal Ministry of Defence. Those transcripts show that two NATO pilots are talking about being ordered again to destroy RTS and that they are about to execute their mission, as well as a part of conversation among the members of airplane crew based in Aviano about having completed the mission.

Accordingly, all the above mentioned can be found in the case of Law Administration filed as confidential under the number 466/2001, permanently kept and subject to Lakić Đorović's detailed insight.

Although the present Minister of Defence Dragan Šutanovac claims that there are no documents with transcripts of intercepted conversations, it is necessary to release anyone who has any knowledge or may have any knowledge about the case mentioned by Lakić Đorović from keeping military, official or state secret, and to have such people heard before the investigating magistrate together with Lakić Đorović, and possibly face him. Only such a procedure before the investigating magistrate of jurisdiction, to be initiated by the prosecutor, can help to assess the truth and possible criminal liability of other persons and not only Dragoljub Milanović (who was indicted, as we saw, for wrongful legal qualification of criminal act).

From all the above presented it arises that, apart from the general director of RTS Milanović and other officials of RTS, the officials of the Civil Defence Sector of the Ministry of Defence are also liable, since RTS was proclaimed a large-scale technical system of interest for national defence in wartime. To assess that kind of liability, it is necessary to release all those identified by the investigating magistrate from keeping official, state and military secret. This is the first prerequisite for assessment of possible liability of officials from the Ministry of Defence, as well as possible liability of any other officials from the said ministry, who rejected the request of the investigating magistrate for release from keeping secret at the time.

It is indicative that obstruction of clarification of this case by the Ministry of Defence continued in 2001, when criminal proceedings were conducted, and it has continued until now, when the Minister of Defence Dragan Šutanovac does not allow the attorneys of the families to see particular documents in person, but instead explains himself what they contain and what is written in them.

Legal Analysis of „Topčider“ Case

Soldiers of the Guards Brigade, Dražen Milovanović and Dragan Jakovljević, were killed at their guarding posts in the military facility „Karaš“ in Topčider, Belgrade, on October 5th 2004.¹⁶ Investigating magistrate of the Court Martial in Belgrade, Vuk Tufegdžić¹⁷, visited

¹⁶ This case was first subject to the Court Martial in Belgrade, before the investigating magistrate Vuk Tufegdžić, which court has been dismissed in the meantime. Nikola Petkovic acted on behalf of the Military Prosecutor. The case is currently under the jurisdiction of the District Court in Belgrade, before the investigating magistrate Dragan Lazarević, and the deputy public prosecutor Aleksandar Stojev acts upon it. Attorneys of the Jakovljević and Milovanović families are now the lawyers: Vladan Batić, Predrag Savić and Ante Bošković.

¹⁷ Vuk Tufegdžić is currently an investigating magistrate at the District Court in Belgrade.

the crime scene, conducted investigation, ordered expertise by experts in forensics, ballistics and other criminal domains.¹⁸ All the experts who took part in expertise were nominated by the investigating magistrate Vuk Tufegdžić. Forensic expertise was performed by doctors from the Military Medical Academy (VMA). The expertise ordered by the magistrate Tufegdžić ascertained that one soldier killed the other, and then committed suicide. After that, because of faults of experts nominated by the judge Tufegdžić, visible even to laymen, the President of the State Union of Serbia and Montenegro, Svetozar Marović, formed the National Committee lead by the attorney-in-law Božo Prelević.¹⁹

In this case, it was ascertained in an undisputably professional manner, by expertise, that both soldiers had been killed by a third person. Such a conclusion cannot be disputed. National Committee consisting of experts of all profiles required for such expertise, particularly three professors of forensic medicine at the Medical Faculty of the University of Belgrade (Savić, Obradović, Baralić) assessed that the soldiers had been killed by a third person. Such findings of the National Committee were confirmed by ballistic experts of FBI from the USA, as well as the forensic expert Ljubomir Dragović, also from the USA. Accordingly, no further expertise is required, because it is precisely known what happened. A third person or persons killed the soldiers. Now we need to find who killed them.

