

UNIFIED ANALYSIS OF TUZLAN “KAPIJA” CASE
SUMMARY OF DOMESTIC AND FOREIGN EXPERTS’ FINDINGS

Belgrade, June 2016

Dear,

This document holds shot excerpts from relevant Findings, conclusions and expert opinions of below named foreign experts, as well as a combined Finding of domestic experts who gave their expert opinion of Tuzlan Kapija case. The point of this document is for you to become familiar with the subject which deserves your attention.

Expert team:

**A. Assoc. Prof. Jan KOMENDA, Dr. Ludek JEDLIČKA, Dr. Roman VITEK:
Expert report on Tuzla's 20:55, 25th May 1995 event, University of Defence
Faculty of Military Technology, 2016;**

Independent experts:

**B. Pierre LAURENT, expert commissioned by Appeal Court of Paris, ICC for Arms,
Ammunitions, Ballistics, Pyrotechnics:
Pierre LAURENT, Technical Assessment Explosion at Tuzla May 25th, 1995 -
2016;**

**C. Col. Joseph Sharon, Temech Consultants, Owner, Tel Aviv, Temech consultants -
expert opinion to Court - explosion, explosives, ammunition, pyrotechnics and
fireworks, Investigations in Israel & abroad,
Joseph Sharon: Review of Dr. Zecevic expert opinion conclusions regarding
the causes and results of the explosion occurred at Kapija square in the city of
Tuzla on 25/05/1995, 2016.**

The following text lists key findings by foreign experts who gave their expert opinion on "Kapija" case in Tuzla.

All subsequent expert opinions (substantiated by experiments), which, in subject case, were not carried out by the B&H Prosecution, completely topple Prosecution's model relating to "Kapija" case.

Excerpts from those expert opinions, with a short Introduction, can be found on the following pages.

Introduction to “Kapija” case, city of Tuzla, B&H

Date and time: 25 May 1995, 20⁵⁵ hours

Short content: Unknown explosive device exploded on “Kapija” square among several hundred civilians (estimates: 1000 to 1500 people). Dead – 64, wounded about 150. Consequently casualties have risen to 71 dead and 150 or even up to 240 easily or severely wounded. Victims’ age was 3 to 27 years. That explosive device was, in B&H, recognized as (one) HE projectile M79 or Russian OF-482M with contact fuze, fired from 130mm M46 cannon, from a distance higher than 17km. Explosion happened immediately next to the front right tire of parked Golf Mk1 vehicle.

Investigation was started by Court-Police authorities from Tuzla, so that a day after the tragedy they would be joined by Police personnel from Sarajevo, and Military-Police personnel of UNPROFOR, which later unites and takes over further handling of the investigation.

Investigation concludes that the projectile arrived from West (Ozren) direction from a distance of more than– firstly 17km, then 20, then 21km (different in different documents), and that it was a M79 projectile or Russian OF-482M of 130mm caliber, fired from ARS positions on Ozren mountain, from a locality Vrbak village– Cerovo brdo (in this case distance from alleged projectile point of fall equals 23.5km).

Extensive photo and graphical documentation was created, video-footage and official Records, as well as a Report by Deputy Commander of UNPROFOR forces Colonel Brantz to Brigadier Haukland- Commander of UNPROFOR for sector NORTH-EAST, with several attachments.

Based on this investigation subsequent actions were taken in criminal proceeding, so- Cantonal Court in Tuzla passes a request for conducting investigation to Cantonal Prosecution Tuzla No.: KT-196/96 from 22 December 1998. Complete case was passed on to International Criminal Tribunal for former Yugoslavia in Hague, where the first suspects were Colonel Momčilo Arsić and others (real name of Colonel at that time was not Momčilo, but Vladimir).

Case was returned to Cantonal Prosecution of Tuzla in 2004 with label “C”, as a case without enough evidence to criminally pursue a person or persons.

