

The Topic of the Issue - REGIONAL COOPERATION

THE LORA CASE: EXPERIENCES, LESSONS, IMPLICATIONS

Optimism Prevails

Pero Jurišin *Feral Tribune journalist*



The testimonies of eight ex-prisoners from Serbia and Montenegro related to the events which took place in the military research centre of the Lora military port in Split during the early 1990s, in a way marked the completion of the first part of the trial to the eight military police officers accused of a war crime against civilian captives.

This is a repeated court proceeding, which started on 12 September this year. Namely, the Supreme Court of Croatia did not accept the acquitting judgement rendered by the Split County Court at the first trial held in 2002. Albeit only following a procedure which had taken as long as two years, the Supreme Court rendered its decision aware of a number of omissions made throughout the first trial. One of the omissions was the Court's failure to summon a number of key witnesses. At the time, the proceedings were conducted in an uneasy and tense atmosphere, which most certainly resulted in the pressures exerted on the Court panel. Additionally, it soon became evident that the presiding judge (Slavko Lozina) was thoroughly incompetent to handle such a complex case burdened with a host of judicial and political implications.

The fact that he viewed the start of a war crimes trial as a suitable opportunity to congratulate the Croatian football team on their recent success, suggests that judge Lozina has a far more serious problem than that of being simply incompetent. This act of his, as well as a number of others, his friendly relations with some right wingers, his presence at the concert of Marko Perković Thompson held amidst a pro-Ustasha, and therefore pro-Fascist environment, led many to qualify Lozina's acts as clearly rightist. However, his omissions during the trial are primarily to be attributed to his lack of professional competence and personal maturity, the inherent qualities of a good judge. A «true» rightist would never engage in such self-compromising gestures as those demonstrated by Lozina. All of the aforementioned led to the unambiguous conclusion that Lozina's assignment to the case could not have been accidental. There are some speculations that Lozina was blackmailed because of his alleged homosexual inclination, which resulted in his conflict with Igor Benzon, the County Court President. At one point, Lozina discontinued the trial on the grounds of his alleged illness and went to see Benzon. Sharp words were exchanged in the meeting, whereupon Lozina publicly complained that the trial had been intended to discredit him. Although expected to resign from the case, Lozina returned to the courtroom, allegedly under the threat of the stated blackmail.

Pressure

A witness, resident of Split up to the present day, was maltreated in the village of Lečevica (in the region of Kaštelanska Zagora, 20km north of Split). In the first part of his statement, this witness said that he had been tortured only in Lečevica. The defendants' legal representatives tried to extort his allegations that he had not undergone such tortures at Lora. However, the witness eventually confirmed to have been attached to electric current while detained at Lora. Immediately afterwards, having realized that he should not have said that, the witness tried to «correct» himself by specifying that he had been attached «just a little bit». Broadcast throughout Croatia, the testimony was so striking that it can rightly be observed as a turning point in the public attitude towards the trial in this case, since it left no doubts that the crimes had really been committed. This explained the pressures and fears felt by the witnesses, who believed that their lives would be at stake if they admitted the whole truth of the Lora events.

The gravity of evidence

It was just the unfavourable atmosphere (e.g. the defendants were applauded on their entering the courtroom), «spontaneous» hunger strikes as a token of solidarity with the defendants, which were vocally supported by head of Split-Dalmatian County Branimir Lukšić and Archbishop of Split-Makarska region Marin Barišić, threats to the then County Prosecutor, Mladen Bajić (who has in the meantime been appointed State Prosecutor), the lighting of candles in front of the Split Court building, the general amnesia on the part of the witnesses (ranging from former security officers to top officials), open arrogance demonstrated by some witnesses, as well as the behaviour of judge Lozina himself, greatly contributed to the public perception of Lora as a one-time scene of horrible events for which both the

prison security staff and their superiors were to blame. However insufficient it might have been, the gravity of the collected evidence was such that no one, including judge Lozina himself, could ignore the fact that Lora had been the scene of unnumbered crimes. Therefore, in his acquitting sentence, Lozina estimated that the crimes had been committed at Lora, yet it had not been proved throughout the proceedings that they had been committed by the therein accused persons. Concurrently, he made another precedent by declaring that the sentence had been rendered unanimously. While this practice is not recognized by law, it is indicative enough of the pressures exerted upon the Court panel (consisting of five members, out of whom two were professional judges).

Ivo Banac, the then Liberal Party president, was the only one to object to the sentence. However, his position was criticized by the majority, who probably held that they had already done enough by trying the accused at all.