In order to identify those who committed the crime, the prosecutor must submit a request to the investigating magistrate to conduct investigative actions against an unknown perpetrator. During the investigative actions, it is necessary to hear a number of persons from the Guards Brigade, Military Police, Military Security Agency (VBA), Military Intelligence Agency (VOA), Security Intelligence Agency (BIA). We believe that it is necessary to hear also the members of the National Council for Cooperation with the Hague Tribunal, first of all Rasim Ljajić and Vladimir Vukčević. The two of them addressed the public several times to emphasize that they possess certain information which they are not allowed to present to the public due to operative activities on locating and arresting of Ratko Mladić. They have stated more than once that they knew the whereabouts of Ratko Mladić in particular time periods, but that they are not able to disclose that to public. However, the matter of murder of two guards being an exceptionally important matter, even a matter of national interest, members of the National Council for Cooperation with the Hague Tribunal should be obliged to present all their knowledge before the investigating magistrate, and such hearings before investigating magistrate would be proclaimed confidential and closed to public until reaching the information relevant for investigation of the soldiers' murder. There must be no secrets for investigative bodies in any detail, any segment of relevance for clarification of this murder. In my opinion, the investigating magistrate could address the investigators of the Hague Tribunal

¹⁸ The Committee formed by Vuk Tufegdžić consisted of: Mr Vlada Kostić, BScMech.Eng., lieutenant-colonel from the Military-Technical Institute (VTI) and senior associate for infantry weapons; Predrag Cerović, BScMech.Eng. from VTI; Dragan Krstić, BSc Physical Chemistry, major of the Ministry of Interior and forensic expert for ballistics; mr med sci Dr Ivica Milosavljević, head of the Institute of Forensics at VMA; Dr Nadica Marinković, mr med sci, pathologist and autopsist from the Institute of Forensic Medicine at VMA.

¹⁹ Committee members were: Prof Mirosljub Obradović PhD, Prof Ivanka Baralić PhD, Prof Slobodan Savić PhD, all of them from the Institute of Forensic Medicine at the Medical Faculty of the University of Belgrade; Dr Branko Sbutega, specialized in orthopedic surgery; Gradimir Konstantinović, ballistic expert.

It is interesting that the extended Committee members were: Prvoslav Davinić, the then Minister of Defence of SCG, Dragan Jočić, the then Minister of Interior of RS; Rade Bulatović, the then head of BIA of RS; Dr Jovan Buturović, lawyer and retired judge of the Supreme Military Court, who resigned during the Committee's work.

with the request to furnish him with their findings about the movements and hiding of Ratko Mladić, as this would also contribute to assessment of truth about the murder of the two soldiers. In order to clarify the murder of the two guardsmen, the Hague Tribunal should also cooperate with investigating magistrate regardless of confidentiality of information available to it.

In the meantime, the prosecutor Aleksandar Stojev put forward a motion to the investigating magistrate of the District Court in Belgrade to undertake particular actions. The investigating magistrate Dragan Lazarević heard a number of witnesses, and the attorneys of the families in loss, the attorney-at-law Vladan Batić, released for the daily newspaper „Blic“ that about thirty witnesses had been heard in the pre-trial proceedings, but that his confidentiality obligation prevented him from naming those witnesses and the circumstances they had stated in the pre-trial proceedings and whether they had been heard before the investigating magistrate at all. Daily newspaper „Blic“ published that further to their knowledge the following persons had been heard before the investigating magistrate: former commander of the Guards Brigade, Radomir Ćosić; his son Nenad Ćosić, who worked on maintenance of electrical installations of the then secret facility „Karaš“, as a civilian; commander of the facility „Karaš“, lieutenant-colonel Bojović and sergeant Marko Kovačević. „Blic“ also quoted some details from their statements which I can neither confirm nor deny.²⁰

Regarding the conduct of these investigative activities, it is important to note that the prosecutor requested from the investigating magistrate to recall the experts from investigative committee formed by the investigative magistrate Vuk Tufegdžić, and from the National Committee, in order to harmonize their opinions. Such a request is absolutely opposed to the Code of Criminal Proceedings. In fact, the Code stipulates that first an individual expert is to state his mind and then the expert committee. In case of contradiction and discrepancy in opinions of individuals and committee, the committee's opinion shall prevail. Beside the fact that the National Committee embraced all the relevant experts, including three professors of forensic medicine at the University of Belgrade and qualified ballistic experts, the opinion of the National Committee was also confirmed by ballistic experts from FBI and a forensic medicine expert from the USA. Accordingly, it is absolutely unreasonable, illegal and unproductive to confront now the opinions of investigative committee formed by Vuk Tufegdžić to those of the National Committee. Further to the statement of Vladan Batić's representative, the investigative magistrate expressed disagreement with the prosecutor's proposal, but the said representative did not state whether the disagreement was decided upon by the Criminal Council of the District Court of jurisdiction.

