

IWPR – institute for war & peace reporting

## ■■ Balkan Crisis Report, 466, 23 July 2003

### **Djukanovic Smuggling Claims Persist**

Italian prosecutors still want to arrest Montenegrin premier despite court's immunity ruling.

By Hugh Griffiths and Gordana Igric in London with the IWPR team in the Balkans (BCR No 446, 23-Jul-03)

Italian investigators have told IWPR that they stand by their decision to name Montenegrin prime minister Milo Djukanovic as a major cigarette smuggler despite a court decision last month which ruled against issuing a warrant for his arrest.

The June 30 decision by Naples investigating judge Anna Di Mauro not to issue a warrant for Djukanovic's detention is based on his alleged sovereign immunity as a serving head of state.

Naples prosecutor Giovanni Russo originally requested arrest warrants for Djukanovic on smuggling charges in October 2002, when he was president.

The prosecutor alleged that Djukanovic and 14 other Montenegrins and Italians were responsible for "forming, directing and organising a smuggling network trafficking foreign cigarettes into, through and out of Montenegro".

A 365-page arrest request document was made available at a joint press conference on June 30, convened by the Italian financial investigators the Guardia di Finanzia and anti-mafia prosecutors in cooperation with the Naples investigative judge's office.

Djukanovic's office has firmly denied the prosecutor's allegations, calling them "yesterday's news". When IWPR contacted the prime minister's office for additional comments we were informed that he was in Moscow and they considered "this matter closed".

While the June 30 document is extensive, a source close to the prosecutor's office told IWPR that they also have a more comprehensive one that will only be released to 'interested parties' - namely defence lawyers and their clients should cases come to trial.

Judge Di Mauro's ruling on Djukanovic's immunity conflicts with the opinions of an Italian parliamentary commission member and an Italian foreign office source who both told IWPR that Djukanovic enjoyed no sovereign immunity since Montenegro was not an independent state, but part of a state union with Serbia.

It is also unclear if sovereign immunity extends to a prime minister under a presidential system.

While it's unlikely that Djukanovic will appear on trial in Italy, the developing court case will send tremors through Montenegro's political establishment with serious questions bound to surface about the country's alleged links with Italian organised crime.

### **MOVING TOBACCO MOUNTAINS**

The recent allegations from Naples are the latest in a series of cases that have pointed to Montenegro's alleged role as a smuggling route.

Critics have said the international community has long been aware that the country was a cigarette smuggling centre but chose to ignore it because Montenegro was an important ally against Slobodan Milosevic until his fall in 2000.

The methods said to have been used have been widely reported in the media, and appear to be reinforced by the Naples investigation.

It is alleged that consignments of western-brand cigarettes were brought into Montenegro, where they were provided with false documentation - allegedly by government officials - making it look as though they were to be sold within the country, or to be shipped legitimately to a third, non-EU destination.

Russo's warrant request alleges that instead of being legitimately sold, cigarettes were loaded onto speedboats and whisked across the Adriatic to southern Italy. Italian criminals from various regional groups then picked them up, and sold them on in Italy or other EU states as if they had been legally imported.

The EU claims it has lost billions of euro in taxes through such trade. Montenegro gained substantial illicit income - equivalent to 60 per cent of its gross domestic revenue, according to some estimates. It is unclear how much of this revenue ended up in the state budget.

Italian prosecutors have previously named a number of organised crime gangs as allegedly being involved at the receiving end - the Camorra in Naples, Sacra Corona Unita in Puglia and the Mafia in Sicily.

Members of these organisations are said to have had good contacts in Montenegro. Some are even thought to have operated out of the republic.

Italian authorities have scored a number of victories against the smugglers including the extradition to Italy of Francesco Prudentino, thought to be a key cigarette smuggler, who was arrested during a trip to Greece in 2001 while living in Montenegro.

But as yet, none of the long-running investigations have resulted in convictions.

Over the years, Italian prosecutors and the tax and finance police, the Guardia di Finanza, have persistently alleged that senior Montenegrin officials were complicit in shifting tobacco through the country.

A number of officials have been mentioned in previous police investigations, but this is the first time that Djukanovic has been cited.

The Naples prosecution document claims that in his time as president, Djukanovic personally ensured that documentation was provided for the tobacco shipments, contacted Neapolitan gangsters through intermediaries and was involved in securing the storing and transit of smuggling goods in and out of Montenegro.