Gross inability

Beside principal defendant Tomislav Dujić, on the run are Miljenko Bajić, Josip Bikić and Emilio Bungur. Sitting in the courtroom are Dujić's deputy Tonči Vrkić, Davor Banić, Ante Gudić and Anđelko Botić. While Dujić has been at large since the very beginning, the police have demonstrated gross inability to trace the remaining four escapees.

Only upon the completion of the first trial was it possible to obtain a full overview of the problems accompanying this kind of proceedings. This is particularly true in view of the fact that concurrently with the Lora trial, a similar one was underway in Rijeka, where Tihomir Orešković, Mirko Norac et al. were tried for murders committed in Lika. Both cases resulted in the conclusion that the prosecution ought to have been represented by a prosecution team, rather than by a single person. Both cases were opened as late as about ten years following the commission of the crimes; in the meantime, a lot of traces had gone lost, whereas a politically favourable climate for such trials has not been created up to the present day. Likewise, the outcomes of both trials mostly depended on the judges' and prosecutors' personal courage, given the fact that the charges had been brought against members of the Croatian Army, i.e. participants of the Homeland War. A significant variation lay in the fact that the trial to Orešković et al. was transferred from Gospić to Rijeka, while requests for transfer of the Lora trial were refused. In such circumstances, it was probably easier for Rijeka judge Ika Šarić to render a sentencing judgement. However, it remains highly disputable whether the sentences rendered by judge Šarić (15 years or lesser for mass murders committed by high officials) were adequate since, following the death penalty abolition, the maximum 20-year penalty is prescribed for such serious cases. Press reports turned out to be one of the most significant tools in the detection of war crimes and creation of a favourable atmosphere for their prosecution, whereupon, in a way, the authorities were compelled to react. The issued provoked divided opinions in the public. There were very few of those who thought that the trial should be held in Split, where the crime had been committed, as this would enable the local population to face the facts and thus enter a process of collective catharsis. Observed from the present point, it can be concluded that the decision to continue the proceedings in Split had more positive than negative effects, notwithstanding the acquitting judgement. A considerable credit for that should also be attributed to nongovernmental organizations. The media played a crucial role in reporting on the Lora case. The size of the press and NGO contributions is further substantiated by the objections coming from some judiciary circles and ultrarightists, who accused the media and NGOs, as well as the state prosecutors pressing the indictment, of acting as an extended hand of some Serbian civil and military intelligence agencies.

Mutually delayed actions

As early as in 1992, first articles appeared reporting on some Split citizens (mainly those of Serbian ethnic background) being detained in Lora. However, little was known about the size of this phenomenon. The knowledge remained vague even following the deaths of Nenad Knežević and Gojko Bulović, who were at the time said to have engaged in an armed campaign against the establishment and to have subsequently been killed while attempting to flee from Lora. The demonstrations held in downtown Split, in protest of the murder (committed by the same military policemen) of Croatian soldier Dalibor Sardelić, indicated that at least something was known about the events in Lora. Unfortunately, the investigative actions conducted at the time were superficial and incomplete, lacking determination to track the real culprits and the reasons underlying the crime. It was not until the late 1990s that the press once again started reporting, not only on arrests, mistreatment and accidental murders, but also on a mass torture facility situated next to the Croatian Navy headquarter, a site of unnumbered executions. Those facts gave another specific feature to the Lora case. Namely, the crimes did not occur on the frontline, or as a consequence of immediately experienced traumas in the battlefield. The persistence of such practices renders additional gravity to the crimes and suggests the responsibility of some higher instances. The case is further complicated by the fact that a lot of captives had been brought from Bosnia and Herzegovina (mainly war prisoners captured in the territories of Kupres, central Bosnia and eastern

Herzegovina prior to the conclusion of the 1995 Split Agreement signed by Croatia and the BH government). Among them were members of the regular Yugoslav Army units, pilots and reserve officers, out of whom many were last seen alive in Lora. With the exception of occasional press articles, these facts were not given particular attention despite their far-reaching consequences, not only in relation to the Lora case. This perhaps explains frequent attempts on the part of the top political authorities to marginalize the case, or even to stop its proceeding. Namely, contacts with Serbia had for years been marked by (mutual) reluctance to clarify the facts concerning the Lora case. A feature article published in Dalmatian daily paper *Slobodna Dalmacija* as early as in 2001 hinted that it was known where were the bodies of some killed Montenegrins. However, not until early this year was it officially confirmed that the bodies had been buried in eastern Herzegovina. The feature article clearly indicated the fact that the competent authorities had full information in relation to the bodies of the missing. Yet, the information issued early this year was presented as a piece of breaking news – an announcement of a possible gravesite discovery. It was subsequently explained that the information had been based on an anonymous tip of a source who, allegedly, could no longer keep silent as he had been pressed by pangs of conscience.