Mindful of this proposal put forward by the prosecutor Stojev, as well as the overall arrangement so far in this case, one gets an impression that the prosecutor's goal is not clarification of this crime or identification of those who committed it, but instead an unnecessary prolongation and stalling of the proceedings.

²⁰ „Guardsmen's parents announced hunger-strike“, www.blic.rs, 20.6.2009. 05: 00

It is worth pointing out once again that in clarification of this criminal case there must be no official, state or military secrets for the investigative magistrate and prosecutor who deal with this case. By this I mean also Rasim Ljajić and other members of the National Council for Cooperation with the Hague Tribunal, as well as investigators of the Prosecution of the Hague Tribunal, the main prosecutor Bramerac himself and, as has appeared lately, also some journalists from BH (Federal TV).

Besides, it is necessary to make available to the investigating magistrate and prosecutor all the documents on organizational omissions in the Guards Brigade, and any other possible illegal or criminal acts committed or suspected to be committed by the persons who had any liaison whatsoever with the Guards Brigade at the time. The reason thereto is a possibility that the soldiers-guardsmen were killed as witnesses to some illegal and criminal acts.

Legal Analysis of the „Leskovac“ Case

The case of the soldier Dragan Kostić

The soldier Dragan Kostić, Military Post 4796/6 – Leskovac, was found dead in the „Jablanica“ barracks in Leskovac, in military dormitory, at 7:00 am on August 27, 2004.²¹

In the Kostić case, autopsy and exhumation were performed.²² It was stated that the death was violent and caused by injuries inflicted by projectiles fired from hand firearms. Therefrom was concluded that Kostić had committed suicide.

However, in item 7 of autopsy report it was stated that Kostić had several injuries in the neck, right forehead and vertex areas appearing as blood suffusions, flayed skin and other. In the opinion of autopsy expert, the injuries described in item 7 were inflicted by a blunt mechanical tool. Although exhumation was performed in this case, it was not clarified whether the injuries described in item 7 had any relation to projectiles fired from hand firearms. Also, there is no detailed explanation of the kind of blunt mechanical tool, the time

²¹ This case was originally conducted by the investigating magistrate of the Court Martial in Nis, Ivan Dimić. The order to exhumate was issued by the investigating magistrate of the District Court in Leskovac, Nebojša Stojčić, and the exhumation was carried out. However, there have been no further investigative activities although the reports on autopsy and exhumation open up a number of disputable issues which should have been discussed during the investigative activities, which was the competence of the magistrate who ordered the exhumation. Attorneys of the Kostić family were the lawyers from the law office „Batić“, and the lawyer Predrag Savić.

²² Autopsy was performed by: Dr Ivica Milosavljević, head of the Institute of Forensic Medicine at VMA and Dr Gordana Tomašević, expert in forensic medicine at the Institute of Forensic Medicine at VMA.

Exhumation was conducted by: docent Dr Tatjana Atanasijević, expert in forensic medicine and assistant Dr Dragan Ječmenica, expert in forensic medicine, both from the Institute of Forensic Medicine at the Medical Faculty of the Belgrade University.

when such injuries were inflicted or whether they can have any relation whatsoever to the wounds inflicted by firearms.

Therefore it is necessary to carry out the investigative activities meaning hearing before the investigating magistrate of the experts in forensic medicine who performed autopsy and exhumation of the Dragan Kostić's corpse. Bearing in mind the results of autopsy findings and exhumation it is necessary to order expertise to be made by the Committee of Experts in Forensic Medicine and Ballistics which will, based on the reports on autopsy and exhumation, answer the question whether the case of the soldier Kostić is murder or suicide, and whether it is necessary to conduct any further forensic or ballistic examination.²³ For example, it should be discussed whether the description of damages on clothes worn by the soldier Dragan Kostić at the time of death correspond to firing of projectiles from absolute proximity, since it may be deduced from the reports on autopsy and exhumation that the shots were fired from absolute proximity, which does not correspond to the state of facts. There are no reliable forensic indicators for such a statement. On the contrary, there is more evidence that the shot was fired from relative proximity.

It is also necessary to conduct the investigative activity of hearing the officials who carried out the crime scene investigation.²⁴ In fact, the reports of investigation state: „The corpse of the late Kostić was found lying on the stomach with his hands underneath his body, with visible blood traces on the back of the shirt...“. The officials who carried out the investigation need to state clearly the circumstances of the investigation report, first of all whether the corpse had been moved before arrival of the investigation team or not. After hearing of the persons who conducted the investigation, those reports should be presented to experts in forensic medicine, to state their mind whether the position of the late Kostić's body was such as if he had committed suicide by firearms. This particularly so because Kostić was lying on the stomach with his hands underneath his body, and bloody stains on his shirt were on the back.