The prosecution team claim that Djukanovic was aware of the illegal nature of such activities. Djukanovic denies this.

Djukanovic was prime minister between 1991 and 1997, when he was elected president. In November last year, he announced he would not stand for a second term in an election scheduled for the following month, and took up the post of premier again.

An investigative analyst specialising in the Balkans cigarette trade told IWPR that Montenegrin authorities are said to have used legal cigarette imports for a twofold purpose. First, to show the outside world that trade was being conducted legally and second to control who smuggled what.

Under Montenegrin law, foreign nationals needed an official license to import and store goods in Montenegro. The certification process was used by the authorities as a form of taxation on the smugglers. Only those Italians who had been granted a license could move cigarettes, and they had to pay "fees" to get them out of the country. The legal paperwork was used to obscure an illegal trade in untaxed goods.

During the course of the IWPR investigation, both a Swedish analyst specialising in international crime and a Montenegrin citizen with direct knowledge of the alleged smuggling ring told IWPR that the secret service, state security, oversaw the whole transit process - again indicating a high level of official authorisation for the process.

Their claim of state collusion is backed up by the investigative Balkans analyst who told IWPR, "State security would escort the trucks from the warehouses to the port, or across the borders if the smuggling was to a neighbouring country like Croatia, charging 5,000 US dollars per truck. The role of state security was to ensure there were no problems with the shipment, or any unexpected incidents."

IWPR has acquired documents which track a consignment of Marlboro cigarettes, until it disappears. The 180 million dollar shipment was supposed to transit Montenegro, with Malta as its final destination. On June 29, 1999, the Montenegrin national freight carrier Zetatrans - which owned the cigarettes - was authorised to export the shipment.

This one consignment is the equivalent to 600 articulated lorry loads.

Zetatrans' license meant that the firm either had to export the cigarettes to Malta or return its license. According to the Montenegrin parliamentary commission investigation into cigarette smuggling, it did neither.

And according to a recent EU lawsuit, Zetatrans was a key player in the smuggling trade.

IWPR was unable to reach anybody at Zetatrans for a comment.

The finance ministry of the federal republic of Yugoslavia wrote to their Maltese counterparts in November-December 2001 inquiring about the shipment. Responding, Malta's finance minister John Dalli said, "Our records from 1999 to date do not show any importation of cigarettes from Montenegro or Yugoslavia into Malta."

Exactly where the cigarettes went is unknown.

## **THE NAPLES DOCUMENT**

Details of how the operation was allegedly managed are set out in the 365-page arrest warrant request prepared by the Naples prosecutor. The document - effectively the basis for a formal indictment - looks at the way the smuggling operation was run from mid-1997.

Djukanovic - at the time Montenegrin president - is one of four people named as running the smuggling ring. "Djukanovic and [Montenegrin businessman Veselin] Barovic initiated, established, directed and organised a criminal association, in which the others [the 15 accused in the document] participated, with the object of committing an undetermined number of crimes relating to smuggling foreign-made cigarettes," the document reads.

IWPR contacted the main four figures named in the Naples arrest request to ask for their response to the allegations.

Paolo Savino, a Neopolitan businessman named in the document was unavailable for comment. An Italian law enforcement official said the authorities believed he had returned to Switzerland. He refused to comment on Savino's status with the police.

Dusanka Jeknic, the widow of a former Montenegrin minister says she has nothing to answer for and told IWPR she didn't want to comment given she has not received any official documents on the case in either Montenegro or at her address in Milan.

She added that she knew nothing about the allegations beyond those which she had read in the newspapers.

Montenegrin businessman Veselin Barovic told IWPR that he had made all the comments he was going to make on the allegations to the local media and would not say anymore until the Italian judicial authorities presented him with documentation.

The prosecution cites as evidence three seizures of contraband cigarettes which Italian authorities made between February and May 2002.

According to the prosecutors, Djukanovic played a crucial role, issuing licenses to import and store the cigarettes, and the paperwork to release them, so that they could be smuggled out of the country. The prosecution alleges that he received payments for this.

The prosecutors also allege that Djukanovic had kept in close contact with Barovic, Jeknic and Savino and prosecution documents include transcripts of conversations said to have taken place between the four.

In one conversation with Jeknic, Paolo Savino is reported as referring to Djukanovic as "the big boss".