Without withdrawing original charge, a new suspect is found, General Novak Đukić, and sentenced to 25 years in prison, in 2010, and after appeal to 20 years.

Significant role in General Đukić’s conviction was played by Prosecution expert Prof. Dr. Berko Zečević, known from earlier as notorious expert on duty, amongst others, also in “Markale” case.

He, in this case, falsified all key arguments and existing material facts despite the existence of many irrefutable opposite evidence. No matter that, Court praises him that he did his job highly professional and at a high scientific level, which is especially repeated in second level judgment, with confession that main part of that conviction is based on that expert opinion.

EXCERPT FROM QUALITATIVE WOUNDS ANALYSIS ON KAPIJA SQUARE IN 1995

(Team of experts from Czech Republic University of Defence)

Abnormalities follow from the analysis of individual victims' wounds:¹

- **uneven distribution of fragment hits on victims' bodies that is in conflict with standard effect of artillery High-Explosive projectile, especially at longer distances from CE,**
- **hits on victims' bodies from more directions, which is unusual after explosion of a single projectile,**
- **extremely devastating wounds on bodies of some victims that do not correspond to the wound potential of 130mm artillery projectile,**

a) **hits on victims' bodies received from multiple directions.**

b) **many victims' bodies show extremely devastating wounds, often sharply bordered that are not typical for wounds caused by fragments, especially wounds caused by explosion of HE projectile. Especially victims, found at longer distance away from the centre of explosion, show serious wounds that are very difficult to explain.**

Namely it is possible to state:

- relatively large number of extreme wounds accompanied by massive tissues losses,
 - numerous devastating wounds on lower limbs, traumatic amputations of both lower limbs, traumatic amputations of both upper limbs,
 - extreme head wounds, side, and lower limb, there are not apparent hits by fragments **(typical effect of IED with explosives placed into container that does not create fragments); artillery projectile cannot cause these wounds to live targets,**
 - extreme head wounds of the victim, although body does not show any hit by fragments,
 - 3 victims who suffered **complete destruction of the whole body, similar to suicide-bombers,**
 - **total devastation of the victim who was at 8m away from CE- this effect is excluded in relation to the character of fragments scattering and the effect of shockwave created by explosion of nearly 4kg of explosives,**
 - **total devastation of entire body of victim who was at 16.5m away from CE- this effect is totally excluded due to reasons given above.**
- c) **many victims suffered skin and cloth begriming (charring) by black agent on some body parts. After this it can be taken into account begriming by explosion of other explosive device containing a non-standard explosive (e.g. ANFO - ammonium nitrate/fuel oil).**

Large number of victims does not correspond to explosion of a single medium calibre artillery projectile besides other things due to:

- **the killing of 8 people in the direction towards Kapija cafe is apparently unrealistic; 8 people were killed at the distance over 20m from CE and near Kapija cafe, which is out of capability of 130mm HE projectile.**

Summarizing results of qualitative analysis it can be stated that from total 71 killed

¹ Assoc. Prof. Jan KOMENDA, Dr. Ludek JEDLIČKA, Dr. Roman VITEK: Expert report on Tuzla's 20:55, 25th May 1995 event, document No. 49-1/2016-2994, University of Defence, Faculty of Military Technology in Brno, 2016.

victims of the massacre no anomaly was observed only at 26 victims, i.e. 37 % of victims. At remaining 45 victims (63 %) some of the above mentioned anomalies were observed. At 18 victims the anomalies found were multiple. This is unusually high number that does not confirm prosecution's version of cause of deadly wounds documented at Kapija square in May 1995.

The real number of hits by fragments in victims' bodies is on average 9 times higher than theoretical number of hits in victims' bodies that resulted from the application of the analytical model of fragment scattering on the Tuzla's Kapija square. These are signposts pointing toward fact that a different, more powerful type of ammunition or Improvised Explosive Device, or even several smaller charges exploded at the Kapija square.

Use of non-standard explosive is confirmed by victims' wounds, who suffered total devastation of entire body, similar to suicide-bombers.