Therefore, in order to identify the true causes of death of the late Kostić it is necessary to use investigative activities to hear all the named persons, and to order expertise by the Committee of Experts in Forensic Medicine and Ballistics. Based on the presented facts, public prosecutor must put forward a request to the competent investigative magistrate to conduct investigative activities. Without such investigative activities, it is not possible to assess accurately the circumstances under which the soldier Dragan Kostić lost his life.

²³ In my conversation with the attorney of the Kostić family, Predrag Savić, I have been informed that he had privately consulted the professors at the Institute of Forensic Medicine in Belgrade, who had explained to him that the distance between the body and the barrel excludes suicide.

²⁴ Attorneys of the Kostić family submitted on June 23, 2005, a request to the District Court in Belgrade to conduct investigation against the autopsy experts Ivica Milosavljević and Gordana Tomašević, doctors at VMA. The case was assigned to the investigating magistrate Novica Mihajlović. However, in this case, independently from investigation against the autopsy experts, the District Court in Leskovac should be requested to conduct investigative activities against an unknown perpetrator, on which occasion the checkups we mentioned could be performed.

Pursuant to the above, it is clear that investigation which was in jurisdiction of the investigating magistrate of the District Court in Leskovac was conducted only partially. The investigating magistrate obtained the autopsy reports and reports on exhumation, but did not hear the experts who had carried out the autopsy and exhumation to clarify the disputable matters we noticed and listed, although requested to do so by the attorneys of the Kostić family.

The case of the soldier Radoman Žarković

The soldier Radoman Žarković, Military Post 4445/7-Leskovac, was found dead at the observation post „Devojkin kamen“, municipality of Lebane, at 8:30 am on June 30, 2005.²⁵

The autopsy report conclusion in item V, reads: „Injuries to skin described in items 6 and 7 of external findings represent blood suffusions in healing on the left forearm and flayed skin on the right forearm, injuries to the left hand and left lower leg are inflicted by a blunt tool and are not directly related to the immediate cause of death“. Since these are injuries both on the left and right side of the body and both in the area of arms and legs, and since they cover a large portion of the body, it is necessary to conduct investigative activities to identify the origin of those injuries as well as the time of their inflicting and the person who inflicted them. There are photographs showing the spreading of those injuries over the body of the late Radoman Žarković. It is medically possible to assess that those injuries are not related to the cause of death. However, ascertaining of the method of inflicting those injuries and possible person who inflicted the injuries to Žarkoviću, may lead to relevant information about the circumstances under which Žarković lost his life.

It is also necessary to conduct investigative activities by hearing of the ballistic expert who produced the ballistic report on July 7, 2005. The ballistic expert should state his mind about the information from the report on investigation and explain the details about the way in which such a submachine gun is adjusted for individual and burst fire, and what that practically means. Also, the ballistic expert should clarify the circumstances from the investigation report stating that a witness-soldier had heard one shot whereas two shells were found at the scene. The ballistic expert would have to explain his findings before the investigating magistrate to much more detail, and adjust the used terminology and make it more understandable to the court and the parties in the proceedings who are not ballistic experts.²⁶

²⁵ This case was lead by the investigating magistrate of the District Court in Niš, Radomir Mladenović, who ordered autopsy of the late Žarkovića. After the autopsy, the investigation was not pursued, although it was necessary to resolve a number of dubious matters which arise from the autopsy report.

²⁶ Attorney of the Žarković family, lawyer Predrag Savić, was not able to tell the leader of the project „END OBLIVION“ and the author of the non-legal part of this report, Jelena Milić, whether he had launched an initiative to the prosecutor to propose conducting of certain investigative activities against an unknown perpetrator to the magistrate of the District Court in Leskovac.

For the above reasons, we find it necessary for the competent prosecutor to request certain investigative activities meaning hearing of autopsy and ballistic experts in order to clarify fully and thoroughly the circumstances under which Radoman Žarković lost his life.

The case of the soldier Srđan Ivanović

The soldier Srđan Ivanović was found dead on August 2, 2005, in the military barracks „Sinkovce“²⁷ nearby Leskovac.²⁸

While analyzing the material pertaining to this case, I did not have insight into the autopsy report on the late Srđan Ivanović. However, the numerous letters sent by the attorney-at-law Branka Slani Taboroši to the judicial and state authorities show that the autopsy was done and the identified cause of death was heroin poisoning.