Djukanovic has vehemently denied any criminal associations with these individuals.

"There is no question of smuggling, just transit business which was done in line with the law," he said on July 9. "The cigarettes that came into Montenegro's port at Bar had in fact come from the EU, and were re-exported with all the right paperwork."

Savino's role, the Naples document says, was as the main point of contact between Italian criminals and Montenegrin officials. He is also alleged to have collected payment for the cigarettes from the various Neapolitan buyers. The price he charged included the wholesale cost of the cigarettes plus a percentage for Montenegrin officials for holding the illicit goods in duty-free port warehouses.

IWPR was unable to speak to Savino to seek his response.

Prosecutors say Jeknic was the intermediary between Savino and the government, especially Djukanovic. She informed the Montenegrins when Savino paid money into their bank accounts.

Currently in Montenegro, Jeknic told the local weekly Monitor, "Nobody stopped me when I left Italy, and I am prepared to come if I am summoned to court since I have nothing to hide or fear."

Veselin Barovic told the same Montenegrin weekly that he had no links either with organised crime or with the trade in cigarettes through Montenegro.

## **THE BARI INVESTIGATION**

Allegations that the Montenegrin president was linked to Italian organised crime, first surfaced in 2000 with the arrest of Francesco Prudentino.

Italian finance minister Ottaviano Del Turco said of his arrest, "If the bosses own up, Montenegro will tremble.

"If Prudentino had not been protected by President Djukanovic, he would not have become the most powerful, richest and most dangerous boss engaged in trafficking."

Prudentino is presently in custody in the Italian port of Bari as part of a long-running investigation which is expected to result in a major trial this year. The prosecuting team, led by well-known anti-mafia magistrate Giuseppe Scelsi, is looking at a number of Italian gangs in Puglia that ran cigarettes out of Montenegro in the Nineties. These groups are alleged to have smuggled drugs as well as cigarettes.

The process appears to have gone into high gear in 2002, when Scelsi conducted a series of interviews in complete secrecy and with high levels of security. According to statements made to

IWPR by some of the witnesses involved, the testimony implicating Djukanovic was provided by two main groups - arrested Italian crime bosses and foreign nationals testifying of their own volition.

A former Yugoslav national with extensive knowledge of how the smuggling trade worked told IWPR in June 2003 that he had given a statement to Scelsi and had also assisted the prosecution in obtaining the testimony of others. He said the prosecution has spent the last year interviewing Balkan and European businessmen as well as former Montenegrin smugglers, at undisclosed locations throughout Italy.

"Security was tight. Scelsi - a friend and colleague of murdered Palermo magistrate Giovanni Falcone - has a close protection unit and operates under conditions of secrecy," said IWPR's source.

Witnesses have given Scelsi's team precise information on the links between smuggling gangs and the Montenegrin state, the man said.

Another witness - who possessed inside knowledge of the trafficking business - told IWPR about the elaborate security precautions surrounding the testimonies. "A number of Montenegrins who are giving evidence are currently living outside the country under assumed names," the witness said in an interview in June. "They claim to live in fear of elements of Montenegro's security forces."

One man who is prepared to say that he has appeared before Scelsi is Vuksan Simonovic, a member of the Montenegrin opposition Socialist Peoples Party and former leader of the Montenegrin parliamentary committee investigating tobacco smuggling.

He told IWPR that he testified in Bari last August.

Simonovic is an important figure for the Bari investigators because as leader of the commission he was instrumental in producing a damning report on Montenegrin tobacco smuggling published in June 2002. As such, he had access to over 2,000 documents, which the commission looked at over 11 months.

"I handed over all the documents I had and was really impressed that the Italian judiciary considered our evidence carefully, while the local authorities did nothing," he told IWPR.

Set up to investigate allegations made by the Croatian newspaper Nacional which charged Montenegro with complicity in tobacco smuggling, the commission wrote a 35-page document which made numerous serious allegations against Djukanovic and called for a fuller investigation.

The authorities in Montenegro never followed up on the report's findings, and dismissed it as an opposition-inspired smear.

## **EU VERSUS THE MULTINATIONALS**

In a separate development, the EU's European Anti-Fraud Office, known by its French acronym, OLAF, is pursuing its own investigation into links between the Montenegrin government, cigarette smugglers and multinational tobacco companies. This prompted a legal action which the EU brought against the American firms RJ Reynolds and Philip Morris plus the Japan Tobacco Company, for loss of tax revenue due to illicit trading through countries including Montenegro. The three firms dismissed the allegations as "absurd", and rejected any suggestion of impropriety.