Based on available information, especially photo-documentation from post-mortem examination of victims' bodies, it is possible, with respect to the results of qualitative and quantitative analysis presented in this Chapter, to state that a number of victims' bodies shows non-standard effects of fragments and other destructive factors of the explosion, which does not confirm Prosecution's conclusions that the cause of death of 71 people on Tuzlan Kapija square on 25 May 1995 was a ground explosion of a single HE 130mm caliber artillery projectile fired from a distance of about 27km. With respect to the results presented in this Chapter, it is possible to state that the fragment distribution on the area of Kapija square during the massacre is different from the fragment distribution obtained from the experiments.

Summary of Joseph Sharon, Israeli expert

**Col. Joseph Sharon, Temech Consultants, Owner, Tel Aviv, Temech consultants - expert opinion to Court - explosion, explosives, ammunition, pyrotechnics and fireworks, Investigations in Israel & abroad,
Joseph Sharon: Review of Dr. Zecevic expert opinion conclusions regarding the causes and results of the explosion occurred at Kapija square in the city of Tuzla on 25/05/1995, 2016.**

The conclusions of Dr. Zecevic's opinion were examined from almost every possible angle².

The results of analysis of each of the characteristics that Dr. Zecevic determined his opinion indicate unequivocally and clearly **that the opinion of Dr. Zecevic is fundamentally impossible, based on false, unproved and unchecked data.**

Not even one of the points that were examined for the preparation of this report and supported by real conditions field tests supports the speculations and conclusions of Dr. Zecevic.

² Col. Joseph Sharon: Review of Dr. Zecevic expert opinion conclusions regarding the causes and results of the explosion occurred at Kapija square in the city of Tuzla on 25/05/1995, 2016, page 165.

The conclusion of this written expert opinion , is unequivocal, the damages to the "GOLF" car and the façade of NIK's building indicates that there is no possibility that a 130mm H.E projectile exploded at a distance of about 2 m. from the wall and 40 cm from the "Golf" car without a significant damages as happened in that case.

This conclusion is based on the tests results, carried out by the undersigned at the Technical Test center at 10-11/02/2016, as described in this report, that proved that there is no difference about the projectile direction and tilt angle- it's explosion causes a much more significant damages to the car and the wall than the damages occurred at Kapija square.

Also, those different directions of arrival and angle of fall of the projectile would result, as proved by the test conducted on 11/02/2016, with a significant difference of human injuries dispersion pattern than the one shown on Kapija square.

Other test conducted by the Serbs Experts which are briefly describe at the end of this report shows same results.

The signs and evidences that were found at the scene especially the ground fragmentation spray indicates that the direction of the explosion of the item exploded near the Golf car is opposite to the one suggested by Dr. Zecevic.

Furthermore, some very crucial points that mentioned at the previous chapter increases the doubts about the real occurrence at Kapija square at 25/05/1995. The questions of great importance arose from this report should be further examined.

One of the most important contradictions arose from the Tuzla's Kapija square incident that was not solved by Dr. Zecevic in his report is the inexplicable difference between the crater size and mass amount of casualties in the square and around it, which might suggest an involvement of massive amount of explosives and fragmentation, against minor damage to objects nearby to the explosion point –such as the Golf car and Nik building which might suggest involvement of low amount of explosives and fragmentation effects.

It seems that the primary failure of Dr. Zecevic is due, most likely, to his being a ballistics expert who is familiar with the procedures, theories and findings relating solely to the ballistics of shells. However, he does not have, apparently, an appropriate background in investigations of explosion scenes from the scientific/forensic aspects that require precise work, according to the rules of evidence, in which there is sufficient relevance for the purpose of submission to the Court.