Also, the letters and reports by the attorney Taboroši show that the autopsy was not done completely and thoroughly, that there are no analyses of the liver status and chemical-toxicological analyses related to the amount of alcohol and opiates at the moment of the soldier's death. There are no data on whether the soldier had consumed heroin or any other hard drugs, how the heroin got into the soldier's organism and whether there are any marks of intravenous injection of heroin on his body.

From the documents made available to me, it is obvious that the attorney Taboroši has repeatedly requested exhumation of Srđan Ivanović's corpse. The documents at my disposal contain no data on whether such exhumation has been done or not.²⁹

With such a state of facts, it is necessary to hear the autopsy expert about all the circumstances of the autopsy report, especially regarding poisoning, and the kind of substance and quantity of the substance by which the soldier got poisoned. Given the fact that it was Srđan Ivanović's last day in the army, and since he worked in the army as his senior's driver, it is necessary to ascertain whether he had been a drug-addict before joining the army, which dose of opiate caused poisoning and everything related to chemical-toxicological analysis during the autopsy.³⁰

²⁷ Media and professional public use both the terms „Sinkovici“ or „Sinkovce“.

²⁸ This case was in jurisdiction of the investigating magistrate of the District Court in Leskovac, Mihajlo Petrović. We believe that this Court was obliged to order exhumation and to conduct numerous other investigative activities.

²⁹ The father of the late Srđan Ivanović, Milorad Ivanović, declares that despite the payment made to the District Court in Leskovac for the purpose of exhumation several years ago, the exhumation has never been done.

³⁰ Investigating magistrate of the District Court in Leskovac, Mihajlo Petrović, sent a photocopy of autopsy report to the father of the late Ivanović, stating that the death of the soldier Srđan Ivanović was forced by heroin poisoning. The father of the late Srđana has repeatedly given a public statement that during the military service his son drove Ratko Mladić, general

Legal Analysis of the Case of Milan Matić

The soldier Milan Matić, Military Post 1552-Belgrade was found dead on October 12, 2005, in the military barracks in Belgrade.³¹

In this case, an extensive pre-trial proceedings were conducted, including hearing of several persons. Deputy District Prosecutor in Belgrade, Goran Rašić, requested certain investigative activities, and accordingly the investigating magistrate of the District Court in Belgrade, Nadežda Mijatović, in the document KRI No. 2037/05, ordered expertise by the committee of experts consisting of forensic and ballistic experts³² and expertise by forensic genetics expert committee.³³ The results of all expertise and pre-trial proceedings indicate that the case of the soldier Milan Matić is suicide.

I find this case completely settled on the basis of competent expertise ordered by the investigating magistrate further to the prosecutor's request. I find no contradictions or faults made during this investigation which might need to be eliminated or supplemented.

Given the presented reasons I believe that this case is settled in terms of criminal law.³⁴

Dragoljub Todorović, attorney-at-law

Mladen Ćirković, the then commander of the Pristina Corps, Deputy Chief-of-Staff, commander of the military barracks „Sinkovce“, colonel Miodrag Đurović and other seniors, and that he has never been called to present his findings or to confront the investigation authorities. The father of the late Ivanović declares that none of the military seniors have ever issued a denial.

³¹ Attorneys of the Matić family are the lawyers Predrag Savić and Vladan Batić.

³² The Committee consisted of: Prof Branimir Aleksandrić PhD, expert in forensic medicine; assistant Snežana Pavlekić PhD, expert in forensic medicine and engineer Milan Kunjadić, court ballistic expert.

³³ This committee consisted of: Oliver Stojković PhD, forensic genetic expert and assistant Snežana Pavlekić PhD, expert in forensic medicine.

³⁴ During my conversation with the attorney of the Matić family, lawyer Predrag Savić, I was informed that the attorneys doubt the objectivity of a Committee member, Prof Branimir Aleksandrić PhD, who is the director of the Institute of Forensic Medicine at the Medical Faculty of the Belgrade University. The reason thereto is that Aleksandrić is in the course of legal suit with one of the Matić family attorneys, lawyer Vladan Batić. The attorney Savić believes that particular relevant evidence was concealed and destroyed, as he says, „cleaned by steam cleaner“. There is no other evidence about that apart from his statement.



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