In February 2002, the case was thrown out by a US court, which ruled that recovery of revenue lost outside America was not within its jurisdiction.

Undeterred, the European Commission together with 10 member states came back with another lawsuit against RJ Reynolds. This time, the company was accused not of smuggling, but of conducting cigarette sales in a way that facilitated money-laundering for the proceeds of crimes. Again, Montenegro was cited. RJ Reynolds again rejected these allegations, and expressed the hope that they would be dismissed in court.

While OLAF has not set out to target Djukanovic's government, the action which the EU filed with the US Eastern District Court in New York on October 30, 2002, contains a whole section devoted to the corruption of public officials in Montenegro.

"Throughout the Nineties, huge amounts of money were paid to public officials in Montenegro and elsewhere to guarantee the security of the cigarettes and the illicit funds that were passing through the Balkans," the document said.

According to the EC, the Montenegrin government required that all cigarettes passing through the country should be handled by Zetatrans, the official freight firm. "Zetatrans was paid approximately 30 dollars per case of cigarettes transited through Montenegro. This [money] was divided up among various Montenegrin officials involved in this business and who controlled the licenses to ship cigarettes through Montenegro," said the EC court submission.

In addition to Zetatrans, EU investigators identified a second company controlled jointly by the Italians and the Montenegrin authorities. "A company called Montenegrin Tabak Transit [MTT] was created by certain members of organised crime in conjunction with Montenegrin government officials. The company was officially sanctioned by the Montenegrin Foreign Investment Agency and operated under the special protection of Milo Djukanovic," it said.

IWPR has been unable to contact MTT officials for comment - all numbers we were given were either incorrect or our calls went unanswered.

IWPR has obtained a Montenegrin interior ministry document, seen by the Montenegrin parliamentary commission investigating cigarette smuggling, showing that MTT was founded by the state security service.

The Montenegrin parliament's report on the cigarette trafficking records that the head of the service Ranko Kaludjerovic told the inquiry that he attended a meeting about setting up MTT. He reported that he was told that commercial dealings would be carried out by two company managers and that "I should not be interfering or meddling".

He named one of the managers as MTT director Veselin Barovic, who is among the 15 people accused in the latest document from the Naples prosecutors. Barovic denies any wrongdoing.

IWPR is also in possession of a document, seen by the Montenegro parliamentary committee, showing that between May and July 1996 state security received payments from MTT amounting to 636,110 German marks.

IWPR contacted ministry of interior regarding these allegations but they said no one from Montenegrin state security was available for comment.

The investigations now under way in Italy may accelerate with added input from the EU's fraud team. An OLAF official in Brussels confirmed to IWPR that the body had been working with prosecutors in Bari. On April 30, OLAF investigators gave testimony at a public hearing in the trial of Italian smugglers operating out of Montenegro. The official was unwilling to provide details of the testimony or other information shared between the two investigations.

## **THE MONTENEGRIN RESPONSE**

President Djukanovic has always denied any connection with organised crime. It is all part of a plot to oust him, he says.

Nonetheless, Italian prosecutors have recently reiterated to IWPR that they believe Djukanovic to be one of the central figures in the cigarette smuggling ring.

Responding to local news reports about the Naples case, Djukanovic said on July 9 that the allegations were no more than "a disgusting political trick" which sought to "criminalise Montenegro, its

government and me personally". The only movement of cigarettes took place as legal transit trade, he added.

Miodrag Vukovic, a senior official in Djukanovic's Democratic Party of Socialists, said earlier that cigarettes had indeed been shifted through Montenegro in the past - but that did not amount to smuggling. "The state charged legal taxes on that transit. The money went into the state budget and was distributed into social funds," said Vukovic, adding that this revenue was needed so that the country could survive. "We had to make do."

Djukanovic's term as prime minister ends in 2006. Nebojsa Vucinic, professor of international law at Podgorica university, told IWPR that in his opinion the former president could then be charged.

The investigation was produced by the IWPR Balkan team in association with Investigative Co-ordinator Hugh Griffiths and Gordana Igric, IWPR's Balkan Programme Manager.