An example to this is the identification of the item exploded at Kapija square years before he wrote his expert opinion without being at the scene immediately after the explosion and without the self-collection of fragments and evidences and just by receiving pictures and metal fragments. In this case, **Dr. Zecevic should have been very cautious, express doubts about the linkage between the materials handed to him, and the item exploded at Kapija square.**

Moreover, Dr. Zecevic based his conclusions about the azimuth and angle of the projectile solely on the location of the Golf car but, as proved here, **Dr. Zecevic changed the original location of the car and the explosion crater location so it will fit to his calculations.**

Also, Dr. Zecevic did not support his conclusions by conducting a test. As I understood, Dr. Zecevic was invited to be present at the Tests but refused. Have he been at these Tests, he could understand that there is no option that an explosion of a 130 mm projectile containing 3.6 Kg of explosives, at a distance of 40 cm from a car will end with just couple of fragments penetration into the car's side panel and gently bending of the panel.

FINDING, OPINION AND EXPERT CONCLUSION

FINDING³

Unified analysis of available data from Court records and other available documents, as well as and especially from Prof. Dr. Zečević's analysis, has allowed reviewing his model from almost all possible aspects, and comparing with experimental findings which are the result of a large number of experiments with real live ammunition on the replica of "Kapija" square;

Not even one result of this analysis, nor the experimental result, supports not even one conclusion of Prof. Dr. Berko Zečević's expertise;

Prof. Dr. Berko Zečević gave only 30 out of 94 pages of text to the analysis of Tuzla's tragic event, while remaining 64 pages he uncritically transcribed from the Internet. At that, pages 58, 59, 62, 63, and 64 are full of unchecked and unfounded and false data, while pages 74, 75 and 76, as well as page 85 - (30% of the effective analysis) are, as proven, simple malicious forgeries.

In his expertise Prosecution expert brought many a priori conclusions, unfounded in material evidence, at which almost all of them are based on highly suspicious, ontologically impossible to prove, predictions, so all claims by Prosecution expert Prof. Dr. Berko Zečević are based on false and unproven data as follows:

Unacceptable and false determining of projectile Angle of Fall and arrival direction;

Unacceptable determining of Firing Positions location;

Unfounded assessment of causes to effects on "Kapija" square.

Real position of Golf Mk1 car was considered with complete absence of physics of explosion basic elements as if during the explosion no external force acted upon the subject car. That force, however, equals over 240KN for subject 130mm projectile, so, at least 32 times higher than weight of the car and it must push the car (car mass equals 750kg), while the car in Tuzla remained in position;

In relation to such observed position of (pushed) car, possible projectile Angle of Fall was measured- mathematically and methodologically completely wrong;

Ballistic calculations by Prosecution expert leave out important parameters which figure with each calculation department in artillery unit. All ballistic calculations by Prosecution expert are invalid because they are based on an assumption that wherever possible Firing Position was, it always remained in such a place that it is 30m above the "Kapija" square, which is harshly wrong, because in real conditions that OCH is 3 to 6 times higher than that which is used by Prosecution expert in his calculations. Therefore these calculations need to be declared null and void, together with consequences which arise from them.

Effects on "Kapija" square are in no way concordant with effects which are expected from that kind, type and caliber of artillery projectile, neither from traceological nor from terminally-ballistic point of view, and also they do not match the Coordinate Law of Destruction determined for that projectile. Real fragmentation density was 9 times higher than experimental and theoretical, and use of non-standard (non-military) explosive was proven;

³ Unified group Finding by a group of Serbian experts: Ilija Branković, gen-lieutenant colonel ret., Dr. Mirjana anđelković-Lukić, Court expert for explosive materials, lieutenant-colonel ret. Mile Poparić, M.Sc.M.E. ballistics expert, Prof. Dr. Sci. Med. Željko P. Karan, Forensic specialist

No matter from where to the subject location a 130mm projectile arrived, its fragments could not have been found in dead angles and at areas which lack optical visibility in relation to CE, as are both lateral walls of "NIK" building, N. Tesla Street, on "Borac" building and on the corner at "B&H Lottery" building. These facts were described by Prosecution expert but (intentionally) he did not question them because they topple his whole scenario and shed a completely different light on the cause of tragic event in Tuzla, giving it quite different dimensions, due to which the foreign experts unanimously request for a new international investigation;

All findings unequivocally point towards an explosion of a device the kill potential of which is much higher than kill potential of a 130mm projectile, at the same time showing that there is not one, but multiple locations at which separate but synchronous explosions occurred. Especially noted are unexplainable occurrences of victims' skin carbonization, which match immediate vicinity to the explosion, while at a high distance from the CE. Also incomprehensible is the survival of people in immediate proximity of the explosion. Such occurrences suggest several explosions.