The case got further complicated by a circumstance that also affected the first trial. Namely, the State Prosecutor's request for legal assistance, submitted to the Serbian judicial authorities in 2001, remained unattended on the shelves of the Ministry of Justice for six months. The request for legal assistance referred to the names of witnesses due to be examined and summoned to the trial. Following the six months' delay, the detention period for the accused was running out; ahead of the deadline, the indictment was raised without the examinations of witnesses from Serbia and Montenegro or those from Bosnia and Herzegovina. This led some witnesses to wrongly conclude that the Croatian judicial authorities were not sufficiently interested in the case. The witness issue was further compromised by judge Lozina, whose summons generally failed to reach the witnesses in time. Furthermore, the witnesses' failure to appear upon summons could be attributed to the atmosphere created around General Ante Gotovina and late General Janko Bobetko, as well as to judge Lozina's presence at the concert of M.P. Thompson. All of the above circumstances had a discouraging effect on the witnesses, despite the safety guarantees offered by the Croatian police.

The witness speaks Serbian

Following the newspaper reports, the Split County Prosecutor initiated preinvestigatory proceedings in 2000. The developments gained momentum in the summer of 2001, further to the feature article published by *Slobodna Dalmacija*. The then State Prosecutor Radovan Ortinsky ordered County Prosecutor Bajić to open the investigation in the Lora case. Upon the State Prosecutor's request, arrest orders were issued for eight military police officers suspected of the Lora crimes. Unfortunately, the police authorities were even at the time unable to arrest former prison director Tomislav Dujić, who later became the principal defendant in the proceedings. Judge Lozina later enabled several more accused persons to run away, so that only four accused persons have remained in the courtroom today. This fact is associated with some problems, since witnesses are generally focused on those present in the courtroom. Namely, even the key witness, Mario Barišić, who claimed to have seen massacred people and bloodstained prison premises, did not accuse a single member of the 72nd military police detachment of any particular crime. This is why, in the legal sense, the statements given by the witnesses from Serbia and Montenegro, who identified the defendants as the torturers, marked a crucial point of the trial. The defence counsels reacted by presenting a documentary film entitled *Lora – Testimonies* (the film was directed by Nenad Puhovski, while the author of this article was one of the screenwriters), claiming that the witnesses had identified the accused on the basis of what they had seen in the film and read in press articles. Such insinuations were dismissed as unfounded. The defence counsels tried to mislead the witnesses, or to downsize the importance of their allegations. Thus, one of the defendants' attorney objected to the fact that a witness was speaking Serbian. Upon the witness's response that he could switch to English if it was more convenient, judge Spomenka Tonković dismissed the objection and remarked that the statement was comprehensible and therefore perfectly acceptable. Likewise, the judge promptly reacted to the foul language used by the defendants who called one of the witnesses «the son of a Chetnik bitch», thereby demonstrating her full command over the case. The demonstration of the impartial judicial position will be necessary once again, when witnesses from Bosnia and Herzegovina appear before the court. The examinations of BH witnesses, initially scheduled for an earlier date, were postponed due to the illness of one of the judges. Namely, the proceedings are now being conducted before the War Crimes Chamber, the body exclusively consisting of professional judges, established further to the legal changes based on the previous experience in war crimes trials.

Ms Tonković, who is considered as one of the most competent judges of the Split Court, has proved her determination to provide the court with all evidence relevant to establish the truth. This is the reason for prevailing optimism regarding the completion of this case, which was also expressed by the witnesses from Serbia and Montenegro upon their return home from Split. For the time being, however, it is hard to predict the extent to which the responsibilities for the Lora crimes will be clarified. During their stay in Split, the witnesses from Serbia and Montenegro were to have given their statements before the

investigating judge handling the case of war crimes against military war prisoners. However, this did not happen. Whether it will be done at a later stage is yet to be seen. In any case, without a comprehensive reconstruction of the Lora events, it will be impossible to raise the issue of responsibility of the military police command staff, whose head, throughout the whole course of the war, was Mate Laušić, a pre-war police officer and subsequently Croatian Army general.