OPINION

Prosecution's evidence is unfounded:

legally;

tactically;

technically;

topographically;

from the standpoint of Firing Theory, and

ballistically– from the standpoint of external ballistics, ballistics at target (terminal) and traceologically;

Wherever the subject 130mm M46 artillery weapon was located, in subject defined sector and in conditions of material and atmosphere from 25 May 1995, it had the ability to fire upon "Kapija" square, without the need to unmask Firing Position by moving and to strain material and personnel without any need to;

There is no physical possibility that the projectile could land at the place described by Prosecution, by overthrowing the Golf Mk1 car, wherever the subject 130mm M46 artillery weapon was, in subject conditions of material and atmosphere, defined by the Prosecution, for 25 May 1995.

FROM THE STATED DIRECTLY FOLLOWS:

EXPERT CONCLUSION:

IN TUZLA ON "KAPIJA" SQUARE ON 25 MAY 1995 AT 20⁵⁵, NO FIRED ARTILLERY PROJECTILE EXPLODED, ESPECIALLY NOT 130MM CALIBER, BUT MULTIPLE SYNCHRONOUSLY ACTIVATED EXPLOSIVE DEVICES DID EXPLODE.

**PHOTO—DOCUMENTS FROM CONDUCTED EXPERIMENTS MEANT TO COMPARE RESULTS
(First photograph is from the actual event, day after the tragedy)**



Real car in Tuzla, after 130mm projectile explosion



Experimental car, after 130mm projectile explosion



Appearance of front right part of the car after experimental explosion



Appearance of front right part of the second vehicle after experimental explosion



Photograph No. 12 from photo-archive of CSS Tuzla



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 62° - photograph PICTO754



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 62° - photograph DSCN5605



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 43° - photograph PICTO0910, first experiment according to Prosecution expert's conditions



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 62° - photograph from 25 August 2014

First part from experiments' photo-documentation



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 62° - photograph from 04 September 2014



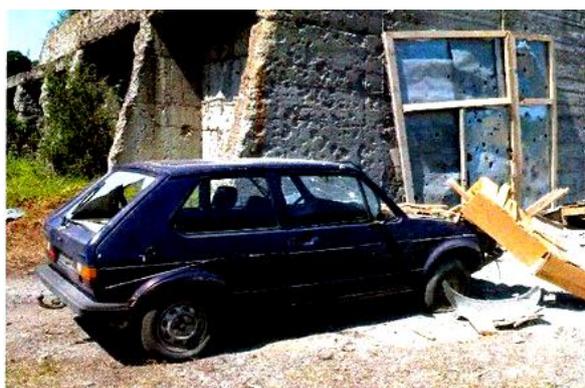
Golf Mk1 vehicle after 130mm projectile explosion at an angle of 62° - photograph from 12 March 2015



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 62° - photograph from 10 February 2016



Zastava 101 vehicle after 130mm projectile explosion at an angle of 50° from South-East - from 11 February 2016, experiment by J. Sharon



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 31° from the West - according to UNPROFOR Finding



Golf Mk1 vehicle after 130mm projectile explosion at an angle of 20° from the East - second experiment by former defense expert

Above: Second part from experiments' photo-documentation

Summary: results achieved after 10 experiments according to UNPROFOR Finding (1), defense expert (2), and by Dr. Zečević's scenario (6), as well as according to experiment by J. Sharon (1 - from South-East)